**HBDAPA meeting 21 September 2016**

**Doug Clark PPTA – Health and Safety**

Risk is determined by severity and Likelihood of harm.

Purpose of the act is to manage risk by taking reasonably practicable steps to eliminate or reduce the risk.

The Act’s key emphasis is on everyone in the workplace being involved in health and safety.

The Act works to focus effort on what matters, based on business risk, control and size

It shifts from hazard spotting to managing critical risks – actions that reduce workplace death and harm rather than trivial hazards

**Person Conducting a Business or Undertaking**

A PCBU means a person (BoT) conducting a business or undertaking:

* whether the person conducts a business or undertaking alone or with others; and
* whether or not the business or undertaking is conducted for profit or gain.

Worker = A “worker” is defined as a person who carries out work in any capacity for a PCBU, including work as an employee, a contractor or subcontractor

**Reasonably Practicable**

“Reasonably practicable” is defined as: “…that which is, or was, at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters, including:

* the likelihood of occurence;
* the degree of harm;
* what the person ought reasonably to know, about - the hazard or risk; and
- ways of eliminating or minimising the risk; and the availability of suitable controls; and after assessing the extent of the risk and available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.”

This means that costs will only take precedence over safety when the cost of taking a step is “grossly disproportionate” to the risk.

**New duties under the Act**

**Primary Duty to Ensure Safety**

The Act has introduced a new general duty on all PCBUs to ensure, so far as reasonably practicable, the health and safety of:

* workers employed or engaged, or caused to be employed or engaged, by the PCBU while the workers are at work in the business or undertaking; and
* workers whose activities in carrying out work are influenced or directed by the PCBU while the workers are carrying out the work.
* PCBUs must also ensure, so far as reasonably practicable, that the health and safety of other people is not put at risk from work carried out by the PCBU.

**Duty to engage with workers**

* A PCBU must, so far as is reasonably practicable, engage with workers.

**Duty to have worker participation practices**

A PCBU must have practices that provide reasonable opportunities for workers who carry out work for the business or undertaking to participate effectively in improving work health and safety in the business or undertaking on an ongoing basis, having regard to relevant matters, including

1. the number of workers working in the business or undertaking; and
2. the number of different workplaces of the business or undertaking, and the distance between them; and
3. the likely risks to work health and safety in the business or undertaking and the level of those risks; and
4. the nature of the work that is performed and the way that it is arranged

**Workers have duties too!**

Workers must-

* Take reasonable care of their own health and safety
* Take reasonable care that their acts or omissions don’t adversely affect others
* Comply with reasonable instructions that support compliance with the Act and regulations
* Cooperate with reasonable policies and procedures that support health and safety and have been notified to the worker

**Officers**

There is a positive duty on officers to exercise due diligence to ensure that the PCBU complies with that duty or obligation.

An officer is a person or persons who holds a very senior leadership position and have the ability to significantly influence the management of a PCBU. Organisations can have more than one officer.

An Officer is: All members of the BoT and **the school principal (Not the DP)**; that is to the extent they influence and control the workplace.

**Due Diligence**

Due diligence includes taking reasonable steps to:

* acquire, and keep up-to-date, knowledge of work health and safety matters;
* gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations;
* ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety;

**So what does it mean for schools?**

In general, it is business as usual, a worker can now request, and must be given, the opportunity to have worker representation.

The Principal can now be held liable if AND ONLY IF they have been negligent in their duties as an officer of the PCBU.

If the school has current robust systems then there should be no worries. If a Principal has done due diligence (and this includes having a H & S group with trained and qualified reps, then there should be nothing to worry about.

Legally the BoT is the PCBU and may have liability as an entity but its individual members are exempted as elected volunteers

**Education Outside The Classroom**

New guidelines updated in 2016

**EOTC providers**

Providers must give schools information about: the activities offered and the risks involved in those activities.

Schools must seek assurance from providers that: Steps have been taken to manage those risks

**The provider must provide documents about:**

* The range of all activities and the general risks associated with those activities
* The school EOTC coordinator must review these documents to familiarise themselves with the risks associated with each activity.
* Schools must be satisfied that activity equipment and operating procedures are audited, to ensure that they are provided and delivered safely.
* Is the provider registered with WorkSafe New Zealand?

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Examples of activities; low ropes course, swimming, kayaking, archery, campfire, orienteering, flying fox, bush exploration

**Activity equipment**

Schools need to check that activity equipment is fully maintained and annually inspected by the relevant body. This is to ensure that it meets the industry safety standards.

An ongoing compliance is maintained by inspection, auditing and certification.

For example, the camp kitchen by local council, electrical certification by recognised company, First Aid by St Johns.

**Staff (yours as well as theirs)**

Do staff training and qualifications meet industry standards to ensure safe delivery of activities to students?

Do they hold first aid qualifications?

Do catering staff hold recognised food safety and hygiene qualifications?

**Post-event evaluation, logging and reporting**

Has a debrief been held with all staff, contractors and volunteers involved in the event to discuss:

* Incidents?
* Improvements for future?
* What worked well and positive outcomes?

**Support for Schools**

* EONZ National Coordinator Database
* EOTC Guidelines
* Adventure Activities Regulations

**Vulnerable Children Act 2014**

Staff working with children are subject to children’s worker safety checking- are staff safety checked as specified under the Vulnerable Children Act 2014?

VCA – checking volunteers is not required but it is encouraged that you do best practice (Police check) especially if the person is a regular volunteer and will be alone with or have overnight contact with children.