

MANAGER'S GUIDE TO HEALTH AND SAFETY

Information to supplement the Massey University Manager Induction

August 2015

NAME:



Introduction:

Health and safety is a process or management system, to actively protect the health and wellbeing of staff, students and visitors to the University.

Massey University has a long standing commitment to health and safety, with its current health and safety vision being: *We will provide the very best healthy and safe, working and learning environment for our staff and students* ([Policy web site](#)).

Scope:

This guide focuses on the relationship Managers have with workers including their staff. The new Health and Safety at Work Act 2015 introduces extensive supply line health and safety responsibilities, which are not covered in detail in this guideline.

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Objectives:

The purpose of this guide is to provide you with an introduction to the health and safety management processes at Massey University in dealing with workers including staff in the New Zealand context and how this applies to your role. The objective of this guide is to assist Managers to be aware of

- The University's perspective and position on health and safety,
- Managers contribution, expectation and accountability,
- Critical safety steps for health and safety compliance and how to achieve them,
- Introduction to processes to protect others including hazard management,
- Introduction to processes if losses, incidents, injury or emergency events occur,
- Who's who in safety at Massey?

Companion documents to be read in conjunction with this guide are:

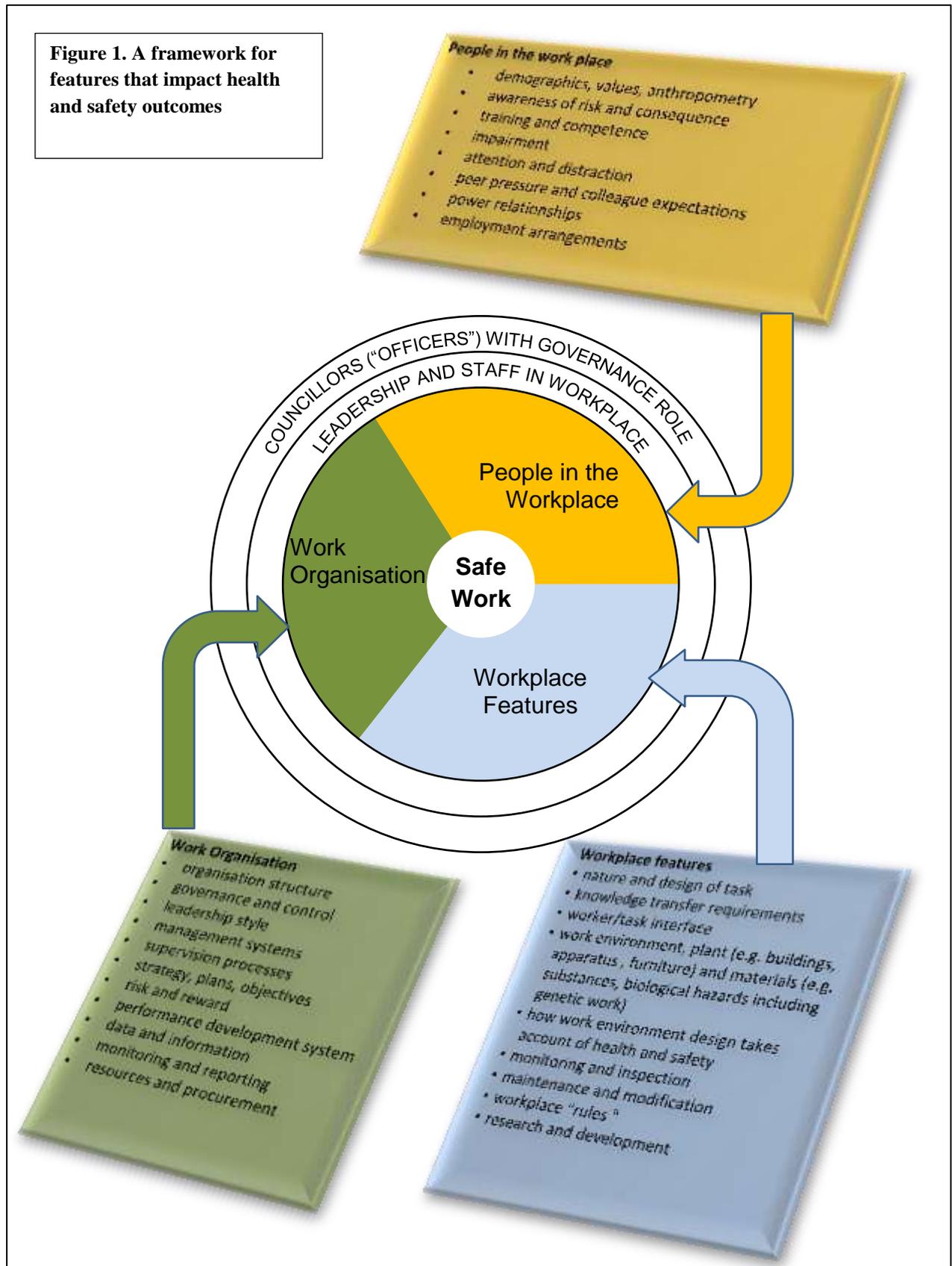
- Massey Manager Induction - available from Capacity Development team at POD
- [Health and Safety Induction book](#) for your personal safety

The guide does not cover job specific hazards, or health and safety responsibilities attached to the outputs in your field of endeavour.

Section 1: Health and Safety at Massey University

What is health and safety (H&S)?

Health and safety covers the intersection of people, work organisation and workplace features as illustrated in Figure 1.



Health and safety (H&S) is about protection from injury or illness of; staff, students, visitor and contractors. It encompasses the way work is organised, the features of the workplace, and the people in the workplace.

Ok, given H&S covers a lot, how does Massey manage H&S?

Like financial or quality control systems, safety operates in an environment of continual improvement, using the steps of: “commitment, planning, implementation, measurement/evaluation, review and improve”.

Diagrammatically this can be represented as below:

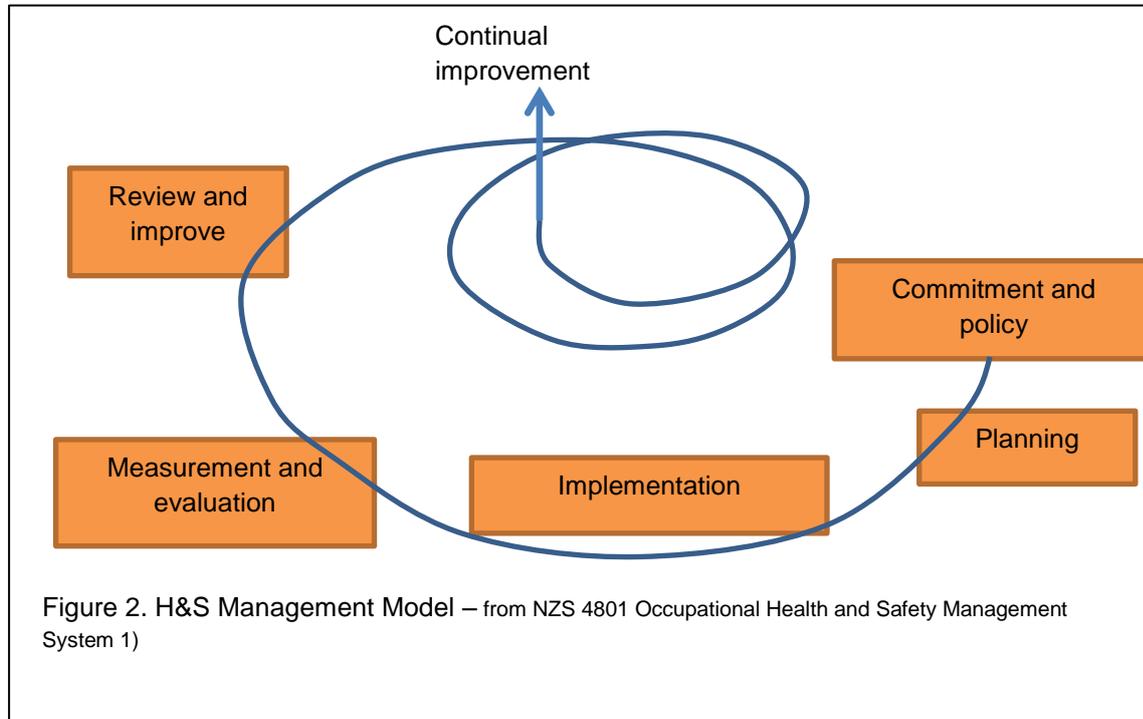


Figure 2. H&S Management Model – from NZS 4801 Occupational Health and Safety Management System 1)

What are health and safety duties at Massey University?

As with any system responsibility can rest at different levels in the University. The Health and Safety at Work Act 2015 assigns duties generally and at different levels. A summary of who does what is shown in the table below.

| Table 1. Summary of health and safety duties at different levels | | |
|--|--|------------------------------|
| Level | Examples of responsibility | Basis of authority |
| Strategic | Interaction and contribution to law making a critic and conscience of society, and ensure regulation is workable for teaching and research. | Community service |
| General provisions | <p><u>No charges allowed on workers</u> Massey (a PCBU = Person in control of business or undertaking) must not impose a levy or charge on a worker for anything done or provided in relation to work health and safety (either before or during employment)</p> <p><u>No contracting out</u> any agreement or contract that purports to exclude, limit, or modify operation or duties is of no effect</p> <p><u>Insurance against fines unlawful</u></p> | S:27-29 H&S at Work Act 2015 |
| Principles relating to all duties | <p><u>Risk approach</u></p> <ul style="list-style-type: none"> eliminate risks to health and safety, so far as is reasonably practicable; and if it is not practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable. <p><u>Duties not transferable to another person</u></p> <p><u>Duties can be plural</u></p> <p><u>More than one person can have same duties</u></p> <p><u>Requirement to consult cooperate and coordinate with other duty holders</u></p> <p><u>Check other legislation</u> in determining compliance with a health and safety duty.</p> | S:30-35 H&S at Work Act 2015 |

| | | |
|---|--|--|
| Governance (Council), VC and SLT (officers) | Use due diligence to ensure compliance. Includes being up to date about h&s, understanding of business hazard risk, resourcing and processes to eliminate and minimise h&s risk from work, h&s information provided and response, ensure Massey as the PCBU complies with its duties and verification of h&s processes listed above. | S:44 H&S at Work Act 2015” |
| The University, as a PCBU (Person in control of Business or Undertaking). University managers from the VC to immediate line managers are the embodiment of the PCBU. Put another way, managers carry out the duties of the PCBU which is the University. Managers who have more control or influence in the workplace carry a greater responsibility for the PCBU. All members of the University community have a role to play in h&s both in law and morally in so far as their influence extends. | <p><u>Horizontal duties (ie duties within the workplace):</u> Ensure, so far as is reasonably practicable, the health and safety of: other workers who are influenced or directed and others (general public) by:</p> <ul style="list-style-type: none"> (a) providing¹ a work environment without risks to health and safety; and (b) providing² safe plant and structures; and (c) providing² safe systems of work; and (d) safe use, handling, and storage of plant, substances, and structures; and (e) supplying adequate facilities; and (f) the provision of any information, training, instruction, or supervision that is necessary to protect all persons; and (g) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing injury or illness of workers arising from the conduct of the business or undertaking <ul style="list-style-type: none"> • Maintain accommodation (when it is provided) so that the worker is safe (from the accommodation). <p>Engage with workers, have a participation system, health and safety committees, and determine work groups. Not to treat elected health and safety representatives adversely.</p> <p>Specific duties which are applicable across the life of the item assigned to PCBU for:</p> <ul style="list-style-type: none"> • management or control of a workplace to provide health and safe workplace and access, • management or control of fixtures, fittings, or plant for² a workplace. | S:36 H&S at Work Act 2015 S:58-67 S:88-97 S:37,38 |
| | <p><u>Vertical (or supply line) duties (i.e. duties outside the workplace):</u> Specific duties (which are applicable across the life of the item) assigned to PCBUs who:</p> <ul style="list-style-type: none"> • designers of plant, substances, or structures for² workplaces, • manufactures of plant, substances, or structures for² workplaces, • importers of imports plant, substances, or structures for² workplaces, • suppliers of plant, substances, or structures for² workplaces, • installers, constructors, or commissioners plant or substances for² workplaces. | S:39-43 H&S at Work Act 2015 |
| | <p><u>Notifiable events and site preservation duties:</u></p> <ul style="list-style-type: none"> • PCBU's to notify the regulator of notifiable events, • keep records of notifiable events, and • ensure that a site where a notifiable event has occurred is not disturbed until authorised by an inspector. | S:55-57 H&S at Work Act 2015 |
| | <p><u>Authorised work duties:</u> regulations may require some; work, plant , or substances at a workplace to be authorised by licence, permit, registration, qualifications or experience.</p> | S:203-208 H&S at Work Act 2015 |
| Staff worker ³ | Personal safety, safety of others (including omission), comply with instructions, procedures and policy. Cease work if unsafe. | S:45 S:82-87 |
| Students, visitors | Personal safety, safety of others (including omission), comply with instructions | S:46 H&S at Work Act 2015 |
| H&S representative | As for a “worker”, along with enforcement powers to issue provisional improvement notice or direct work to cease in their workgroup. | S:69-81, Schedule 2, H&S at Work Act 2015 |

In summary all members of the University community have a role to play in H&S, both in law and morally. The table above covers assignment of duties. We want to look next at practical guidance on how to make the work you are responsible for safe.

¹ Interpreted in present continuous sense – ie provide and maintain

² “For” means “are to be used, or could reasonably be expected to be used”

³ The term “worker” is very broad and is wider than employee. It includes; employees, contractors, contractor employees, hire company employees, out (or home) workers, apprentice, trainee, work experience person, volunteers.

Section 2. Providing a safe work place in the University

The above section gives a context for health and safety systems at Massey University. For the most part managers only have to interact with discrete parts of the system. These are covered by the University safety policy⁴.

What is the University position on safety?

Vision:

We will provide the very best healthy and safe, working and learning environment for our staff and students.

The vision statement of the policy sets out the aspirations of the University Council. It is followed by what the Council believes about safety.

Overarching Safety Policy:⁵

- 1.0 The University believes that:
 - 1.1 Health and safety is ranked equal with the University's primary aims and objectives (including financial), and is to be integrated with all functions in the University.
 - 1.2 Incidents which may cause harm are preventable.
 - 1.3 While leadership has ultimate accountability, responsibility for health and safety is with everyone who works, studies, visits, or has business on University sites.
 - 1.4 Staff, students, and contractors have a responsibility to take care of their own health and safety, and that of others around them, including undertaking a risk assessment; adopting sound work practices to avoid injury or illness; stopping any activity they reasonably believe will cause injury or illness; and engaging actively with Massey University treatment and rehabilitation plans, to ensure an 'early and durable return to work'.

- 2.0 To ensure a safe and healthy working and learning environment, the University will;
 - 2.1 Maintain and continually improve the Health and Safety Management Systems and processes.
 - 2.2 Take reasonably practicable steps to ensure health and safety of staff, students, contractors, and others at the University from work and study by proactively identifying and managing hazard risk and unsafe behaviors.
 - 2.3 Set, monitor and report on health and safety performance.
 - 2.4 Evaluate and recognize health and safety performance of staff, students and contractors.
 - 2.5 Consult and actively promote participation with staff, students and contractors to ensure they have the training, knowledge, skills, supervision and resources to maintain a health and safe working and learning environment.
 - 2.6 Accurately report and learn from accidents and incidents.
 - 2.7 Support the safe and early return to study or work of injured students and staff, through rehabilitation.
 - 2.8 Design, construct and operate Campus facilities so they protect people and property.
 - 2.9 Require all contractors and workers to demonstrate the same commitment to achieving excellence in safety performance.
 - 2.10 Comply with relevant legislation, regulations, codes of practice and industry standards.

This section starting with "the University will" sets out the activities for management. In most cases the framework for the system is established, so managers need to deliver health and safety as it applies to their control span.

⁴ The policy used in this booklet is subject to review. The policy web site should be consulted for latest Council approved version.

⁵ The policy is arranged in three tiers:

1. A vision statement,
2. An overarching health and safety policy including beliefs,
3. Detailed position statements on specific hazard risks. Major hazard risks that have separate policies are included for completeness using linked reference.

Detailed health and safety policy statements:

3. In addition to the general obligation for all work areas to identify hazards of all kinds and put in place controls to prevent harm from those hazards, the University position on specific types of hazard risks and the required controls and other relevant obligations are categorized and listed below:

Work organization

- 3.1 Staff responsibilities: It is the responsibility of every staff member to discharge applicable safety policy: See [Policy on Staff Conduct](#). This includes the early reporting of any pain or discomfort and ensuring that all accidents, incidents and unsafe conditions are reported to the appropriate person.
- 3.2 Management responsibilities: It is the responsibility of every manager to discharge the safety policy. See [Health and Safety Guidelines for Minimum Compliance](#) for more detail.
- 3.3 Supply of, consultation, design and services: The University is expected to adhere to the duties assigned to: designers, manufacturers, importer, suppliers, installers, constructors, or commissioner of plant substances and structures. The [Health and Safety at Work Act 2015](#) explains these in further detail.
- 3.4 Academic responsibilities: Academic staff members are responsible for the implementation of health and safety within their realm of responsibility for learning, teaching, research, and knowledge transfer. To the extent that staff have control over students or activities they also have responsibilities to protect anyone who may foreseeably be harmed. See [Health & Safety Responsibilities for Academic Staff Guidelines](#) for more detail.
- 3.5 Consultation, cooperation and coordination with other organisations: Where more than one organisation has health and safety responsibilities (or duties) then consultation, cooperation and coordination with other relevant and appropriate organizations must occur. See consultation guideline <link - info under development>
- 3.6 Contractors providing services: All contactors are to be evaluated, inducted, and monitored to ensure protection of staff and students. All contract arrangements are to include consultation, cooperation and coordination of duties including who is responsible for implementation of hazard controls. See [Contractors Health and Safety Procedure](#) for detail.
- 3.7 Working after hours or alone: Supervisors are to be aware of lone and after hours work, use a risk-based approach for approval and appropriate alternative support for security and emergency systems. See [Working After-hours or Alone procedures](#).
- 3.8 Workload; Workloads are to be reasonable, safe and equitable. See [University Workload Policy](#) .
- 3.9 Reporting incidents, illness and injury: All incidents (including those that could cause harm) must be reported and recorded on the central incident register. All notifiable events are to

There are a significant number of processes at a teaching and research university that interface with safety. This section of the policy summarises the “positional” part of those processes. The procedural step and process detail is on the University web sites.

To aid locating the correct process this section is set out using the following headings:

- Work organisation –includes: responsibilities, conduct expectations, and safety in working, reporting.
- People factors – includes selection/ rehabilitation, infectious diseases, participation in safety,
- The workplace – includes safety “rules” about procurement, protective equipment, children, dogs, firearms, driving, smoking, and specialist hazards such as – radiation, chemicals, biohazards, biosecurity and genetic engineering.

have the site preserved, regulator notified and to be investigated. See [Incident reporting processes](#) for steps.

- 3.10 Stopping work for safety reason: Staff members can refuse to do work that they believe poses a serious risk to their health and safety. See [Working in an unsafe situation](#) for processes on stopping work.

People

- 3.11 Manager and Staff development: Development of academic and professional services managers and staff to increase their knowledge, skills, expertise and potential in safety matters is provided to enhance individual and team performance in their current roles and to prepare them for future roles, to support the strategic direction of the University. See [Manager and Staff development Policy](#).
- 3.12 Harassment. The University does not tolerate harassment. See [Harassment and Discrimination at work policy](#).
- 3.13 Providing personal protective equipment: The employing unit will provide, and maintain in good condition personal protective equipment required by employees. See [Providing Personal Protective Equipment guideline](#) for more detail and student requirements.
- 3.14 Monitoring of staff health: The employing unit shall at its expense provide preventative health measures; assess environmental occupational hazards and health effects on staff; and provide pre and exit baseline monitoring. See [Monitoring Staff Health Procedures](#) for processes.
- 3.15 See [Policy and procedures on Pre-employment Checks for Prospective Appointees](#) for pre-employment health monitoring requirements.
- 3.16 Infectious conditions: There shall be no discrimination for people with an infectious disease unless there is clinically based transmission risk to other staff or students. See [Infectious Disease Guidelines](#) on Health and Safety web site for information on specific conditions.
- 3.17 Participation in safety process: There will be an agreed Health and Safety Consultative Committee, Campus and/or discipline committees, and elected health and safety representatives to actively promote participation and consultation with staff and students on health and safety matters. See [Employee Participation Agreement](#) for committee and elected representative functions.
- 3.18 Rehabilitation: See Rehabilitation Procedure to support the safe and early return to study or work of injured students and staff. Staff will take an active role in Massey University treatment and rehabilitation plans, to ensure an early and durable return to work.

Workplace

- 3.19 Workplace environment, plant, and equipment: A system for proactively identifying, assessing risk and managing hazard risks will be used to include health and safety in work design. The existing [Management of Hazards](#) outlines the process for hazard risk management.
- 3.20 Working at height: The Working from Heights Procedures applies to all use of: step and extension ladders, roof access, scaffolds, work platforms, mobile scaffolds, mechanical access plant, mobile elevated work platforms (e.g. cherry pickers, scissor lift), access ladders and crawl boards, rope and harness systems. High risk work from heights additionally requires a Permit To Work prior to working at height as explained in "Working from Heights Procedures"
- 3.21 All-terrain vehicles: users of Massey owned ATVs and motor bikes are required to comply with the [procedures for safe use](#).
- 3.22 Driving: Drivers of University Vehicles are to be suitably qualified, trained, and in a fit state to ensure their own safety and that of others. See [Driving procedure](#) for requirements.

- 3.23 Smoking: All University workplaces, grounds and vehicles are totally smoke free, with the exception of designated smoking areas. See [Smoke-free procedure](#) for steps to designate smoking areas and process for dealing with complaints.
- 3.24 Children: Children must be accompanied by an adult and closely supervised. See [Children on Campus procedure](#) for further detail.
- 3.25 Firearms: Firearms are strictly forbidden unless the Campus Registrar (or equivalent) or Director of Agricultural Services in case of farms has given a prior written University permit. See [Firearms procedure](#) for more information.
- 3.26 Electricity: Staff undertaking electrical work must have appropriate practicing certificate and equipment checked for safety. See [Electrical safety procedure](#) for responsibilities and requirements.
- 3.27 Dogs on campus: Except for disability assist dogs, dogs which are patients at the veterinary clinic, security dogs or work dogs on University farms, dogs are not permitted on University property or University buildings. The [Dog procedure](#) details hazard risk from dogs.
- 3.28 Use of remotely piloted aircraft, unmanned aerial vehicles, and drones at the University requires Campus Registrar in consultation with Facilities Director (or equivalent) RPAS permit. The applicant will need to demonstrate an understanding of the CAA requirements in relation to the proposed use and their competence as an RPAS operator. The steps for RPAS permit are detailed in the procedure for safe use outside remotely piloted aircraft systems (RPAS).
- 3.29 Procurement: Hazard assessment for new or modified equipment, material, service or new work process must be completed prior to purchase. See [Safety Procurement procedures](#) for health and safety procurement specifications.
- 3.30 Hazardous substances: The use, synthesis, or importation of hazardous substances for teaching and research will be managed using the requirements of the Code of Practice (CoP) for CRI and University Exempt Laboratories. All other hazardous substances manufactured, imported, used, field tested or sold must be approved substances and subject to the Hazardous Substances and New Organisms Act (HSNO Act) regulatory requirements. The [Hazardous Substances Use, Synthesis, Purchase and Importation procedure](#) contains steps on requirements.
- 3.31 Radiation; The risk of exposure to radiation from any radionuclides and irradiating apparatus is kept As Low As Reasonably Achievable (ALARA), and requirements of New Zealand radiation protection legislation, regulations, associated MoH Codes of Safe Practice (CSP) and guidance material are to be followed. All radiation work is to be coordinated and monitored by implementing the procedures in the Massey University Radiation Safety Manual (MURSM).
- 3.32 Genetic Modification of Organisms (GMO): The importation, development of GMOs must only take place with approval gained through the Genetic Technology Committee (GTC) of Massey University as the institutional biological safety committee for low risk work or Environmental Protection Agency. See [Genetic Modification of Organisms procedure](#) for more information on the two pathways.
- 3.33 Infectious, pathogenic or zoonotic organisms. Principle investigators and laboratory/collection managers are responsible for assessing and minimizing the associated hazards from infectious, pathogenic or zoonotic organisms used at Massey University. See [Infectious, Pathogenic or Zoonotic Organism's procedure](#) for steps to achieve these requirements.
- 3.34 New organisms. All work with new organisms (including genetically modified organisms) and restricted biological products is to only be undertaken in appropriate facilities. See [New Organisms and Restricted Biological Products procedure](#) for requirements.

What MUST I do?

The existing Health and Safety in Employment Act 1992 requirements will continue until 4 April 2016 and these are on the University safety web site. Health and safety legislation typically uses a phrase “all practicable steps” or “reasonably practicable”. As the phrase is open-ended; potentially there is always something more one could have done, especially with hindsight. A good test of reasonably practicable is to get a peer to review your processes especially from expert colleagues who might be called on to give evidence.

The higher responsibility in law occurs when the axillary adverb “must or shall” is used. These statements become strict, leaving no room for discussion about reasonableness.

The strict liability requirements for the PCBU in the Health and Safety at Work Act 2015 are:

1. No levying workers – i.e. safety MUST be provided at Massey’s cost,
2. No contracting out of health and safety, insurance against fines unlawful,
3. Report notifiable events, and keep records,
4. Engage with workers over health and safety matters,
5. Comply with statutory notices including those issued by elected health and representatives,
6. Health and Safety representatives: confer with, allow time to do h&s function, provide information, allow entry and access to interviews with inspectors, support, adopt recommendations, and not to behave adversely towards health and safety representative.

How do meet my primary duties?

The following section indicates a systematic approach Managers can take in meeting their duties. The recommendations are drawn from WorkSafe information and draft consultative copies of the regulations. The regulations will not be finalised until 2016, so there may be changes to the next section going forward.

The context of work

Managers are carrying out the duties of the PCBU which is the University. In determining the extent of the Universities duties, a manager needs to determine who else is in the workplace and the scope of the manager’s influence. Typical questions are:

Who do I have a duty to?

- Are the workers employed or engaged by me?
- Do the workers work in my business or undertaking?
- Do I influence and direct the work activities that other workers carry out; and if so, how?
- Are there others affected by the work of my business or undertaking; and if so, how?

What is the scope of my duty?

- What is reasonably practicable for me to do?
- What is my ability to influence and control the health and safety matter compared to the other PCBU that I share the duty with?

How do I meet my duty?

- How do I best co-ordinate activities with the other PCBUs through allocating responsibilities and monitoring to ensure we are all doing what we agreed to do?

A systematic approach to health and safety matters follows next:

A systematic hazard management system:

- **Identify** reasonably foreseeable hazards that could give rise to risks to health and safety.
- Taking reasonable practicable steps to establish **control measures in order of:**
 - (1) Eliminate if reasonably practicable the risks to health and safety. If that is not an option,
 - (2) Minimise risks to health and safety, using risk-control measures by one or more of following:
 - (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk:
 - (b) isolating the hazard from any person exposed to it:
 - (c) preventing any person from coming into contact with the hazard:
 - (d) implementing engineering controls
 - (3) If a risk then remains, minimise the remaining risk, so far as is reasonably practicable, by implementing **administrative** controls.

(4) If a risk then remains, minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable **personal protective** equipment.

- Ensure **control measure is effective** and is maintained so that it remains effective, by ensuring the control measure is and continues to be—
 - (a) fit for purpose; and
 - (b) suitable for the nature and duration of the work; and
 - (c) installed, set up, and used correctly.
- **Review control measures** to maintain, so far as is reasonably practicable, a work environment has no risks to health and safety. In particular controls must be reviewed if it doesn't contain risk. Evidence of a control that needs review is:
 - (a) the results of monitoring show that the control measure does not control the risk,
 - (b) a notifiable incident occurs because of the risk,
 - (c) before a change (system of work, a process, or a procedure) at the workplace that is likely to give rise to a new or different risk to health and safety that the measure may not effectively control,
 - (d) a new relevant hazard or risk is identified,
 - (e) an employee health and safety representative indicates a review is required.

Provide information, supervision, training, and instruction on:

- Workers exposed to hazard risks who must have such **knowledge and experience** of similar places, and work, plant, or substances of that kind, as to ensure that the worker doing the work, using the plant, or dealing with the substance is not likely to cause harm to the worker or other people; or be supervised by someone who has that knowledge and experience; and
- be adequately **trained** in the safe use of all plant, objects, substances, or equipment that the worker is or may be required to use or handle; and all protective clothing that the worker is or may be required to wear.
- In doing the above ensure supervision and training provided to a worker are suitable and **adequate**, and
- Ensure training is readily **understandable** by any person to whom it is provided.

Ensure provision of workplace facilities

Includes ensuring no risks to health and safety from:

- access, and movement within workplace, both in emergency and normal use.
- work areas have sufficient space for work to be carried out,
- floors and other surfaces are designed, installed, and maintained to allow work to be carried out,
- sufficient lighting for work, movement within the workplace and evacuation in an emergency,
- sufficient ventilation to enable workers to carry out work,
- work in extremes of heat or cold,
- work in relation to, or near, essential services.

Facilities for unwell workers, either a place to rest or the ability to leave the workplace.

Facilities include; toilets, drinking water, hand-washing facilities, and eating facilities. It, also in some circumstance, includes change rooms, lockers for clothing, showers, floor drainage.

Facilities include chairs - it is preferred if possible work is done seated.

Ventilation systems so the contaminants are removed close to source and from the room.

First Aid

Ensure adequate first aid equipment that is accessible to all workers on each workplace is provided along with an adequate number of workers trained to administer first aid.

Emergency response

Have an emergency plan that provides for:

- an effective response to an emergency; and
- evacuation procedures; and
- procedures for notifying emergency service organisations at the earliest opportunity; and
- medical treatment and assistance procedures; and

- procedures to ensure effective communication between the person authorised by the University to co-ordinate the emergency response and all persons at the workplace.

Emergency plan to take into account the hazard risks and nature of work.

Provide for testing of the emergency procedures, including the frequency of testing.

Provide information, training, and instruction to relevant workers in relation to implementing the emergency procedures.

Personal protective equipment

Provide personal protective equipment if required as control measure (unless another PCBU has already done that).

Personal protective equipment must be selected to minimise risks to health and safety, including ensuring that the equipment is suitable, having regard to the nature and hazard associated with the work; and is suitability sized and fitted to be reasonably comfortable.

Personal protective equipment to be maintained, repaired, or replaced so that it continues to be effective, clean and hygienic; and in good working order; and compatible with any other personal protective equipment that is required to be used or worn by the worker.

Workers can choose to provide own personal protective equipment provided manager on behalf of PCBU approves it.

Workers must wear personal protective equipment and not damage it.

Managers (on behalf of the PCBU) must ensure personal protective equipment used by other workers at the workplace is capable of minimising risks to that person's health and safety; and that they wear it.

Other workers must use personal protective equipment when directed by Manager for the PCBU.

Accidents and incidents recorded, reported and investigated

- All sites of notifiable event are to be preserved until released by the regulator (other than to render the situation safe and assist injured personnel),
- Managers on behalf of the PCBU (after seeking advice from health and safety representative or Advisor) are to notify the regulator of notifiable events,
- All notifiable events are to be investigated to establish the adequacy of hazard risk control measures,
- All notifiable events and near miss incidents are to be recorded in the central register provided by the University for that purpose.

Special hazard risks

The University health and safety policy identifies particular requirements in relation to special hazard risks. It is likely some of these such as working alone, in hazardous atmospheres will be supported in time with specific regulations from WorkSafe.

Can I delegate health and safety?

You can delegate some of the work indicated above, but not the responsibility. If you have subordinate team(s) you should delegate H&S to the team manager for their team, unless you wish to manage the health and safety of the subordinate team members yourself.

If you do delegate health and safety functions there are indicative job description statements on the health and safety web site. It is imperative you are across the hazard risk register, accidents, and investigations and sign these off as adequate, even if you rely on someone else to prepare them.

Should I have an elected health and safety representative?

Yes, an elected representative is encouraged as it allows employees to have an advocate who can represent "bench and lectern" concerns. An elected representative is a voluntary role and under the Health and Safety at Work Act 2015 will have enforcement powers to issue a provisional improvement notice and direct unsafe work to cease. It is recommended if you have more than 20 staff you do have an elected health and safety representative.

Employees may endorse a staff member who has delegated safety role.

Section 3: Supporting processes

Massey has systems to support you in your H&S responsibilities. These are:

H&S System and web site (quick link from staff room page)

(or <http://www.massey.ac.nz/massey/staffroom/national-shared-services/health-safety/>)

The H&S web site supported by the policy web site contains the major H&S systems you need to interface with. You will find template documents for hazard registers, and guidance on responding to an accident. The web site is organised into a manager section which should have the main elements you need.

Face to face training is provided on H&S processes as in the Development Calendar, and some sessions are captured in presentations that you can view from your desk. So we can record your proficiency once you have viewed an online session can you complete the assessment provided on the web site please?

Information on common hazards and standing processes for dealing with them is also on the university H&S web site.

H&S Safety Advisors, specialist advisors

Each Campus has a H&S Advisor who can assist you on personal basis, and will have access to historical safety data and hazard risk registers for your area.

An officer in the College of Sciences covers specialist areas of radiation and biosecurity.

Where staff are absent for work or non-work injury, rehabilitation and compensation to your accounts is handled by Rehabilitation and ACC claim Administrator.

Their contact details are on the health and safety website.

H&S Committees

Collaboration and networking for mutual benefit is important in dealing with safety hazard risks, and allow elected representatives a voice in safety management. Each Campus has a safety committee which has Campus advisory representation along with management, staff and student representatives. At strategic level there is a University wide Health and Safety Consultative Committee.

The committees also provide an essential role in review of injuries and their follow up.

University staff

Part of the privilege of working for Massey is the support you can get from specialist expert colleagues. The "search for an expert" on the University web site allows you to locate them. So don't be stumped if your *aspergillus sydowii* causes a field trip delay and staff stress with a threatened walk out in protest, someone at Massey will have a qualitative answer, as well as the simple stuff!.

Appendix 1: Glossary of terms, abbreviations

| | |
|-----------------------|---|
| Hazard risk: | A situation that has potential to cause death, injury, or illness to a person. |
| H&S at Work Act 2015: | Health and Safety at Work Act 2015. |
| Health and System: | An integrated framework of processes for injury prevention and systems if injury or illness occurs. |
| H&S: | Health and Safety. |
| Manager | Any staff member with authority to supervise other staff, visitors and persons with business at Massey University. Includes titles such as: Vice Chancellor, Registrar, Pro Vice Chancellor, Assistant Vice Chancellor, Head of Department, Head of School, Head of Institute, Head of College, Head of Section, Director, Manager, Group leader, Principle investigator and equivalent titles. |
| PCBU | Person in Control of Business or Undertaking. Massey University is the PCBU. |
| SLT: | Senior Leadership Team. |
| VC: | Vice Chancellor. |
| Worker: | Includes when working; employees, contractors, contractor staff, employee of labour hire organisation, outworker or home worker, apprentice or trainee, volunteer. |
| Workplace: | Any place where work occurs or where workers might go. |
| WorkSafe: | New Zealand H&S regulator. Formally known as Department of Labour (DoL), or Occupational Safety and Health (OSH). |

Appendix 2 Case studies

These case studies are selected to illustrate what can happen when injury occurs.

Nalder & Biddle (Nelson) Limited 2005

(from BrookersOnLine – case judgement)

[1] The Defendant is charged that under s6 and s50(1)(a) of the Health and Safety in Employment Act 1992 that as an employer it failed to take all practical steps to ensure the safety of the employee named in the Information. I have suppressed her name and details. This prosecution relates to personal matters that are directly related to her. Clearly her identity should not be in the public arena.

[2] The injury that was suffered in this case was work-related stress. That makes this case somewhat different from most of the cases that appear before this Court.

[3] The facts are that in August 2003 the Complainant assumed the role of an assistant in the accounting department of the firm. However, within a few days of her being appointed the financial manager and his assistant resigned. The employee took on that role immediately she began her employment.

[4] There were considerable stresses placed on her. By October 2003 she made it plain to the Chief Executive that she was suffering stress-related chest pains and had been placed on medication. It was agreed straight away that she could employ two assistants to replace those who had left. As it turned out, people with experience were not able to be recruited, but she did employ two people whom she planned to train.

[5] From then until late November there were continued work-related stresses and in November a meeting was arranged with the CEO and the Chairman of the firm in order to find further assistance. In mid-December a qualified contract accountant was recruited and employed. That brought to three the extra number of people that had been employed. In January 2004 the employee concerned suffered chest pains and was advised to stay away from work. However, she did return to work because of an important upcoming meeting, but on 30 January was unable to continue and was placed on stress leave. It is that event that marks the date of the offence in this Information.

[6] Medical investigations indicate that the condition suffered by the employee on 30 January 2004 was directly related to the stresses on her in her employment. Although the employer had acknowledged the problem after it had been told, a solution to alleviate the stress was not found and this injury occurred. That means of course that all practicable steps were not taken. Of course whether the potential injury is to health or to life and limb, the obligation of the employer remains the same.

[7] I have received very full submissions both on behalf of the Informant and on behalf of the Defendant and I am grateful to counsel for their preparation and presentation of those submissions. I first of all deal with the effect on the employee. I have a Victim Impact Statement which was prepared and signed just a short time ago, although I believe it to have been prepared on the information that was available immediately this matter came to light. That Victim Impact Statement sets out the long term effect that this injury has had on the employee, not only as to her health, but as to her confidence and ability to handle positions such as she was previously employed in. I was pleased to read that the prognosis for recovery is good. One of the significant factors in that is the conclusion of all outstanding legal issues.

[8] Turning to an assessment of the Defendant's culpability, I have regard to the issues contained in the Sentencing Act and perhaps most of all the purpose of sentencing relating to the deterrence of others. I doubt any such deterrent would be required for the Defendant Company personally because it has now had a lengthy experience in matters of this sort and has taken this matter very seriously. But generally there needs to be a deterrent effect in sentencing to discourage any employer from avoiding responsibility for the health of their employees.

[9] I have regard to the degree of harm which has been caused to the Defendant and also for the safety record of the Defendant which has already had one blemish on it with a prosecution in the year 2000 under the same provisions.

[10] The Defendant Company is entitled to consideration for the guilty plea and, as counsel has submitted, that has some considerable significance in this case. It removes from the Complainant the tensions of evidence giving which are not to be underrated. The Company has shown remorse for the offence and the harm that was caused. It has co-operated with the authorities. In addition there has been a settlement of outstanding claims under the Employment Relations Act. I have been provided with a copy of that

settlement. It is confidential. I accept that at the least it can be treated as an offer to make compensation under the Sentencing Act. In this case I understand that amount has been paid. In so far as it encompasses losses arising from the accident, it makes a reparation order unnecessary. I am unsure, however, whether the settlement includes the costs of treatment which has been stipulated in the Victim Impact Statement. That cost amounts to treatment of about \$1,300. Costs of medication are too vague to deal with. There is a suggestion that there was a hypertension diagnosis prior to employment commencing.

[11] Turning to the accident itself, I accept that the company did take steps to try to alleviate some of the workload on the employee. Obviously the company recognised the stress she was under. In October there were two employees taken on and then later on in December a third. It is difficult to assess the effect of stress on an employee. Employers have to be vigilant that the stress placed on an employee is reasonable. There will always be stresses in a job, but they must not become health threatening. Where employees have stressful work conditions and special medical difficulties advised to the employer, then immediate remedial action is required.

[12] The classifications of culpability in the high, medium and low range is a convenient tool for the imposition of penalties. However, those ranges tend to be flexible and are not always very helpful, particularly when one considers the maximum penalty for sentence of \$250,000.

[13] Having regard to the authorities that I have received and perused, the submissions that I have received in relation to them and to the facts in general, and balancing this case as best I can against other cases related to different types of injury, I have come to the conclusion that a fine ought to be in the range of \$6,000 - \$10,000. On the facts of this case the company is fined \$8,000. As to reparation, I am really left in the position where I am unsure that there has been any losses not covered by the terms of the settlement, which dealt with loss of income and issues of emotional harm, and I accept that as a reasonable settlement of those matters, with the one exception that I allow the medical expenses referred to. Therefore I do allow the sum of \$1,294 for payment of the expenses incurred with the psychologist and general practitioner attendances referred to in the penultimate page of the Victim Impact Statement. I also allow costs of \$130 and solicitor's fees of \$500.

Department of Conservation Nov 2012

Taken from Auckland DC, File number CRI-2012-088-2221.

The presumed drowning of a Department of Conservation volunteer on Raoul Island in January 2012 revealed a number of shortcomings in the safety of a weekly sampling process normally undertaken by DoC staff.

The Department was convicted under s6 of the HSE Act but as a Crown agency could not be fined. Nor was any reparation ordered as DoC had already paid \$60,000 to the dead man's family and had made other arrangements to accommodate his wife and father from overseas (Auckland DC, 22 November 2012).

Raoul Island is situated 1000km north-east of New Zealand. It is a conservancy area and is managed by DoC, which uses a mix of staff and volunteers to carry out weed control, maintain infrastructure, manage visitors, and provide daily data for the Meteorological Service.

One of the meteorological tasks is to measure the sea temperature at a point known as Fishing Rock, about 20 minutes' drive from the DoC hostel. This is carried out at 6.30am each Monday and is normally done by DoC staff working to a roster. However on this occasion the island was short-staffed and a volunteer from Romania, Mihai Muncus-Nagy, who had been on the island for two months, was asked to do the job. He was shown how to do it and had successfully carried it out twice before.

The task requires the worker to enter their name and intentions on the hostel's intentions board and to take a radio telephone before driving to Fishing Rock. The testing equipment – a thermometer with buoy attached by rope to a crate – is retrieved from a shed sited on a concrete platform. The worker then descends to a lower platform and observes the sea conditions, as the task can only be safely performed if conditions are not too rough (though staff had no scale for assessing this). He or she then swings the rope and casts the thermometer into the sea where it is left for a few minutes before being hauled in. If the rope snags on a rock the worker must climb down to an even lower rock platform to release it – a platform known to be washed over by waves during rough weather.

On the evening of 1 January 2012 Mr Muncus-Nagy advised others he would be doing the task the next morning. He did not write his intentions on the board, nor did he take the RT. He did not return. His vehicle was found parked at the usual spot near Fishing Rock, and his jacket and the measuring equipment was found on the rocks. His body has never been recovered and he is presumed to have been swept off the lower platform and drowned.

Investigating, the Department of Labour found that written procedures for the sea temperature task existed but that the staff and volunteers on Raoul Island were unaware of them. In any case, the written procedures were similar to the hands-on training given in practice.

However, DoC's hazard register for Raoul Island did not identify any hazards associated with the water temperature task, nor did it identify the hazard of working alone or any control measures to take to minimise risks.

DoL found that DoC could have eliminated the hazard by automating or mechanising the system of taking sea temperature measurements. However if manual measuring was to be carried out then four steps could have been taken:

Use a second person as a safety lookout; Have the worker wear a life vest; Install a lanyard above the high water mark and attach it to a harness worn by the worker; Provide a personal locator device.

NOTES OF JUDGE C J FIELD ON SENTENCING

The facts of the matter briefly stated are that Mr Muncas-Nagy had been with the Department for some time doing volunteer work. It was not an integral part of his work at the outset to take the kind of meteorological readings that he was engaged in doing on the morning of this event. However, he was involved in that work and it would appear as though he has lost his footing and has simply disappeared. He is missing, presumed drowned, and this has given rise to the prosecution here. There were a number of matters identified by the informant which give rise to the prosecution and in respect with which the Department has fallen short. The details of the breach have been identified as the need to eliminate the task of a worker having to physically take the measurement of seawater by the use of an automated mechanised system of water temperature sampling. If manual samples must be taken, to ensure controls are used to minimise the environmental hazard by, firstly, having a second person attend as a safety watch when the task is being undertaken, to ensure workers wear personal protective equipment such as a life vest, having a lanyard attached to a secure location above the high water mark and to a safety harness worn by the worker so they cannot be washed off the rock platform, providing a personal locator device. These are the practicable steps which the Department could have taken in this instance.

UCLA May 2013

(from chemistryworld: <http://www.rsc.org>)

Note: this case is included as the University of California settled with the State of California with a guilty plea, but excluded the supervising academic as being a party to the settlement. The same could happen in New Zealand as the safety law allows for both corporate and personal conviction. The script below is a summary from popular press, in contrast to court documents used above.

1. The chemist who supervised a research assistant who died from injuries sustained in a University of California, Los Angeles (UCLA) lab more than four years ago will go on trial in connection with her death. The case could set a precedent whereby university researchers could be held liable for unsafe laboratory practices.
2. Patrick Harran supervised Sheri Sangji, the UCLA research assistant who died in early 2009. Her death was the result of serious burns received while working on her own in Harran's organic chemistry lab with a pyrophoric t-butyl lithium solution.
3. The California Division of Occupational Safety and Health found that the incident was caused by inadequate training, and criminal charges were brought against both the university and Harran. UCLA settled the charges in July 2012 after agreeing to comprehensive corrective safety measures and also establishing a \$500,000 scholarship in Sangji's name at University of California, Berkeley, school of law.
4. Meanwhile, on 26 April 2013 Harran was ordered to stand trial on three criminal counts of violating occupational health and safety laws that led to Sangji's death. Harran will return to court on 9 May for arraignment, and he faces up to four-and-a-half years in prison if convicted.

5. UCLA reacted defensively to the development. The school's chancellor, Gene Block, called the incident that took Sangji's life 'a terrible tragedy', but stressed that it was 'an accident, not a crime'. Block described Harran as 'a talented and dedicated faculty member', and pledged the university's 'unwavering support for him.
6. Sangji's death led UCLA to create a Center for Laboratory Safety to support research in this field, and it also dramatically increased the number of lab inspections, from 365 in 2007 to almost 2400 in 2010.
7. 'Dr Harran is a highly paid researcher, and if he has a felony conviction on his record, his funding will dry up in a hurry,' says Russ Phifer, executive director of the National Registry of Certified Chemists. 'That is going to be a wake-up call for everyone else.'
8. Robert Latsch, a chemical and environmental health specialist at Case Western Reserve University, US, agrees that the case is a game changer. 'The fact that a professor may well go to jail will become a catalyst and motivate people and institutions to change,' he tells Chemistry World. But that change is likely not going to happen overnight.
9. In general, industry has a much stricter lab safety regime than academia. 'There is a much more effective hammer, as in you are fired,' Phifer says. In addition, industry research labs don't have the turnover seen in academia, where graduate students do much of the work. 'They are not constantly training new people,' Phifer notes.
10. Another problem is that government tries to apply workplace safety rules to academic research labs, and it's not necessarily a good fit. Researchers at universities often see themselves in a contractual relationship with the university rather than as an employee.
11. 'Academia doesn't believe that the lab safety standards in industry apply to them,' Latsch says. 'They are not well informed on this at all.' He describes the governance system in a private company as autocratic, versus the confederation seen in academic institutions.

Otago University v K. G. Casey, 27/02/2015, Dunedin DC CRN15012500135

This case is interesting in that it was laid privately under S:49 of *knowingly causing serious harm*. The University of Otago was ordered to pay \$60,000 to the complainant.

1. The Commerce building of the University, situated at 60 Clyde Street, Dunedin, is part of the University of Otago and is used by staff, students and visitors to the University.
2. The building was constructed by the University in 1991 with an open atrium over two levels.
3. The atrium floor and atrium stairways were tiled with tiles that were unsuitable for outdoor use because the surface of the tiles was slippery when wet and the tiles had been laid without appropriate sloping to drain water from the tiles.
4. The atrium was subsequently covered with a glazed roof, which was inadequate to prevent rain water from falling and pooling on the atrium floor.
5. When it rained, the atrium floor and stairs became wet, with water pooling in places.
6. When wet, the atrium floor and stairs were highly slippery.
7. The University was aware that the combination of exposure to rain and weather and the tiling on the floor created a significant hazard for those walking across the atrium floor or using the atrium steps.
8. The University was aware that people walking across the atrium floor or using the atrium steps were from time to time slipping, and that some were suffering injuries. See annex 1.
9. The University was aware that the atrium floor and atrium steps had the potential to cause, and had caused, serious harm in the ordinary course of the building's use.
10. From time to time between 1996 and June 2013 the University took action in purported attempts to address the hazard, but the University was aware either at the time or within a period after each action that these actions were ineffective to address the hazard. See annex 2

11. The actions taken by the University were insufficient to meet their obligations under Part 2 of the Health and Safety in Employment Act 1992.

ANNEX 1: REPORTED INCIDENTS AND FORMAL COMPLAINTS DISCLOSED BY THE UNIVERSITY UNDER THE OIA

| | Date | Injuries /complaints | Details | Documents |
|----|---------|-----------------------------------|-----------------------------------|--|
| 1 | 25/2/93 | Hit elbow, arm and head | Slipped and fell on stairs | Email 16 May 2001 Andrea McMillan to Barry McKay |
| 2 | 12/7/93 | Sprained ankle and foot, hospital | Slipped on wet tiles | Incident report |
| 82 | 5/3/14 | Slipped | Third person on same day as above | Incident report |

In summary 82 events over a 21 year period – approx. 4 per annum

ANNEX 2: ADMISSIONS AS TO KNOWN INEFFECTIVENESS OF REMEDIAL ACTION DISCLOSED BY THE UNIVERSITY OF OTAGO UNDER THE OIA

See original reordered by date

| Date | Work described in affidavit sworn on behalf of the defendant on 19 April 2014 | Effectiveness |
|----------------|---|--|
| 2002 | Union street exterior tiles replaced with concrete pavers | No impact on remaining tiles. |
| 2002 - 2004 | Cleaning and resealing roof | |
| Feb -July 2005 | | Property Services in response to complaint about slippery tiles by disabled student, notes problem "has been an on-going saga for some time". |
| June 2006 | | Opus expert consultant's report: "the waterproofing ... has been and remains unsuccessful with large quantities of water penetrating. . ." |
| December 2006 | | Dept Health and Safety Officer /Head of Dept comment on Hazard report states: "Signage warns of this issue but does not prevent accidents. Tiles dangerous." |
| May 2007 | | Business School to Property Services refers to water "flow[ing] through the atrium" "including all around the third floor". Property Services response: "We are all aware the atrium leaks when it rains..." |
| July 2007 | | Property Services paper "Commerce Building Atrium, Review Roof Leaks" states: "Over the years the Property Services have commissioned a number of consultants to investigate and report upon the solutions to resolve the persistent leaks through the have been offered from low cost resealing joints to the ultimate expense of complete replacement of the atrium. We have unsuccessfully carried out the low cost remedial options including the complete replacement of the perimeter flashing and replacing the glazing sealants. These solutions have not been successful . . ."glazed atrium roof. A range of solutions and recommendations |
| August 2007 | | Opus expert consultant's report "The atrium roof leaks. . . there have been efforts to achieve a fully weather-tight structure. To date these efforts have been mixed |

| | | |
|-------------------------|--|---|
| | | and rain water still leaks into the atrium space and causing significant health and safety issues on the tiled floor below." |
| June 2009 | | Property Services to Chief Operating Officer refers to "persistent leaks" in the atrium. |
| May 2010 | | Property Services (brief and request for proposal from architecture consultants on atrium and ground floor improvements): "There have been ongoing issues resulting from the design of the Atrium roof since it was build, and despite several attempts to "solve" the issues such as leaking and general climatic ambience, it has now become critical that a permanent solution for this space be appropriated, along with addressing compliance issues such as Fire Design and Ventilation." |
| 2008 | Tiles etched. | |
| 2008 | Epoxy type grit trialed on the exterior tiles on Clyde Street | Ineffective, see next entry. |
| January 2009 | | Incident report notes work ineffective and warning signs required . Further reports in February of a number of accidents on a single day, despite the new treatment. |
| March 2009 | | Property Services emails indicating problems with cleaning products used on etched tiles, may be making tiles even slipperier |
| April 2009 | | Dept Health and Safety Officer /Head of Dept comments on Hazard Report re slippery tiles "Not a lot we can do, make sure staff are aware there is a hazard when it rains as the building leaks. Any visitor would not know if they are not aware of the leaky building |
| May 2009 | | Dept Health and Safety Officer /Head of Dept comment on incident report "Having witnessed many slips, the situation with the tiles needs addressing." |
| June 2009 April 2011 | | Dept Health and Safety Officer /Head of Dept comment on incident report notes the need for a non-slip substance for the tiles. |
| 2012 | The exterior tiles on Clyde Street were removed and the area re-laid with asphalt. | No impact on the internal tiles. |
| August 2012 | | Head of Health and Safety Compliance to Property Services "With the rain we have had complaints from Commerce about the leaking building and the wet tiles. Property services have had a clean-up over there today I understand but this is a persistent and recurring problem." Property Services comments "I don't believe there is an easy solution to this problem due to the excessive slipperiness of the Commerce Tiles . . ." |
| March 2012 | | Department Manager to Property Services, writing on behalf of number of staff about the growing concern with the tiles at the Clyde St entrance: "These tiles are treacherous and it is only a matter of time before someone has a serious injury. [refers to number of unreported slips] I would ask that you look at treating it again, or replacing the tiles an make it safe before winter really sets in." Property Services reply: "We are aware of this issue with these tiles . . ." |

| | | |
|------------------|--|--|
| August 2012 | | Health and Safety Advisor to Property Services: "I was asked to go and take a look at the state of the floor this morning in the Commerce building . . . The occupants are quite rightly concerned at the risk these wet areas are creating. We share these concerns and hope a solution can be found . . ." |
| August 2012 | | Property Services Report states in relation to the 2008 tile treatment that "No significant difference was noted." Records: "The problem with these tiles is they have a low-coefficient of friction surface rendering them extremely slippery. The issue is aggravated when the tiles become wet from the leaking atrium and to some extent with other sources such as umbrellas. Also compounding the problem is that when puddles form during the prolonged periods of rain there is insufficient provision for floor draining and inadequate ventilation relief to hasten evaporation quickly and effectively. When these tiles become wet they are a significant safety risk of a fall hazard. When people walk into the atrium like this they don't expect to be confronted with wet tiles and the need to puddle hop." |
| November 2012 | | Property Services Report records "While this [etching] did improve the situation it did not make the tiles significantly less dangerous" |
| February 2013 | | Memo Prof Benwell to the Vice Chancellor records that slippery tiles have caused injury, and the access stairs are steep and falls have been recorded, many incidents go unrecorded. |