

# User Guide to Koia's LCD Rating Tool

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Purpose	The purpose of the IP is to improve the effectiveness of New Zealand's work health and safety system by helping PCBUs identify areas for improvement in complying with the legal duties of a PCBU under New Zealand work health and safety legislation (1) to manage risks effectively (2) to train workers to manage risks effectively; and (3) to provide reasonable opportunities for workers to effectively participate in managing risks.
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1. New Zealand's main law regarding health and safety at work is the [Health and Safety at Work Act 2015](#) ("HSWA").
2. The main purpose of the HSWA is to provide for a balanced framework to secure the health and safety of workers and workplaces through a range of means including by eliminating or minimising risks to health and safety arising from work.
3. The duty holder that holds the primary duty of care is the person conducting a business or undertaking ("PCBU").
4. Section 30 of the HSWA reads as follows:

## 30 Management of risks

- (1) A duty imposed on a person by or under this Act requires the person –
  - (a) to eliminate risks to health and safety, so far as is reasonably practicable; and
  - (b) if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.
- (2) A person must comply with subsection (1) to the extent to which the person has, or would reasonably be expected to have, the ability to influence and control the matter to which the risks relate.

5. The HSWA is supported by the [Health and Safety at Work \(General Risk and Workplace Management\) Regulations 2016](#) ("HSWGR Regs").
6. Part 1 of the HSWGR Regs outline the general duties regarding risk and workplace management including the statutory risk management process.
7. When the HSWA and the HSWGR Regs are read together, a PCBU has the following duties under New Zealand law (1) the duty to manage risks effectively; (2) the duty to train workers to manage risks effectively; and (3) the duty to provide reasonable opportunities for workers to participate effectively in managing risks ("the three duties").
8. Developed by Safety Theorist Henry Koia, Koia's Risk Management Compliance Continuum Model can assist PCBU's measure and monitor the PCBU's performance in complying with the three duties.
9. Koia's model is based on his theory that a continuum exists between non-compliance with the three duties at one end of the continuum, and full compliance at the other end.
10. According to Koia's theory, every PCBU sits somewhere on the compliance continuum at any given point in time.
11. Koia identifies two placement variables that influence a PCBU's positioning on the compliance continuum.
12. The first placement variable is a PCBU's willingness to comply. Factors that influence a PCBU's willingness to comply includes compliance leadership (the exertion of influence to achieve compliance); a culture of safety compliance (around here we do things by the book); and government policy settings regarding compliance enablement and enforcement.
13. The second placement variable is the PCBU's capacity to comply. Factors that influence a PCBU's capacity to comply includes the health and safety competences and resources that are available to the PCBU for immediate disposal at any given point in time. Health and safety competences is what the PCBU knows about managing risks in accordance with the law. Resources includes the things the PCBU needs to manage risks in accordance with the law such as an effective compliance management system; safe, well-maintained machinery and equipment; effective safe operating procedures consistent with relevant industry good practice standards and guidelines; alert workers trained to task or under documented training and competent supervision; and the provision and use of suitable PPE.
14. 'Legal compliance demonstrated' ("LCD") is the test Koia applies to determine a PCBU's placement on the continuum.
15. The yardstick Koia uses to measure full compliance with the three duties (100% LCD) is compliance with regulations 5 to 8 HSWGR Regs (PCBU duty to follow the statutory risk management process); compliance with [section 36\(3\)\(f\) HSWA](#) & regulation 9 HSWGR Regs (PCBU duty to provide worker risk management training and refresher training); and [section 61\(1\) HSWA](#) (PCBU duty to have worker participation practices (in relation to managing risks)).
16. Koia's LCD Rating Tool has been developed by Koia to be used to assess where a PCBU sits on the compliance continuum at any given point in time. The assessment result will help officers of a PCBU detect gaps in compliance with the three duties and what needs to be done to move the PCBU up to 100% LCD on the compliance continuum.
17. Koia's model and LCD Rating Tool offers officers of a PCBU a way to check their own compliance with the duty of an officer of a PCBU to exercise due diligence under [section 44\(4\)\(e\) HSWA](#) by taking reasonable steps to ensure the PCBU has, and implements, processes for complying with the three duties.

## Koia's Risk Management Compliance Continuum Model

