

# Workplace Health and Safety Council

## Terms of Reference & Protocols

### Context

1. The Workplace Health and Safety Strategy (the Strategy) aims to lift New Zealand's workplace health and safety performance. This will enhance the productivity of New Zealand businesses, and reduce New Zealand's work toll.
2. The Strategy is a framework for action intended to:
  - raise awareness about workplace health and safety
  - coordinate and prioritise workplace health and safety activities across stakeholders
  - improve the infrastructure that supports workplace health and safety.
3. The Workplace Health and Safety Council (the Council) is to be established as a Tripartite Forum that will support improved workplace health and safety outcomes by building consensus and providing advice on the Strategy and on health and safety matters of national or international significance to the Ministers responsible for workplace health and safety<sup>1</sup> (the Ministers).
4. The term "workplace health and safety" is intended to encompass activities associated with the Health and Safety in Employment Act 1992, and workplace injury prevention activities under the Injury Prevention, Rehabilitation and Compensation Act 2001.
5. The term also encompasses the Department of Labour's enforcement responsibilities under section 97 of the Hazardous Substance and New Organisms Act 1996 (HSNO), however, responsibility for the development and maintenance of the policy, legislation and controls rests with the Minister for the Environment and the Environmental Risk Management Authority (ERMA New Zealand).

### Purpose and objectives

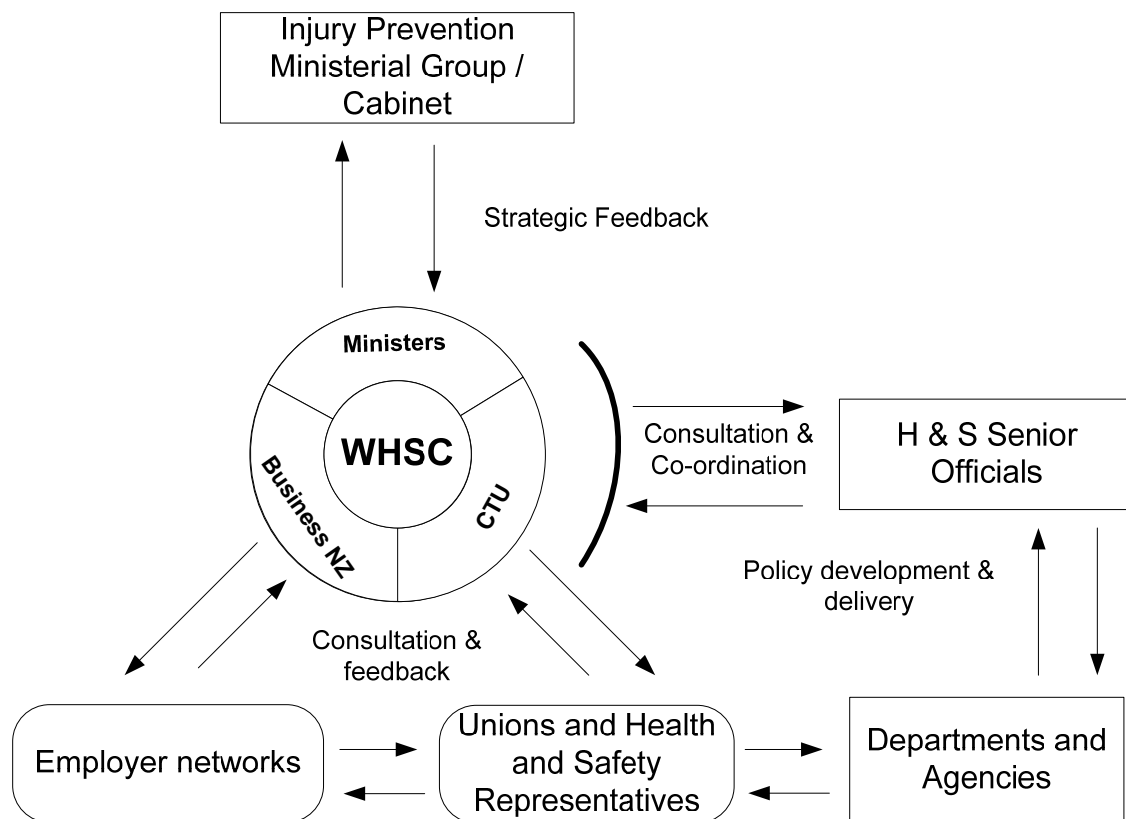
6. The purpose of the Council is to build consensus and provide advice to the Ministers on workplace health and safety matters. This includes:
  - advice on ways to progress the outcomes of the Workplace Health and Safety Strategy
  - advice on the medium to long-term implementation opportunities and challenges for the Strategy across agency or sector boundaries
  - advice on the different support requirements and interests within and across stakeholder representatives with regard to the Strategy
  - advice on workplace health and safety matters of national or international significance.

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<sup>1</sup> As at June 2006 this is deemed to be the Minister of Labour and the Minister for ACC.

7. The following are deemed outside the scope of the Council:
- the making of decisions which are binding on either the Ministers, Cabinet or the Social Partners
  - The direction of officials in government departments.
8. Key objectives of the Council are
- to provide leadership and advice in relation to the implementation of the Strategy and on an ongoing basis in the area of workplace health and safety
  - to build and broaden consensus between the stakeholder representatives and with government (through engagement with Ministers and officials)
  - to assist government agencies to co-ordinate an effective joint health and safety and workplace injury prevention programme with an industry focus and maximum employer and worker participation.

**Role**



9. The Council is expected to fulfil the following roles, as reflected in the above diagram.

### ***Engagement within the Council***

10. Discuss matters of strategic and medium term significance to the improvement of workplace health and safety outcomes in New Zealand.
11. Provide independent perspective on strategic health and safety issues and priorities for future action based on individual expertise and the views and feedback from business and employee networks.
12. Develop consensus and provide advice on what government must focus on to lift New Zealand's workplace health and safety performance and significantly reduce New Zealand's workplace injuries and illnesses.
13. Where consensus is unable to be reached, provide advice on any diversity of opinion within the Council.
14. Engagement with Government, Business and Employee stakeholders
15. The Ministers will provide strategic advice to Government via the Injury Prevention Ministerial Group and/or Cabinet at the Ministers' discretion.
16. The Social Partners will consult and provide feedback to business and employee stakeholders, this will primarily be through engagement with their existing networks and constituencies.
17. Consult networks on strategic health and safety issues and future priorities for the public sector, businesses and employees.
18. Develop appropriate methods of communicating and consulting stakeholders. This may include establishing industry or issue based working groups, hosting workshops and meetings.

### ***Engagement with H&S Officials<sup>2</sup>***

19. Identify, articulate and provide feedback on strategic health and safety issues in respect of both government and private sector activities.
20. Act as a sounding board for policy groups charged with the ongoing development and implementation of the Strategy and ensure consistency of short-term initiatives with long-term goals.
21. Provide advice on proposed government actions and reports, including commenting on the work programme of government agencies in the health and safety/injury prevention area.

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<sup>2</sup> Core officials will include the Secretary of Labour, the Deputy Secretary Workplace Group of the Department of Labour, the Chair of the Board and the CEO of ACC, and senior officials from Maritime New Zealand and the Civil Aviation Authority. Depending on the issues to be discussed, senior officials from Ministry for the Environment, Ministry of Health or ERMA New Zealand may attend by invitation.

## **Activities**

22. Subject to the purpose and objectives of the Council and subject to consideration of their strategic significance and without limiting the role of the Council, activities of the Council may include:
  - a. Examining, seeking expert opinion, reviewing and making recommendations to the Ministers on strategic issues relating to:
    - i. the design or implementation of legislation in the workplace health and safety area
    - ii. the design or implementation of regulations in the workplace health and safety area.
  - b. Commenting on existing and draft Approved Codes of Practice of strategic national significance.
  - c. Commenting on existing and draft government information or guidance of strategic national significance.
  - d. Commenting on strategic accountability documents of government agencies delivering services or outputs in the workplace health and safety area.
  - e. Being consulted on draft Cabinet papers relating to matters of strategic national or international importance for workplace health and safety.
  - f. Identifying and recommending areas of research and/or evaluation for workplace health and safety.
  - g. Preparing an Annual report on the Council's activities and summarising its key findings and recommendations.

## **Relationship with other advisory groups**

23. The Council will have a close working relationship with a number of existing Ministerial advisory groups. For the purpose of ensuring clear boundaries, the Council should avoid duplicating the work of the following groups, but at the relevant Minister's discretion may be requested to comment on their outputs.
24. National Occupational Health and Safety Advisory Committee – NOHSAC is a Ministerial advisory group established by Cabinet mandate to provide independent assessment to the Minister [of Labour] on the major occupational health and safety issues and advice on measures to deliver the greatest benefit for the prevention of occupational injury and disease.
25. NOHSAC is focused on providing evidence based advice from the perspective of medical and occupational health specialists and academics, it does not provide the business-employee perspective and social process provided by the Council.

## ***ACC Ministerial Advisory Group***

26. ACCMAG is an advisory group established to provide the Minister for ACC with independent advice from a stakeholder perspective on the operation of the Accident Compensation Corporation and the ACC scheme.

27. The Council's purpose of providing advice on workplace health and safety is intended to include strategic advice on the interaction between the health and safety activities of the Department of Labour and the workplace injury prevention activities of ACC. The Council's purpose does not include advising on workers compensation and rehabilitation arrangements, as this function is performed by the ACCMAG.

### ***Injury Surveillance Ministerial Advisory Panel***

28. ISMAP is a statutory body established under the Injury Prevention, Rehabilitation and Compensation Act 2001 (IPRC). ISMAP's objective is to provide independent advice to the Minister of Statistics and the Minister for ACC from the perspective of stakeholder representatives. The substance of this advice is the direction and strategy taken or to be taken by the Information Manager in relation to Part 8 of the IPRC Act.

### ***Work Related Gradual Process, Disease and Injury Panel***

29. WRGPDI Panel is a statutory body established under the IPRC to provide independent and specialist advice to the Minister for ACC on any matter relating to work-related gradual process, disease, or infection.

### **Accountability and reporting**

30. The Council is a non-legislative group. It is a tripartite forum for building consensus and providing advice to the Ministers. Government will consider all findings and recommendations of the Council and act on these as it considers appropriate.
31. The Council will meet with Senior H&S Officials at least twice a year.
32. The Council will normally meet up to four times a year. Additional meetings may be held as required by consensus, and subject to budgetary constraints.
33. The Council will be supported by a secretariat based at the Department of Labour, with involvement from other departments as appropriate.
34. Information held by the Council will be deemed to be information held by the Minister of Labour for the purposes of the Official Information Act 1982, Privacy Act 1993 and Ombudsmen Act 1975.

### **Composition and Membership**

35. The Council's ability to provide valuable advice will depend on the seniority, commitment, experience and openness to constructive dialogue of members. Members must bring an ability to work collectively, with the Ministers and with the public sector.
36. Members of the Council will have experience in health and safety matters and will be drawn from business and employee representatives. The members should be also able to represent health and safety issues facing SMEs, women, and Māori and Pacific peoples.
37. The Minister of Labour will be responsible for the appointment of members and will make appointments in accordance with State Services Commission guidance and Cabinet Appointment and Honours Committee processes.

38. There will be 7-8 permanent appointments (including the Ministers<sup>3</sup>).
39. Member numbers will provide a balanced representation of employer and employee interests. The following ex officio appointments will be made:
  - a. the Ministers responsible for workplace health and safety
  - b. the President of the New Zealand Council of Trade Unions and
  - c. the Chief Executive of Business New Zealand.
40. A further two representatives of employees will be appointed by the Minister of Labour following nomination by the President of the New Zealand Council of Trade Unions.
41. A further two representatives of business will be appointed by the Minister of Labour following nomination by the Chief Executive of Business New Zealand.
42. With the exception of ex-officio members, members will be appointed for terms of up to 3 years. Terms may be extended by mutual agreement. Membership terms will be staggered so there is experience and continuity at any time going forwards.
43. The Council will have delegated authority to co-opt up to two persons for short periods to provide specific expertise essential to the Council's work programme. The Council is able to establish sub-groups for whatever purpose it feels necessary, subject to budget constraints.
44. Council members may receive fees and allowances in accordance with Government guidelines provided they are not already being paid to represent the interests of any stakeholder group. Council members may be required to contribute up to 2 days a month of their time to their role on the Council.

#### Administration support

45. The Department of Labour will provide administrative support services for meetings of the Council (e.g. circulating background papers and agendas, preparing minutes of meetings, drafting of the annual report).
46. The Department of Labour will meet the costs of arranging and holding meetings, refreshments as may be appropriate to the timing of the meetings and the photocopying/distribution of documents to Members.

#### **Protocols**

##### ***Joint statement of expectations***

47. The Council will agree an annual statement of expectations for the Council which sets out the terms of reference, the protocols, a work programme and any other relevant expectations of members.

##### ***Chairperson***

48. The Council will be chaired on a rotating basis by the Minister of Labour, the President of the Council of Trade Unions and the Chief Executive of Business New Zealand.

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<sup>3</sup> The Ministerial portfolios are current held jointly by one person, but in future may be held separately or by an Associate Minister.

### ***Alternates***

49. Alternates for the Minister of Labour, the President of the Council of Trade Unions and the Chief Executive of Business New Zealand are acceptable, as long as this doesn't clash with the rotating chair role in para 47 above. The Secretary of Labour will act as alternate for the Minister of Labour.

### ***Quorum***

50. Five or seven members including the Ministers (or their representative) and equal numbers of business and employee representatives will represent a quorum.

### ***Council process***

51. Meetings will follow an agenda, which will be circulated in draft to members for their consideration and comment in advance of the relevant meeting.
52. All members will hold equal voting rights. Minutes will be taken and will be distributed to members as soon as practicable after the meeting.
53. In the eventuality of a deadlock in votes between business and employee representatives the chair will not have a casting vote.
54. Members will act in good faith and work constructively to reach a consensus view on advice where possible; however, where necessary the Council can provide advice that reflects diverse opinions.
55. Meetings will be generally held in Wellington.

### ***Conflicts of interest***

56. Any information that affects the member's ability to perform in this role, including conflicts of interest, must be identified and an appropriate regime for managing this put in place.

### ***Publication of advice***

57. The Council may not publish the advice it gives to the Ministers or officials. However, the Ministers may, from time to time, agree to publish reports or advice produced by the Council.
58. Council members will need to be able to offer free and frank advice to the Ministers and officials while maintaining discretion about that advice in wider circles.

### ***Review of Councils performance***

59. The performance and functioning of the Council will be reviewed by the Minister of Labour from time to time.