

Part 4, subpart 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by Warren Pengelly, on behalf of Pengellys Limited. The name of the entity giving this undertaking is Pengellys Limited and referred to in this document as Pengellys.

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. 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.

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.

Terms and definitions:

Contravention means an action which offends against the Health and Safety at Work Act 2015 and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention.

HSMS means a Health and Safety Management System.

Person means an individual who or a legal entity which has a duty under the Health and Safety at Work Act 2015 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 means Health and Safety at Work Act 2015 and associated regulations.

Enforceable undertaking means 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).

1. General Information

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

Nominated person: Warren Pengelly, Director

Name of entity: Pengellys Limited "Pengellys"

Street address: 29 Mahunga Drive, Mangere Bridge, Auckland

Mailing address: Private Bag 92103, Auckland 1142

Work phone: +64 9 555 8504

Mobilephone: +64 21 963222

Email: warren.pengelly@pengellys.co.nz

Type of legal entity: Limited Liability

Industry: Transport and Logistics

Workers: Full time: 73 Part time: 0 Casual/Contractors: As Required

Products and services: Transport and Logistics operations.

Comments:

Pengellys has been in existence since 1941. It offers freight, freight forwarding, warehousing and distribution services. In New Zealand, Pengellys employs 73 workers and operates out of six sites, including Auckland, Wellington and Christchurch.

1.2 Detail the contraventions

Pengellys has been charged with one offence under section 36(1)(a), 48(1) and (2)(c), of the Health and Safety at Work Act 2015 in relation to an incident on 29th March 2018.

The alleged contraventions are that being a PCBU, Pengellys failed to ensure, so far as was reasonably practicable the health and safety of workers who worked for the PCBU, while the workers are at work in the business or undertaking, did fail to comply with that duty, and that failure exposed workers to a risk of death or serious injury or death.

In particular it is was reasonably practicable for Pengellys to have:

1. Developed, documented, implemented, communicated, and monitored compliance with, an adequate safe system of work for moving empty shipping containers around the site. This would involve:
 - a. Conducting a comprehensive and methodical risk assessment of the task of moving empty shipping containers, including consideration of:
 - i. The hazard of containers slipping off forklift tines;
 - ii. The need to manoeuvre containers around corners;
 - iii. The uneven ground due to potholes;
 - iv. The risk of collision with trucks using the same route;
 - v. The risk of miscommunication between forklift operators and the spotter;
 - vi. The possibility of pedestrians entering the area unseen by the forklift operators and spotter.
 - b. Ensuring that all forklifts operators and spotters understood the controls in place and complied with them.
2. Used one of the swing lift trucks already on site (rather than forklifts) to move empty shipping containers.

1.3 Detail the events surrounding the contravention

The victim was employed by Pengellys in May 2017 as a Store Person and is a union member of First Union.

On the 29th March 2018 the victim was working with a team of two others in the moving of a 40 foot container. This task required the use of two forklifts (of which the victim was a forklift operator) and a spotter.

It was agreed between the parties the procedure to move the empty container and how communication was to occur between the forklift operators using the horn on the forklifts.

The forklifts were positioned at both ends of the container as agreed. The victim noticed that there was dunnage (wood) under the container. The victim and the spotter proceeded to remove the dunnage and stack the dunnage on the tines of the forklift to be relocated before starting the procedure to move the container.

The forklift operator positioned at the other end of the container believed that he heard the signal to begin the lift and push at his end. He commenced the task and as the container moved forward it collided with the stacked dunnage. The dunnage struck the victims left leg and he fell to the ground. The spotter realising that the victim was in the path of the container moved the victim out of harm's way and signalled the forklift operator to stop.

First aid was given to the victim and he was taken by car to Waitakere Hospital for emergency medical treatment and subsequent admission to hospital for a fracture and deep laceration to his lower left leg.

1.4 Detail any enforcement notices issued that relate to the contravention

Pengellys are not aware of any enforcement notices.

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. Using a swing lift truck to move/transport empty containers;
2. Sealed parts of the yard to increase the amount of level space available;
3. Used an external health and safety consultant to audit current HSMS system and chair the health and safety committee meetings;
4. Developed and implemented a HSMS system which details hazard controls, training records, observation reports, accident/incident and near miss reports. This system link into the existing HR and CAR (Corrective Action Report) systems.

1.5 Total amount of money spent on rectifications

<i>Rectification</i>	<i>Amount</i> <i>(Incl GST if applicable)</i>
<i>Sealing of yard by City Siteworks Limited</i>	\$179,709.35
<i>External Health and Safety Advice by Work Safe Advisory Services</i>	\$15,617.00
<i>HSMS System Development (Excluding Maintenance)</i>	\$27,000.00
<i>Annual Salary of Health and Safety FTE (January 2019)</i>	\$58,000.00
<i>TOTAL</i>	\$280,326.35

Internal costs and other contractor costs incurred for rectifications have not been included in the costed amount above

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

It is the understanding of Pengellys that the victim suffered injuries of a fracture to the left leg near the knee and a deep laceration to the muscle of the lower left leg.

It is acknowledge that the victim has had further complications from the incident with restricted movement due to a frozen ligament of the left lower leg/ankle area. At the time of submitting this enforceable undertaking the victim is receiving steroid treatment to reduce the restriction of movement. He had been able to return for work for certain periods and is currently not able to perform his full duties or light duties and has recently been assessed by a medical specialist and ACC funding is being sort for alternative treatment. The medical specialist has advised the victim that there will be a delay in treatment due to current workloads being delayed because of Covid-19.

Pengellys acknowledges the effect that the injury has had on the victim, and that the periods of incapacity during his recovery have had negative impact on his sporting, community activities and family life.

The victim prides himself on being fit and able and is keen to return to full time duties and restore his mana for his own physical and mental wellbeing.

1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (Including in 3.12.3)

Describe the victim(s) relationship to the entity in question:

The victim was a full time employee of Pengellys.

Describe offer of amends or payments

As part of this enforceable undertaking we have made payments to the victim of initial amends of [REDACTED] which includes:

- a) [REDACTED] as contribution for the difference between the ACC payments and normal wages between the date of the incident and 21 November 2019; and
- b) [REDACTED] as support to the victim and family and support for acute and emotional harm suffered from the incident.

Pengellys offer further amends of [REDACTED] upon execution of this enforceable undertaking to bring the total offer of amends to the victim of \$52,500.00.

<i>Description of payment</i>	<i>Amount</i> <small>(Incl GST if applicable)</small>
<i>Initial amends paid to victim after the incident for wage top up of 20% on ACC</i>	[REDACTED]
<i>Initial amends paid to victim after the incident for support to the victim and family and for physical and emotional harm</i>	[REDACTED]
<i>Offer of additional amends for wage top up of 20% on ACC paid as part of this enforceable undertaking from 21 November 2019 to 4 February 2021.</i>	[REDACTED]
<i>Offer of additional amends for physical and emotional harm as part of this enforceable undertaking.</i>	[REDACTED]
TOTAL	\$52,500.00

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

Simon Giles (Auckland Warehouse Manager), Rod Turner (Auckland Operations Manager) and David Lewis (General Manager) have kept in contact with the victim since the incident.

Pengellys engaged an external provider to engage with the victim on a restorative justice process and his view on the enforceable undertaking. During that process the victim was able to describe the impact (both physically and emotionally) that the incident has had on him, his family and young child (born after the incident). He also discussed how the recent complication with restricted movement of the ankle/foot has negatively affected his mana, contribution to his family, community and his ability to return to full time work that he enjoys.

The victim is supportive of this enforceable undertaking and the benefits that it will bring to union members.

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

Pengellys have a collective agreement with First Union for workers. First Union is a union of over 29,000 members across New Zealand in sectors including retail, finance, transport, logistics, manufacturing, and ambulance.

Pengellys have consulted with First Union, Pengellys workers/union members and representatives/delegates on the submission of an enforceable undertaking and the activities for workers, industry and sector (section 3.3 and 3.4). A vote was taken by First Union members at Pengellys on the 31st October 2019 and it has been agreed by 95% of those members present (5% Abstained, None Against) that the first version of the enforceable undertaking would provide significant support and value to First Union members in the transport and logistics sector and First Union supported that version of this undertaking. Pengellys have undertaken further consultation with First Union on the feedback from the panel and the subsequent response. A revised EU was developed in conjunction with First Union and submitted in June 2020. Feedback was received from the panel on the 17th July 2020 asking for Pengellys to consider that the benefits to be realised for workers/workplace, industry and community should not be limited or restricted to First Union Members, nor should the Union exclusively determine

participants/beneficiaries. This has been discussed with First Union and agreement has been reached to share the benefits of this undertaking to both the union and employers. First Union's belief that this undertaking will provide significant support and value to First Union members in the transport and logistics sector continues and First Union support this undertaking and have provided a letter of support.

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

The support for the victim provided or proposed has been detailed in 1.8.

1.12 Detail any current HSMS implemented and maintained by the person

As a result on the incident Pengellys engaged the services of an independent health and safety consultancy organisation (Work Safe Advisory Services) to undertake an audit/review of the HSMS operational functions and the health and safety committee. A review of the HSMS was undertaken and Pengellys choose to embed HSMS functions into their current operations technology. The existing technology provided was commissioned to develop an integrated HSMS which details hazard controls, training records, observation reports and accident and near miss reports. These link into the Human Resources system to ensure workers are up to date with safety training, safety observations and audit history of management of change. These actions have been linked into the CAR system (Corrective Action Report) for regular review by the health and safety committee and management/leadership.

The HSMS is being maintained and managed internally by the appointment in January 2019 of a full time resource.

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

A three way approach is being undertaken in relation to determining if the HSMS is working effectively and the health and safety objectives are being met, including;

1. The appointment of a permanent full time person to act in a compliance capacity using the HSMS CAR (Correct Action Report) System;
2. Annual engagement of external health and safety consultants to provide external verification;
3. Reporting to and the engagement of the health and safety committee with representatives from workers, union and management/leadership on the performance and function of the HSMS.

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

Consultation was undertaken with a group of workers and site union representative/delegate on the enforceable undertaking and their views. Ongoing consultation will be undertaken with the victim, workers and union on this undertaking.

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

Pengellys acknowledges that WorkSafe alleges a contravention occurred.

2.2 Statement of regret that the contravention occurred

Pengellys regrets the harm to the victim as a result of the incident and acknowledges the affect this incident has had on the victim and his family.

Whilst the incident had the potential for a more serious event we are thankful that the victim is recovering and we want to support the victim back to full time duties.

We are committed to our obligations under the Health & Safety at Work Act 2015 and we acknowledge that 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 Pengellys.

We offer this undertaking as an opportunity to support the victim, his family and the union he belongs to.

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

Pengellys 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), past history of compliance and current commitment to remedy the misconduct.

In submitting this enforceable undertaking, Pengellys has considered the views of the victim and First Union. In balancing this and the desire to do the right thing for the victim and First Union by reference to the purposes and criteria of the Enforceable undertaking operational policy, in summary Pengellys;

- a) Has no previous convictions for health and safety offending.
- b) Has cooperated fully with WorkSafe in its investigation of this incident.
- c) Has made amends and support of [REDACTED] to the victim and offers additional amends to the victim on execution of this undertaking of [REDACTED]
- d) Will benefit and support First Union workers, First Union organisation, the wider transport sector and the families/community of First Union members by;

1. Funding the purchase of 100 digital devices (BYO Tablets) for learners to participate in the health and safety representative "HSR" Skills and Improvement training and a workplace literacy and numeracy programme. The use of these devices in combination of the HSR training and literacy and numeracy online skills programme will also improve the digital literacy of those 100 workers. The 100 digital devices will be gifted to the workers on completion of the programme at a value of \$31,625.

2. Fund the development and implementation of a HSR Skills and Improvement Programme that will increase the number of HSR accredited Health and Safety Representatives in the Transport sector by up to 100 workers. This programme

will be made up of 50 learners from First Union members and 50 learners from employers in the transport industry and is to the value of \$186,635.

3. Fund a HSR Community of Practice scholarship programme to the value of \$31,740 for six workers identified from the HSR Skills and Improvement Programme to study for a NZ Certificate in Workplace Health and Safety Practice (Level 4 qualification from NZQA) in Auckland, Hamilton or Christchurch.

This joint proposal above is not of a kind that can be achieved by prosecution and achieves tangible benefit to the victim, First Union members and workers in the industry which could not addressed elsewhere and at zero cost. It is submitted that the steps Pengellys proposes are proportionate in this particular case, given the circumstances submitted.

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

Pengellys confirms that the behaviour, activities and other factors which caused or led to the contravention have ceased and will not reoccur.

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

Pengellys has read and understood the Enforcement Undertaking Operational Policy.

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

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

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

Pengellys has the financial ability to comply with the terms of this undertaking and has provided evidence by way of a letter from our financial accountants Baker Tilly Staples Rodway Auckland Limited with this undertaking to support this declaration.

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

None save the victim as an employee.

2.9 Statement regarding Intellectual Property

Pengellys 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.

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

Pengellys acknowledges that it may be required to provide 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.

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 the regulator, 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.

3.0 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

Pengellys is committed to the performance of the activities as detailed above in this application and specifically commits to perform the activities details 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.

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 (EU) is accepted, it will be disseminated to workers, the victim and First Union

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

Activity	Cost \$(Incl GST)	Timeframe
Fund the purchase of 100 digital devices (BYO Tablets) for learners. These devices will allow 100 learners to participate in the HSR blended learning programme (see below) and access the Pathways Awarua online self-paced literacy and numeracy learning system support by the NZ Tertiary Education Commission. The use of these	\$31,625	12 months

devices in combination of the HSR and Pathways Awarua programmes will also improve the digital literacy of those 100 workers. The NZ Tertiary Education Commission advocates that from research, employer reports, and direct employer engagement, they know that investment in literacy and numeracy in the workplace has positive effects for employers, employees their families and greater community.

Total estimated cost of benefits for workers and/or work and/or workplace \$31,625

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

Activity	Cost \$(Incl GST)	Timeframe
<p>During the consultation process with First Union, Pengellys became aware of Unions concerns about the increase in harm to workers with swing lift operations in the transport sector and their belief that industry is not providing the level of training to workers and worker representatives about health and safety that is relevant to the sector and that this is an important issue to engage with industry on.</p> <p>The result of this consultation was for Pengellys to fund the development and implementation of a HSR Skills and Improvement Programme that will increase the number of HSR accredited Health and Safety Representatives for First Union by an additional 50 workers from the current levels of 70, which is a proposed increase of 170%. Pengellys will also fund an additional 50 workers from employers in the transport sector by engaging with transport industry groups such as Road Transport Association NZ, Road Transport Forum NZ, National Road Carriers and the Customs Brokers and Freight</p>	\$186,635	30 Months

Forwarders Federation of New Zealand Inc to promote the programme and seek registrations of interest. If the programme is oversubscribed by employers, a selection criteria will be established to ensure a fair distribution of representation across employers and workforce size.

Having both skilled and competent HSR's is even more critical in our changing times with the ongoing affect and impact of Covid-19 across the transport sector. The WorkSafe NZ Literature Review of Worker engagement, participation and representation, published in October 2018 identified significant barriers to effective worker engagement, participation and representation "WEPR". That review stated that there needs to be a recognition that worker and employer interests in health and safety do not always align. These issues mean that open negotiation and discussion between employers/managers and workers needs to be encouraged to ensure buy-in from both sides. However, this also needs to be understood in the context of unequal power relations between the two groups. Employers/managers have more power in the workplace setting, and this power imbalance can lead to workers being reluctant to speak up out of fear of job losses or repercussions, even if they have the legal right to do so. *"This neuters worker avenues for representation and participation both for the workers involved in precarious work by making them fearful of repercussions and for other workers by lowering union coverage and representation"*.

Essentially, WEPR needs to overcome the power imbalances between employers and workers that make worker engagement programmes necessary in the first place. External agents such as union representatives or regional health and safety representatives can help mitigate the impact of the power of employers and management, but as the history of HSRs in New Zealand indicates they can face fierce

opposition from business groups (Harris et al., 2012; Pashorina-Nichols, 2016).

In particular Union HSR's act as a critical conduit between the employer and worker WEPR programme and collective agreements on worker rights and conditions including health and safety.

The WorkSafe NZ Review of Health and safety representatives (Motivations, challenges and support), published in November 2019, identified the top three suggestions for improvement by HSR's were;

- a) *Ongoing and more accessible learning opportunities*
- b) *Links with other HSR's in the sector*
- c) *Guidance on how to address work health and safety concerns.*

The UK HSE Regulator published a report called 'Using soft people skills to improve worker involvement in health and safety', in 2007. The report identified the top three soft skills as key factors to foster and create a 'dialogue culture' between employers, HSR's and Union representation. Those top three soft skills were;

- a) *Leadership skills*
- b) *Teamworking skills*
- c) *Conceptual and problem-solving skills*

On review of this information, and in consultation with First Union, we want to extend what HSR's can achieve with the conventional 2 day training and accreditation to NZQA 29315 with a HSR Skills and Improvement Programme.

That programme will be a blended learning environment making use of the digital devices, including;

- a) *Self-paced e-learning modules to build awareness and knowledge for workers against the NZQA 29315 framework and HSWA Legislation.*
- b) *Group online facilitated workshops to build soft skills for HSR's in the areas of leadership, teamworking, conceptual and problem-solving skills.*
- c) *Group face to face sessions to build and assess application of knowledge of HSR's between the NZQA 29315 modules and soft skills.*
- d) *Support and pastoral care for HSR's during the programme including a reflection journal, group discussions and one on one (online/voice) coaching.*

This course will be based on NZQA Unit Standard 29315 (which gives a worker a statutory power to issue provisional improvement notices) and include references and examples of hazards and risks that are specific to the sector and linked to other NZQA units for the transport sector, such as swing lift safety for operators.

The funding of the programme will include;

1. *Scoping and consultation with Union, Union Delegate and Employer Representatives (up to 5 stakeholders)*
2. *Development of a Learner workbook, lesson plan, training materials, learners journal and assessment guide for NZQA US29315*
3. *The HSR programme of up to 100 worker representatives (across 8 streams) including a study allowance for the learner (to minimise any financial impact on the worker when away from work) for the face to face training.*
4. *Case study on the results and findings of the programme to be published by First Union and WorkSafe NZ*

The training is aimed at people who want to learn how to liaise between workers, supervisors, union and the Person Conducting Business or Undertaking (PCBU) to promote good faith management of health and safety issues within a workplace. The knowledge and skills gained by participants will be transferrable across sectors, industries, and communities.

The learners journal would provide participants with the ability to demonstrate their new knowledge when on-the-job and the opportunity to critically reflect on their learning and these recorded experiences will be referenced and or summarised in the case study (any personal information redacted). This in turn will assist them to become more active in their learning and help them to build the necessary skills to become competent, innovative and motivated HSRs.

Competent HSRs are more able to actively participate in workplace health and safety systems and have a voice to speak up when they feel their safety and that of others is being put at risk.

The development of the workbook, learning materials, journal and case study will be undertaken by an external subject matter expert in Adult Education and Literacy.

The funding includes the creation of an ongoing legacy by making the programme and materials public domain and royalty-free for any training organisation or industry to make use of in electronic format (PDF).

Total estimated cost of benefits for wider industry or sector \$186,635

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

Activity	Cost	Timeframe
	\$(Incl	
	GST)	
<p>The transport and logistics sector needs competent, innovative and motivated people who want to extend their tertiary training and education pathway to include health and safety at a higher level, that will improve not only the persons own self-worth and abilities but that of their community and families.</p>	\$31,740	36 Months
<p>Pengellys propose to fund a Health and Safety Representative Community of Practice scholarship programme to the value of \$31,740 for six workers identified from the HSR Skills and Improvement Programme (or others) to study for a NZ Certificate in Workplace Health and Safety Practice (Level 4 qualification from NZQA) in Auckland, Hamilton or Christchurch. This Certificate supports the development of safety supervisors, coordinators and team leaders.</p>		
<p>A panel of 3 people will select the six participants. The panel will comprise of a representative from First Union, a representative from NZISM (NZ Institute of Safety Management) and the subject matter expert in Adult Education and Literacy who developed the workbook, learning materials and learners journal.</p>		
<p>The 2018 Annual Salary survey for Health and Safety practitioners by Thomson Reuters, shows that the average income of a person holding a certificate in health and safety is \$88,950 per annum (across all industries). The average income of a qualified health and safety practitioner in the transport sector is \$106,670 (including certificate and</p>		

diploma level). This compares to the transport industry average salary guide from careers.govt.nz of \$50,000 (\$37,000 to \$80,000).

This undertaking will also include student membership of the six participants to NZISM for a period of two years. This membership will support the participants with ongoing community of practice of networking, learning opportunities, access to resources and a pathway for professional grading and recognition as a health and safety practitioner.

Total estimated cost of benefits for community

\$31,740

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

The suitability of a SafePlus assessment will be determined by the Enforceable Undertakings Panel when your application is considered. 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.

3.7 Minimum spend

Pengellys combined commits to a minimum spend of \$302,500 (including GST if any) for this undertaking.

Pengellys 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 will be sought from WorkSafe.

Pengellys acknowledges the minimum spend comprises of the:

APPLICATION FOR AN ENFORCEABLE UNDERTAKING BY PENGELLYS LIMITED

TOTAL COST

MINIMUM SPEND (INCL
GST IF ANY)

FINANCIAL AMENDS PAID TO VICTIM	\$52,500
BENEFITS TO WORKERS/WORKPLACE	\$31,625
BENEFITS TO INDUSTRY/UNION	\$186,635
BENEFITS TO COMMUNITY	\$31,740
ESTIMATED COST OF THE UNDERTAKING	\$302,500

4.0 Execution

Undertaking given by Warren Pengelly in my own right and in my capacity as a Director of Pengellys Limited.

On the 15th of September, 2020

Signature of the person giving the undertaking

[Redacted Signature]

Undertaking given before me:

Witness name:

[Redacted Witness Name]

Witness address:

ACCOUNTANTS

AUCKLAND

Wi
[Redacted Witness Address]

5: Acceptance

This undertaking is accepted by WorkSafe.

On the 25 of September, 2020

Signature of the person giving the undertaking:

[Redacted Signature]

Name of WorkSafe representative:

Simon Humphries

Undertaking given before me:

Witness name:

Catherine Gardner

Witness address:

Worksafe , 86 Customhouse Quay

Wellington

[Redacted Witness Address]