## PRESENTERS



## Greg Cain, Kensington Swan, Wellington

Greg has practised employment law in both New Zealand and the UK. He has extensive experience in employment law and health and safety. He advises clients on the full range of employment issues, and represents clients in serious harm investigations, in both employment and health and safety litigation.



## Michael Hargreaves, WorkSafe New Zealand, Wellington

Mike joined the Department of Labour's legal team in 2002 as a solicitor, becoming a senior solicitor in 2006. In these roles, he prosecuted many cases under the Health and Safety in Employment Act, including the Sir Edmund Hillary Outdoor Pursuits Centre following the Mangatepopo canyoning tragedy in 2008. Mike became the Director Litigation for the Department of Labour in 2009.

The statements and conclusions contained in this booklet are those of the author(s) only and not those of the New Zealand Law Society. This booklet has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.

Cover and text stocks used in this publication are from Forestry Stewardship Council certified mills, manufactured under the environmentally responsible paper manufactured environmental management system ISO 14001, using pulp from well managed forests and other controlled sources.

## CONTENTS

1.	ENFORCEABLE UNDERTAKINGS	1
	THE REVISED EU POLICY	
	Changes included within the revised EU policy	
2.	WHAT APPROACH IS WORKSAFE TAKING TO ENFORCEMENT?	5
	SENTENCING UNDER HSWA	6
	An extra step	
	Starting point bands	7
3.	RECENT DECISIONS FROM AUSTRALIA AND THE UK	9
	AUSTRALIAN CASES ON LIABILITY ISSUES	9
	PRIMARY DUTY OF CARE AND RELEVANCE OF COST.	9
	"REASONABLY PRACTICABLE" TEST	
	DUTY TO CONSULT, COOPERATE, AND COORDINATE	
	OFFICER DUTY	
	SENTENCING DECISIONS	
	United Kingdom	
	Sentencing framework in Australia	
	Australian sentencing decisions	
	Sentencing in New Zealand	
	Practice and procedure in New Zealand	