



Promoting successful relationships: Building MPI's Overlapping Duties Framework



The Ministry for Primary Industries (MPI) is the lead government agency for the food and primary industries in New Zealand. MPI provides policy and regulatory advice, market access and trade services, and manages major regulatory systems of biosecurity, food safety, forestry, fisheries management, and animal welfare. MPI also has strong relationships with other government agencies, primarily within the economic, border, and natural resources sectors.

Complex relationship network

MPI's complex relationship network includes a significant number of PCBUs. These occur via contracting chains and funding arrangements, regulatory activities, work carried out at non-MPI worksites and shared worksites.

Consequently, MPI's Health and Safety Risk Governance Group identified that it needed an overlapping duties framework which would be able to provide visibility and oversight of the type and the nature of the relationships MPI has with other PCBUs.

It was expected that the framework would enable MPI to group the different types of relationships that it has with other PCBUs, and that it would help MPI to effectively and consistently manage 'like' PCBU relationships across different business areas.

MPI needed a systematic approach to ensure that every MPI worker responsible for managing a PCBU relationship was able to:

- understand their responsibilities around assessing and monitoring the risks associated with all work being undertaken for MPI, or on an MPI shared site
- understand and describe all the situations where MPI had overlapping duties with other PCBUs
- identify what actions were needed to improve safety outcome for all workers for all PCBUs, based on the level of influence, control, and risk
- identify what overlapping duties relationships needed to be actively engaged with and/or monitored from a senior leadership level based on the level of influence, control, and risk.

To achieve this, it was important for MPI to fully understand the types of relationships it had.

Developing a framework

MPI recognised that they needed to engage widely across all MPI's business units to understand the different PCBU relationships that exist within MPI, including:

- how to define the types of relationships that exist.
- identifying where a PCBU will have engagement with multiple business units within MPI, to understand how consistently relationships are managed and how engagement between the business units internally is managed.
- MPI's position within each relationship, including MPI's position in the supply chain, its level of influence and control, and the levels of risk associated with the work being done under the relationship.

After identifying a range of different relationships, MPI sought to identify a suitable framework to support how the relationships could be managed. To do this, it looked at existing frameworks.

Z ENERGY

MPI met with Z Energy to discuss their framework, which was known to be a good practice framework, promoted in a [Business Leaders' Health and Safety Forum Case Study](#). The Z Energy approach centred around developing a 'relationship matrix' to define their relationship types, and a framework to help the decision making around managing their responsibilities.

Z Energy’s model was built around their supply chain relationships, where it was causing work to be done (either by commissioning work, requesting work, or buying work output). It is important to note that the model did not cover the different relationships MPI needed to manage as a regulator and funder. The type of language Z Energy used to define their relationships was also not suitable for MPI’s environment. Z Energy recommended that MPI also engage internal staff within MPI during its process of developing an MPI-specific framework, as this would ensure it was more applicable to MPI and it would help ensure greater buy-in from MPI staff

Developing principles

Conducting significant engagement with staff in order to develop an MPI-centric approach would take time, and initial indications were that MPI would require something to measure themselves against while this was taking place.

MPI’s approach was to develop key principles, to establish a bottom line for all workers who were involved in managing other PCBU relationships. These were to ensure that MPI effectively and consistently managed ‘like’ relationships with other PCBUs. The principles were also used to underpin MPI’s overlapping duties framework. Through engagement the following principles were developed:

1.	Whenever our work intercepts with that of other PCBUs, there will be overlapping duties we need to manage. We cannot contract out of overlapping duties.
2.	Whenever our work intercepts with that of other PCBUs, we will manage our health and safety duties to the extent we have influence and control over the health and safety matter through the workplace, and/or the specified work activities and/or the workers.
3.	We will jointly determine with other PCBUs our respective roles in managing specific health and safety risks, reflecting each PCBU’s ability to influence or control health and safety matters.
4.	We will set clear minimum health and safety expectations of PCBUs we engage, monitor their performance and seek assurance on health and safety risk management.
5.	We will require PCBUs we engage to meet minimum standards relating to the management of critical risks.
6.	Where we can, we will assist PCBUs who do not meet our minimum health and safety expectations and standards to improve their health and safety capability.
7.	We will demonstrate effective consultation, cooperation, and coordination with other PCBUs to ensure health and safety risks are being effectively managed throughout the entire life of the contract or relationship.
8.	We will improve collective health and safety performance by sharing information and learnings with other PCBUs and encouraging them to do the same.
9.	Where we are the owner of a regulatory system, we will work with other involved Parties to lift capability and improve health and safety practices across that system.

The principles also formed the foundation for developing measures to assess the effectiveness of its processes for managing overlapping duties going forward.

Defining a relationship matrix

Next, through reaching out to the business and engaging, MPI developed a matrix using its own ‘language’ to define the relationship types it had. Through the engagement MPI was able to identify overlapping duties relationships that it had not previously considered within an overlapping duties context.

The resulting overlapping duties matrix for MPI was based on:

- four relationship ‘categories’ and ten relationship ‘types’; *and*
- ‘High/low’ ratings based on consideration of:
 - the inherent health and safety risk of the activities/environments associated with the relationship; *and*
 - the level of influence and control MPI has in that relationship.

Relationship Categories:	Relationship Types:
1. Contracting or Funding Relationships	1. MPI engages Suppliers and specifies how the work is to be carried out.
	2. MPI engages Suppliers to provide services but does not specify how the work is to be carried out.
	3. MPI provides grants funding for primary industry activities and initiatives but does not specify how the work is to be carried out.
	4. MPI partners with Industry under a Government Industry Agreement (GIA).
2. Regulatory Relationships	5. MPI approves/authorises PCBUs or individuals to carry out regulatory activities on its behalf.
	6. MPI works with another PCBU when carrying out regulatory activities.
	7. MPI shares a regulatory role with another PCBU.
3. Non-MPI Controlled Worksites	8. MPI staff who regularly work at, or are seconded to, non-MPI controlled worksites.
4. Shared Worksites	9. MPI as a tenant shares a worksite with one or more other PCBUs.
	10. A PCBU is a tenant at an MPI worksite.

Understanding the level of risk

In order to effectively manage the growing number of identified PCBU overlapping relationships, MPI developed a ‘two level’ assessment criteria to assess the health and safety risk level. A relationship was considered as ‘high’ if it involved any of the following:

- One or more of the activities or risks listed in the table below; *and/or*
- Any of MPI’s **Critical Risks**

ACTIVITIES	RISKS
<ul style="list-style-type: none"> • Construction • Diving • Driving LUVs or off-road vehicles • Laboratory work • Shift work • Tree work • Working around large animals • Forestry operations • Working with or around vessels 	<ul style="list-style-type: none"> • Aggressive interactions (threats to physical safety) • Biological risks and unknown organisms • Driving • Excavations/confined spaces • Exposure to extremes of temperature • Exposure to hazardous dusts • Firearm use • Hazardous substances • Remote and/or isolated work • Radiation exposure • Using aircraft to conduct work activity e.g. crop-dusting • Working around equipment/machinery • Working around moving vehicles and mobile plant • Working at height • Working over/in water • Working around large animals • Working with asbestos-containing materials

For all other activities and risks, the health and safety risk level is deemed to be 'low', for the purposes of the overlapping duties relationship matrix Influence and control.

Influence and Control

The final piece to understanding the relationship with other PCBUs in MPI's context was to consider the level of influence and control MPI had.

The Health and Safety at Work Act does not define 'influence and control', as it relates to the extent of each PCBU's ability to carry out their duties when working with another PCBU.

MPI looked at the judgement of the *WorkSafe v Athenberry Holdings Ltd.* case where, although the Court held that the concept was difficult to exhaustively define, it identified that one or more of the following elements would need to be established to support a factual finding of influence and direction:

1. Control over the practical carrying out of the work.
2. Provision of advice.

3. Specification of matters affecting the conduct or methods of work.
4. Reporting requirements.
5. Oversight or supervision.

These five elements were incorporated into MPI's overlapping duties framework, to assist in identifying the extent of MPI's influence and control in a relationship with another PCBU.

The result

MPI used the definitions of relationship (based on category and type), the level of H&S risk and MPI's level of influence and control in the relationship to provide their work groups with a structured approach to assessing all PCBU's with overlapping duties.

Relationship Categories:	Relationship Types:	H&S Risk Level based on Activity/ Environment:	MPI's Level of Influence and Control over the Work or Worksite:
5. Contracting or Funding Relationships	11. MPI engages Suppliers and specifies how the work is to be carried out.	High	High
	12. MPI engages Suppliers to provide services but does not specify how the work is to be carried out.	High	Low
		Low	Low
	13. MPI provides grants funding for primary industry activities and initiatives but does not specify how the work is to be carried out.	High	Low
	14. MPI partners with Industry under a Government Industry Agreement (GIA).	High	High
6. Regulatory Relationships	15. MPI approves/authorises PCBUs or individuals to carry out regulatory activities on its behalf.	High	High
	16. MPI works with another PCBU when carrying out regulatory activities.	High	High
	17. MPI shares a regulatory role with another PCBU.	High	High
7. Non-MPI Controlled Worksites	18. MPI staff who regularly work at, or are seconded to, non-MPI controlled worksites.	High	Low
8. Shared Worksites	19. MPI as a tenant shares a worksite with one or more other PCBUs.	High	Low
		Low	Low
	20. A PCBU is a tenant at an MPI worksite.	High	Low

Specific documentation protocols for the ongoing management of other PCBUs was developed based on the type of relationship and risk profile identified. A large programme of work to map the relationship types and risk was also undertaken.

Through structured reporting the Health, Safety and Wellbeing Directorate was able to identify 11 key overlapping duties Priority Areas of Work to focus on.

The benefits

1. Identification of relationships

Through this process, MPI identified relationships involving overlapping duties that they were not previously aware of from a management perspective.

2. Clarity across the business

MPI's Principles created a set of shared business standards by which overlapping duties relationships could be collectively understood. They provided a bottom line for those within MPI who are responsible for PCBU relationships over how to approach, assess and manage the overlapping duties relationships.

3. Priority areas of work

Identification of 11 Overlapping Duties Priority Areas of Work (ODPAWs) which require progress and assurance reporting to MPI's H&S Governance Committee and a focus for senior leaders to "lean in".

Keys to success

In conclusion, the process that MPI followed was successful in providing a framework for overlapping duties relationships to be identified and managed across the business. It also provided visibility of the types of relationships MPI has and helped identify which relationships required further attention. MPI considers the following as key success factors:

- Understanding that Overlapping Duties extended to more than just contractual and purchasing processes. MPI had a range of relationships where its influence and control came from funding and regulatory activities.
- Developing a framework that was specific to MPI – They realised that they could not lift and shift a framework or approach from another organisation. MPI committed resource to an internal group to developing an approach which the business would understand and embrace.
- Seeking direction and support from health, safety and wellbeing governance for the overlapping duties principles which underpin MPI's approach to managing health and safety risk across all relationships.
- Involving the business in the development – A key to developing a framework which fit with MPI's unique working environments was to ensure that all parts of its workforce were involved in the development of their framework and principles.
- Strong commitment from MPI's Procurement team to embrace "broader outcomes" and work closely with health and safety professionals within MPI to ensure that management of risks to health and safety are fully integrated in MPI's

procurement processes, including approaching procurement strategically to manage health and safety risks and uplift supply chain capability.

- Working with the business to present a clear picture of MPI's current state. Focussing on priority areas where there is higher risk and significant overlap of health and safety duties

Next Steps

There is an acknowledgement that the work MPI has completed in developing its framework is not the 'end point' for managing the complex network of relationships it has.

The future work programme for MPI will utilise the framework to help design next steps including:

- Training MPI staff in relationship management, application of the framework and what overlapping duties means.
- Developing and implementing safety and improvement plans for each high-risk activity, including specific details on who does what.
- Monitoring the application of the plans including how to get the balance between active and passive assurance activities.
- Developing and improving the level of reporting provided to MPI's Health, Safety and Risk Governance group.
- Seeking feedback on the application of framework to conduct formal review of new policy initiatives and programmes.

For more information with regards to this case study, please contact the Government Health and Safety Lead at GHSL@mpi.govt.nz.