

18 October 2023

Erika Whittome  
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Tēnā koe Ms Whittome

Thank you for your further request of 23 September 2023, to Mahi Haumarū Aotearoa | WorkSafe New Zealand, requesting the following information under the Official Information Act 1982 (OIA) and my response is below.

1. *You outlined 3 steps in the process of your investigation, one of which is not explained: "if the PCBU had breached the COVID-19 requirements previously;"*

*Please would you clarify "the Covid-19 requirements" in your process please?*

2. *This OIA is about how investigations took place under S199 of the Health and Safety at Work Act 2015, so I am very interested about this process of investigation.*

*For example, did you check work and whether the reported event had arisen out of the nature of the business?*

*I note that no policy or procedural documentation was included in that recent response too.*

WorkSafe was given the authority to enforce the COVID-19 Public Health Response Act 2020 (COVID-19 Act) and the COVID-19 Protection Framework (CPF), which within themselves outlined the requirements that businesses were expected to uphold. WorkSafe's enforcement approach started with our inspectors taking an education-first approach to help businesses understand their obligations under the CPF. If that failed, a directive would be given, which would then escalate to an infringement notice should the matter not be corrected. If the infringement notice was not complied with and the behaviour did not change, WorkSafe would then look at taking prosecution action.

WorkSafe carried out [workplace assessments](#) for complaints and notifications made relating to breaches or alleged breaches of the COVID-19 Act or the CPF. During these assessments, WorkSafe would ask questions to establish what the business was doing to manage the risk of COVID-19 (including but not limited to face coverings) and what procedures and processes they had in place.

WorkSafe released a policy document, How WorkSafe regulates under the COVID-19 Public Health Response Act 2020, which further explained our position and approach. Please find a copy of this document attached. This is being released to you in full.

In terms of a section 199 form, these are only to be completed by a Medical Officer of Health (MOH). A MOH is required to notify WorkSafe of a notification they receive:

- Under section 74 of the Health Act 1956, of a notifiable disease that he or she reasonably believes arises from work; or
- Under section 143 of the Hazardous Substances and New Organisms Act 1996, of an injury caused by a hazardous substance that he or she reasonably believes arises from work.

Much like any other notification received, WorkSafe considers each one on its individual merits. You can find our policy on [When we intervene](#) and [How we intervene](#) on our website (or through the blue hyperlinks).

If you require any further information, please contact [ministerial.services@worksafe.govt.nz](mailto:ministerial.services@worksafe.govt.nz).

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'M Nalter', with a long horizontal flourish extending to the right.

Marcus Nalter  
*Head of General Inspectorate*