

INVESTIGATION REPORT

Seeking Legal Advice: No

SUBJECT:	Arise Church
FILE NUMBER:	5841713

To: Manager
Kaimahi Hauora
WorkSafe New Zealand

RECOMMENDED ACTION:

It is recommended that:

1. An Improvement notice be issued under Section 44 of the Health & Safety at Work Act 2015 (HSWA) for failure of Chairperson to exercise due diligence.
2. Review of Pathfinding Report and Duncan Cotterill Report to ascertain if any further failings have been identified. At time of report, these documents had not yet been received.

The rationale being:

- Policies and procedures supplied by Arise Church showed a clear failing in regard to health and safety at Arise Church. The duties of an officer in the organisation are to exercise due diligence to ensure that Arise is complying with its duties under the Health and Safety at Work Act 2015. There was no evidence produced that the Arise Board had any knowledge or understanding of health and safety within the organisation.

1. INTRODUCTION

On the 4th May, 2022 WorkSafe New Zealand received 3 notifications from the public in regards to workplace bullying and alleged physical and sexual assault by a senior pastor of Arise Church, in addition to reports of exploitation of interns and staff of Arise Church.^{1 2}Prior to Worksafe contacting Arise regarding the above notifications, on the 10th May, 2022 WorkSafe received a further letter of notification³ from the then Arise Board Chairperson, Graeme Kirkwood advising of the Boards awareness of the reports in the media and the processes that were being put in place to follow up on these allegations. At this stage, these were in the form of two independent reviews by Pathfinding and Duncan Cotterill.

Key party details:

¹ 66001_20220504 1305 Initial notification from Here Matatū team - file assigned 5841713

² 66002_20220509 1125 Initial notification from Here Matatū team - file assigned 5841880

³ 40002-1 Board Letter Graeme Kirkwood 10May 2022

9(2)(a)	9(2)(a)
9(2)(a)	9(2)(a)
9(2)(a)	9(2)(a)
Graeme KIRKWOOD	Ex Arise Board Chairperson and notifier
Israel COOPER	Arise Board Trustee
Kylie FLETCHER	Current Arise Board Chairperson
Jennifer (Jen) O'DONNELL	Lead Inspector – WorkSafe New Zealand
Dr John FITZGERALD	Clinical Psychologist – WorkSafe New Zealand

2. FACTS

Notifications

As mentioned previously, WorkSafe New Zealand received 3 notifications in regard to issues at Arise Church. The first notification on the 4th May 2022 was from an ex-employee alleging long work hours, harassment, and discrimination by senior members of the Church along with an alleged sexual assault by 9(2)(a). This alleged assault happened twice in both 9(2)(a) whilst on a work trip 9(2)(a) years ago. It was alleged that the 9(2)(a)

9(2)(a) was aware of the incidents and did nothing about it. Two further notifications received at this time were advising WorkSafe of Media articles that were current in the press, with no further information provided other than what they had read.⁴⁵

On the 10th May 2022 Worksafe then received a further notification from the then current Arise Board Chairperson Graeme Kirkwood advising full knowledge of the news in the media along with a desire to provide WorkSafe with full disclosure of the steps they were taking to look into the allegations made.⁶

MHW response pathway

On the 10th May 2022, at the Kaimahi Hauora mentally healthy work (MHW) case review meeting, it was decided that the file would be transferred to myself (Inspector O'DONNELL) to complete a peer review of the notifications and documentation received.⁷ My initial recommendations were to make further enquiries including contacting the NZ Police and the notifier with first hand accounts. The NZ Police had no record of the alleged sexual assault being notified⁸ An email was also sent to notifier 9(2)(a) requesting any additional information that was witnessed by himself.⁹ To date no further contact has been received from 9(2)(a) 9(2)(a). At the next case review meeting it was agreed that the next steps were to make contact with the Arise Board and set up a meeting to discuss the notification received from Graeme Kirkwood and the allegations presented in the media.¹⁰

⁴ 66001_20220504 1305 Initial notification from Here Matatū team - file assigned 5841713

⁵ 66002_20220509 1125 Initial notification from Here Matatū team - file assigned 5841880

⁶ 40002-1 Board Letter Graeme Kirkwood 10May 2022

⁷ 20001 20001 - Peer Review Arise Church - Jen O'Donnell

⁸ 41003 IR-01-22-13699 - Police Information request

⁹ 30002 - Email to notifier advising recommended steps and nothing further required

¹⁰ 20002 Email to set up initial meeting with Arise Board

Meeting with Arise Board Representatives

On 26th May 2022 WorkSafe Clinical Psychologist Dr John FITZGERALD and myself (Inspector O'DONNELL), met with Chairperson Graeme KIRKWOOD; two trustees Israel COOPER and Alice HUNT; and operational manager Abby AYLING at WorkSafe New Zealand head office in Wellington. (Including video conference by teams). At this meeting there were discussions regarding: Current Media regarding bullying, overworking of interns and alleged sexual assault; Actions taken by board once issues were raised (21st September 2021); External reviews being undertaken: (Pathfinder Cultural review - 520 participated in review. Which had just closed) and (Duncan Cotterill - Current and historic disputes and other issues along with health & safety). Action points from this meeting saw the request of various documentation to be sent by the Board to Inspector O'DONNELL.¹¹ These included: Terms of Reference for both external reviews, 2018 Change timeline, Review roadmap (who will lead changes based on recommendations of the review), board meeting minutes - focus on H & S issue reported and details of H & S systems.¹²

Review of documents

Documents were received from Arise Trustee Israel Cooper on the 14th June 2022.¹³ Broadly I noted the following.¹⁴ They have developed Arise review road map that incorporates how they will undertake changes that will be recommended in both reviews. This was an indication that was subject to change depending on what was received. The Arise H&S policy is a very generic document, not site specific and appeared purchased rather than developed – every issue required to be reported to the manager, no indication of who this was and how to do it. Sent MHW 2022 Policy which was less than one page and states professional supervision and counselling to pastors and workers. No controls in place – H&S reports show that numbers of incident reporting have increased – doesn't mention anything about who is responsible for these reports and who actions them. Reviewed Arise Board reports for the last 4-5 years. H&S not mentioned since 2018. Board have had no input or oversight of health and safety in the past 4 years. Also of note that both John CAMERON and his wife Gillian CAMERON both held senior positions within the operational organisation, along with being members of the board and John Cameron having been Board Chairperson since 2002.¹⁵ This presented a conflict of interest should any issue regarding senior management be raised by workers. Further clarification and additional information were requested on 28th June 2022.¹⁶ There was a large amount of documentation requested that was not received in the first response.

On the 15th July 2022 further documentation was received in response to my email asking for clarification.¹⁷ Points noted from this response were: Received s168 additional information and sent to Dr John FITZGERALD for feedback/review. Noted complete failings of reporting to the board – nothing covering for the period 2018 until 2022. No MHW & Wellbeing policy. H&S reports missing since 2018 – allegedly a whole set of reports were deleted off someone's computer? No HSR training, though advised they were then scheduled for 29th July 2022. Employsure to prepare H&S policy which was then added to board meetings agenda to discuss

¹¹ 2000420004 - S. 168 Documentation request as per meeting action points

¹² 20003Arise meeting notes with Board

¹³ 40005 - Re Documentation request as per meeting action points

¹⁴ 20006 - Response to Documents supplied 14th June 2022

¹⁵ 40003 - ARISE National Org Chart 2022 (Feb)

¹⁶ 20006 - Response to Documents supplied 14th June 2022

¹⁷ 40009 - Clarifying documents received 15th July 2022

H&S policy at board meetings. At the MHW case review meeting dated 25th July 2022 it was agreed that there were obvious failings under HSWA and for an Improvement notice to be issued. Advice was sought from Linda WEST from the Regulatory Practice team in ensuring notice was correct.¹⁸

PCBU background

Arise Church is a New Zealand Pentecostal church. It is a multi-campus church, with twelve locations throughout New Zealand. Founded in 2002 by John Cameron with seven people in a dance and drama studio in Wellington, New Zealand, it now employs around 70 staff full-time and 1,470 volunteers.

Discussion

After careful review of the documentation and consideration of the written and verbal evidence I have obtained, I believe that in this instance there has been a clear failing under the Health & Safety at Work Act 2015. While steps since the allegations came to light have commenced, clear processes have yet to be finalised and implemented in regard to health and safety at Arise Church. The duties of an officer in the organisation are to exercise due diligence to ensure that Arise is complying with its duties under the Health and Safety at Work Act 2015. As a result an Improvement Notice has been issued to the now current Arise Board Chairperson, Kylie Fletcher. (Note: Should Kylie resign as Board Chairperson between now and when the notice is complied with, a new notice will need to be issued in the name of her replacement)¹⁹

3. HEALTH AND SAFETY BREACH (if any)

Legislative provision being contravened: Health and Safety at Work Act 2015, Section 44(1)²⁰

Conclusion after inquires that Kylie Fletcher, Chairperson of the Board, and officer of Arise, is not exercising due diligence as an officer to ensure that Arise is complying with its duties under the Health and Safety at Work Act 2015. In particular adequate steps were not taken to acquire and keep up to date with health and safety matters and ensure the business has processes, and also implements processes for complying with its duties under HSWA. Inquiries included meeting with Arise Board members Graeme Kirkwood, Israel Cooper, Alice Hunt; operational manager Abby Ayling; receiving health & safety documentation as requested from Israel Cooper and assessing board meeting minutes since 2018.

4. RECOMMENDED ACTION

Establish and implement an effective process to exercise due diligence obligations as an officer to ensure the business has and implements processes for Chairperson of the Board Kylie Fletcher to ensure she:

- acquire and keep up-to-date knowledge of work health and safety matters
- gain an understanding of the nature of the operations of the business and generally of the hazards and risks associated with those operations

¹⁸ 22001 - Approval wording by Reg Practice Lynda West

¹⁹ 40010 - 20011-Outcome of WorkSafe New Zealand assessment - Arise Church

²⁰ 40010-1- IN - s.44 Duty of Officers

- ensure the business has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety
- ensure the business has appropriate processes for receiving, considering, and responding in a timely way to information regarding incidents, hazards, and risks
- ensure the business has and implements processes for complying with its duties under HSWA
- verify the provision and use of resources and processes.

Provide evidence (which may include supporting documentation) that the above systems and processes have been implemented.

Full requirements of the due diligence required for officers can be found in section 44(4) of the Act.

See also: <https://www.worksafe.govt.nz/managing-health-and-safety/getting-started/introduction-hswa-special-guide/>

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

WorkSafe's Position on Officers Due Diligence

SIGNOFF AND APPROVAL:

INSPECTOR

Signature:	
Name:	Jen O'Donnell
Date:	26/08/2022

SIGNOFF AND APPROVAL: DELEGATED DECISION-MAKER

CHOOSE AN ITEM.

[Comments]

Signature:	
Name:	
Date:	

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