

# Provisional improvement notice (PIN) - #3 of 3

Safe Work - People, Process & Plant

This Provisional Improvement Notice (PIN) is issued by a Health and Safety Representative (HSR) under section 69 of the Health and Safety at Work Act 2015 (the Act). This PIN requires the duty holder to whom it is issued to remedy a contravention, prevent a likely contravention, or remedy the things or activities causing contravention or likely contravention of the Act or regulations. Section 76 of the Act requires that the person to whom a PIN is issued must, as soon as practicable, display a copy of the PIN in a prominent place at, or near, the workplace or part of the workplace at which work is being carried out that is affected by the PIN.

## Health and Safety Representative

**Name:** Benjamin Basevi

**Work group:** Integrated Operations Centre

**Contact number:** [REDACTED]

## If PIN issued for different work group

[Identify work group/s and confirm reason/s as listed overleaf]

Work Group/s: Grossing Room work group

Reason Number:  1  2  3  4 (mark as applicable)

## PIN issued to

**Name of duty holder:**

Auckland District Health Board

**Address:**

2 Park Road

Grafton

Auckland

## Description of how the provision is being, or is likely to be, contravened

The PCBU has taken a cavalier attitude to worker safety and has been negligent in its duties to adequately manage the associated risks. One example is the abrupt removal of early warning air monitoring devices and the concurrent withdrawal of the Safe Standard of Work and Evacuation Protocol. This was done without any actual engagement with workers or HSR's. This was then followed by the PCBU commissioning an assessment after the fact to validate their removal. To compound this, the PCBU gave no thought whatsoever to any form of replacement, a gap which extended out to eight months in total.

The PCBU has failed to maintain effective control measures and has remained distanced from the repeated concerns of workers and subject matter experts over the absence of early warning devices, the overcrowding and the inadequate and compromised ventilation. The Laboratory is now on its third extension as it failed its IANZ Accreditation in July 2021 and had nine "Major Non-Conformance" issues identified with the Grossing Room which it is yet required to clear.

## PIN given to

[If PIN is given to someone on behalf of the duty holder]

**Name:** Mark Edwards

**Position:** Chief Quality, Safety & Risk Officer

**Contact number:** [REDACTED]

## Prior consultation with duty holder

I confirm that I have consulted with the duty holder about the health and safety matter as required by section 69(3) of the Act, prior to issue of this PIN.

## Description of recommendation/s to remedy or prevent contravention

Recommendations are the same recommendations as laid out in PIN #1 of 3 issued at this same time for the (reasonable) belief that the PCBU is also in contravention of the HSWA 2015, section 36.

## Site location

37 - 41 Carbine Road

Mount Wellington

## Workplace name

Anatomic Pathology Service Laboratory

Histology Department

Grossing (Cut Up) Room

## Date PIN issued

15 / 11 / 2021

## Date compliance with PIN is required

23/ 11 / 2021 (minimum of 8 days after PIN issue)

## Details of contravention

I, reasonably believe that you are contravening, or are likely to contravene the:

~~Health and Safety at Work Act 2015, Section~~  
~~or the~~

Health and Safety at Work

General Risk & Workplace Management

Regulations, Section 28

Regulation date (Year): 2016

Regulation number: L12016/13

## Signature of Health & Safety Representative

*BBASEVI*

## What is a PIN?

A Provisional Improvement Notice (PIN) is a written notice requiring a person (the duty holder) to address a health and safety matter that is contravening, or is likely to contravene, the Health and Safety at Work Act 2015 (HSWA) or regulations.

The PIN tells the person what the health and safety issue is and can include recommendations to resolve the issue.

In all cases if the work carries a serious and immediate risk to a worker, or to another person's health and safety:

- a worker may stop work or refuse to carry out work. This is a legal right.
- a trained Health and Safety Representative (HSR) may direct a worker to cease work if the HSR represents that worker's work group.

## Who can issue a PIN?

A trained HSR is the only person who can issue a PIN.

The HSR issuing the PIN must:

- have completed "initial HSR training" (which includes obtaining Unit Standard 29315), and
- have been nominated or elected by the work group affected

**A HSR may act in the capacity of the HSR of another work group if:**

The HSR's work under the same business or undertaking and,

1. the HSR of the work group affected has requested the other HSR to assist, or
2. the HSR of a work group is unavailable (after reasonable enquiry) and a worker from the affected work group asks the other HSR to assist, or
3. the HSR of one work group requests the other HSR to perform their duties during a period of absence or in other circumstances where are un-available to the workers they are representing, or
4. the HSR believes that there is a serious risk to health and safety arising from an immediate or imminent exposure to a hazard that affects or may affect a member of another work group.

## What can a PIN be issued for?

A PIN can be issued for:

- an inadequately-controlled risk (e.g. breach of section 36 of HSWA - the primary duty of care)
- failure to comply with other legal requirements in HSWA and/or regulations (such as an HSR's entitlement to paid leave to attend HSR training).

## An HSR can only issue a PIN if certain conditions are met

An HSR may issue a PIN if they reasonably believe that a duty holder is not complying with HSWA and/or regulations, or is likely to not do so.

An HSR can only issue a PIN if the HSR has first discussed the matter with the duty holder.

A HSR cannot issue a PIN if WorkSafe has already issued an improvement notice or prohibition notice for the same matter.

A PIN must be in writing.

If there is more than one contravention, the HSR must write a separate PIN for each contravention.

## What must a PIN include?

A PIN must state:

- that the HSR believes the person is contravening, or is likely to contravene, a provision of HSWA or the regulations (as the case may be)
- the provision the HSR believes is being, or likely to be, contravened
- briefly, how the provision is being, or is likely to be contravened, and
- the date, at least eight days after the notice is issued, by which the person is required to fix or prevent the matter.

A PIN may include recommendations on ways to fix or prevent the matter that the PIN deals with.

A PIN may still be valid even if it contains irregularities or defects, or does not use the correct name of the person to whom the PIN is issued.

The PIN will not be valid, however, if the irregularity or defect causes, or is likely to cause, substantial injustice to the PIN recipient or the PIN fails to sufficiently identify the PIN recipient.

## Who is a PIN issued to?

The HSR issues a PIN to the relevant duty holder (or their representative). The duty holder may be an individual natural person or an organisation such as a company or public authority.

## How is a PIN issued?

An HSR issues a PIN to the duty holder by one of these methods:

- delivering it personally to the duty holder, or
- leaving it for the duty holder at the workplace to which the PIN relates, with a person who is in charge of that workplace (e.g. leaving it with the area manager), or
- sending it to the duty holder electronically, or
- posting it to the home or business of the duty holder, or
- leaving it at the home of or business of the duty holder, with a person 16 years or over who lives or works there, or
- delivering it in a prescribed manner e.g. as advised by a policy of the PCBU

## What must be done with the PIN?

The person that the PIN is issued to must display it as soon as practicable. The PIN must be displayed in an obvious place at or near the workplace, or part of the workplace, where the work affected is being carried out.

It is an offence for anyone to intentionally remove, destroy, damage or deface a PIN while it is in force (active) and on display.

## Who is responsible for fixing the matter?

If a PIN has been issued to a duty holder and that person has not asked WorkSafe to appoint an inspector to review the PIN, the duty holder must:

- fix the problem, or
- prevent the problem from happening

The duty holder must do this within the time frame specified in the PIN.

Although the HSR may have recommended that the problem should be fixed in a particular way, the duty holder may fix the problem in a different way as long as they still manage to substantially comply with the PIN.

## Can a PIN be reviewed?

If the duty holder disagrees with the PIN or believes that will have difficulty complying with it, they should discuss this with HSR who issued the PIN.

The person who the PIN is issued to (and if that person is a worker, the PCBU at the worker's workplace) can contact WorkSafe on 0800 030 040 and request that an inspector review the PIN. This must be done within seven days after the date of issue.

An inspector may review a PIN even if the period for compliance with the notice has expired.

The inspector can confirm, confirm with changes, or can cancel the PIN. If the PIN is confirmed, with or without changes, the PIN must be treated as an improvement notice issued by a Work Safe inspector.

The inspector must give a copy of the decision to the person who asked for the PIN review and to the HSR who issued the PIN.

## What happens if the matter is not fixed?

The HSR should contact WorkSafe on 0800 030 040 if the matter has not been fixed by the date specified on the PIN.

## Other HSR names, signatures and work group identification in support of this PIN
