

July 2021

## When we intervene

### This policy's purpose

*When we intervene* sets out how we decide whether to intervene once we're aware of a work health and safety or energy safety risk or harm.

This policy doesn't cover:

- how we choose which intervention to take, or
- how we carry out our interventions.

*When we intervene* should be read alongside our [How We Intervene policy](#)

### What an intervention is

An intervention is any activity we carry out to:

- prevent harm
- alter a course of events
- improve a situation or prevent it from getting worse, or
- change behaviour.

Our interventions include – but aren't limited to – programmes, guidance and education, marketing campaigns, inspections, investigations, and enforcement.

### Our regulatory focus

We're the primary regulator for work health and safety and energy safety in New Zealand. We target our interventions toward risk and harm that's occurring at work and in workplaces, and through the supply and use of electricity and gas.

We focus on the:

- health and safety of workers and workplaces
- health and safety of other people put at risk by work activities, and
- safe supply and use of electricity and gas, including consumer safety and property safety (only for our energy safety legislation).

### How we decide when to intervene

We receive thousands of notifications and health and safety concerns each year. We have finite resources, so we need to be deliberate about choosing when to intervene.

When we become aware of a risk or harm, we make an initial decision about whether to intervene by testing it against our four decision-making criteria.

We only intervene when all criteria are met. (Criterion 2 doesn't need to be met if it's not applicable.) This means we won't intervene in most of the notifications and health and safety concerns we receive.

Our criteria are:

#### 1 The risk or harm sits within our responsibilities

The legislation we administer sets the parameters for our responsibilities and provides our mandate for interventions.<sup>1</sup>

<sup>1</sup> Our legislation includes: Health and Safety at Work Act 2015 (HSWA), Electricity Act 1992, Gas Act 1992, and associated regulations.

## 2 We're best placed to intervene if there's an overlap with another agency's responsibilities

Our responsibilities overlap with other agencies that also have health and safety responsibilities.<sup>2</sup>

To decide whether we'll intervene when there's an overlap we:

- assess the significance of the risk or harm, and
- identify whether the underlying issues are likely to involve either work activities or energy safety.

If:

- it's not clear to us which agency is best placed to intervene, we discuss this with the other agency, agree on an approach, and record our decision
- we decide we're not the best agency to intervene, we'll tell the notifier which agency to contact, and record our decision
- the best placed agency is already investigating or has investigated a matter, we're unlikely to intervene unless that agency asks us to do so.

We have a number of Memoranda of Understanding (MOUs) with other agencies. Our MOUs provide guidance on when each agency will intervene. Where a MOU exists, we'll follow it.

This criterion only needs to be met when there's an overlap with another agency's responsibilities.

## 3 The significance of the risk or harm means it warrants intervention

When we're considering whether to intervene, we assess the significance of the risk or harm. The factors we consider include:

- a risk's urgency and its consequences
- the degree of risk caused by a duty holder's actions or inactions
- whether it's part of a pattern of harm or poorly managed risk
- whether it's of high public interest and expectation, or
- whether it's a strategic focus area.<sup>3</sup>

When we're considering whether to intervene on a wide scale, we're more likely to intervene when the risk or harm is within a strategic focus area.

## 4 Intervening is an effective use of our resources

We're likely to intervene when doing so will:

- benefit as many people as possible
- prevent harm or help create sustained improvement in work health and safety or energy safety
- be the best use of our resources when considering the commitments we've already made for other work
- help us achieve our strategic outcomes, or
- help maintain public confidence in how we manage our regulatory responsibilities.

We may make an initial decision not to intervene based on the information we have at the time. But if we receive new information later, we'll check back against the criteria to see whether we should intervene.

We may also make an initial decision to intervene and subsequently decide to stop it.

We record our decisions about:

- whether or not we intervene,
- changes to previous decisions, and
- stopping an intervention.

## How we find out about risk and harm

We find out about risk and harm through:

- notifications and health and safety concerns
- information sharing with other agencies in New Zealand and other countries
- our research and analysis
- media reports, including social media
- our people's local knowledge and insights, and
- consultation with stakeholders, including third parties.

## What we do with the information we receive

Our legislation requires businesses and services<sup>4</sup> to notify us about certain events, and people have the option of informing us about health and safety concerns. This provides us a valuable source of information about risk and harm. We use the information we receive to develop insights into how best to intervene to prevent harm and to improve risk management across our work health and safety and energy safety system.

<sup>2</sup> This includes but isn't limited to: Maritime NZ; Civil Aviation Authority; Waka Kotahi NZTA; Environmental Protection Agency; Energy Efficiency and Conservation Authority; Fire and Emergency NZ, Commercial Vehicles Safety Team in NZ Police; Ministry of Education; local councils.

<sup>3</sup> Our strategic focus areas and strategic outcomes are set out in our [Statement of Intent](#) and [Statement of Performance Expectations](#).

<sup>4</sup> And the appropriate person, in the case of electricity and gas legislation.