

This month's issue of *The Safe Side* covers five recent sentencings for breaches of health and safety legislation. Three resulted after workers in the manufacturing sector sustained severe finger injuries on machinery. A further sentencing followed the death of a young worker in Canterbury and the last saw another huge fine from the UK Courts after a man was killed by a vehicle at a work site. We also have an article on the filing of charges following the tragic death of a teenager on a school trip at Abbey Caves. Finally, we report on a study which estimates the staggering annual cost of workplace bullying and harassment in Aotearoa New Zealand as over \$1.3 billion and rising.

WorkSafe prosecutes three companies for machinery safety failures

Three manufacturing companies have paid **combined penalties** of over half a million dollars after their workers sustained severe finger injuries on unsafe machinery.

One worker had two fingers amputated and a third degloved in a punch and shear machine, when the regular machine was out of order in January 2022. The Timaru engineering business was fined \$247,500 and ordered to pay reparations of \$35,000.

An Auckland worker had three fingers partially amputated while using a punch and forming press at an engineering company in March 2022. In sentencing, the Judge commented on "an unintended complacency" and said that "it is critical that robust practices are employed by those within the relevant industries." A fine of \$200,000 was imposed, and reparations of \$35,337 were ordered.

A third worker was cleaning a machine when it amputated two fingers and degloved a third at a plastics business in Auckland in August 2022. The machine's on/off switch had been knocked into operation because the interlock wasn't functioning. A fine of \$74,392 was imposed, and reparations of \$33,000 were ordered.

From **June 2022 to May 2023**, 540 workers sustained injuries that resulted in more than a week off work after being trapped in moving machinery. Almost half of those injuries were in the manufacturing sector.

There are well established standards for machinery safety that minimise the likelihood of injury and death. These include the *AS/NZS 4024 Safety of Machinery* series which has been recognised in many court cases as the standard to which machinery must be guarded and made safe. A competent person, such as a **CPENZ registered engineer** with specialist machine safety knowledge, can assist businesses to ensure their machinery complies with this standard or an equivalent standard. In addition, WorkSafe has published a wealth of **guidance** on machinery safety.



"Sorry, but we only hire illiterates!"

WorkSafe files charges following the death of a student in Abbey Caves

On 9 May 2023, a group of fifteen students and two teachers from Whangārei Boys High School entered Abbey Caves as part of an outdoor education class. There was an orange heavy rain warning in place at the time and tragically, a 15-year-old boy was swept away and drowned while in the flooded cave system.

Following the death, WorkSafe launched an investigation, and announced earlier this month that it has charged **Whangārei Boys High School Board of Trustees** for failing to keep its students and workers safe.

The charges follow several other prosecutions of school boards of trustees after students drowned or were at risk of drowning. In 2022, WorkSafe accepted **enforceable**

undertakings from two secondary schools after two students died on separate school trips. In addition, a **Northland area school** was convicted after students became trapped in a sea cave at the Poor Knights Islands Marine Reserve. Fortunately, the students were rescued.

Following the filing of the latest charges, WorkSafe said: "We encourage school boards of trustees across the country to reflect on their own systems and processes to ensure they are meeting legal requirements for education outside the classroom. Students should be able to participate safely, and parents must have confidence their rangatahi will be kept safe." The Ministry of Education has a health and safety **toolkit** to assist schools running activities outside the classroom.

Mechanical servicing company pays more than half a million after death of apprentice

A [Canterbury company](#) that services logging machinery has been fined \$302,500 and ordered to pay substantial reparations of \$278,000 following the death of an apprentice diesel mechanic in January 2022.

The 23-year-old victim, who was in the final year of his apprenticeship, was repairing the hydraulics on a log loader when the vehicle's boom fell and crushed him at Balmoral Forest in North Canterbury. He had been told to position the loader's forks vertically to gain access for the repairs, but the boom fell when the forks collapsed.

A WorkSafe investigation found the company did not have an effective procedure for the repairs, and when the victim asked for help on how to proceed, he was given inadequate instruction and supervision.

WorkSafe noted that this was the second sentencing for the death of an apprentice this year. It followed the [sentencing](#) of two building companies after a 19-year-old was killed on a Bay of Plenty construction site in 2022.

WorkSafe says that companies that take on apprentices need to recognise they have a responsibility to look after them as they do with their own employees and put health and safety first.

New study finds workplace bullying & harassment costs employers \$1.34 billion each year

Workplace bullying and harassment cost NZ employers an estimated \$1.34 billion from June 2021 to June 2022 according to a [report](#) just released by Te Kāhui Tika Tangata Human Rights Commission and KPMG. KPMG developed the model to create the estimates. The report was supported by KPMG on a pro bono basis.

The costs are made up of annual estimates of absenteeism (\$178m), presenteeism, where there is decreased work performance due to mental and physical stress (\$369m), turnover and replacement (\$568m), and staff time spent addressing internal complaints (\$226m).

A further estimate for 2023 puts the cost for this year around \$1.5 billion due to inflation, increases in nominal wages and the working population.

The cost estimates are for three kinds of negative workplace behaviours – sexual harassment, racial harassment, and bullying. 58% of the total cost (\$780m) arises from impacts on female workers, showing that women are disproportionately affected.

Importantly, the report highlights that proactively addressing workplace bullying and harassment will "...boost worker productivity, bring economic benefits to employers, and make Aotearoa New Zealand a better place in which to work and live." It recommends that organisations:

- establish well-defined policies and procedures to prevent and respond to incidents;
- implement comprehensive training programmes for employees and managers to create awareness, promote prevention, and develop a culture of respect and inclusivity within the workplace;
- foster an open and supportive environment where employees feel safe reporting incidents, have access to independent complaints services, and where workplace investigations are prompt.

Workplace bullying is also a health and safety risk, and may expose a business to [prosecution](#) if adequate systems and procedures are not in place to deal with it. WorkSafe has [comprehensive guidance](#) on how to do this.

UK company fined £1.2 million after worker struck by vehicle

In another massive fine from the [UK Courts](#), a metals recycling company has been fined £1.2 million and ordered to pay costs of £5,694.85 after a worker was injured when struck by a wagon at a processing site. The worker sustained a fractured skull and collar bone, but fortunately made a full recovery.

The worker was walking across the site yard in August 2020 when he was struck by a moving 32-tonne skip wagon. He was not wearing his hi-vis jacket and did not see the wagon approaching. The wagon driver did not see the worker prior to the collision due to concentrating on manoeuvring the vehicle around some low-level skips.

An investigation found that the site was not organised so that pedestrians and vehicles could circulate in a safe manner. The incident could have been prevented by adequately assessing the risks and implementing appropriate control measures such as physical barriers and crossing points.

The UK regulator, the HSE, has extensive guidance about [workplace transport safety](#).

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