



February 2019

WORKSAFE POSITION

Working with other businesses (also called overlapping duties)

Purpose

This position sets out our expectations where persons conducting a business or undertaking (PCBUs) need to work with other PCBUs when their duties under the Health and Safety at Work Act 2015 (HSWA) overlap.

When might duties overlap?

A PCBU's duties may overlap with those of other PCBUs. This might happen in:

- a shared place of work (eg a distribution warehouse or a port), where more than one PCBU and its workers control and influence the work on site
- a contracting chain (eg a building site or forestry enterprise), where contractors and subcontractors provide services to a principal contractor and client.

What do PCBUs have to do by law when their duties overlap?

Under HSWA, PCBUs are required so far as is reasonably practicable, to co-operate, co-ordinate and consult with other PCBUs about the duties they share in relation to the same matter. These are known as overlapping duties.

A PCBU isn't only responsible to the workers they employ or contract. They are also responsible to workers they influence and direct, and for other people at the workplace. PCBUs must co-operate with each other to fulfil these duties.

A PCBU cannot contract out of its duties.

It doesn't mean a PCBU has to duplicate another PCBU's work.

PCBUs must manage their overlapping duties and risks to the extent of their ability to influence and control the health and safety matter.

PCBUs may enter into reasonable arrangements with other PCBUs about their overlapping duties to plan how to control and monitor risks, and to ensure risks are not passed on or increased due to the arrangement.

This can make risk management more efficient, and improve communication between PCBUs.

How can a PCBU work with other businesses at the same location?

A PCBU will fulfil their duty to consult, co-operate, and co-ordinate if they:

- identify the health and safety risks that need managing
- plan ahead, by thinking through every stage of the work
- recognise how the work could affect other PCBUs and the public
- agree together which PCBU is best placed to control each risk
- clearly define roles, responsibilities and actions, and explain these so everyone knows what to expect
- do reasonable and proportionate monitoring, to make sure the arrangements are working.

PCBUs and contracting chains

We expect a PCBU at the top of a contracting chain to be a leader in encouraging good and health and safety practices throughout the chain. We also expect them to use sound contractor management processes. For example:

- choosing competent contractors
- exchanging information
- planning and monitoring carefully
- doing post-contract reviews.

A PCBU at the top of a contracting chain should not push risk down the chain.

WorkSafe's expectations of PCBUs

WorkSafe expects PCBUs to be able to explain the steps they have taken to consult, co-operate and co-ordinate with other PCBUs, and their arrangements to manage risks. We may check to see that these arrangements are working well.

WorkSafe may consider enforcement action

We may consider taking enforcement action where we see a PCBU is not meeting their duties. We may consider enforcement action against multiple PCBUs where a failure of this type is found.

Further information

The special guide *Introduction to the Health and Safety at Work Act 2015* has more information to assist PCBUs: worksafe.govt.nz/managing-health-and-safety/getting-started/introduction-hswa-special-guide

Information on overlapping duties is available at: worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/overlapping-duties/overlapping-duties-quick-guide