

Director Reference: Simon Greening
Refer to: Nathan Tetzlaff

18 April 2019

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By Email: jenni@christiancamping.org.nz

Dear Madam

LEGAL ISSUES | CHRISTIAN CAMPS | TRANSGENDER AND OTHER LGBTQI PEOPLE

Executive summary

1. A summary of our conclusions is:
 - (a) The starting point that the law takes is that gender and sexuality are not permissible grounds for different treatment or discrimination.
 - (b) Any different treatment that the Camps may wish to engage in to accommodate their particular doctrinal requirements will need to fall within a legal exception.
 - (c) If a Camp discriminates against a camp attendee because they are transgender or because of their sexual orientation, then this will be a breach of the Human Rights Act except in the limited circumstances where an exception applies.
 - (d) If a Camp discriminates against a camp leader, volunteer or other employee because they are transgender or because of their sexual orientation, then this will be a breach of the Human Rights Act and the Employment Relations Act except in the limited circumstances where an exception applies.
 - (e) The main exceptions are:
 - (i) Where formal doctrine or custom calls for a person of a particular sex in a specific role;
 - (ii) For a Chaplain or similar role, or
 - (iii) Where there is a risk to public decency or safety (such as single sex toilets).
 - (f) Health and safety obligations may require you to make changes to accommodate the safety of attendees, such as separate sleeping or changing rooms. Such accommodation is only required to the extent that this is reasonably practicable.

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Introduction

2. You have requested that we provide an opinion setting out your rights and obligations where camp attendees or leaders are transgender. There can be some overlap, and we have noted where the discussion is also applicable to other LGBTQI individuals.
3. This opinion addresses legal issues. The law provides a certain amount of accommodation for religious beliefs. However where the law does not specifically accommodate religious doctrine, that belief does not operate as a legal justification for what is otherwise a breach of the law.
4. Therefore this opinion will present the legal issues and the law in neutral terms in order to provide a clear and assessable summary of your obligations, without involving any ideological bias which could risk confusion between law and doctrine.
5. Likewise, this opinion refers to "discrimination" with reference to different treatment of individuals or groups. This is the legal terminology and is intended as a neutral and purely descriptive term.
6. We have relied on the list of terminology and definitions on page 12 of the report by the Human Rights Commission titled "[Who am I; Report of the Inquiry into Discrimination Experienced by Transgender People](#)" 2007.
7. In digital versions of this opinion the above report title is a clickable link to the full report. The subsequent sub-headings below referring to Acts are also links to those Acts.

The Relevant Laws

8. There are a variety of laws that are relevant to LGBTQI issues including laws addressing access to healthcare, rights in relation to marriage or civil unions, and the right to change a gender description on a birth certificate. However the following four laws are most relevant to your inquiry:
 - (a) The Human Rights Act 1993;
 - (b) The Employment Relations Act 2000;
 - (c) The Health and Safety at Work Act 2015; and
 - (d) The Privacy Act 1993.

Human Rights Act 1993

9. Key excerpts of the Human Rights Act are set out in Schedule 1 to this opinion.
10. The Human Rights Act is the law which has the most relevance. In section 21 it sets out a list of "prohibited grounds of discrimination". This list includes:
 - (a) Sex (meaning gender, and generally inclusive of 'gender identity');
 - (b) Religious and ethical belief (or lack thereof);
 - (c) Sexual orientation; and
 - (d) Disability.
11. "Disability" includes physical and psychological disabilities. We have included this in the discussion because some people consider LGBTQ people to have a psychological disability, despite the removal from the Diagnostic and Statistical Manual of Mental Disorders. Likewise an intersex person might be considered to have a physical disability. While many LGBTQI people take offence at such a characterisation we note that disability is a prohibited ground of discrimination in any event.
12. The Human Rights Act identifies a range of circumstances where the prohibited grounds of discrimination apply. For Camps, the most relevant are:
 - (a) Employment; and
 - (b) Access to places, facilities or services;

Discrimination and Employment

13. The definition of "Employer" includes someone who takes on an unpaid worker; a volunteer. This means that where a person is qualified to work or volunteer at a Camp, the Camp may not refuse to take them on, fire them, or otherwise disadvantage them, for one of the prohibited grounds of discrimination.
14. The Camps may not even inquire about a person's sexual orientation, identity or beliefs about the same (or any other the other prohibited grounds), as this would indicate an intention to discriminate and is specifically prohibited.
15. There is a very limited religious exception. This allows roles in an organised religion to be gender specific where the doctrines or customs require, such as for a male priest in Catholicism.

16. Additionally, providing that a role is for a clergyman, priest, pastor, or similar, the Camp can discriminate on the basis of religious or ethical belief. This would permit a Camp that had a Chaplain, for instance, to require that Chaplain to hold specific religious beliefs.

Discrimination in relation to access to places, facilities or services

17. This is the ground of discrimination which will be most relevant to Camps.
18. It will be a breach of the Human Rights Act if a Camp refuses to allow a person to access or use their facilities, or refuses to provide their usual services to a person, if the reason for refusal is one of the prohibited grounds.
19. In practice, if a Camp tells a person that they cannot attend because they are transgender or otherwise LGBTQI then they have broken the law, unless one of the exceptions applies.
20. The exceptions are:
- (a) "Separate facilities for each sex on the ground of public decency or public safety"
Separate bathrooms and sleeping accommodation (and the like) for different sexes is permitted.
 - (b) "Courses and counselling"
If courses or counselling where highly personal matters (such as sexual matters or the prevention of violence) are involved, discrimination as to who may attend or present the courses on the basis of sex and sexual orientation (among certain other grounds) is permitted.
21. As you can see, these exceptions are not designed to accommodate (and do not permit) discrimination on the basis of theology.

Employment Relations Act 2000

22. Some Camps may not wish have LGBTQI people as employees, leaders, volunteers, or in other formal roles.
23. The Employment Relations Act refers to the Human Rights Act, and confirms that any discrimination by an employer on the basis of the prohibited grounds of discrimination in the Human Rights Act, will allow the employee to raise a personal grievance.
24. In the Employment Relations Act the term "employee" includes volunteers, and people intending to work even if they have not started yet.

25. An identical exception applies in the Employment Relations Act as in the Human Rights Act. So as in the above example, a Camp could require a Chaplain to hold particular religious beliefs, but not an office administrator.
26. The Employment Relations Act contains a trial period provision. If an employee enters into employment with the Camp and all the requisite criteria are met so that the trial period is effective, the Camp may dismiss the employee without giving written reasons, and without the employee being permitted to take a personal grievance for the dismissal.
27. This does not allow the Camp to dismiss the employee for a prohibited ground of discrimination. If the employee believed (rightly or wrongly) that dismissal was due to one of the prohibited grounds of discrimination they can still take a personal grievance under the Employment Relations Act.
28. A valid trial period will also have no effect on any claim under the Human Rights Act.

Health and Safety at Work Act 2015

29. Key excerpts of the Health and Safety at Work Act are set out in Schedule 2 to this opinion.
30. The Health and Safety at Work Act applies to Camps. As an organisation, a Camp will be a person in charge of a business or undertaking (“PCBU”).
31. The owners or senior managers of Camps will be considered “officers”. Officers must exercise due diligence to ensure that the PCBU complies with its duty or obligation.
32. A range of duties applies to PCBUs, their officers, and workers (including volunteers). These obligations are too numerous to explain fully here, and this opinion only focusses on how the Health and Safety at Work Act relates to LGBTQI issues.
33. Where management of risks is concerned, there are two required stages:
 - (a) Eliminate the risk (so far as reasonably practicable); and
 - (b) If it is not reasonably practicable to eliminate the risk, minimise that risk (so far as reasonably practicable).
34. A Camp as a PCBU must ensure, so far as is reasonably practicable, that the health and safety of anyone (including LGBTQI people) is not put at risk by the Camp’s activities or the facilities it offers.
35. A risk to health and safety may be physical or psychological, and may arise from the facilities, environment, or people at camps. In the context of LGBTQI people, harm may include bullying or harassment, as well as physical or sexual assault.

36. It is necessary for Camps to consider and assess where a risk of harm may arise, and what they can do to eliminate or minimise this. Possible sources of risk include:
- (a) General intolerance of, or bullying of transgender or other LGBTQI people by other attendees (whether physical or psychological);
 - (b) Changing areas and bathrooms; and
 - (c) Accommodation and sleeping areas.
37. A Camp should have a Health and Safety policy, as this is required by law. This should have a section addressing bullying and harassment, and how the Camp should respond to this. It should also have a section addressing any risks to attendees who are transgender, if there are any risks in the way that particular Camp is run which are not already addressed by other parts of the policy. For instance in the case of day camps that already have individual toilet and changing rooms, and there is already a general anti-bullying policy, then there may be no additional risks.
38. Where there are identified risks, this will need to be a very flexible section, and allow for a large degree of case by case assessment and discretion. However merely having such a section, even if very general, demonstrates that the Camp has met its obligation by turning its mind to possible health and safety risks to transgender or other LGBTQI people.
39. Depending on what steps are required to eliminate a risk, there may be a cost involved. That is where the question of what is or is not “reasonably practicable” arises. As with the risks, the options to eliminate or reduce them will likely be quite varied and should be considered on a case by case basis.
40. What is or is not reasonably practicable is a very uncertain question. A Camp would likely not be required to build custom individual sleeping quarters or changing rooms to accommodate individuals who required them. However if the Camp was building new facilities or renovating existing facilities, it might be considered reasonably practicable to make changes at that point.
41. Given that gender and sexual orientation are specifically prohibited grounds of discrimination, we consider that there is a heavier onus on Camps and other organisations to accommodate them. Therefore we anticipate that what is or is not reasonably practicable would be given close and strict scrutiny, and may not be used as a convenient smokescreen for Camps whose true objections are theological.
42. There is also the question of what to do in the event that the person does not approve of or intend to cooperate with the Camp’s intended risk management steps.
43. Perhaps the person does not wish to endure any different treatment, regardless of the Camp’s good intentions. In this case the only effective means of minimising the risk may

be for the Camp to refuse to allow the person to attend. As a last resort, this would be acceptable.

44. In that event the Camp can expect to have the reasonableness of its intended risk management steps subjected to considerable scrutiny. Any policies that had the effect of unreasonably alienating or drawing attention to LGBTQI individuals are unlikely to be considered reasonable.
45. There is a tension between the Health and Safety at Work Act and the Human Rights Act. Where a Camp has assessed the risks for a transgender person attending a camp, determined that these cannot be eliminated or sufficiently minimised, and refused attendance, the person might say that they are being discriminated against on the basis of their gender, sex or sexual orientation.
46. In that event the Camp's response would be that no, the reason for refusal is none of these things; it is purely related to health and safety. The camp would have to show that there is a risk, which it is not practical to eliminate, and which it is not practical to minimise to an acceptable level.

Privacy Act

47. Key excerpts of the Privacy Act are set out in Schedule 3 to this opinion. Every Camp will collect information from attendees generally, and should be aware of their ordinary obligations as regards the collection, storage and disclosure of that information.
48. You have inquired whether the presence of a transgender or other LGBTQI person at a camp can or must be disclosed to any person.
49. The Privacy Act contains Privacy Principles which govern how and why information may be collected or used, from whom, and who it may be provided to (among other things).
50. The Privacy Act will allow a Camp to collect information about attendees as to any particular issues that might arise from being LGBTQI, and any health and safety risks that could result.
51. However great care will need to be taken to ensure that there is no appearance that the information is being collected with an intention to use it to discriminate on the basis of one of the Human Rights Act prohibited grounds. There is a requirement in the Privacy Act not to collect information in a way that is unfair, or unreasonably intrusive.
52. One way to approach this issue might be to include a section on enrolment forms. We presume that there is a section in the Camps' forms inquiring whether attendees have any particular allergy or food requirements; a similar section could be added inquiring whether attendees have any particular changing, bathroom or accommodation requirements that they would like the Camp to take into consideration.

53. Once a camp has information about an attendee:
- (a) It may only be used for the purpose that it was disclosed (ie minimising risks to health and safety);
 - (b) It must be securely kept;
 - (c) It must not be disclosed to anyone who does not need to know it for the purpose;
 - (d) It may not be kept for longer than needed for the purpose.

Public Relations and Avoiding Unnecessary Problems

54. Society is presently at the intersection of simple and assessable mass communication, and a relaxation of traditional religious values.
55. Census figures for Christianity shows a steady decline:

| 2013 census | | 2006 census | | 2001 census | |
|-------------|-------|-------------|-------|-------------|-------|
| Number | % | Number | % | Number | % |
| 1,858,977 | 47.65 | 2,027,418 | 54.16 | 2,043,843 | 58.92 |

56. While official statistics for LGBTQI people and attitudes towards them are not available, anecdotally there is a slow but steady increase in acceptance of LGBTQI people and lifestyles among the public, especially by government and by younger people.
57. Legal recognition and acceptance of activities that Christians might consider immoral depending on their personal and doctrinal leanings include:
- (a) Homosexual Law Reform Act 1986;
 - (b) Prostitution Reform Act 2003;
 - (c) Civil Union Act 2004; and
 - (d) Marriage (Definition of Marriage) Amendment Act 2013 (allowing same sex marriages).
58. These observations are to make the point that there is a generation of young people who have been raised with less access to religion than ever before, who believe that homosexual relationships are entirely mundane, who are powerfully connected to one another by social media, and who are used to loudly giving voice to their grievances when they or their peers are subjected to treatment that they find objectionable.

59. Any actual or perceived discrimination by a Camp on the basis of an attendee's sexuality or gender identity is an area of significant risk for the Camp, both legally and socially. To avoid unnecessary risk, anyone within a Camp who is tasked with addressing issues arising from LGBTQI people as attendees, leaders or other workers:
- (a) Should have a reasonable grasp on LGBTQI terminology to avoid accidentally giving offence, or appearing ignorant of the issues;
 - (b) Should understand their legal obligations and take legal advice where needed; and
 - (c) Should avoid any discussion of or correspondence on the issues without having a carefully considered and legally vetted plan and approach (preferably developed with the input of several appropriate people).
60. Quite aside from risks associated with negative publicity, it is cheap and easy for aggrieved individuals to cause significant problems for a Camp without having to go to much trouble at all.
- (a) In the case of an employment dispute, there are numerous advocates who are willing to represent people on a no-win no-fee basis. Representation is not required in mediation or the Employment Relations Authority, and the filing fees and application process to commence employment proceedings are trivial.
 - (b) Where a breach of the Human Rights Act is alleged, a complaint can be made to the Human Rights Commission. Their website has a section specifically noting their role includes ending discrimination against people on the basis of their sexual orientation and gender identity. The Commission can investigate, and demand that parties enter into a dispute resolution process, and issue findings. If there is no settlement and there are findings of wrongdoing, complainants or the Commission can take proceedings before the Human Rights Review Tribunal. As with the Employment Relations Authority, there are low barriers to appearance at the Tribunal for a complainant.
 - (c) Any health or safety complaint may be investigated by Worksafe, which has a range of investigative powers, and the authority to enforce a range of mandatory outcomes that range from notices to remedy defective policies, to financial penalties if a prosecution results. If Worksafe consents to undertake an investigation into a health and safety breach, the complainant will not need to take any additional steps.
 - (d) Where a breach of the Privacy Act is alleged, a complaint can be made to the Office of the Privacy Commissioner. As with Human Rights breaches, the Privacy Commissioner can investigate, and demand that parties enter into a dispute resolution process, and issue findings. If there is no settlement and there are findings of wrongdoing, complainants or the Privacy Commissioner can take proceedings before the Human Rights Review Tribunal.

61. Complaints and resulting investigations, even where these do not result in prosecutions, take management's attention away from core activities, are stressful and time consuming, and can result in incurring significant financial costs (both in legal fees, and in any resulting penalties).
62. The likelihood of complaints being made is also quite high, given that a person's sexuality or gender identity is often a core part of their general identity, and any actual or perceived slight to this can result in great offence being taken.

Examples

A child attendee who is a biologically one gender but who outwardly presents and wishes to be perceived and treated as the other gender

63. If the Camp offers gender separated activities, the person would ordinarily be entitled to attend with the gender of their choice. However if gender separated activities are offered this may itself be problematic unless there is a good reason. Offering outdoor activities for boys and indoor activities for girls (for instance) is an outdated approach that is itself a (minor) breach of the Human Rights Act.
64. In relation to sleeping accommodation, changing areas and bathrooms:
 - (a) The exception in section 46 of the Human Rights Act applies (separate facilities for each sex on the basis of public decency or safety).
 - (b) Health and Safety policies may prohibit a person of one biological gender rooming with attendees of another biological gender.
65. If provision of adequate alternative facilities is not practical, the Camp could suggest alternatives such as day camping only.
66. As a last resort the Camp could refuse attendance.

A transgender applicant for a volunteer leadership role at a Camp

67. Both employment law and human rights law are relevant to this situation.
68. A health and safety assessment could be conducted; it is likely that there would be fewer risks for an older person in a leadership role than there would for a younger, more vulnerable attendee.
69. In terms of accommodation and other facilities, the exception allowing separate facilities for each sex could apply. However this would only be relevant to a transgender person who has not chosen to amend their described sex on official documents. In the case of a

transgender person whose preferred sex matches their legal gender identity, the exception would not apply.

70. The other exception, for purposes of religion, would only apply where the principle purpose of the role is as a priest, pastor, official or similar, or a social worker among adherents to the religion.
71. Other than for the above reasons, any discrimination against such an applicant is prohibited by both the Human Rights Act and Employment Relations Act.

A homosexual attendee flirting with other attendees

72. The correct approach to this situation is to treat it the same as the Camp would for a heterosexual attendee.
73. The Camp should have existing policies addressing inappropriate advances or flirting and should ensure that these are gender neutral.

An applicant for a senior leadership role at the Camp who has doctrinal beliefs which contrast with the Camp

74. The exception purposes of religion could apply depending on the role. If the principle purpose of the role is as a priest, pastor, official or similar, or a social worker among adherents to the religion, then discrimination on the basis of religions belief is permitted.
75. This is still a narrow exception. It is mainly directed toward leadership roles in churches and specifically religious institutions such as missionary organisations or bible schools. A camp has a much broader purpose, so very few of its roles will be principally as a priest, pastor, official or similar. A formal Chaplain role would qualify. The social worker exception only applies where they were working among adherents, not the general public.
76. For a senior administrative/ leadership role, discrimination on the basis of belief is prohibited.

Conclusions

77. A Camp that is prepared for and understands the legal implications of transgender or other LGBTQI attendees or applicants for formal roles, will be in a much better position to avoid missteps.
78. Camps' health and safety policies need to address risks to LGBTQI persons where any arise, and reasonable steps must be taken to mitigate these risks.

79. The legal position is that discrimination against LGBTQI people on doctrinal grounds is almost entirely prohibited. Any Camp that exercises such discrimination is likely to suffer legal and social repercussions.

Yours faithfully

GAZE BURT LIMITED

A handwritten signature in blue ink, appearing to read 'N Tetzlaff', with a long horizontal stroke extending to the right.

NATHAN TETZLAFF

Associate

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City Office

Schedule 1 - Excerpts from the Human Rights Act

21 Prohibited grounds of discrimination

- (1) For the purposes of this Act, the prohibited grounds of discrimination are—
- (a) sex, which includes pregnancy and childbirth:
[...]
 - (c) religious belief:
 - (d) ethical belief, which means the lack of a religious belief, whether in respect of a particular religion or religions or all religions:
[...]
 - (h) disability, which means—
 - (i) physical disability or impairment:
 - (ii) physical illness:
 - (iii) psychiatric illness:
 - (iv) intellectual or psychological disability or impairment:
 - (v) any other loss or abnormality of psychological, physiological, or anatomical structure or function:
[...]
 - (m) sexual orientation, which means a heterosexual, homosexual, lesbian, or bisexual orientation.
[...]

22 Employment

- (1) Where an applicant for employment or an employee is qualified for work of any description, it shall be unlawful for an employer, or any person acting or purporting to act on behalf of an employer,—
- (a) to refuse or omit to employ the applicant on work of that description which is available; or
 - (b) to offer or afford the applicant or the employee less favourable terms of employment, conditions of work, superannuation or other fringe benefits, and opportunities for training, promotion, and transfer than are made available to applicants or employees of the same or substantially similar capabilities employed in the same or substantially similar circumstances on work of that description; or
 - (c) to terminate the employment of the employee, or subject the employee to any detriment, in circumstances in which the employment of other employees employed on work of that description would not be terminated, or in which other employees employed on work of that description would not be subjected to such detriment; or
 - (d) to retire the employee, or to require or cause the employee to retire or resign,—
- by reason of any of the prohibited grounds of discrimination.
[...]

23 Particulars of applicants for employment

It shall be unlawful for any person to use or circulate any form of application for employment or to make any inquiry of or about any applicant for employment which indicates, or could reasonably be understood as indicating, an intention to commit a breach of section 22.

28 Exceptions for purposes of religion

- (1) Nothing in section 22 shall prevent different treatment based on sex where the position is for the purposes of an organised religion and is limited to one sex so as to comply with the doctrines or rules or established customs of the religion.
- (2) Nothing in section 22 shall prevent different treatment based on religious or ethical belief where—

- (a) that treatment is accorded under section 464 of the Education Act 1989; or
- (b) the sole or principal duties of the position (not being a position to which section 464 of the Education Act 1989 applies)—
 - (i) are, or are substantially the same as, those of a clergyman, priest, pastor, official, or teacher among adherents of that belief or otherwise involve the propagation of that belief; or
 - (ii) are those of a teacher in a private school; or
 - (iii) consist of acting as a social worker on behalf of an organisation whose members comprise solely or principally adherents of that belief.

[...]

42 Access by the public to places, vehicles, and facilities

- (1) It shall be unlawful for any person—
 - (a) to refuse to allow any other person access to or use of any place or vehicle which members of the public are entitled or allowed to enter or use; or
 - (b) to refuse any other person the use of any facilities in that place or vehicle which are available to members of the public; or
 - (c) to require any other person to leave or cease to use that place or vehicle or those facilities,—
 by reason of any of the prohibited grounds of discrimination.

[...]

43 Exceptions in relation to access by the public to places, vehicles, and facilities

- (1) Section 42 shall not prevent the maintenance of separate facilities for each sex on the ground of public decency or public safety.

[...]

44 Provision of goods and services

- (1) It shall be unlawful for any person who supplies goods, facilities, or services to the public or to any section of the public—
 - (a) to refuse or fail on demand to provide any other person with those goods, facilities, or services; or
 - (b) to treat any other person less favourably in connection with the provision of those goods, facilities, or services than would otherwise be the case,—
 by reason of any of the prohibited grounds of discrimination.

[...]

46 Exception in relation to public decency or safety

Section 44 shall not apply to the maintenance or provision of separate facilities or services for each sex on the ground of public decency or public safety.

Schedule 2 - Excerpts from the Health and Safety at Work Act

Subpart 1—Key principles relating to duties

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.

Subpart 2—Duties of PCBUs

36 Primary duty of care

- (1) A PCBU must ensure, so far as is reasonably practicable, the health and safety of—
 - (a) workers who work for the PCBU, while the workers are at work in the business or undertaking; and
 - (b) workers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.

- (2) A PCBU must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.

- (3) Without limiting subsection (1) or (2), a PCBU must ensure, so far as is reasonably practicable,—
 - (a) the provision and maintenance of a work environment that is without risks to health and safety; and
 - (b) the provision and maintenance of safe plant and structures; and
 - (c) the provision and maintenance of safe systems of work; and
 - (d) the safe use, handling, and storage of plant, substances, and structures; and
 - (e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities; and
 - (f) the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and
 - (g) that the health of workers and the conditions at the workplace are monitored for the purpose of preventing injury or illness of workers arising from the conduct of the business or undertaking.

[...]

37 Duty of PCBU who manages or controls workplace

- (1) A PCBU who manages or controls a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person.

[...]

Schedule 3 - Excerpts from the Privacy Act

6 Information privacy principles

[...]

Principle 1 Purpose of collection of personal information

Personal information shall not be collected by any agency unless—

- (a) the information is collected for a lawful purpose connected with a function or activity of the agency; and
- (b) the collection of the information is necessary for that purpose.

[...]

Principle 3 Collection of information from subject

(1) Where an agency collects personal information directly from the individual concerned, the agency shall take such steps (if any) as are, in the circumstances, reasonable to ensure that the individual concerned is aware of—

- (a) the fact that the information is being collected; and
- (b) the purpose for which the information is being collected; and
- (c) the intended recipients of the information; and
- (d) the name and address of—
 - (i) the agency that is collecting the information; and
 - (ii) the agency that will hold the information; and
- (e) if the collection of the information is authorised or required by or under law,—
 - (i) the particular law by or under which the collection of the information is so authorised or required; and
 - (ii) whether or not the supply of the information by that individual is voluntary or mandatory; and
- (f) the consequences (if any) for that individual if all or any part of the requested information is not provided; and
- (g) the rights of access to, and correction of, personal information provided by these principles.

[...]

Principle 4 Manner of collection of personal information

Personal information shall not be collected by an agency—

- (a) by unlawful means; or
- (b) by means that, in the circumstances of the case,—
 - (i) are unfair; or
 - (ii) intrude to an unreasonable extent upon the personal affairs of the individual concerned.

[...]

Principle 11 Limits on disclosure of personal information

An agency that holds personal information shall not disclose the information to a person or body or agency unless the agency believes, on reasonable grounds,—

- (a) that the disclosure of the information is one of the purposes in connection with which the information was obtained or is directly related to the purposes in connection with which the information was obtained; or

[...]

- (c) that the disclosure is to the individual concerned; or
- (d) that the disclosure is authorised by the individual concerned; or

[...]

- (f) that the disclosure of the information is necessary to prevent or lessen a serious threat (as defined in section 2(1)) to—
- (i) public health or public safety; or
 - (ii) the life or health of the individual concerned or another individual; or

[...]