

The Safe Side



Developments in health and safety from New Zealand and around the world

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Page 1 of 2

This month saw the launch of WorkSafe's digital hotline for reporting concerns about the overuse of road cones. We look at the pilot scheme and the role temporary traffic management and road cones have in keeping the public and workers safe. In addition, we cover the new WorkSafe guidance on managing psychosocial risks and three Australian prosecutions for bullying and harassment of workers. In other statutory liability news, we also have an article about three recent Resource Management Act prosecutions of dairy farmers for the unlawful discharge of dairy and other effluent.

Hotline to report errant road cones launched by WorkSafe

WorkSafe New Zealand has launched its tipline to report excessive road cone use. Concerns from anywhere in New Zealand can now be sent to WorkSafe through a [digital hotline](#) on the WorkSafe website.

The hotline is part of a 12-month pilot resulting from work health and safety reforms announced by the [Government](#) to tackle overcompliance in temporary traffic management. [WorkSafe's Chief Executive](#), Sharon Thompson, said that the pilot aims to reduce unnecessary cones on the road. "While cones are primarily there to manage the speed and flow of traffic and help keep everyone safe, there can be times when usage is excessive. We will engage with those involved with temporary traffic management and provide information to influence them to take a more risk-based approach to the use of cones on the road," Ms Thompson said.

WorkSafe said it will assess reports to determine the appropriate response. This could include contact with those responsible for the roadwork site, sending an inspector out, and educating the parties involved on what the law and guidance is.

[Road cones](#) are widely used in temporary traffic management (TTM). TTM primarily exists to protect the public and workers. It is needed for road construction activities, but also other work that impacts road users, such as public events, tree work near the road, and installing cables and pipes.

Anyone who plans to do work that alters the normal operating conditions of the road corridor must have a traffic management plan approved by the road controlling

authority. The layout of road cones should reflect what has been outlined in the traffic management plan.

WorkSafe says it is important to understand the purpose of road cones is to keep the public and workers safe around a work site. Between 2019 and 2023, there were 42 fatal and 314 serious injury crashes at sites where there was a temporary speed limit in place. NZTA figures suggest that most deaths and serious injuries at roadwork sites are road users – approximately 95%. Road workers are involved in approximately 5% of road work site deaths and serious injuries.



"Don't worry; I'm sure these Earthlings will welcome us with open arms..."

WorkSafe publishes comprehensive new guidance on managing psychosocial risks

WorkSafe has published its long awaited [guidance on managing psychosocial risks](#) at work. Exposure to psychosocial risks can harm a worker's physical and mental health, and, as with risks like falls from heights, businesses have a duty to manage psychosocial risks at work under the Health and Safety at Work Act (HSWA).

The new guidelines explain that psychosocial hazards are factors at work that may cause psychological and physical harm. They can arise from how work is designed (for example, unmanageable workloads), social factors at work

(for example, behaviours such as bullying or harassment), or the work environment (including hazardous tasks such as high pressure to meet production targets or deadlines).

In addition, the guidance covers the use of dynamic risk management and trigger points that guide workers on which control measure to use to manage an identified hazard. This part of the guidance may also be useful for a wide range of businesses outside the outdoor activities sector.

Exposure to psychosocial hazards can lead to serious health impacts such as mental illness, anxiety, depression, fatigue, burnout, cardiovascular disease and musculoskeletal disorders. It can also cause social harms such as substance use/abuse and conflict between work and family life. At its most severe, recent [research](#) has found that between 2017 and 2021, 246 suicides met the criteria of a potential work-related suicide and 197 suicides met the criteria of an actual work-related suicide.

Psychosocial risk refers to the likelihood that a psychosocial hazard will cause harm. Workers may face more than one hazard at the same time, and these hazards can interact or make each other worse.

WorkSafe says that it may intervene when a PCBU, group of PCBUs, or sector has a persistent pattern of serious harm or poorly managed serious work-related psychosocial risks. It says it is unlikely to intervene in one-off or individual cases. The Government has also announced that proposed health and safety reforms will mean small businesses will not have to have a [psychosocial harm policy in place](#).

However, other government agencies may also become involved in allegations of psychosocial harm. Verbal or emotional mistreatment at work may be treated as an employment matter and involve MBIE and ultimately the Employment Relations Authority. If discrimination (for example, based on race, disability, sexual orientation, or gender) causes mental harm to workers, it may fall under the Human Rights Act and involve the Human Rights Commission.

Across the Tasman, in Victoria, Australia, the failure to manage the risks of psychosocial harm to workers has led to three recent prosecutions under that State's health and safety legislation. A [toy company](#) was sentenced to a fine of \$100,000 over the failure to manage sexual harassment risk at work after a worker made a series of allegations of inappropriate behaviour at the workplace, including comments and text messages from one of the company's directors that pried into her personal life and were of a sexual nature. A WorkSafe Victoria investigation revealed that at the time the company had no formal system in place to identify, prevent, manage, investigate or respond to inappropriate behaviours in the workplace.

WorkSafe Victoria also successfully prosecuted an [electrical contracting company](#) for failing to reduce the risk of psychological injury by not bullying, sexually harassing or directing work-related gendered violence at an apprentice, leading to a \$15,000 fine. In addition, a \$90,000 fine was given to a [painting company](#) following allegations of sexual harassment from a worker.

WorkSafe New Zealand has a [suite of guidance](#) on mentally healthy work and managing psychosocial hazards to assist businesses to develop appropriate policies and procedures.

Three recent prosecutions for RMA breaches result in fines and community service for dairy farmers

Three dairy farmers have recently been sentenced for breaches of the Resource Management Act (RMA) after the unlawful discharge of dairy and other effluent. One of the Councils involved commented that it is a timely reminder to all farmers that there needs to be adequate effluent infrastructure and good effluent management systems on every farm.

In March, a [Southland man](#) was sentenced to a \$130,000 fine in the Gore District Court after he admitted discharging leachate from farm tailings, leachate from silage, and dairy effluent onto land in circumstances where it could enter water in February 2024.

Environment Southland said the impact of the event was among the most serious the team had investigated. The bodies of more than 2,500 eels were collected in a 10km clean-up zone. The Low Burn stream was severely impacted as a result. It could take up to ten years for the biological communities to repopulate the stream and the ecosystem to fully recover.

In May and June, two Waikato farmers were also sentenced under the RMA. A [farm manager](#) was convicted, fined \$5,000 and sentenced to 140 hours

community work for the unlawful discharge of dairy effluent into a drain network in May 2024. Council officers had responded to a complaint about dairy effluent in the rural drainage system on the Hauraki Plains. They found an effluent irrigator on a farm had stalled causing effluent to flow into a nearby drain. The travelling irrigator had come to the end of its run and had been left to irrigate in the same location for up to a week. The farmer said he was aware the irrigator had come to the end of its run but had simply not got around to shifting it in that week, which the Judge found was "highly careless."

A [Waikato sharemilker](#) was also convicted, fined \$40,000 and sentenced to 140 hours community work for unlawful discharges of dairy effluent into a tributary of the Punui River, near Te Awamutu. In 2022, council compliance officers conducted three inspections of the farm's effluent system. During two inspections they found effluent storage ponds overflowing. On another occasion they found effluent ponding and runoff from an irrigator. An abatement notice was also being breached. The Council said the farm effluent ponds were inadequate and posed a real risk to the environment.

This newsletter is published as part of Vero Liability's commitment to supporting better work health and safety outcomes for all New Zealanders. We want everyone to go home safe.

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