

# Stakeholder engagement and discovery report

The **Better Governance**  
Report Series

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# Introduction to the *Better Governance* project

The health, safety and wellbeing of kaimahi (workers) is both an ethical and legal responsibility for those who lead businesses and organisations

The governance discussions, decisions and actions of boards and officers play a crucial role in enabling good health and safety performance, and in reducing harm at mahi (work) and in wāhi mahi (workplaces). Boards and officers can directly impact and influence the health and safety performance of their organisations' leadership and management teams, and their kaimahi. They can also impact and influence the supply chains and sectors in which they operate, and across the motu (country).

We know that health and safety are generally on the agenda for boards and their officers. We also know that performance in Aotearoa New Zealand against some measures has stalled. In some cases, it is getting worse. Kaimahi are still being killed and harmed at mahi. The agenda is not driving the necessary change.

*Mahi Haumarū Aotearoa – WorkSafe New Zealand* (WorkSafe) has publicly signalled an intention to increase its focus on the role and mahi of boards and officers in supporting healthy and safe mahi and wāhi mahi under the Health and Safety at Work Act 2015 (HSWA). This provides the opportunity for boards and officers to improve health and safety governance culture, competency and consistency of practice, and to improve outcomes for their kaimahi, their business or organisation, their supply chains, the sectors in which they operate and Aotearoa.

Over the past five years, an average of **77 kaimahi** have been killed each year while working<sup>1</sup>

Injuries resulting in **more than a week away from work** have risen every year over the past ten years, except in 2020

There are an estimated **5,000-6,000** hospitalisations each year due to work-related ill-health

<sup>1</sup> All health and safety-related statistics referenced in this report are from WorkSafe, and are subject to the data limitations noted at <https://data.worksafe.govt.nz/>



The *Better Governance* project (the project) was initiated in the context of the renewed focus of WorkSafe, and as governance was an area of exploration identified by a number of health and safety leadership organisations and professionals. It is an improvement initiative led by the *Business Leaders' Health and Safety Forum* (BLHSF) and the *General Manager Safety Forum* (GM Safety Forum). It has support and subject matter expert (SME) representation from the *Institute of Directors* (IoD) and WorkSafe.

The project is intended to comprise multiple phases including:

1. **phase one:** discovery and options identification
2. **phase two:** options and intervention development, and implementation
3. **phase three:** monitoring and evaluation.

Following engagement with WorkSafe, funding was agreed to enable dedicated resourcing of phase one of the project. The funding has provided for a part-time project team member to support project management and coordination, stakeholder identification and engagement, an ecosystem map and the development of options for improvement and change. This team member is supported by a number of SMEs acting in a strategic and advisory capacity (see [Appendix A](#)).

The project has, and will continue to, gain benefit from the contribution of as many stakeholders and SMEs that it can reach, and who are willing and able to contribute. The team and its resources are small, but it has a big ambition. Its vision is that:

Governance leadership genuinely improves health and safety performance in Aotearoa New Zealand

# Background to the stakeholder engagement and discovery

The *Better Governance* project team came together through a shared concern that businesses and organisations in Aotearoa lacked a consistent and widespread understanding of what good health and safety governance and leadership looks like. They believe this is hampering boards and performance improvements to reduce harm at mahi and in the wāhi mahi. This is despite the availability of a range of forums, guidance, information, training and tools, and an active range of governance, and health and safety, trainers and advisors.

This report forms part of phase one of the project. It is intended as a legacy report to document what the project team heard from engaging with a range of stakeholders. It is also intended to help the team continue to engage those stakeholders and others; as this phase of the project continues and into future phases. Funding for future phases will be sought as the project progresses.

## The stakeholder engagement process

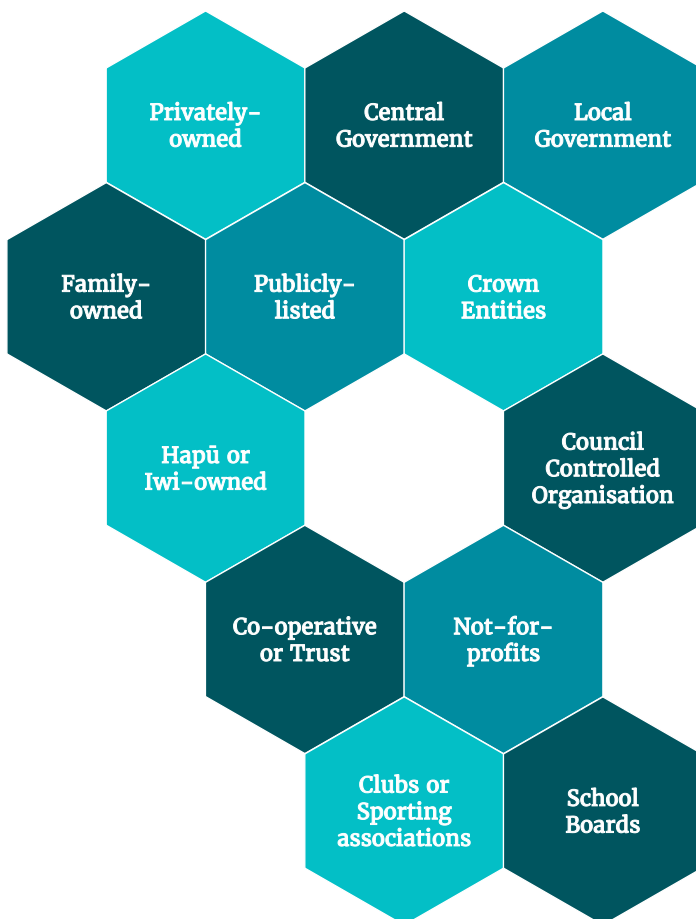
A stakeholder engagement and discovery exercise was undertaken to better understand the problems confronting boards. A series of planned workshops were impacted by a COVID-19 Omicron wave, with quality contributions made but attendance lower than anticipated. As a result, emails were sent to stakeholders inviting one-on-one meetings with the team or written feedback on a series of questions. The questions were focused on:

- if people considered **good governance as important to health and safety decision-making** and outcomes
- what people thought about the **flatlining of health and safety improvements** since the introduction of the HSWA, and the case for further change
- the different governance contexts, and if there were **commonalities and differences in decision-making across boards in different contexts or sectors**
- what was driving governance and assurance currently and **what is working well or not**, including whether it was compliance driven or driven by principles
- what key **mindsets and principles would be required to fix the problems** or to build on the positives.

The project team sought to reach across a wide range of businesses and organisations, and governance sectors during the engagement and discovery stage. The outreach approach was undertaken in the context of the size of the team and its budget, with a range of channels and methods utilised. The sectors targeted included those set out in figure one, below, along with officers, chief executive officers (CEOs) and governance, health and safety and legal professionals. The team also met with the key regulators and the IoD.

The detail of the project teams’ engagement is presented at *Appendix B*, but in summary:

Figure one: Sectors targeted for stakeholder engagement



**Six** workshops were held with stakeholders from across the government, business and professional community with 32 participants (outside the project team)

**85** businesses and organisations were contacted by the project team, and invited to feed into the project with engagement from over 60 people and organisations

**17** targeted meetings were held to engage stakeholders, gather their insights and seek feedback as part of discovery with more planned with 29 participants (outside the project team)

**50+** engagement emails and a summary of the project and discovery phase were sent to a wide range of businesses, organisation and individual across the government ecosystem

All stakeholders were invited to share information about the project across their organisations and in their sectors, and with whomever they considered might be interested. They were also invited to share the details of additional stakeholders with the project team. This is a standing invitation that will hold true as the project continues through phase one and into future phases.

This report, in its final draft form was also circulated to approximately 560 stakeholders. This was intended to enable a wide range of businesses, organisations and people to review what the project team heard, and make further contributions if they wished.

The project team will continue to welcome feedback and insights; in part, because there were a number of stakeholders who were not able to engage with the team and questions posed during the initial time available. The project team would like to continue to engage with family and whānau, Hapū and Iwi-owned and led businesses, Crown Entities, local government and council-controlled organisations in particular. On the flipside, due to the project team's size and resources, we will have not reached some officers and CEOs who did have the capacity and an interest in our mahi.

It also appeared that a number of government regulatory and legislative policy makers may not have made a connection between their stewardship of relevant regulations and legislation, and the need to integrate health and safety into the everyday business of mahi and wāhi mahi. The team may have needed to engage with policy makers in a different way to make the connection and pique their interest in the project. This will be a work in progress.

A number of officers and senior leaders in targeted businesses and organisations may not have had the capacity to engage with the project. There are constant demands on boards', officers' and senior leadership teams' time. In the not-for-profit sector, boards and officers can be part-time, or volunteers, or both. We received consistent feedback about how busy boards were and the fullness of their agendas.<sup>2</sup>

As with the policy makers, some officers' and CEOs also may not have connected their role and mahi to the project. The project team heard many references to "upstream duties" during this engagement phase. This suggests that some of the stakeholders we reached out to may have thought the project was focused on health and safety in supply chains, not at the board table.

The project team gained insights from all the workshops and meetings held, the written feedback received and the diversity of the contributors. We would like to thank all those that committed time building on the team's understanding of the current governance environment and context in Aotearoa, and of the challenges and opportunities for the future.

<sup>2</sup> There are many definitions of not-for-profit. In this report, it is used to mean the charitable sector, and sporting organisations and clubs, the school sector and similar. Sectors where officers are generally volunteers, although it is acknowledged this is not always the case.

# Detailed findings for the stakeholder engagement and discovery

The detailed findings from the stakeholder engagement are set out below. The commentary includes the suggestions made by stakeholders to harness opportunities and address problems. These suggestions will inform the project team as it works towards its final report for this discovery and options identification phase. They are helpful to the project team understanding what is wanted and needed, and what might make a real difference to health and safety governance.

## Good governance is important to achieving good health and safety outcomes, and resilience

There is widespread agreement that good governance is important to achieving good health and safety outcomes

It is acknowledged that good health and safety governance helps achieve good outcomes for businesses and organisations, and their kahimahi more generally. It is generally accepted that good governance unlocks opportunities, improves resilience and helps mitigate risk. In asking about this, the project team also found widespread agreement that there is no baseline or shared understanding of:

- the governance obligations on officers, and how far these obligations extend
- what good health and safety governance looks like
- the expectations of the regulator(s) with regard to good health and safety governance.



## There's no shared understanding of governance obligations on officers

Stakeholders were aware that the HSWA sets out the obligations on officers, although it was noted that this awareness may not extend throughout all the governance sectors.<sup>3</sup> There was a concern that some boards, particularly in small to medium businesses and organisations, including in the not-for-profit sector, struggled to understand the full scope of their regulatory and legislative obligations. It was **suggested** that a basic information pack, with reference to all key regulatory and legislative requirements, could be sent out when new businesses and organisations were legally constituted.

We heard feedback that the wording of section 18 of the HSWA was not well understood across all the governance sectors. The HSWA defines an officer to include “any other person occupying a position in relation to the business or undertaking that allows the person to exercise **significant influence** over the management of the business or undertaking” [emphasis added].<sup>4</sup>

There were questions raised about whether the definition of **significant influence** extended beyond a CEO (used as an example in the legislation) to include other members of a leadership team, general managers, and health and safety practitioners or technical experts. References were made to the extension of the duty into businesses and organisations under Australian health and safety legislation; noting that the HSWA is based on Australian model law.<sup>5</sup> This matter was specifically addressed by the select committee in its consideration of the legislation. It was **suggested** that more detailed, and example-based, guidance could be produced for different governance sectors.<sup>6</sup>

Some governance sectors have officers who are also leaders or managers working in a business or undertaking, and who may also be kaimahi. The team heard this was often the case in small to medium businesses and organisations particularly those that are family-owned and in the not-for-profit sector. Also, in the co-operative and mutual associations sector. In these cases, an individual will have legal duties in all the roles they undertake, some of which will overlap. Stakeholders were of the view that few officers understood the distinct duties in each role, and their overlapping duties.

In the government governance sector, most public sector organisations and councils operate without a board. Their activities will be driven and directed by ministers and councillors. We heard that as councillors can't be prosecuted, there can be variability in how health and safety is dealt with around the council table. In these circumstances, the leadership and senior management team has both governance and leadership roles, without those roles being clearly delineated.

<sup>3</sup> See section 44

<sup>4</sup> See section 18

<sup>5</sup> <https://www.safeworkaustralia.gov.au/doc/model-work-health-and-safety-act>

<sup>6</sup> [https://www.parliament.nz/resource/en-NZ/51DBSCH\\_SCR64556\\_1/137f3014a8984560b2852b1636617cc4402112b2](https://www.parliament.nz/resource/en-NZ/51DBSCH_SCR64556_1/137f3014a8984560b2852b1636617cc4402112b2)

The project team heard that:

The wide range of governance structures can create confusion for individuals with multiple roles and multiple obligations

Current information and guidance addressing obligations on officers does not reflect the wide range of governance sectors and structures

We are also aware that businesses and organisations can be set up in Aotearoa, by an overseas owned parent, to meet the domicile requirements. In some cases, these organisations will have named directors who may not be able to meaningfully influence at the board level in the parent organisation. Some organisations may also create subsidiaries for a range of reasons but not realise that directors of each have duties.

### **There's no shared understanding of what good health and safety governance looks like**

Many stakeholders commented on the absence of a clear picture of what good health and safety governance looked like generally, and in the different governance sectors. Reference was made to the WorkSafe and IoD *Health and Safety Guide: Good Governance for Directors*<sup>7</sup> being primarily aimed at the corporate governance sector. And, as noted above, in some of the project team's interactions and engagements, there seemed to be some confusion between governance and supply chain oversight and management.

Stakeholders **suggested** that value could be gained from sharing case studies and stories of what good looked like, both generally and within different sectors, so that boards and officers had examples to reference and learn from. One stakeholder commented that:

You can't govern well if you don't know what good looks like

A number of stakeholders **suggested** that benefit could come from boards and officers being able to better connect and learn from each other, such as through peer support groups and mentoring. They commented that there were few opportunities for boards and officers to connect, share experience and gain knowledge. It was also **suggested** that health and safety practitioners could benefit from engaging with each other and across different sectors to learn from each other.

<sup>7</sup> <https://www.worksafe.govt.nz/managing-health-and-safety/businesses/guidance-for-business-leaders/>

Multiple stakeholders commented that:

Health and safety are not a competition, they're a common good

Stakeholders **suggested** that communication about good health and safety governance (and practice more generally) should be frequent, and undertaken across multiple channels, to keep it front and centre. It was thought that this could help it become something boards and officers actively considered in all decision-making, rather than waiting for the item at the end of a busy agenda.

Some stakeholders commented on the wide range of governance material available in the ecosystem. This presented a challenge for boards and officers to know where to begin. They may not always be able to identify the material of value and whether it represented contemporary good practice. There was an identified need for communications and materials to be engaging, and come from trusted advisors. We heard that lawyers and accountants often give governance advice.

Most stakeholders also told us about the challenges of boards understanding and remaining focused on governance, and not straying into management and operational matters. This was identified as a problem generally, and a particular issue for small to medium businesses and organisations, and in the not-for-profit sector. We note it is also a challenge in the government sector where there are no boards, and leadership teams work with ministers and councillors, in both governance and management roles. For health and safety, some reflected that it resulted in officers getting into the weeds, rather than exercising due diligence and seeking appropriate assurance that risks were being managed or mitigated.

### **There's no shared understanding of the expectations of the regulator(s)**

Although it was generally accepted that performance improvements cannot be achieved through regulation alone, most stakeholders agreed that regulators could provide greater clarity about their expectations of boards and officers in meeting their health and safety obligations. It was thought this would be helpful to many including the regulator(s) themselves. It would ground their approach to investigations and compliance activities, even if it perpetuated a compliance-focused approach.

The project team heard that in some sectors, boards and officers were no longer concerned about the implications of the new duties and regulator investigations. They considered the risk of investigation, let alone prosecution, to be low. Some in the not-for-profit sector felt that the regulators were entirely absent.

In the absence of clear expectations being set by the regulator, we heard that senior leadership teams and health and safety professionals were often driving the board agenda, and that boards were often dependent on them directing the conversation. The feedback was that this came with mixed results as it was dependent on their capability, which was seen to be mixed.

The project team asked WorkSafe and the IoD, if they could describe their expectations and what good looked like, in more detail than the currently published guidance. For the regulator, further articulating their expectations and regulatory approach is a work in progress that will draw from the project.

The IoD recognises that boards and officers, “are of ensuring that their staff return to their families and whānau in one piece after a day at work through strong governance leadership”. It commented that, “[W]hen directors and boards are successful, chief executives and executive leadership teams will feel supported and challenged to lead improvements in health and safety performance in their organisation”. It sees their contribution being made through the basics of good governance:

**Integrate health and safety in all its forms into organisational strategy**

**Set appropriate, governance-level performance measures**

**Build a board and organisation that has employees and their welfare at its centre**

**Integrate health and safety risks into a sound risk management framework**

## The flatlining of health and safety improvements, and the case for change

Governance has not been the catalyst for change that was anticipated with the introduction of the HSWA

There was widespread acknowledgement that health and safety performance has flatlined, including against the indicators set by the Government in response to the *Royal Commission on the Pike River Coal Mine Tragedy*<sup>8</sup> and the *Independent Taskforce on Workplace Health and Safety*.<sup>9</sup> Most also agreed that there remained a case for change to improve performance in Aotearoa, arising from a range of common challenges and concerns discussed across most of the team’s engagements.

<sup>8</sup> <https://pikeriver.royalcommission.govt.nz/>

<sup>9</sup> <http://hstaskforce.govt.nz/>

They are discussed throughout this report and included:

- the **absence of clear competency standards** to support the selection, induction, training and ongoing professional development of officers to support them in their governance role
- a mix of boards who want to get into the minutiae and others who are very hands off, resulting in **an inconsistent approach to health and safety governance**
- a tendency for **boards and officers to view their business or organisation as low risk or high risk**, and for that perception to drive the attention they pay to health and safety
- **many boards still taking a compliance focus**, with health and safety included as part of the human resources agenda item or as a separate agenda item (often at the end of the agenda)
- boards and senior management teams **not thinking about structuring themselves or the way they work to integrate health and safety** into what they do
- **boards not routinely considering the health and safety impact of their board decisions or actions**, when making those decisions or supporting their implementation
- **a lack of trust and confidence between boards, leaders, and health and safety practitioners and technical staff** resulting in adversarial conversations or the re-litigation of issues
- **health and safety data and metrics often being reactive and related to past events**, with limited prompts for exploratory and proactive health and safety conversations
- **some officers having “blind spots”** and engaging on health and safety from a personal perspective rather than an understanding of the risks in which their organisation operates
- **a disconnect between the mahi as it is being done** in a business and organisation, **versus the board’s expectations** and line of sight to how it is done
- boards seeking to eliminate all risks resulting in **a compliance and control focus that does not work to prevent harm** to their kaimahi
- **health and safety practitioners and technical staff bringing few genuine insights** to the board discussion, and not being equipped to support curious and exploratory board conversations
- a considerable number of organisations selling health and safety systems and tools to businesses and organisations, with **standardised monitoring and reporting that does not generate insight**
- **a range of capability in the health and safety practitioner community**, with many practitioners not having the skills or experience to engage at the boardroom table.

There was a stakeholder who suggested that Aotearoa's poor health and safety performance could be attributable to certain sectors and the businesses within them. They did not see poor performance as indicative of a widespread problem with health and safety governance. Based on the feedback received, they were an outlier.

We also heard that understanding (or lack of) of the Te Tiriti o Waitangi – The Treaty of Waitangi, and of culture, cultural competency and cultural safety was impacting on outcomes for kaimahi. A number of stakeholders commented that businesses and organisations committed to Te Tiriti were seeing better outcomes. One highlighted that cultural competency and safety would improve boards' and officers' understanding of how to effectively set the right culture. This stakeholder referenced how relationships in Pacific cultures worked, and this could influence how health and safety might work in an organisation.

Of note, few stakeholders commented on the fact that Aotearoa's targets for improving health and safety performance had now expired and had not been replaced by the government. This was even though there was news media reporting on this matter during the engagement timeframe.<sup>10</sup>

## The different governance sectors, capability and capacity, and the complexity of the environment

Most stakeholders saw Aotearoa's flatlining health and safety performance as indicative of, amongst many things, a link between board performance and outcomes. Almost all commented on the challenges presented by the:

- wide diversity of governance sectors
- capability of boards and officers, leaders, and health and safety practitioners
- increasing complexity of the environment in which boards govern.



<sup>10</sup> <https://www.rnz.co.nz/news/national/473375/health-and-safety-targets-shifted-for-worksafe> – WorkSafe subsequently undertook to continue to monitor and report on the indicators on behalf of Government.

## There are challenges presented by wide diversity of governance sectors

The engagement process confirmed that there is a huge amount of diversity of governance sectors and contexts in Aotearoa. This was acknowledged by most stakeholders and is shown at a high level in *Figure one: Sectors targeted for stakeholder engagement*.

Each high-level sector identified in the figure could be broken down into additional components. The cooperative and mutual organisation sector is a good example of this, with organisations having a range of different constitutions. The not-for-profit sector is another example, with large religious organisations and tiny single issue-focused organisations. Stakeholders commented on the many ways in which businesses and organisations, and their boards, are constructed and run.

There was a general view that larger businesses and organisations, including multi-nationals and publicly listed companies, had more mature boards and more experienced officers. We also heard that high risk businesses and organisations had officers who understood the critical risks in their organisations and supply chains.

Along with larger organisations, stakeholders commented that high risk organisations would have access to dedicated health and safety practitioners and technical advice. We understood these organisations to be those where there was the potential for catastrophic harm. There are also high-risk industries and sectors that have high rates of harm. We did hear examples of officers accepting roles in these sectors without any understanding of their complexity.

There was a generally held view that governance maturity, capability and capacity varied in all the governance sectors

It was noted that many small to medium businesses and organisations, family-owned businesses, and those in the not-for-profit sector would not have a dedicated health and safety practitioner. They would seek external support to set up their policies, procedures and systems, and where they identified specific health and safety-related issues or needs. In the not-for-profit sector, low cost or pro bono support was sought and needed.

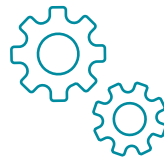
Most of the health and safety organisations and practitioners the project team spoke with noted that there was a shortage of people qualified to give health and safety advice, particularly health and safety governance advice. We heard, however, that there were a number of people in the market offering it. The project team were not able to identify all these people and organisations, as not all of them have health and safety or governance as their primary, external-facing focus.

## There are capability challenges in all the governance sectors

Most stakeholders were of the view that there needs to be at least two board officers who championed health and safety. Numerous commented that – across all sectors – an officer’s capability to champion depended on their experiences and skill. We heard that champions could make a:



...**positive** contribution where they were able to lead and engage the board on the things that really mattered, and involve health and safety in a wide range of discussions and decisions.



...**negative** contribution where their experience and personal perspective was too narrow, dominated the conversation, and limited the curiosity and conversations by the Board or by officers.

Multiple stakeholders mentioned that time on the board agenda could be consumed by the officer(s) with the loudest voice. It was felt that leadership and management teams, and H&S practitioners, were forced into focusing on responding to that person. This distracted them from the things that mattered, and could result in adversarial relationships.

It was thought that some boards found it challenging to break out of the status quo and patterns of behaviour. One stakeholder commented that preventing harm, rather than responding to incidents can be challenging.

Shifting the focus from “this is the way we have always done it”, or “no one has been hurt before” to “what could hurt or harm us” can be difficult



Stakeholders told the project team that health and safety experience, skill and capability varied across all governance sectors. The capability of the chair was seen as critical to the effective functioning of the board, and effective board discussions and decision-making. There was a view that particular attention needed to be paid to their capability during recruitment processes, and that health and safety governance experience and skill should be specifically recruited for.

We did not hear about a general practice of recruiting chairs or officers with health and safety governance experience. We did hear about a lack of diversity in the officer “club” in Aotearoa and that many officers were “lifers”. Many stakeholders **suggested** that improving the diversity of the officer community would help bring new and fresh perspectives. They thought there should be a focus on succession planning and recruitment to bring diversity and a younger perspective to the board table.

The project team were told that a lot of assumptions were made about officers’ capability in the recruitment process. Many stakeholders provided examples of officers gaining positions without any formalised process.



Some officers are recruited as a result of their relationships or networks or, in some cases, because they have sat on a number of other boards (without the quality of their service being considered).



Some officers are owners of a business or the founders of an organisation, so automatically become board members (without necessarily understanding the implications of their board role).

The project team also heard about the challenges with capability where officers were:

- appointed based on their technical experience or skill, not their governance experience or capabilities (with many examples of this given about public sector appointments)
- elected, often from a limited pool of nominees, such as in the cooperative, school and sporting sectors which rely on the good will and motivation of whānau and their communities.

A number of stakeholders commented that they rarely saw boards and officers take a continuous learning approach and undertake professional development. However, we spoke also to officers who accessed the IoD courses and to practitioners offering governance training. We also heard that it was not common for officers to seek feedback on their performance to use as an opportunity to improve their governance approach.

Stakeholders noted that it could be challenging to provide feedback to boards and confronting for them to receive it. In the public sector, it was noted that feedback loops were often informal. Sometimes off-hand or deliberate comments were made to Ministers that might then influence their board appointments. Government appointments were seen as political appointments by many stakeholders.

We heard about the capability of health and safety practitioners and their ability to engage at a board level. Stakeholders were of the view that few practitioners were at senior levels in organisations, and few were given the opportunity to develop the experience and skill to drive board-level conversations.

We also heard about organisational design and systems. It was **suggested** that there was a need for good practice guidance on how to position health and safety practitioners and team within organisational operating models. And, advice on how organisational system could support an active and integrated approach to health and safety. This was considered an important matter to raise with those involved in organisational design.

### **There are challenges presented by the increasing complexity of the environment**

Along with the challenges of health and safety governance capability, most stakeholders commented on the increasingly complex and changing environment in which boards govern. The project team heard about the strains on boards' capacity and the fullness of board agendas.

It can be hard for boards and officers to keep up with the pace of change, and learn and understand about new legislation that might impact their organisations

Overall, there was a general sense that boards did not have enough time generally, let alone for health and safety. We heard there is sometimes no time available for boards to properly explore specific health, safety and wellbeing matters or concerns. In this context, some stakeholders commented that the time spent on health and safety needed to be better directed. They thought that by focussing on governing, and on the real risks, boards could potentially free up the time needed to do health and safety differently.

We heard that boards were busy supporting their organisations to meet a wide range of regulatory and legislative obligations, along with meeting the expectations of shareholders, stakeholders and communities. In the not-for-profit sector, many stakeholders commented on the implications of the new Incorporated Societies Act 2022.<sup>11</sup> Some saw the officer duties in the HSWA as new, others commented that they were just a written confirmation of an existing obligation to act in good faith. This is another reflection of the range of understanding and maturity in the governance sector.

Some stakeholders commented on seeing a shift at the boardroom level, from a “*shareholder focus*” to a “*stakeholder focus*”, in publicly listed businesses and organisation, but this was not universal. On this, we were also told that boards need to respond and manage stakeholders in interests of the organisation, which is in shareholder interests. Although it was widely mentioned, feedback on the impact of *environmental, social and corporate governance (ESG)* factors and expectations was also mixed. There was an identified need for boards to address climate change, in terms of both the impacts of their organisations and the impact on them. It came up in most engagements.

Some stakeholders made a connection between the ESG and the longer-term sustainability of businesses and organisations, recognising that they will have to adapt and change to meet expectations. It was not clear what impact this might have on boards, officers, and health and safety performance but it was linked in the conversations to the wellbeing of kaimahi.



Most stakeholders spoke about the changes to the nature of mahi and the expectations of kaimahi as a result of the pandemic. They noted that mental health and wellbeing was now part of the health and safety agenda. Stakeholders had a range of understandings of “*wellbeing*”, but few seemed to be grounded in HSWA obligations in relation to psychosocial hazards and the obligation to eliminate or minimise the risk of psychological harm caused by mahi.

## What’s driving health and safety governance and assurance?

As noted throughout this report, there is a range of maturity and capability in boards and officers undertaking health and safety governance. However, when discussing the drivers of health and safety governance assurance, the project team consistently heard about a continuing:

- **compliance focus**, even though there was a desire to move beyond this
- **reliance on lag data**, and the challenges of monitoring and measuring what really matters
- **reactive response to harm**.

<sup>11</sup> <https://www.legislation.govt.nz/act/public/2022/0012/latest/whole.html#LMS100927>

## There remains a compliance focus to health and safety governance

Many stakeholders noted that, at the time the HSWA came into effect, there was a drive towards board and officer compliance. A number commented on the focus of that drive being to meet WorkSafe's expectations. This meant reviewing or putting in place policies, procedures and reporting, and putting health and safety on the board agenda. A few commented that once this had been completed, health and safety was considered to be "done" at the board level. This feedback contrasted with the comments around ongoing good-will to do more than just comply. It is an example of the range in maturity across boards.

The project team heard that there are mature organisations leading in health and safety governance across all the governance sectors. Large organisations were generally thought to be the most mature. One stakeholder commented that these organisations know that good governance, including health and safety governance, leads to good outcomes, and that organisations were motivated to take a "compliance plus" approach.

Even within larger organisations, gaps were identified. Some stakeholders thought their boards were more about "talking the talk" than "walking the walk". Overall, most believed there remained a strong compliance focus to health and safety governance, with a risk avoidance approach, rather than one of risk management and assurance. We also heard from some that health and safety was still seen as a cost, not a benefit, and a hard sell in the current economic environment.

We heard that weak assurance processes are one of the most significant barriers to boards' and officers' abilities to provide effective governance

## There remains a reliance on lag data and metrics

The project team heard that many boards consider health and safety reporting in the same way they might consider their EBITDA (earnings before interest, taxes, depreciation, and amortisation), or undertake a profit and loss analysis or dividend review. We heard that for publicly funded organisations, government often sought to shed risk, rather than share it, and it was driving the compliance focus through reporting requirements that added little meaningful value.

There were stakeholders who discussed health and safety reporting in more detail, noting that there are challenges to monitoring and measuring the things that matter. A number made the connection to risk management and assurance practice. They identified a need for boards and officers to better understand the real risk confronting organisations; we heard from many that it was not papercuts or the provision of a fruit bowl to address wellbeing!



The project team heard that health and safety reporting continued to focus on lag indicators such as Lost Time Injury Frequency Rates (LTIFR) and Total Recordable Incident Frequency Rate (TRIFR), and on reported harms.

Some stakeholders noted LTIFR and TRIFR could drive a focus on trivial matters. We also learned that some organisations still had health and safety key performance measures (KPIs) and meeting KPIs could be linked to performance considerations.

We heard that boards would worry about meeting key performance indicators and making corrections to the “red” on reporting dashboards, and would not be curious about the “green”. We also heard about the use of organisational culture surveys as a health and safety indicator of wellbeing; perpetuating a misunderstanding of psychological health and safety.

The reliance on lag indicators is like looking in the rear-view mirror while driving, rather than looking out of the windscreen to identify what is coming up

Knowing what to monitor and measure presented as a challenge across multiple governance sectors. It was **suggested** that guidance on contemporary approaches to risk management, and to measuring what matters, would be useful for boards across all sectors. Multiple stakeholders commented on the importance of a meaningful narrative or story to accompany health and safety reporting and, at the board level, the need for narrative to be strategic and well connected to the organisation’s strategy and business plan.

### **There is a reactive response taken when harm occurs**

Some stakeholder told us that lag reporting could result in tension between boards and those within their organisations, who felt like the reports could limit their voice and influence. We were told by some stakeholders that boards did not like hearing that health and safety was not being done well. A number commented that a negative response to health and safety reporting could make management teams, health and safety practitioners and kaimahi less likely to report. They highlighted the need for a board culture that encouraged reporting, and for boards to respond in a way that enabled participants to feel safe.

We also heard that the boardroom needed to be safe. Officers needed to feel safe and be safe in order to be vulnerable and curious about what they did and didn't know about the risks, and health and safety performance of their organisations.

Multiple stakeholders commented that, with a focus on lag indicators, too often it takes a fatality or serious harm event for health and safety to be appropriately addressed at board level and throughout a business or organisation. There were many comments about board engagement on health and safety being in response to an identified issue, rather than being proactive. In this context, the way the board reacts was seen to matter.

Stakeholders from a range of sectors thought that more attention was given to health and safety when it was being discussed in the public domain, appearing in social media feedback, mentioned in newsletters and the likes. As noted earlier, they thought that engaging communications on health and safety governance and good practice generally could bring attention to the positive outcomes from a proactive and forward-looking approach.

The media attention on forestry harm and port harm was discussed by some stakeholders, along with more recent WorkSafe commentary on the construction sector. Focussing on harm was seen to be a specific issue or specific risk motivator. It was not, however, seen as a motivator for widespread or sustainable change (as it was not focused on what good looked like).

## **Key mindsets and principles that could help improve performance and build on the positives**

Along with understanding the challenges confronting boards, the project team were interested in the mindsets and principles that could help improve performance, and build on the positives and opportunities. Three of our workshops were focused on this, and we captured insights from our other engagements with stakeholders.

In our engagement, we described mindsets to be those things that determine how a person behaves when they're thinking about health and safety governance. Mindsets are driven by beliefs. Principles are things that businesses and organisations can act on, and see outcomes from their implementation.

The project team heard that there was support for a principles-based approach to health and safety governance, founded in it being for common good or public good. We also heard from some, that a commitment to Te Tiriti o Waitangi – the Treaty of Waitangi and a tikanga-based approach could help provide a foundation for this. It was felt that it provided for a human-centric or people-focused approach. That people matter was a key mindset. One stakeholder commented that they often asked, *“is it good enough for my mum and dad?”*.

One or two other stakeholders referenced the he tāngata whakatauki:

He aha te mea nui?

Māku e kii atu, he tāngata, he tāngata, he tāngata

What is the most important thing in the world?

Well, let me tell you, it is people, it is people, it is people

Although neither a mindset nor a principle, **context** was repeated as important by stakeholders. They told us that improving performance and achieving better outcomes was about understanding:

- the complex and dynamic environments in which businesses and organisations operate
- the nature of mahi and wāhi mahi
- kaimahi and the way they *actually* work, rather than the way boards *imagine* they work.

We heard a lot about the need for boards and officers to understand the people and organisations that they were governing, their supply chains and their sectors. Also, that officers needed to be active in building and maintaining that understanding, and in building relationships at all levels. We heard that this was about more than “*walking the shop floor*” and, that undertaking a site visit every now and again didn’t cut it.

The need for officers to be **curious** about the way mahi was done in their organisations came up in most of our engagements. We also heard about the need for them to be open and willing to acknowledge what they don’t know, and to engage in a positive way with constructive feedback. We heard that this takes **courage**. Curiosity and courage stood out as two important values that the project team heard mentioned by many.

The project team was also given feedback about the negative impacts of “*sloganeering*”. They see organisations saying they put “*people first*” or “*safety first*”, but people and safety don’t get any meaningful time on the Board agenda. We heard that it could be damaging when statements were made from the top, but not backed by genuine action. At one workshop, stakeholders commented that boards have to acknowledge the reality of financial and other pressures that impact their decisions and actions.

Messages about safety culture are often mixed, and not actually the lived reality

There was various levels of wordsmithing of the mindsets and principles at the workshops, and various ways in which they were expressed in our engagement meetings. The team has pulled together the key themes to present back to stakeholders in this report. They will be useful, and used by the project team, as we seek to narrow them down to the most important few. We heard that too many mindsets and principles could be counter-productive.

## Mindsets – the things we believe to be true

The mindsets that the project team drew from our engagements included:

- **he aha te mea nui? Māku e kii atu, he tāngata, he tāngata, he tāngata. People matter,** without them mahi does not get done, and businesses and organisation cannot be successful
- **health and safety are outcomes of the messy and dynamic way mahi is actually done** in complex organisational and social systems, not just *imagined* to be done
- **health and safety are about mahi, wāhi mahi and kaimahi, and cannot be separated from them**
- **you can't fix a secret,** so it is important to embrace feedback from a wide range of stakeholders and respond well to challenging news
- **even when things appear to be going well, it doesn't mean we are not causing harm or creating the potential for things to go wrong if the risk is not well managed**
- **relationships are key to improving performance, and they matter at all levels** within an organisation, across supply chains and in sectors
- **an uninterested board generates an uninterested workforce;** a genuine and interested board is visible, asks the right questions, listens and responds appropriately
- **diversity of experience and perspective brings us benefits** as it enables us to see and understand things in different ways – it is important to our organisation
- **cultural competency, and enabling cultural safety, will enable kaimahi to bring their whole selves to work** in a way that is safe
- **a proactive and people-centred approach gives us a competitive edge** in the fight for talent, improves health, safety and wellbeing, our reputation and the outcomes for our business.



## Principles – things on which we base actions

The principles that the project team drew from our engagements included:

- we will be curious, anticipatory and active in seeking to learn more, and to prepare to respond to opportunities and risks
- we will be comfortable in asking questions to better understand health and safety risk management
- we will be open to, and listen to, a diverse range of views, including from independent advisors, experts, kaimahi and their representatives
- we will consider the short and long-term health and safety implications of all the decisions we make as a Board, integrating health and safety into our decision making
- at the board level, we will focus on the things that matter: our critical health and safety risk controls and our critical health and safety systems. We will avoid getting bogged down
- we will be agile in our response to risk and ensuring the health and safety of our kaimahi, we won't be captured by long, detailed and fixed policies and procedures
- we understand that safety is not a number and will look at a wide range of data and information, and look beyond it, to seek real insights on how we are performing
- we will make time to explore uncertainties and possibilities, and the things that might go wrong even when things are going right
- we will build resilience and the capacity to “fail safely” by understanding our mahi and kaimahi, and the way mahi is done, focus on the learnings and building capability
- we will set ourselves up to respond well to a wide range of situations and challenges, and will not “over-react” if something goes wrong.

## The suggestions on what could improve health and safety governance

Throughout the engagement process, the project team were provided with a range of suggestions about what would help improve health and safety governance, to improve outcomes for kaimahi and to enhance the resilience of businesses and organisations. They have been reflected throughout this report and are summarised on the next page.

They included that:

- a basic information pack, with reference to all key regulatory and legislative requirements, could be sent out when new businesses and organisations were legally constituted
- more detailed, and example-based, guidance on the meaning and extent of *significant influence* and who is an officer under the HSWA could be produced for the different sectors
- value that could be gained from sharing case studies and stories of what good looked like, both generally and for different sectors, so that boards and officers had examples to learn from
- benefit could come from boards and officers being able to better connect, and learn from each other such as through peer support groups and mentoring
- health and safety practitioners could benefit from engaging with each other and across different sectors to learn from shared experiences
- communication about good health and safety governance (and practice more generally) should be frequent, and undertaken across multiple channels, to keep it front and centre
- regulators could provide greater clarity about their expectations of boards and officers in meeting their health and safety obligations and how and when they will engage with officers during investigations
- diversifying the officer community would help bring new and fresh perspectives, and there should be a focus on succession planning and recruitment to bring new perspectives
- guidance on why and how to embed health and safety practitioners at the right level in an organisation, and on how organisational systems could support an active and integrated approach to health and safety
- guidance on contemporary approaches to risk management, and to measuring what matters would be useful for boards across all sectors
- technology could be leveraged to facilitate and review continuous improvements by supporting the monitoring risks and hazards, identifying hot spots, tracking activity and performance, and reporting incidents.

We did hear about the need for checklists, templates and tools to meet a minimum standard of compliance with the HSWA. It was not always clear from our engagements that stakeholders were thinking about the templates and tools that might be needed and used by boards and officers, or those needed by businesses and organisations more generally.

# Next steps for this phase of the project

As noted earlier, the project team will continue to welcome feedback, insights and suggestions. This is one reason for sharing our report in-draft. We are also happy for it to be shared with others. Please contact [info@forum.org.nz](mailto:info@forum.org.nz) with feedback and with additional stakeholders who could benefit from being part of the project.

Alongside sharing, presenting on and receiving feedback on this report, the team is mapping the health and safety governance ecosystem, seeking to further understand what is influencing and impacting boards, and their decisions and actions. We are also reviewing all the health and safety governance information, guidance, training and tools that are available to us. We invite stakeholders to share materials with us, and we will share the findings of this exercise. We hope to complete this part of the project in late October – early November 2023.

The important, final part of this phase of the project is to take what has been learned, the insights and suggestions to develop a range of interventions that we anticipate will enable better health and safety governance. The interventions will be shared with stakeholders and then prioritised in the project team's report back to the IoD and WorkSafe. We hope to complete this part of the project in late 2022 – early 2023.

The intention is to also share the project team's final report. We anticipate that the options for change we identify might seek to engage and involve a range of stakeholders across the health and safety system. We have heard that there is good will towards change and improving performance and, we have had multiple offers of help. The project team will seek to leverage this into the future.

*Kia ora (thank you) to all who have been, will continue to be, generous with your time.*

The project team:

**Chris Jones**  
GM Safety Forum

**Francois Barton**  
BLHSF

**Mike Cosman**  
IoD

**Greg Lazzaro**  
Expert advisor

**Craig Marriott**  
Expert advisor

# Appendix A: The project team

## **Chris Jones – Project Governance Group Chair, General Manager Safety Forum representative**

Chris Jones is Chief Safety & Wellbeing Officer at Ara Poutama Aotearoa / Department of Corrections. His role is to provide executive leadership, strategic direction, operational support and organisational insights and assurance on all health, safety and wellbeing matters across one of the most complex and risk-diverse organisations in Aotearoa. It spans 160 sites, 10,000 staff, 40,000 offenders and 2,000 partner organisations. Chris also provides executive thought leadership in relation to business resilience, organisational climate and performance monitoring. Ara Poutama have twice won the *'Best Board-level Engagement in Health and Safety'* Award at the annual Safeguard Health & Safety Awards, being shortlisted finalists on another occasion.

Chris has extensive experience across a number of roles and organisations, both in Aotearoa and the United Kingdom. He has joined the project team as he knows good governance can improve health and safety outcomes for kaimahi / workers and resilience in businesses and organisations.

## **Francois Barton – Business Leaders' Health and Safety Forum Executive Director**

Francois Barton is the Executive Director of the New Zealand Business Leaders' Health and Safety Forum – a coalition of more than 400 Chief Executive Officers committed to building cultures that enable people and business to thrive. Before joining the Forum in May 2015, Francois worked in the health and safety regulator for almost 10 years, through the Pike River Mine tragedy and the major health and safety ecosystem reforms that resulted. He was directly involved in the establishment of WorkSafe New Zealand. During that time, he established WorkSafe's national programme team, including the significant interventions in construction, forestry, work-related health and agriculture.

Francois is committed to the Better Governance project because of the proven influence boards and senior executives can have on how work is designed, delivered and refined. When done well, that can create work environments that enable people and businesses thrive.

## **Mike Cosman – Institute of Directors representative, Subject Matter Expert**

Mike is an experienced health and safety professional who has worked in a variety of regulatory, management and consulting roles over the past 43 years, including as a member of the *Independent Taskforce* set up after the Pike River mine disaster. Much of Mike's work is with boards and senior executives including delivering training, reviews and other assurance activities, providing expert advice; including as an independent member of several health and safety governance groups in the public and private sector. He is also Chair of the New Zealand Institute of Safety Management with 2,500 members.

Mike joined the project team as he sees there is currently a significant gap and potential misunderstanding as to what is expected of an officer to meet their due diligence obligations under the Health and Safety at Work Act 2015.

## **Greg Lazzaro – Subject Matter Expert**

Greg has 25 years executive and operational leadership experience in health, safety and environment. He has a comprehensive knowledge of risk management and resilience building disciplines. From humble beginnings in the oil and gas industry in Australia, Greg has managed major hazard facilities for global organisations across a number of sectors. This has provided him with a diverse range of experience on which he grounds his expertise. His expertise seen him be a Director and senior leader, supporting sound governance and leadership decisions and activities, including assurance decision-making and teams.

Greg joined the project team as he is committed to changing the way leaders see their role in the future of safe work to better enable safe outcomes.

## **Craig Marriott – Subject Matter Expert**

Craig has over 30 years' experience managing safety in high-hazard industries. From nuclear submarines and highly radioactive waste, to high-pressure gas pipelines and oil rigs, he has written safety cases and managed safety for some of the world's most hazardous operations. Craig works with organisations at senior levels to improve health, safety and risk performance. He is a strong advocate of challenging conventional safety thinking and is the Chair of the New Zealand Community of Safety Innovation. He is known for bringing a pragmatic approach to translate health and safety management theory into workable solutions.

Craig joined the project team to help drive better safety outcomes for Aotearoa by bringing recent innovations in safety management into the governance space.

# Appendix B:

## The engagement undertaken

### Workshop participants – Context Workshops

<b>Role</b>	<b>Sector</b>
Chief Executive	Government agency
Health and Safety Executive	Government agency
Health and Safety Executive	Business sector
Health and Safety Executive	Business sector
Health and Safety Executive	Heli Maintenance
Health and Safety Executive	Business sector
Health and Safety Executive	Business sector
Health and Safety Leader	Government agency
Health and Safety Leader	Business sector
Lawyer	Legal profession
Officer	Various – Business sector
Officer	Business sector
Officer	Various – Business sector
Officer	Various – Business sector
Officer	Business sector
Officer	Business sector
Officer	Business sector
Officer	Not-for-Profit sector

## Workshop participants – Content Workshops

<b>Role</b>	<b>Sector</b>
Chief Executive	Business sector
Chief Executive	Business sector
Chief Operating Officer	Business sector
Health and Safety Executive	Business sector
Health and Safety Executive	Business sector
Health and Safety Leader	Government agency
Lawyer	Legal profession
Lawyer	Legal profession
Officer	Various – Business sector
Officer	Various – Business sector
Officer	Various – Business sector
Officer	Various roles – Business sector
Officer	Various roles – Business sector
Officer	Business sector

## Meetings

<b>Organisation</b>	<b>Sector</b>
Consultancy	
Consultancy	
Governance consultant	
Government agency	Policy
Government agency	Regulator (not health and safety)
Government agency, Industry Association	School sector
Health and Safety consultancy	
Health and Safety consultancy	
Industry Association	Business sector
Industry Association	Business sector
Industry Association	Governance sector
Industry Association	Business sector
Industry Association	Sport and clubs sector
Industry Association	Not-for-profit sector
Officer	Not-for-profit sector, business sector
Officer	Not-for-profit sector, business sector
Officer, consultant	Not-for-profit sector, business sector



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