

This month, we look at the prosecution of a horse racing business after a teenager was seriously injured in a fall on her first day at work. We also cover a sentencing for a non-injury incident that involved an excavator being dropped from a ship's crane into the sea. In addition, we report on two overseas prosecutions that have relevance to New Zealand's farmers and schools; and a Commerce Commission prosecution for failing to follow the rules when selling extended warranties. Finally, we provide information on the NZ Government's free "SafePlus" online tool that small and medium sized businesses can use to improve their health and safety performance.

\$317k reparations ordered after teenager suffers life changing injuries on first day at work

A 16-year-old girl suffered life changing injuries when she was thrown from a racehorse on her first day working at a racing stable. The [racing business](#) had failed to assess her riding capabilities before she was asked to ride the thoroughbred in January 2019.

The victim had some experience riding horses but WorkSafe said she had no experience and was not capable of riding a racing-fit racehorse. She was not able to control the horse and it bolted, jumping over a fence which it failed to clear. The victim was thrown from the horse and suffered paraplegia as a result of the fall.

The WorkSafe investigation found there was no induction for the new worker on the morning of the incident – although there was an intention to provide one. Neither was there a competency assessment of the victim's riding abilities undertaken before she mounted the horse. WorkSafe says that worker competency assessments must be done in a safe environment where controls are in place to prevent serious harm.

In addition, the racing business failed to have in place a safe system of work that ensured the use of approved personal protective equipment (PPE) for the riding of a thoroughbred racehorse, including helmets and rider safety vests. The

New Zealand Thoroughbred Racing Inc requires any licensed rider (such as the victim) riding a thoroughbred racing horse at a training facility to wear appropriate PPE including an approved helmet, body protector (safety vest) and footwear. The victim wasn't wearing a helmet approved for riding a thoroughbred racehorse nor was she wearing a safety vest.

WorkSafe commented that: "There has clearly been a lack of planning and forethought given to the hazards and risks of a new worker undertaking track work riding, which has led to an incredibly tragic, and incredibly preventable incident."

The defendant business was ordered to pay significant reparations to the victim of \$317,474. Costs of \$14,497 were also awarded to WorkSafe. No fine was imposed on the defendant due to financial capacity.

In October 2019, we reported on a conviction and large reparation order following serious injuries to a 19-year-old stable hand in very [similar circumstances](#). In that incident, the young woman, who had limited riding experience, was left a tetraplegic after being thrown from a race-fit horse.

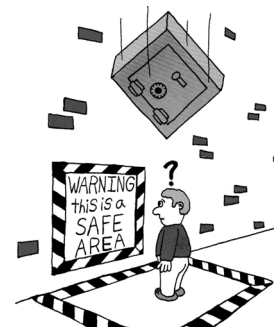
You can also read more about managing the risks to new starters and inductions in [Issue 17](#) of *The Safe Side*.

Stevedoring company convicted and fined after excavator falls from crane

The recent conviction of a Tauranga based stevedoring company by Maritime New Zealand serves as a reminder that health and safety prosecutions can occur even when there is no actual harm to individuals but there is a significant risk of serious injury or death.

The prosecution arose after an excavator was being moved between two cargo holds where it was being used to load logs. The machine fell from the lifting arrangement attached to the ship's crane, hit the side of the ship and fell into the water.

The investigation found that there was a failure to adequately train the staff conducting the operation and the current certification of the lifting lugs on the excavator was not maintained. The company was ordered to pay a fine of \$90,000 and costs of \$20,000 for the safety failings.



Being hit by falling objects is a significant risk of harm to workers and bystanders. It was the [second most common accident type](#) involved in fatalities from October 2020 to September 2021.

Melbourne school fined after grounds worker killed by falling branch

On 14 February 2018, a grounds worker was found dead with head injuries lying next to a large eucalyptus branch at a private school in Victoria, Australia. He was not wearing a helmet and two chainsaws were nearby, one still running, along with a section of large branch and a pile of smaller cut branches.

A [WorkSafe Victoria investigation](#) found that the tree had previously been assessed as at risk of branch falls and the school's tree management plan recommended no live foliage be removed and no one stand beneath the tree.

The court heard that it was reasonably practicable for the school to have provided and maintained a system of work for deciding whether branches should be cut by an external contractor or an employee. This would have included having an appropriately trained worker identify and assess the hazards associated with a task; and, where work was undertaken by employees, ensuring risks were controlled and appropriate personal protective equipment (PPE) was used.

The court also heard the school had failed to inform employees of the risks associated with cutting a branch from a tree with a chainsaw.

The school was fined \$90,000 for failing to provide or maintain safe systems of work and \$50,000 for failing to provide information, instruction, training or supervision.

To reduce risks when working with trees, WorkSafe Victoria says employers like schools should:

- Ensure a skilled and experienced person carries out a visual assessment of the tree, considering hazards, condition, wind loading, structural integrity and location prior to commencing works.
- Ensure all workers have received information, instruction and training and are deemed by the employer to be able to safely undertake the work.
- Ensure appropriate PPE is worn for the task such as helmets, boots, cut-resistant trousers, eye and ear protection, and sun protection.

Tragic reminder about the risks to children on farms after UK farmer prosecuted

In a tragedy that may resonate with many kiwi farming families, a four-year-old UK child was killed when he fell from a farm vehicle driven by his uncle. The child had been riding on the footplate and as the vehicle turned into a field, he fell and was fatally crushed beneath the wheels.

The victim's uncle was [prosecuted](#) by the UK Health and Safety Executive (HSE) and given a 26-week prison sentence suspended for 18 months, a community order, which included 250 hours of unpaid work and ordered to pay costs of £5,154.

An HSE Inspector commented after the sentencing that: "Each year, children are killed and many more are seriously

injured because of farming work. Often the child is a close relative to those managing and running the farm. The best way to keep children safe, particularly young children, is to keep them out of the farm workplace altogether. If taken onto the farm, to working areas, this must be carefully planned. The child should be fully supervised by a responsible adult who is not engaged in any other activity."

Kiwi children on farms are similarly at risk of injury and death. [WorkSafe](#) says that seven children died as a result of an accident on a farm between 2013–2015. In the 12 years up until 2015, nearly 20,000 children were injured on farms. Information on keeping children and young people safe on farms is available from WorkSafe [here](#).

Company fined \$123,500 after ComCom prosecution for sale of extended warranties

A company has been [fined](#) \$123,500 in the North Shore District Court after the Commerce Commission investigated its sale of extended warranties.

The Fair Trading Act requires businesses offering extended warranties to provide specific information to consumers in specific ways – including requiring that the information is provided in writing, is expressed in plain language, is legible and is presented clearly. The Commission's investigation found the company, which sold a wide range of products through direct response television advertising, had failed to

meet these requirements in the extended warranties it sold.

The Judge agreed that a considerable number of consumers had little to no prospect of understanding their rights and remedies under the Consumer Guarantees Act, how those compared with the protections offered by the extended warranty agreement, or their rights to cancel the agreement.

The Commission's website has detailed information on [extended warranty requirements](#) and what businesses need to do to comply.

Free SafePlus online tool to improve health and safety performance available

The [SafePlus](#) online self-assessment is a free health and safety performance improvement tool, designed for small and medium-sized businesses. It is a joint Government initiative developed by WorkSafe, ACC and MBIE.

The self-assessment questionnaire asks about three things that really matter for good health and safety performance: leadership, worker engagement and risk management.

Anonymous responses can be obtained from workers, senior management, and even external suppliers. These responses provide a snapshot of how people think the business is doing in health and safety. This can identify improvements and differences in thinking between different teams, roles or locations of the business. The assessments can also be repeated to track progress over time.