

# HEALTH AND SAFETY AT WORK ACT 2015

INFORMATION FOR THE EDUCATION SECTOR | AUGUST 2016

## TOPIC 1 | PART 2

# Leadership

**THE HEALTH AND SAFETY AT WORK ACT CAME INTO EFFECT ON 4 APRIL 2016. IT MAKES THE HEALTH AND SAFETY OF WORKERS AND WORKPLACES A PRIORITY.**

This series of guides provides general information for the Education sector about the different elements of an effective health and safety system.

In these guides, “Boards/ECEs” refers to school Boards of Trustees, early childhood education (ECE) services and kōhanga reo as entities that meet the definition of Person Conducting a Business or Undertaking (PCBU) under the Act.

These guides draw on information published by WorkSafe New Zealand and the Ministry of Business, Innovation and Employment. To keep fully informed about your health and safety obligations, visit WorkSafe’s website: <http://www.business.govt.nz/worksafe/hswa>

**Leadership is a critical element of a workplace’s health and safety culture. Leadership sets the direction for health and safety management by creating expectations and holding management strictly and continuously to account for meeting these expectations.**

This factsheet discusses the roles and responsibilities of officers. (See Leadership – Part 1 for information on the roles and responsibilities of the PCBU.)

### Who or what is an officer?

Officers are individual members of a board of trustees or board of directors, and any other person occupying a position that allows them to **exercise significant influence** over the management of the business or undertaking (for example, a chief executive or a principal).

In early childhood education services, who is classed as an officer will depend on the size and structure of the individual service, and whether the individual exercises significant influence over the management of the ECE service.

### What is the duty of an officer?

Officers do not have to directly ensure the health and safety of the Board’s/ECE’s workers. Their role is to exercise **due diligence**, which means they must take reasonable steps to ensure that the Board/ECE (as the PCBU) meets its health and safety obligations.

Officers’ due diligence duty supports, but does not replace, the Board’s/ECE’s primary duty of care to ensure the health and safety of workers and others.

The provisions of the Act do not apply to organisations that are considered voluntary associations (i.e. a group of volunteers working together for a community purpose with no employees – e.g. a community sponsored play group)

## What does due diligence mean?

The purpose of due diligence is to inform governance decisions so they do not adversely or negatively affect health and safety. Due diligence includes taking reasonable steps to:

- » know about work health and safety matters and keep up-to-date
- » gain an understanding of the operations of the school or ECE service and the hazards and risks generally associated with those operations
- » ensure the Board/ECE has appropriate resources and processes to eliminate or minimise those risks
- » ensure the Board/ECE has appropriate processes for receiving information about incidents, hazards and risks, and for responding to that information
- » ensure the Board/ECE has, and implements, processes for complying with any duty or obligation of the Board/ECE
- » verify that these resources and processes are in place and being used

## What might taking “reasonable steps” look like?

The Act does not define “reasonable steps”, but context suggests it means officers are proactive in staying up-to-date on health and safety issues for their school or ECE service, understanding the nature of their operations and the hazards and risks associated with them, and ensuring the appropriate resources and processes exist and are used to eliminate or minimise those risks.

One way officers can keep themselves properly informed of health and safety is by having health and safety as a standing agenda item for their governance boards, and regularly reviewing the allocation of resources and the appropriateness of processes for managing potential risks.

## Will officers carry the risk of liability?

The Act encourages officers to proactively undertake due diligence to ensure health and safety is prioritised by their Board/ECE in order to improve health and safety and avoid the risk of any liability.

Voluntary officers and boards of trustees members have the duty of due diligence. However, failure to undertake due diligence will not constitute an offence for a voluntary officer or a member of a board of trustees appointed, elected or co-opted under the Education Act 1989.

Paid officers, e.g. principals or chief executives, may be subject to prosecution and/or penalties if they fail to meet the duty of due diligence.

Want to know more about the role of an officer and due diligence?



[www.business.govt.nz/worksafe/hswa/mythbusting/officers](http://www.business.govt.nz/worksafe/hswa/mythbusting/officers)



PLEASE NOTE

**Officers who act on a purely voluntary basis (i.e. out of pocket expenses only) and members of school boards of trustees as individuals have a duty to carry out due diligence, but they cannot be prosecuted if they fail to meet that duty.**