

Managing the safety of hazardous substances is something that many businesses find challenging. In this issue, we briefly touch on some of the new legal requirements in this area and highlight some useful guidance to help businesses get started. In addition, we discuss the importance of caring for victims after a workplace accident as well as covering the main points in the recently published Health and Safety at Work Strategy 2018. And as usual, we feature health and safety news and resources from New Zealand and around the world.

It was great to get your feedback on the [last issue](#) of The Safe Side. Once again, please feel free to get in touch with me if you have any topics you'd like to see covered or queries about health and safety generally. I'm happy to assist.

- Jane Birdsall, Health & Safety and Statutory Risk Consultant

Health and Safety at Work Strategy released

The Government's Health and Safety at Work Strategy will drive ambitious, sustained and system-wide improvements in New Zealand's health and safety performance, according to the Minister for Workplace Relations and Safety, the Hon Iain Lees-Galloway. The high-level publication, released at the end of 2018, sets out the Government's vision for improving health and safety at work over the next ten years and we expect it will heavily influence WorkSafe's on-going activities.

The most significant new direction may be increased attention on achieving better outcomes for specific groups of workers at a higher risk of harm from work. The Strategy notes that the health and safety of Maori, Pasifika, young people, migrants and seasonal workers, and other workers in industries of greater risk, will be a priority in the coming years.

In other areas, it is business as usual. Concerns about work related health, including mental health, have been well signalled in recent years, and a focus on the sectors causing the greatest harm like agriculture and construction has been a staple of WorkSafe's activities since it was established in 2013. [Read more](#) ►

Managing hazardous substances in the workplace

An estimated 600 to 900 New Zealanders die prematurely every year from workplace related diseases including from exposure to hazardous substances. Reducing this toll is a major focus area for WorkSafe.

Hazardous substances were previously controlled under the Hazardous Substances and New Organisms (HSNO) regime. From 1 December 2017, many of the HSNO regulations were transferred to the [Hazardous Substance Regulations](#) and several new requirements and duties were added. Some of the most important of these are:

- A duty to manage the risks associated with hazardous substances
- The requirement to create and maintain an inventory
- The obligation to obtain and provide a Safety Data Sheet
- Explicit duties to provide information, training, instruction and supervision to workers
- Requirements for the storage of toxic and corrosive substances



WorkSafe has produced an extensive range of [guidance](#) on managing hazardous substances. A useful place to start is by logging into the [Hazardous Substances Calculator](#). Once completed, it will automatically generate both an inventory and a list of relevant controls. Also available is a template for a customised [Emergency Response Flip Chart](#).

Early efforts to assist victims may result in lower fines for business

Businesses generally work hard to care for people injured by a workplace accident simply because they want to do the “right thing”. A recent High Court decision, [Stumpmaster v WorkSafe New Zealand](#), has also highlighted the importance of early and substantial support for victims in reducing the fine that a business may face if convicted under the Health and Safety at Work Act 2015 (HASWA).

The usual approach to sentencing under HASWA is that the Court fixes a starting point for a fine, and then applies “discounts” for mitigating factors including remorse and payment of reparation.

Although not asked to consider the discounts given, the Stumpmaster decision was critical of the practice of routinely offering a 30% discount on the starting point for mitigating factors.

The Court noted that a 30% discount is only to be expected in cases that exhibit all mitigating factors to a moderate degree, or one or more to a high degree. It expanded on this by

saying “... genuine efforts to assist [victims] from the outset are reflective of the matters for which this extra credit is given.”

Businesses must legally cover their own fines and the costs can be substantial. Starting points in the medium culpability band will generally be between \$250,000 to \$600,000.

An additional five percent discount on a starting point of \$500,000 represents a \$25,000 saving. Yet it can be a challenge for a business to find the funds to make early payments to a victim and increase the likelihood of this type of discount being given.

VL's [Work Accident](#) cover can provide funds of up to \$50,000 to pass onto victims if WorkSafe commences an investigation. It may also pay up to \$10,000 in funeral expenses in the event of a fatality. Work Accident cover is available as an additional option with VL's [LegalEdge](#) offering or as an extension under a VL stand-alone Statutory Liability Policy.

New toolkit for managing workplace stress in schools

The UK's health and safety regulator, the HSE, says that work-related stress accounts for almost half of all working days lost by businesses and that half a million days were lost in secondary schools over the last year due to stress, depression or anxiety caused by, or made worse by, work. Stress has also been raised as a major concern by teachers in New Zealand. [Read more ►](#)

The HSE [Talking Toolkit](#) for schools provides a framework to help line managers have simple, practical conversations with school employees. It forms one step on the journey towards preventing work related stress by starting to build a picture of the potential causes of stress amongst staff. Schools can then begin to tackle these causes.

Further guidance for all workplaces on work related stress and how to manage it is also available from the HSE. [Read more ►](#)

Health and Safety in the News

9 January 2019 – ABC

A Ballarat civil construction company was charged with failing to use safety equipment including trench shields and manhole cages following the deaths of two men from a trench collapse in Melbourne in March 2017. [Read more ►](#)

15 January 2019 – UK HSE

One company was fined £1m and another £533,000 for breaching the Health and Safety at Work etc. Act following the death of a five-year-old girl in Bournemouth, England in 2015. The child died in a poorly maintained lift in her family home. [Read more ►](#)

19 January 2019 – Stuff

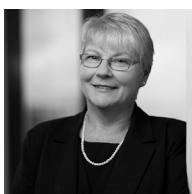
Four serious workplace incidents occurred in Auckland over four days. Three men were critically injured, and one man died at a steel warehouse in Onehunga. [Read more ►](#)

21 January 2019 – Stuff

The family of a cruise ship crew member who was killed in an explosion at Dunedin's Port Otago in 2017, was awarded \$250,000 in reparations by the Court. [Read more ►](#)

24 January 2019 – NZ Herald

Insidious bullying in the Fire Service was identified in a [review](#) into the culture of the organisation. [Read more ►](#)



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Jane has over 12 years experience as a health, safety and environmental regulator. She has led many significant investigations into workplace accidents as both a manager and health and safety inspector with WorkSafe New Zealand. Jane is thoroughly familiar with current health and safety practice and works with colleagues, customers and others to assist with risk analysis and reduction of risk factors in this area.

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