

How to: Manage a serious workplace harm incident / investigation

If an accident happens at work you will need to consider a number of issues. The law requires all reasonably practicable steps to be taken. However, even the most diligent people, processes and systems can be affected. It is imperative to properly understand and manage your risk.

This fact sheet is a collaboration between Brett Harris, Barrister in conjunction with Sentry Law™, and Martin Wouters, Managing Director of Manage Company for all of our clients who may find themselves facing a formal investigation by WorkSafe New Zealand following an accident at work that injures, or even kills, an employee or a worker of another company / PCBU.

1 Plan Ahead. Assess Risk

Take the time and make the effort (now) to review the hazards faced by your workers, and by contractors. Take the time to formulate a written plan and manage risk. Even a simple one page response plan can take pressure off supervisors and managers and help with the aftermath of a serious accident.

2

Put people first



Good employers look after their people, that means putting the victim and their family first. Co-workers and witnesses may need counselling or time to come to terms with what has happened. As the employer, you too may go through the grief cycle. So, look after yourself.

3 Get prompt legal advice



Take immediate legal advice - from someone who specialises in this area. They will advocate on your behalf and will be able to advise you on what to do and what not to do. Remember this is not an employment law issue - you may face serious criminal charges.

4

Document the scene



Do not interfere with the accident scene: you have an obligation to preserve the scene until WorkSafe have cleared it. But do take statements from witnesses, take pictures and measurements of the accident site.

6 Coordinate other entities



There may be other businesses involved who may also be affected. Coordinate and communicate with these affiliates accordingly.

5

Analyse, don't speculate!

In a serious or fatal accident the Police, WorkSafe and other agencies will take immediate statements. Many owners and workers may be tempted to speculate on what caused the accident or to assume responsibility even before the dust has settled. Be wary of offering a view too soon.

7 Prepare yourself to be interviewed

WorkSafe New Zealand and other Regulators have wide ranging powers including powers to compel interviews. Prepare yourself. Get legal advice.

8

Check your insurance



You can't insure against fines, but you can get cover for reparations and for legal defence costs. Please talk to our sister company [ManageRISK](#) for a free review.

9 Enforceable Undertakings



The law now provides WorkSafe with the ability as a Regulator to take an alternative path to a prosecution and a conviction. The requirements, the process and the potential benefits of an Enforceable Undertaking should also be considered as you respond to an accident during an investigation.

10

ACC levy management



With any serious harm or fatality you will get ACC penalties on your levies and the hangover of this will last for three years. These penalties can be as high as 75%. Manage Company are specialists in this area. Please contact them.



If you would like further information on the above feel free to get in touch with Brett (brett@sentrylaw.co.nz, 021341405) or Martin (martin@managecompany.co.nz, 021322286).

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