

# Application for an enforceable undertaking

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June 2019

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by

Name of entity or, partnership or individual applying for this undertaking

Te Pūkenga – New Zealand Institute of Skills and Technology

# Application for an enforceable undertaking

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by

Name of the person or persons who will be signing this undertaking in section 4:

Gus Gilmore, Chief Executive

On behalf of:

Te Pūkenga – New Zealand Institute of Skills and Technology

Name of the entity giving this undertaking (if an individual or sole trader, leave blank – complete in all other cases)

Te Pūkenga – New Zealand Institute of Skills and Technology

This enforceable undertaking is given on the day and date that it is accepted and signed by WorkSafe. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from the date it is given.

Do not refer to the victim by name in this document. Please refer to the victim/worker/employee/volunteer/or other term as appropriate.

WorkSafe respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to WorkSafe under Part 4 of the *Health and Safety at Work Act 2015*. This information will be managed within the requirements of both the *Privacy Act 1993* and the *Official Information Act 1982*.

There is an expectation that WorkSafe will generally publish the undertaking in full on its website.

TERM	DEFINITION
Contravention	An action which offends against the <i>Health and Safety at Work Act 2015</i> and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention.
HSMS	A Health and Safety Management System.
Person	An individual who or a legal entity which has a duty under the <i>Health and Safety at Work Act 2015</i> and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.
Health and Safety legislation	<i>Health and Safety at Work Act 2015</i> and associated regulations.
Enforceable undertaking	An enforcement pathway that allows a duty holder to voluntarily enter into a binding agreement with WorkSafe. The agreement outlines actions the duty holder will undertake to address the contravention. It is expected to deliver activities which benefit workers, the wider industry or sector and/or the community as well as acceptable amends to any victim(s).

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## 1. General information

### 1.1 Details of the person/persons/entity giving the undertaking

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Name of person(s) making this undertaking: (in all cases complete with the name(s) of those who are signing this undertaking under Section 4)

Gus Gilmore, Chief Executive

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Name of entity: (if applicable, leave blank if an individual)

Te Pūkenga – New Zealand Institute of Skills and Technology (Te Pūkenga)

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Type of legal entity: (complete in all cases, for example individual, sole trader, partnership, trust, company, etc)

Crown entity

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Nominated contact person: (the same person listed above/one of those listed above)

Gus Gilmore, Chief Executive

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Physical address:

Level 2, Wintec House,  
Corner Anglesea and Nisbet Streets,  
Hamilton 3204

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Postal address: (if different from physical address)

PO Box 19400,  
Hamilton 3244

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Work phone: 0800 86 22 84

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Mobile phone: XXXXXXXXXX

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Email: gus.gilmore@tepukenga.ac.nz

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Industry: Tertiary education

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Workers (enter numbers):

Full-time: 7500      Part time: 2200      Casual:

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Description of the products and services provided by the business or undertaking:

Vocational education and related products and services.

Te Pkenga (New Zealand Institute of Skills and Technology) is a Crown-owned, national tertiary education provider that delivers on-campus, online, and in-job learning.

The creation of Te Pkenga was one of the responses to the Government's 2019 announcement that there would be critical changes to the vocational education system.

Te Pkenga was a merger of the 16 Institutes of Technology and Polytechnics and the 11 transitional industry training organisations (TITOs). The current Government have announced their intention to reverse this merger. As of the date of this application, there is no published plan relating to a new structure.

Our vision is Whakairohia he toki, traia te anamata (Learning with purpose, creating our futures).

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Comments:

Our purpose

Our purpose is that Te Pūkenga provides excellent and quality education opportunities that support learners, employers and communities to gain the skills, knowledge, and capabilities Aotearoa needs now and for the future. Learners and their whānau are at the centre of all we do.

Our three organisational values are:

1. Manawa nui (We reach out and welcome in)
2. Manawa roa (We learn and achieve together)
3. Manawa ora (We strengthen and grow the whole person)

Manawa nui describes a person or group's behaviours that embody manaakitanga, humility, patience, respect, tolerance and compassion.

Manawa roa describes a person or group's behaviours that embody staying power, resilience, fortitude, grit and doing what needs to be done to achieve the collective goal.

Manawa ora describes a person or group's behaviours that embody breathing life into all aspects of another life form.

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## 1.2 Detail of the contravention

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Te Pūkenga has been charged under sections 37(1) and 48(1) & (2)(c) of the Health and Safety at Work Act 2015.

It is alleged that Te Pūkenga as a PCBU who manages and controls a workplace, having a duty to ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any persons, failed to comply with that duty, and that failure exposed persons, including the victim, to a risk of serious injury or death arising from an unsecured access barrier gate at the Toi Ohomai Institute of Technology campus located at 70 Windermere Drive, Poike, Tauranga.



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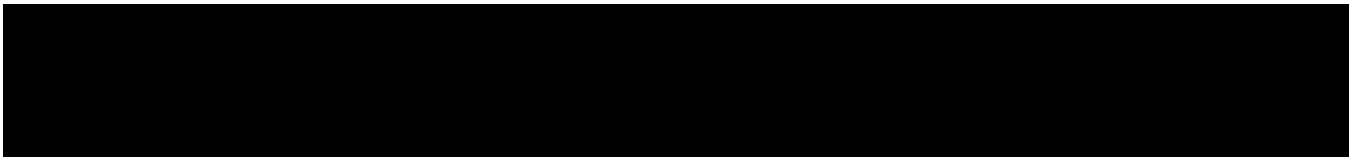
### 1.3 Detail the events surrounding the contravention

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#### Background to the Operation

Te Pukenga is a Crown Entity and a tertiary education institution. It is the largest vocational education provider in New Zealand, representing the merger of New Zealand's 16 Institutes of Technology and Polytechnics and the 11 transitional industry training organisations, including Toi Ohomai Institute of Technology, where the event occurred.

Situated at the Toi Ohomai Institute of Technology Windermere Campus is an aquatic and fitness centre open to akonga (learners), kaimahi (workers) and members of the local community. The centre features a 25-metre training pool with a 4-metre scuba dive well and six swim lanes.



#### The Event

It is alleged that on 24 March 2022, at 11:30 am, an unsecured gate (Gate 2) was blown into the carriageway as the victim was driving down the carriageway to exit the site. The gate struck the vehicle driven by the victim (sole occupant) at the lower edge of the front windscreen, entering the passenger's compartment at dashboard level, striking the victim's left shoulder and chest wall and exiting through the lower corner of the right rear passenger window. On the day of the accident, the victim had been at the pool since 9.30 a.m. and finished at 11.30 a.m. There were no witnesses to the accident, nor any CCTV footage.

Historically, Toi Ohomai campus security have opened the boom at Gate 2 in the mornings, securing it back with a chain and padlock. Following a change in Toi Ohomai campus security structure in late 2021, other staff had been opening the boom at Gate 2, dependent on who was arriving on campus first. Only campus security had a key for the chain and padlock, so any other staff opening the gate could not lock it in place. It had, therefore, become the practice of campus security to chain and padlock the boom later in the morning upon their arrival to campus.

On the morning of the accident, Toi Ohomai staff from the Aquatic Centre had opened the boom at Gate 2. However, campus security did not chain and padlock the gate back that morning as the security guard, who usually attended to this task, was isolating with Covid-19 and the backup staff member covering for this security guard was not aware of the requirement to chain and padlock the boom gate.

Toi Ohomai staff, including two Toi Ohomai nurses, responded immediately to the accident. Emergency services were called, cones were placed around the victim's vehicle, Police arrived and undertook interviews, the Fire Service cut the roof off the victim's car to enable Ambulance staff to release her from the vehicle and take her to hospital. [REDACTED]

[REDACTED]

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#### 1.4 Detail any enforcement notices issued that relate to the contravention as detailed in term 1.2

DATE	NOTICE TYPE	NOTICE NUMBER	CONTRAVENTION OR PROHIBITED ACTIVITY	ACTION TAKEN IN RESPONSE TO NOTICE
DD / MM / YEAR				
DD / MM / YEAR				
DD / MM / YEAR				

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#### 1.5 Detail the rectifications to the workplace or work practices made as a result of the contravention (1.2), events (1.3) and the enforcement notices issued (1.4)

The following rectifications have occurred following the event:

- 1) Temporarily securing the boom at Gate 2 and then checking all Toi Ohomai campus gates to ensure they were also secure.
- 2) Welding a new metal lip to both Gates 1 and 2 requiring the booms to be lifted over the lip on those gates, so they are held more securely against the post.
- 3) A farm gate spring latch and chain was also welded to Gates 1 and 2, further securing the boom to the post.
- 4) New combination padlocks were purchased to avoid the need for staff to have keys and to ensure the farm gate spring latch could not be unhitched, while it is holding the boom securely in place.
- 5) A video was created for all after hours gate users to watch, to ensure correct gate opening and locking procedure is followed.
- 6) Swipe card access was implemented for Gates 1 and 2 and all those using a swipe card to open those gates in the morning have been trained on the new opening and locking procedure.
- 7) All after hours users (including Toi Ohomai security staff and contractors, Aquatic Centre staff, a handful of independent contractors and S Block staff) who received the training on the new gate opening procedure, signed a confirmation of understanding.
- 8) Gate checks have been added to Toi Ohomai Building Warrant of Fitness compliance checks to ensure the farm gate spring latches, metal lip system and combination padlocks are in good working order – see document provided in response to item 2 of your information request.
- 9) The Windermere campus Standard Operating Procedure has been amended with a new Start Up/Close Down checklist, including the procedure required to open Gates 1 and 2.
- 10) A contractor review meeting was held with campus security contractor, Watchdog, to advise them of the new procedure required to open Gates 1 and 2.

While the accident did not occur at the Aquatic Centre, an Aquatic Centre staff member opened the gate the morning of the accident. Accordingly, the Aquatic Centre Manager met with his staff to support them and to provide an opportunity to discuss and debrief the accident. The team also took the opportunity to reflect on their own safety procedures at the Aquatic Centre, particularly around the gym and pool.

An outcome of this discussion was to update the Aquatic Centre Operating Procedures with the new boom gate opening procedure, including photos (noting that Aquatic Centre staff may still be opening the boom gate in the morning from time to time).

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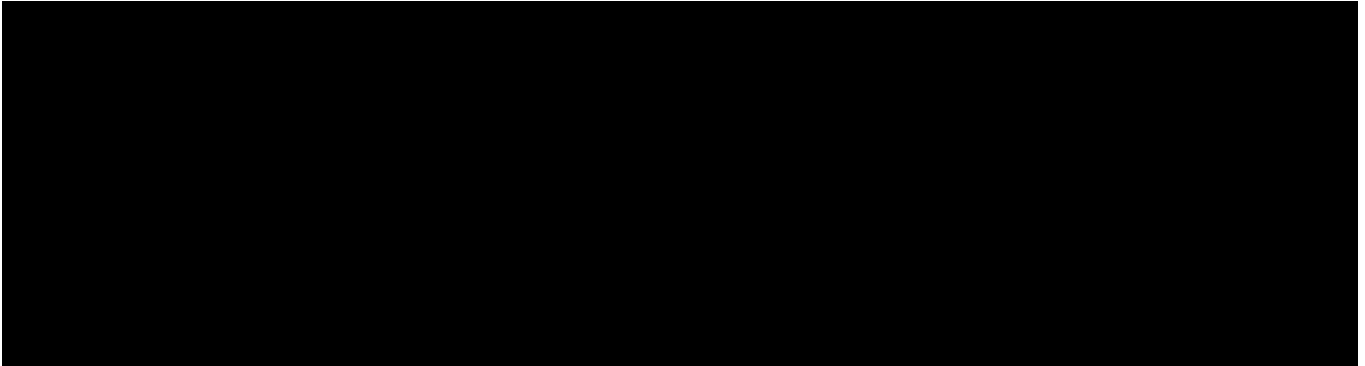
#### 1.6 Total amount of money spent on rectifications

Internal costs incurred for these rectifications have not been included.

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**1.7 Detail the injury sustained or illness suffered by victim(s) or other(s) as a consequence of the contravention or, (as applicable) the *potential* for fatal injury or future fatal illness**

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**1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (the total monetary amount here is also to be included in the table at 3.12.3)**

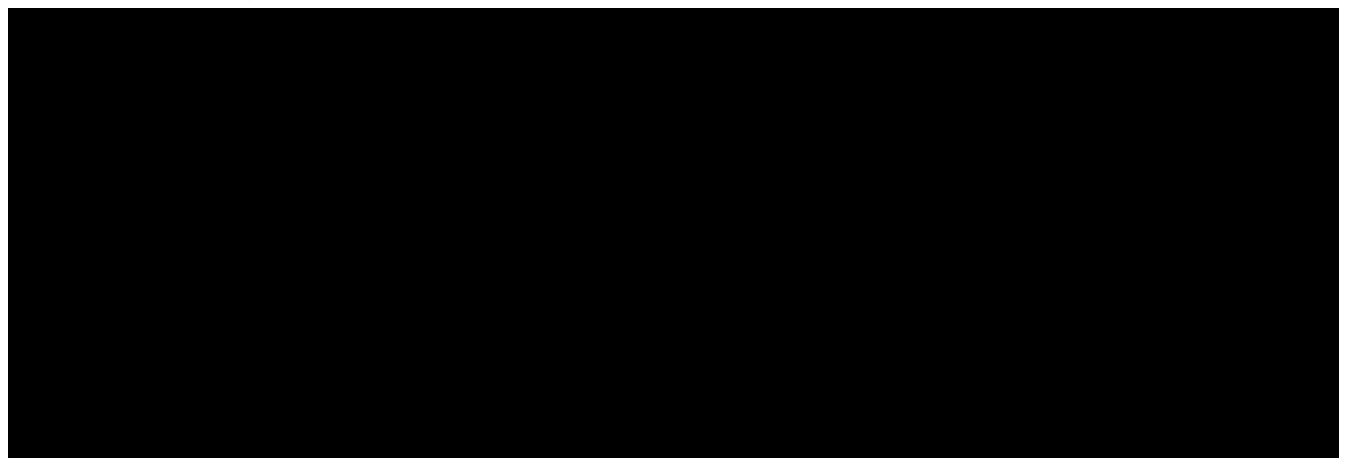
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Describe the victim(s) relationship to you/the entity in question: (eg employee(s)/shareholder/director/family member/contractor, etc. If the relationship has more than one dimension, for example a family member who is also an employee and a director and/or shareholder of the business, or an employee who is a shareholder (etc) – then please describe this)



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Detail offer of amends or payments:



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**1.9 Detail any consultation with the victim(s) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution**

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**1.10 Detail any consultation with unions/sector/industry as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution**

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Te Pūkenga has consulted with a wide group of organisations and people in the development of this Enforceable Undertaking. The primary consultation in the development of this application has been with:

- a) NZISM (New Zealand Institute of Safety Management)
- b) Business Leaders' Health and Safety Forum
- c) School principals, boards and NZSTA (NZ School Trustees Association) representatives interested in participating in the industry offering. (NZ School Trustees Association) representatives interested in participating in the industry offering.

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**1.11 Detail the support provided or proposed by the person to the victim(s), other(s)**

DATE	DESCRIPTION OF SUPPORT	COMMENTS
DD / MM / YEAR	Details in APPENDIX A – Additional Information for Te Pūkenga EU	
DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		
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DD / MM / YEAR		
DD / MM / YEAR		
DD / MM / YEAR		

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## 1.12 Detail any current HSMS implemented and maintained by the person

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Describe how health and safety risks are managed, including types of procedures or policies or standards:

At the time of the incident, Toi Ohomai was operating under a health and safety management system (HSMS) for the sites and activities it controlled or influenced.

As Te Pkenga has developed into a unified entity, there has been increased collaboration, cooperation and integrated decision-making at regional and national levels. However, many operational activities related to health and safety remain with individual business units.

The disestablishment of Te Pkenga will likely see the creation of new entities. The Government has not published the new structure as of the date of this application. There may be a shared services model for health and safety in the new structure. If that is the case, then the development of an integrated, national HSMS will resume. It is currently paused.

If a shared services model is not part of the new structure, each new entity will need to develop its own HSMS. It can be reasonably assumed that the entity that absorbs Toi Ohomai will use existing HSMSs until such time an integrated HSMS is built.

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### **1.13 Detail the level of auditing undertaken on the HSMS, including compliance audits and audit frequency**

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We carried out the first, organisation-wide audits of health and safety performance in the period of May – August 2021. Using the Safe365 methodology and tool, we determined a baseline for each Te Pūkenga business unit. The Toi Ohomai Safe365 audit was conducted on 11-13 May 2021.

The next organisation-wide review of health and safety performance will occur in Q2 2024.

Each Te Pūkenga business unit conducts various audits, inspections and reviews relevant to its activities. Examples include reviews of hazardous substances and dangerous goods, asbestos, machine safety and air quality. Increasingly, we are using the SafePlus and Learning Teams methodologies to structure and implement these reviews.

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### **1.14 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking**

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Te Pkenga has consulted, or proposes to consult, with:

1. The victim
2. NZISM
3. Business Leaders' Health and Safety Forum
4. NZSTA

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## 2. General terms

The person acknowledges and commits to the general terms set forth in the sub-terms below.

### 2.1 Acknowledgement that WorkSafe alleges a contravention occurred as detailed in term 1.2

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Te Pūkenga acknowledges that WorkSafe alleges a contravention occurred.

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### 2.2 Statement of regret that the contravention occurred

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Te Pūkenga deeply regrets the harm suffered because of the incident and it acknowledges the effect this incident has had on the victim.

We are committed to our obligations under the Health and Safety at Work Act 2015, and we acknowledge that mere compliance is not sufficient to justify WorkSafe accepting this undertaking in lieu of proceeding with the prosecution of the charge that has been laid against Te Pūkenga.

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### **2.3 Statement of the reasons why, on balance, the person considers this undertaking is the most appropriate response to the contravention**

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Te Pūkenga understands that the stated purpose of an Enforceable Undertaking in WorkSafe's policy is to benefit the workers or the workplace, the wider industry or sector and/or the community while also taking into account the nature of the misconduct, submissions from any interested party (including the victim's family), past history of compliance and current commitment to remedy the misconduct.

Te Pūkenga believes that the intent, scope, expenditure, industry engagement and community benefits proposed here will provide greater benefits than what might be possible via the criminal justice process in Court.

[REDACTED]

In summary, Te Pūkenga will:

- a) Explore, develop and trial a methodology for contractor relationships that links to organisational values and uses a kaupapa Māori approach.
- b) Develop, trial and share a psychosocial risk tool that can be used to enhance work for teachers in the primary and secondary education sector.
- c) Fund NZISM to complete a feasibility study on establishing an agency to progress the alignment of New Zealand OHS qualifications and professionalism with current health and safety expectations.

[REDACTED]

Te Pūkenga believes this proposal achieves tangible benefits to workers, industry and the community that could not be addressed elsewhere.



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**2.4 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur**

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Te Pūkenga is committed to ensuring, as much as possible, that the events and the failures which led to the contravention will not be repeated.

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## 2.5 Acknowledgment of the policy published by WorkSafe for the acceptance of an undertaking

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(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

has read and understood the Enforcement Undertaking Operational Policy.

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## 2.6 Acknowledgement that this undertaking will be published and publicised in full

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(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and referenced in WorkSafe material.

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## 2.7 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

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(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

has the financial ability to comply with the terms of this undertaking and have provided evidence by way of

(type of evidence provided)

2022 Annual Report (including audited financial accounts attached) - Crown owned entity – Office of Auditor General.

with this undertaking to support this declaration.

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In the event of impending receivership, liquidation or sale of the entity, (write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

will advise WorkSafe of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

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## 2.8 Statement outlining any relationship between the person and any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

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Please note that Bill Moran, Deputy Chair of the Board of WorkSafe New Zealand, is a member of the Council that governs Te Pūkenga.

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## 2.9 Statement regarding Intellectual Property

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(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

grants WorkSafe a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in relation to any material developed as a result of this undertaking. This licence includes the right to use, copy, modify and distribute the materials.

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## 2.10 Acknowledgement that the person may be required to provide a statutory declaration

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(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

acknowledges that it may be necessary for WorkSafe to obtain a statutory declaration outlining details of any prior convictions (safety related) outside of New Zealand and that it will provide such declaration if required by WorkSafe

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## 2.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

1. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
2. Evidence to demonstrate compliance with the terms will be provided to WorkSafe by the due date for each term.
3. The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by WorkSafe, that this undertaking has been completely discharged.
4. It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.
5. It is acknowledged that WorkSafe may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to WorkSafe.
6. It is acknowledged that WorkSafe may initiate additional compliance monitoring activities, such as inspections, as considered necessary at WorkSafe's expense.
7. It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to WorkSafe, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

(write the name of the person(s) or entity giving the undertaking)

Te Pūkenga

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### 3. Enforceable terms

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and an estimated cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

#### **3.1 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking**

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Detail the management strategies to be employed that will satisfy and demonstrate to officer/s of the person that this commitment is being met:

Te Pūkenga is committed to the performance of the activities as detailed above in this application and specifically commits to perform the activities detailed in section 3.3, 3.4 and 3.5 below, which will ensure the ongoing effective management of risks to health and safety in the future conduct of the business and this enforceable undertaking.

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### 3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

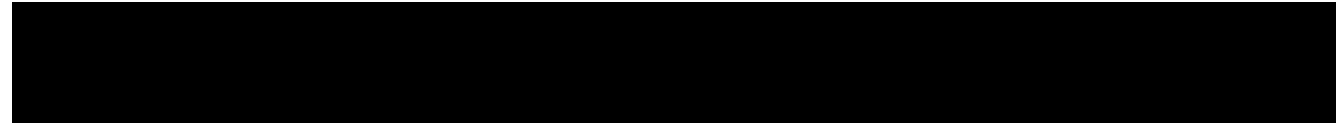
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(this may include to work health and safety representatives and in the organisation's annual report, if applicable)

Dissemination will be achieved by doing the following:

In the event the Enforceable Undertaking is accepted, it will be disseminated to workers, the victim and relevant industry and safety bodies and interest groups within 90 days of acceptance of this undertaking.

Specific actions in the 90-day period include (but are not limited to):



2. Meetings with Te Pūkenga Communications workstream to draft information pieces for various audiences and plan engagement strategy with kaimahi and ākongā, media, unions, controlling authorities, and so on.
3. Hui at Toi Ohomai campus with kaimahi and others directly affected by the incident to discuss the projects, especially the community activity.
4. Publishing on Te Pūkenga intranet the terms of the EU and the organisation's involvement in the projects.
5. Communicating through 'Ngā Taipitopito' (open access Te Pūkenga newsletter) a summary of the event and the projects and milestones planned for the next two years. This information will be further disseminated by Tertiary Insight, which is a subscriber-based news channel for tertiary education decision makers.
6. Publishing through NZISM channels a summary of the event and the projects and milestones planned for the next two years.
7. Meeting with Te Rōpū Marutau o Aotearoa (TRMA) to discuss implementation of Project 3.3, with a view to discuss further at TRMA conference in April 2024.
8. Meeting with Business Leaders' Health and Safety Forum to discuss Project 3.4: 1.
9. Meeting with Ministry of Education, Education Gazette Tukutuku Kōrero, to discuss dissemination of information on Project 3.4: 1.
10. Meeting with NZISM Chair and NZISM Chief Executive to discuss Project 3.4: 2.

Te Pūkenga actions related to the dissemination of information will have the endorsement of Te Pūkenga Council and Te Pūkenga Executive Leadership Team.

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Dissemination will occur by: DD / MM / YEAR

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**3.5 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for community**

ACTIVITIES

COST  
(\$)

TIMEFRAME



Total estimated cost of benefits for the community





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### 3.6 Where WorkSafe considers appropriate in the circumstances, undertaking a SafePlus Onsite Assessment

Further information about SafePlus can be found here: [worksafe.govt.nz/about-us/who-we-are/our-priorities/safeplus/about-safeplus](https://worksafe.govt.nz/about-us/who-we-are/our-priorities/safeplus/about-safeplus)

- 3.6.1 The suitability of a SafePlus assessment will be determined by the Enforceable Undertakings Panel when your application is considered.
- 3.6.2 In addition to the total cost below (3.7) all costs of a SafePlus Onsite Assessment will be met by the person making this undertaking. The fee charged for an Onsite Assessment is a commercial matter between your business and the SafePlus Accredited Assessors that you commission.
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### 3.7 Minimum spend

(write the name of the person(s) or entity giving the undertaking)

3.7.1 Te Pūkenga  
commits to a minimum spend of [REDACTED] for this undertaking.

(write the name of the person(s) or entity giving the undertaking)

3.7.2 Te Pūkenga  
agrees to spend any residual amount arising from an original term not being completed or being less costly than estimated in this undertaking. Agreement on how to spend this residual amount will be sought from WorkSafe

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(write the name of the person(s) or entity giving the undertaking)

3.7.3 Te Pūkenga  
Acknowledges the minimum spend comprises of the:

TOTAL COST	MINIMUM SPEND
Financial amends paid to victims (if applicable)	[REDACTED]
Benefits to workers/others	\$100,000
Benefits to industry	\$200,000
Benefits to community	[REDACTED]
<b>Estimated cost of the undertaking</b> Plus GST (if any)	[REDACTED]

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## 4. Execution

### Authorised representative of an organisation

Undertaking given by (name of authorised representative)

Gus Gilmore

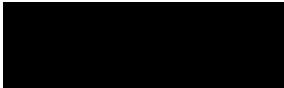
In my own right and in my capacity as (eg President, Chairperson, etc)

Chief Executive

of (eg organisation name) Te Pūkenga

On the (day) 6 day of (month) May, 2024 (year).

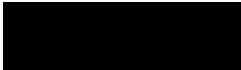
Signature of the person giving the undertaking:



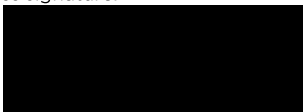
Undertaking given before me:

Witness name: Garth Gulley

Witness address:



Witness signature:



## 5. Acceptance

This undertaking is accepted by WorkSafe.

On the (d) 8th day of May, 2024

Signature of person accepting the undertaking:



Name of WorkSafe representative: (General Manager, WorkSafe (or delegate))

Tracey Conlon

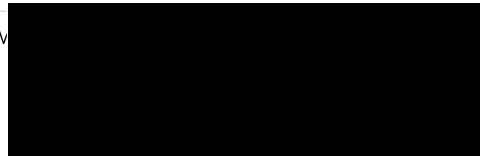
Undertaking given before me:

Witness name: Mark Johnson

Witness address:



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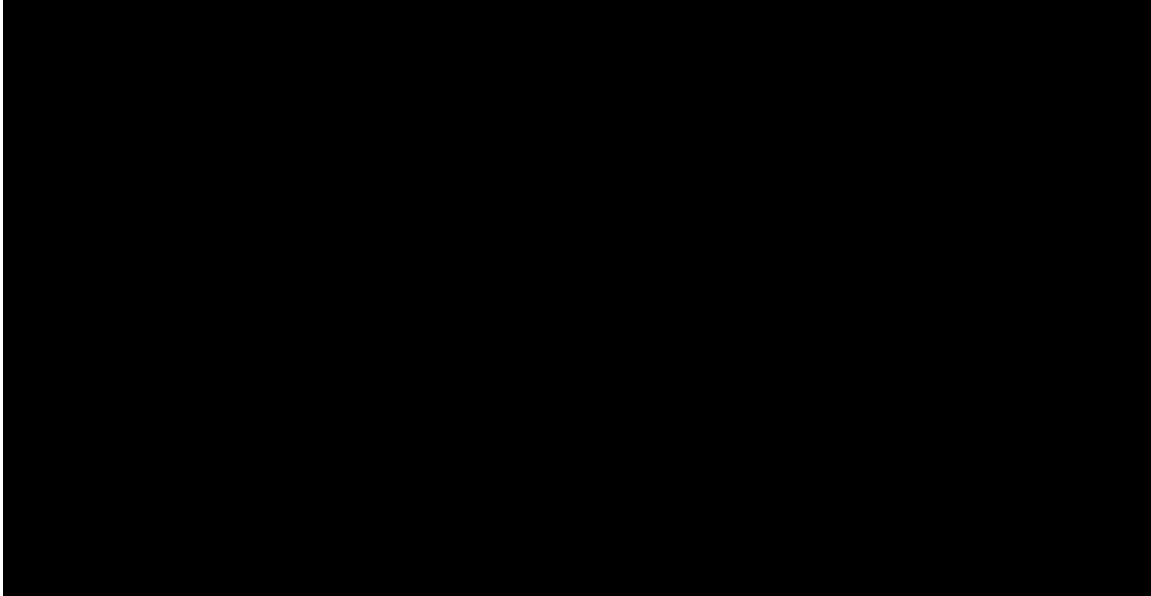


*Additional information in respect of relevant sections of Te Pūkenga’s enforceable undertaking application is set out below.*

**1. General Information**

**1.11 Detail the support provided or proposed by the person to the victim(s), other(s)**

CONTINUED FROM THE EU APPLICATION FORM – Section 1.11

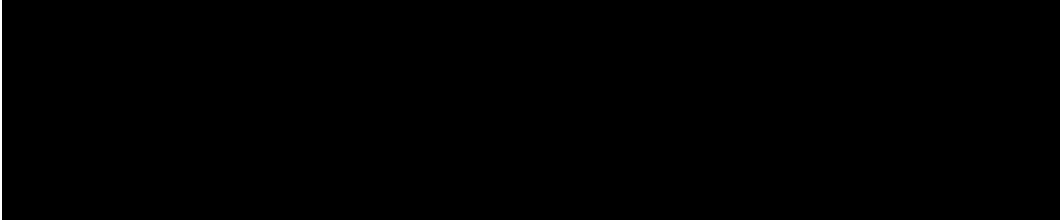


### 3.0 ENFORCEABLE TERMS

#### 3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties.

In the event the Enforceable Undertaking is accepted, it will be disseminated to workers, the victim and relevant industry and safety bodies and interest groups within 90 days of acceptance of this undertaking.

Specific actions in the 90-day period include (but are not limited to):

1. 
2. Meetings with Te Pūkenga Communications workstream to draft information pieces for various audiences and plan engagement strategy with kaimahi and ākonga, media, unions, controlling authorities, and so on.
3. Hui at Toi Ohomai campus with kaimahi and others directly affected by the incident to discuss the projects, especially the community activity.
4. Publishing on Te Pūkenga intranet the terms of the EU and the organisation's involvement in the projects.
5. Communicating through 'Ngā Taipitopito' (open access Te Pūkenga newsletter) a summary of the event and the projects and milestones planned for the next two years. This information will be further disseminated by Tertiary Insight, which is a subscriber-based news channel for tertiary education decision makers.
6. Publishing through NZISM channels a summary of the event and the projects and milestones planned for the next two years.
7. Meeting with Te Rōpū Marutau o Aotearoa (TRMA) to discuss implementation of Project 3.3, with a view to discuss further at TRMA conference in April 2024.
8. Meeting with Business Leaders' Health and Safety Forum to discuss Project 3.4: 1.
9. Meeting with Ministry of Education, Education Gazette Tukutuku Kōrero, to discuss dissemination of information on Project 3.4: 1.
10. Meeting with NZISM Chair and NZISM Chief Executive to discuss Project 3.4: 2. A meeting has already been scheduled for 13 March 2024 in anticipation of EU Panel ruling.

Te Pūkenga actions related to the dissemination of information will have the endorsement of Te Pūkenga Council and Te Pūkenga Executive Leadership Team.

### **3.3 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for workers and/or work and/or the workplace**

CONTINUED FROM THE EU APPLICATION FORM – Section 3.3

#### ***Outline the activity and the expected outcomes***

Te Pūkenga contractor relationship programme represents more than 300 contractors of various sizes and capabilities performing facilities management work across the organisation. The scale and complexity of managing and monitoring the health and safety aspects inherent in contracting activities is challenging due to the nature of PCBUs from small family businesses to IWI enterprises and large corporates.

Te Pūkenga recognises the critical emphasis of monitoring contractors as described in the WorkSafe NZ guidelines, ‘PCBU’s Working Together’.<sup>1</sup>

Te Pūkenga wants to explore, develop and trial a methodology (single location) that is linked to its organisational values of;

1. Manawa nui (We reach out and welcome in)
2. Manawa roa (We learn and achieve together)
3. Manawa ora (We strengthen and grow the whole person)

The methodology will use a kaupapa Māori storytelling and storyboarding approach when engaging and consulting with contractors on the ground and performing the work, including identifying and controlling risk, change management, reporting, feedback and learning.

#### ***Background to the activity and expected outcomes***

WorkSafe has clear expectations in guidance of what PCBUs should do when building health and safety into contract management.<sup>2</sup>

The six (6), clear, safety elements in contractor management are scoping the work, pre-qualifying the contractor, choosing a contractor, awarding the contract, monitoring the performance of the contract and post-contract review.

The main emphasis in this guidance is around monitoring the performance of the contract. It includes:

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<sup>1</sup> <https://www.worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/overlapping-duties/pcbus-working-together-advice-when-contracting/>

<sup>2</sup> <https://www.worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/overlapping-duties/pcbus-working-together-advice-when-contracting/>

1. Monitoring the performance of contractors and subcontractors, including their health and safety performance.
2. Monitoring work conditions and practices.
3. Bringing unsafe conditions or practices to the attention of the contractors,
4. Making sure that unsafe conditions or practices are managed.

In Australia, the regulator(s) commonly apply a SWMS (Safe Work Method Statement) approach for high-risk based activities to aid in this area. Recently, WorkSafe Victoria improved the SWMS approach with a shift away from risk assessments using risk matrices, colours or labels to having more and ‘better work and worker conversations’ about when the risk is present in the work or activity being performed and the actual application of controls to eliminate or minimise that risk.<sup>3</sup>

It is widely accepted that outcomes are improved when frontline kaimahi are actively engaged and represented and participate meaningfully on how the work is to be done and what controls need to be present and working effectively.

Te Pūkenga is a large and complex organisation that employs hundreds of contractors. Monitoring the health and safety performance of each contractor is challenging. To meet that challenge, Te Pūkenga wants to explore, develop and trial a methodology for its relationships with contractors who perform facilities management work.

The methodology will be linked to our organisational values of:

1. Manawa nui (We reach out and welcome in)
2. Manawa roa (We learn and achieve together)
3. Manawa ora (We strengthen and grow the whole person)

and integrate a kaupapa Māori approach using storytelling when:

- a) Engaging and consulting with contractors on the ground before work starts.
- b) Engaging with the contractor’s workers who will be performing the work, including identifying and controlling risk and how work change is to be managed.
- c) Reporting and feedback when work didn’t go as planned.
- d) Feedback and reflection when work does go to plan.

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<sup>3</sup> <https://www.worksafe.vic.gov.au/resources/safe-work-method-statements-swms>

From these engagements, we should be able to identify learning and sharing opportunities from successful and unsuccessful work. There is a cultural significance to storytelling and a strong link in using storytelling to learn. Humans are hardwired for storytelling. We're programmed to respond intensely to storytelling because stories help to keep us safe. Storytelling was the earliest form of risk management, where stories described the threats, as well as expressed the opportunities by taking a certain course of action. Through storytelling, we can learn from others without putting ourselves at risk and gain new knowledge and lessons about risk and opportunity.

We expect this use of storytelling with contractors will;

- a) Help to make complex systems more visible and understandable by allowing workers to share and assimilate complex information in a story format.
- b) Allow workers and contractors to see things differently through the lens of others through empathy and connection to drive new knowledge and learning.
- c) Allow this new knowledge and learning to be 'sticky' and combined with reflection, a new state of knowledge to exist, which results in different behaviours and outcomes.
- d) Allow risk to be 'kept real' because we have an emotional response to humanity and vulnerability, which helps us to make sense of the world around us when working in a complex system.

We will develop a 'storyboarding' method for this sharing of lessons. It will be based on the four pillars of People, Place, Purpose and Plot. They are about thinking critically and reflecting, including a critique of current constructs of safe work and affirming the importance of critical controls and critical steps for better work. They align with our kaupapa of *kia tūpato* or acting with caution and strongly resonate with our aim of incorporating *te ao Māori* in our wellbeing and safety practices.

In more detail, the 4Ps are:

### ***People***

People in your storyboard provide a connection to the wider audience and stakeholders. The storyboard must resonate with the reader, who must be able to see themselves in the story or align with the shared story.

### ***Place***

The organisation, work environment and system conditions have a significant role in storyboarding. When you narrate any event or your experience in the form of a storyboard, you must mention the work environment and system conditions (not behaviours) where it occurred. These descriptors let your storyboard speak for itself, creating authenticity and fostering trust.

### ***Purpose***

The purpose of your storyboard describes the meaning of your story and your learning intentions for the reader. The purpose is not about the corrective actions or 'fixes' we often see.

***Plot***

The plot is that pillar of storyboarding that works for the engagement of your workers and stakeholders. Plot is the whole structure of your storyboard that is presented. In storyboarding, think of the structure as pouring the foundation for a building. The storyboard needs a plan or layout to build the specific plot of that situation, problem or event.

All four pillars have their significance in storyboarding and learning. They work together with storytelling to create a powerful impact on workers to learn and improve through building knowledge, curiosity, critical appraisal and critical thinking skills.



**3.4 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for the wider industry or sector**

CONTINUED FROM THE EU APPLICATION FORM – Section 3.4

***Outline the activity and the expected outcomes***

Te Pūkenga represents approximately 70% of the tertiary education sector and recognises that the offering in the industry should be applied to the wider sector. There are two (2) deliverables for the industry and sector, which link to our organisational values of Manawa nui (We reach out and welcome in), Manawa roa (We learn and achieve together) and Manawa ora (We strengthen and grow the whole person).

**Deliverable 1**

Develop, trial and share a psychosocial risk tool that can be used to enhance work for teachers in the primary and secondary education sector using the work of the Business Leaders' Health and Safety Forum and WorkSafe's BetterWork principles. In addition, the tool and learnings will be shared with the wider tertiary education industry, including universities.

**Deliverable 2**

Fund NZISM to complete a feasibility study of establishing an agency to meet the primary recommendation in the WorkSafe NZ funded 2022 report called "Aligning New Zealand OHS qualifications and professionalism with our health and safety expectations".

Te Pūkenga recognises the value to both the health and safety professional industry and the tertiary education sector (including PTEs and universities) in aligning these joint objectives and achieving our organisational values of Manawa nui (We reach out and welcome in), Manawa roa (We learn and achieve together) and Manawa ora (We strengthen and grow the whole person).

***Background to the activity and expected outcomes for Deliverable 1: Develop, trial and share a psychosocial risk tool for NZ teachers***

The teaching profession makes up one of New Zealand’s largest body of workers, with more than 150,000 registered and certified teachers.<sup>4</sup> This figure does not include the teacher aides and administrators employed by schools. Te Tahuhu o te Matuaranga, Ministry of Education has 2500 schools under their care as a PCBU duty holder. However, the employer of these schools is a school board (public members elected by the community, school principal and usually a teaching staff representative), which means that health and safety responsibilities are devolved down to the scale of small businesses.

The composition of a school board can change every three (3) years. Given the complexity of the requirements placed on board members, the psychosocial risk impacts on teaching staff may not get the attention they deserve. School operations are led by a principal, who performs the CEO role along with all corporate functions. The principal is expected to have an understanding of health and safety matters, including those in the psychosocial area.

**Physical v. Psychosocial Risk**

There has been continued academic research into the psychosocial influences on the teaching work environment. However, a review of psychosocial risk management in the teaching profession shows awareness of the topic is limited and scarce.<sup>5</sup> Te Pūkenga understands that, across the primary and secondary education sector, some of the more significant health and safety risks are psychosocial in nature and dynamic. The work environment is complex, and the human cost lies hidden and unnoticed. The innovation project will include the engagement of three (3) primary and secondary schools to:

- 1) Listen to and discuss their approach to psychosocial risk with engagement at board, leadership and frontline levels using the storytelling methodology over a two (2) term period.
- 2) Develop a psychosocial risk tool for BetterWork by leveraging the existing work from the Business Leaders’ Health and Safety Forum and considering the AS/NZS ISO 45003 guidelines for managing psychosocial risks<sup>6</sup> and the Safe Work Australia 2022 Model Code of Practice of Managing Psychosocial Hazards at Work.<sup>7</sup>
- 3) Develop a methodology for schools to better understand psychosocial risks.
- 4) Write and publish a report on the findings through teaching and learning bodies (primary, secondary and tertiary) for shared lessons and application.

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<sup>4</sup> Teaching Council - professional body 150k registered and certificated teachers in NZ.

<sup>5</sup> Wischlitzki, E.; Amler, N.; Hiller, J.; Drexler, H. Psychosocial risk management in the teaching profession: A systematic review. *Safe. Health Work* 2020, 11, 385.

<sup>6</sup> [www.iso.org/standard/64283.html](http://www.iso.org/standard/64283.html)

<sup>7</sup> Model Code of Practice: Managing psychosocial hazards at work

## **Develop a psychosocial risk tool for BetterWork**

Better work starts with understanding what strengths are in a system to be built on and changing the work systems and conditions to create capacity. For the wider health and safety industry, how to approach psychosocial risk is still developing. The Business Leaders' Health and Safety Forum has created a wealth of resources that are being used to further create awareness and understanding. This project will seek to evolve 'mental wellbeing by design' tools to be used with worker engagement, participation and representation practices and involves creating a tool that identifies:

- a) What types of psychosocial risk are present within three, school work environments through using a risk management approach aligned with AS/NZS ISO 45003 and the Safe Work Australia 2022 Model Code of Practice of Managing Psychosocial Hazards at Work.
- b) How those risks dynamically interact with each other over time.
- c) Using a weak signal and appreciative enquiry approach to understand the protective factors that help teaching staff to thrive and what conditions or 'rubs' are hindering or threatening them.
- d) How to provide operational learning opportunities for the school at individual, team and organisational levels.

The next step is to trial the psychosocial risk tool at three schools (primary and secondary) through a worker-led, learning approach.

Using Learning Teams and the information from the engagement tool, undertake three (3) engagements per term where workers start to identify the psychosocial risks and the impact on their ability to thrive. Using the tool should allow workers to see the dynamic nature. The information can be used to understand the context and conditions within the workplace and how they manage those risks.

Develop a methodology for the school as a PCBU to better understand psychosocial risks and share lessons with school senior leadership by running a learning process from insights from worker-led learning to the types of psychosocial risks present in the workplace. This process should help identify system improvements to support better outcomes for workers.

The final step is to write and publish a report on the findings that will be shared via established communication channels in the education sector.

***Background to the activity and expected outcomes for Deliverable 2: Fund NZISM to complete a feasibility study on establishing an agency to progress the alignment of New Zealand OHS qualifications and professionalism with current health and safety expectations***

NZISM (The New Zealand Institute of Safety Management) published a report in 2022 called ‘Aligning New Zealand OHS qualifications and professionalism with our health and safety expectations’.

The report was funded by WorkSafe to articulate how NZISM can better work with tertiary education providers, employers and NZISM members to ensure the provision of high-quality health and safety qualifications that align academic rigour with contemporary good practice.

The report concluded that, currently, there is an unclear basis and structure of education programmes in occupational health and safety (OHS) in New Zealand. Education providers (Te Pūkenga, private training establishments, wananga and universities) design and deliver OHS programmes and qualifications, which, while following New Zealand Qualifications Authority (NZQA) requirements for the respective certificates, diplomas and degrees, are not necessarily aligned to current international competency frameworks. In addition, education providers are insufficiently engaged with local industry sectors and professional organisations.

Therefore, it is uncertain whether the education programmes provide graduates with the breadth and depth of knowledge needed to work as OHS professionals in this country.

The report was funded to undertake an in-depth analysis of the issues and challenges that NZISM sees in current OHS tertiary qualifications, and to propose courses of action to resolve these issues.

The report concluded that the ‘step-change’ required in New Zealand health and safety (as recommended by the 2013 Independent Taskforce on Workplace Health and Safety) has not taken place over the past eight (8) years, and that the recommendations of this report are required as critical components to achieving meaningful improvement in New Zealand’s health and safety record.

Of the four recommendations, the primary recommendation was:

*That all New Zealand OHS courses above Level 3 should be accredited by an assessment agency within NZISM ‘to ensure that workplace health and safety standards are embedded in all academic and vocational training at levels 1-6 on the NZQF’.<sup>8</sup> The ‘standards’ represent evidence-based, best practices in OHS as codified in the INSHPO capability framework [or approved equivalent, such as IOSH or the Australian Body of Knowledge].<sup>9</sup>*

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<sup>8</sup> Independent Taskforce on Workplace Health and Safety, Clause 479 (a), page 111

<sup>9</sup> <https://www.inshpo.org/>

Te Pūkenga will fund NZISM to complete a feasibility study on establishing an agency to meet the primary recommendation in the report.

Te Pūkenga recognises the value to both the health and safety professional industry and the tertiary education sector (including PTEs and universities) in aligning these joint objectives and achieving our organisational values of Manawa nui (We reach out and welcome in), Manawa roa (We learn and achieve together) and Manawa ora (We strengthen and grow the whole person).

**3.5 Activities to be undertaken to promote the objects of the safety legislation that will deliver benefits for community**

CONTINUED FROM THE EU APPLICATION FORM – Section 3.5

