

May 2022

## How we investigate

### This policy's purpose

This policy sets out our approach to investigating work health and safety and energy safety issues.

This policy doesn't cover:

- review of provisional improvement notices
- how we'll support other agencies' investigations.

This policy should be read alongside:

- [When we intervene](#)
- [How we intervene](#)

This harm, or the risk of harm, can be the result of a single event, a pattern or a series of events, a precursor event or a near miss.

Because of the large amount of information we receive, we are deliberate in choosing when we will, and won't, investigate. Even if it's a matter within our remit, we won't necessarily investigate.

We start by applying [When we intervene](#)

This helps us decide if the matter is something we could investigate.

If it's a matter that we could investigate, we then decide if we will investigate. We do this by considering:

- what we want to find out
- what we're trying to achieve
- whether an investigation is the right approach given the situation, and
- how it supports our strategic goals, which include:
  - creating sustained change in a system, sector, or to specific behaviour
  - preventing harm, or the risk of harm, in the work health and safety, and/or energy safety system by focusing on a particular risk, or
  - maintaining regulatory integrity
- whether it adds value/is an appropriate activity given our finite resources.

Sometimes we investigate because there is a high level of public interest and expectation, regardless of whether or not it supports us to achieve our strategic goals. This decision will be made by our Chief Executive on a case-by-case basis, taking into account the specific situation.

### What an investigation is

An investigation is a purposeful, structured process of inquiry that helps us:

- establish facts or find something out, and
- decide what action to take (if any).

### Our mandate for investigating

We are empowered to investigate under a broad range of legislation and supporting regulations.<sup>1</sup>

### How we decide what to investigate

We receive a large amount of information about harm, or the risk of harm. This comes to us in a number of different ways, for example:

- notifications
- complaints or reports of concern
- our own intelligence, or
- an inspection.

<sup>1</sup> Health and Safety at Work Act 2015 (HSWA); Electricity Act 1992; Gas Act 1992; Hazardous Substances and New Organisms Act 1996; Crimes Act 1961 (in circumstances including fraudulent activity); and Health and Safety in Employment (Pressure equipment, cranes and passenger ropeways) Regulations 1999.

## How we investigate

There are three broad phases to all our investigations:

- planning
- doing, and
- closing.

### 1 Planning

Once we've decided to investigate, we'll plan for it before we start. Planning helps us to:

- be clear about what we're trying to achieve through an investigation (its purpose)
- identify what we know about the situation, and the parties involved
- identify the scale and scope of the investigation, noting this may change as the investigation progresses
- focus on the specific factors we need to investigate, taking into account the investigation's purpose and the resources required and available
- meet our statutory requirements and performance standards for completing investigations.

When investigating a sudden death, we will involve the Te Pou Ora team in our planning to establish if the whānau pani want to be informed of progress over the course of the investigation.

What we're trying to achieve through an investigation may change as it progresses. When this happens we adjust our plan accordingly.

### 2 Carrying out an investigation

When we carry out an investigation, we follow our plan.

We review our decisions regularly as an investigation progresses to make sure it's still the right thing to do. At any point during an investigation, we can:

- change the purpose of the investigation
- choose another, more appropriate action<sup>2</sup>
- transfer the issue to another agency for them to consider, or
- close the investigation.

We use the same framework each time we make a decision and always record our decisions and the reasons for them.

We respect ethnic, cultural, and religious customs wherever possible.

We interact with victims<sup>3</sup> in accordance with the Victim's Rights Act 2002. This means we:

- treat victims with courtesy and compassion, and respect their dignity and privacy
- where possible, provide victims with relevant information about programmes, services and other resources available to assist them, taking into account their specific circumstances, and
- provide victims with information about the progress of investigations and proceedings, within timeframes under the Criminal Procedure Act 2011.

### 3 Closing an investigation

We keep investigations under regular review and close them when we decide:

- further investigation isn't going to achieve the purpose of the investigation, or
- the purpose of the investigation has been achieved.

When we close an investigation we record:

- our findings
- our decision to close the investigation, and the reason
- who made the decision, and
- any intervention(s) taken.

Closing an investigation doesn't necessarily mean that all work on the matter stops. We may choose to take other actions.

We can revisit our decision to close an investigation at any time. We may reopen the investigation, for example if we get new information.

Where Māori, iwi, hapū or whānau have been the subject of an investigation, we will communicate the decision to close the investigation and outcomes with them.

## What we do with the information we find out

We make choices about what actions to take

We use the information we find out from an investigation to make choices about what to do next. This includes deciding what other action to take, if any.

<sup>2</sup> We can choose from a wide variety of education, engagement, and enforcement interventions, and we choose which is best depending on the situation.

<sup>3</sup> 'Victims' includes the family of an injured or deceased person. For work health and safety, family members could include immediate family, whānau, or (any) other culturally recognised family group who are in a close relationship with the victim at the time of the offence.

## We learn from our investigations

Once an investigation has been closed we review its outcomes. We:

- make sure anything we learn is retained and used, and
- share information (where appropriate) with other regulators.

## What happens when we're investigating and find other things that concern us

Sometimes during the course of an investigation we may notice something unrelated to the primary focus of the investigation that concerns us. For example, we might find someone has been or is doing something that poses risk or is a potential breach.

We'll address any immediate and serious risk straight away. We'll then hand these broader matters on to the right team(s) across the organisation so they're responded to as appropriate. This means we can address concerns while maintaining the efficiency and timeliness of the investigation.

This information helps us form a picture of the overall health and safety performance of the PCBU.

## What happens when there are multiple agencies, or other interested parties

Sometimes multiple agencies are involved in an investigation. In these situations we work with the other agencies to agree a process, collaborate, and avoid duplication of effort.

We have a number of Memoranda of Understanding (MOU) with other agencies, which set out how we will do this. Where an MOU exists, we will follow it.

Other parties may be interested in our investigation, and want information about the choices we made. When providing this information, we comply with our legal and privacy obligations.