



Volunteer 'officers' and their duties under the model Work Health and Safety Act

LEGISLATIVE FACT SHEET SERIES

Overview

This fact sheet provides information about the duties of volunteer officers under the model WHS Act. In this fact sheet, the term 'volunteer organisation' is used to describe all volunteer organisations including not for profit and community service organisations, whether or not they are covered by the model work health and safety laws.



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The model Work Health and Safety Act (WHS Act) aims to protect the health and safety of all workers nationwide, including volunteers. Protecting the health and safety of volunteers demonstrates that their commitment is valued and recognises the vital role they play in the community.

This fact sheet provides information about the duties of volunteer officers under the model WHS Act. In this fact sheet, the term 'volunteer organisation' is used to describe all volunteer organisations including not for profit and community service organisations, whether or not they are covered by the model work health and safety laws.

Protecting volunteers under the model WHS Act

Volunteers are protected under the model WHS Act where they carry out work for a 'person conducting a business or undertaking' (PCBU). A PCBU may be a corporation, a partnership, an unincorporated or incorporated association, a self employed person, a sole trader or the Crown. Some volunteer organisations may also be PCBUs. 'Volunteer associations', as defined in the model work health and safety laws, are not PCBUs and are therefore not covered by the WHS Act. A 'volunteer association' is defined as a group of volunteers working together for one or more community purposes where none of the volunteers (jointly or alone) employs any person to carry out work for the association. A volunteer association may be unincorporated or incorporated.

Volunteer organisations which are PCBUs owe health and safety duties to their employee and volunteer workers. For more information about volunteer organisation PCBUs and their duties under the model WHS Act, refer to the fact sheets, [Volunteer organisations and the model Work Health and Safety Act](#) and [How volunteer organisations can comply with the model work health and safety laws](#).

Who is likely to be an 'officer' of a volunteer organisation?

A volunteer is a person who is not working for reward, although they may receive reimbursement of expenses incurred by them. A volunteer 'officer' may be a member of a committee, a director, a company secretary or a CEO of a not for profit organisation that is conducting an undertaking.

The model WHS Act sets out the detailed definition of an officer. Put simply, a person may be an 'officer' of volunteer organisation where:

1. the volunteer organisation conducts a business or undertaking and employs workers to carry out work for the volunteer organisation, and
2. the person is a director, board or committee member of the volunteer organisation (whether an incorporated or unincorporated organisation) and/or makes or participates in making decisions that affect the whole or a substantial part of the business or which have the capacity to significantly affect the organisation's financial standing.

What are the duties of a volunteer 'officer'?

Volunteer 'officers' are required to take reasonable steps that will support a health and safety culture, accountability, the allocation of resources for health and safety and the development of appropriate health and safety policies at the organisation.

Where a volunteer organisation is conducting a business or undertaking and employs people to carry out work, officers of that organisation, for example board members, committee of management members or executive directors, are required to exercise due diligence to ensure that the volunteer organisation complies with its health and safety duties.

Can volunteer officers be prosecuted under the WHS Act?

Volunteer officers have a duty to exercise due diligence under the WHS Act. A volunteer officer is expected to comply with that duty. A volunteer officer cannot however, be prosecuted for failing to comply with that duty (see section 34(1) WHS Act). This immunity from prosecution is designed to ensure voluntary participation at an officer level is not discouraged. A volunteer officer can however, be prosecuted in their capacity as a 'worker' if they fail to meet their duties as a 'worker'.

What does a volunteer officer need to do to comply with their due diligence obligations?

To comply with their duty to exercise due diligence,

volunteer officers must ensure the PCBU has appropriate systems of work in place and must actively monitor and evaluate health and safety management. The WHS Act provides that the exercise of due diligence requires an officer to take reasonable steps:

1. to acquire and keep up-to-date knowledge of work health and safety matters.

For example, of what the WHS Act requires and the strategies and processes for elimination or minimisation of hazards and risks so far as is reasonably practicable.

2. to gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations.

Advice from a suitably qualified person may be required to gain a general understanding of the hazards and risks associated with the operations of the business or undertaking.

3. to ensure the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking.

This requires an understanding of what is needed for health and safety, making decisions about procedures and resources and ensuring they are used.

4. to ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks, and responding in a timely way to that information.

This should include the reporting of incidents and emerging hazards and risks, identifying if any further action is required to eliminate or minimise the hazards or risks so far as is reasonably practicable and ensuring steps are taken by the PCBU to take reasonably practicable steps.

5. to ensure that the PCBU has, and implements processes for complying with any duty or obligation under the WHS Act.

For example in relation to reporting safety incidents, consulting with workers, providing training, complying with licensing and registration obligations, union

right of entry requirements and the duty to consult, co-operate and co-ordinate activities with other duty-holders.

6. to verify the provision and use of the resources and processes referred to in paragraphs 3 to 5 above.

This makes it clear that 'ensure' means active verification — for example through inspection or auditing processes — that the resources and processes are in place and are being used.

To meet their due diligence requirements, volunteer officers should be proactive and inquisitive about health and safety issues. They should ensure:

1. they remain aware of the roles, duties and activities of employee and volunteer workers and of the nature of the risks they may be exposed to
2. they seek advice about any specific health and safety issues, and
3. broad consultation occurs with the organisation's employees and volunteer workers regarding health and safety issues.

For more information about the due diligence duties of officers under the model work health and safety laws, refer to the [Interpretive Guideline Model Work Health and Safety Act, The health and safety duty of an officer under section 27.](#)

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