

Principles that apply to WHS duties



Overview

This factsheet gives an overview of the four key principles that apply to all WHS duties in the model WHS Act. Understanding these principles will assist you to interpret and apply your duties as a PCBU. See the other factsheets in this series for greater detail on each principle and the duty to consult, cooperate and coordinate with other duty holders.

As a person conducting a business or undertaking (PCBU) you have a duty under work health and safety (WHS) laws to ensure, so far as is reasonably practicable, the health and safety of workers engaged, and caused to be engaged by you, and others who may be at risk from work carried out by the business.

The term 'workers' includes employees, contractors, subcontractors, trainees and volunteers. You are also likely to have other duties such as ensuring the workplace you manage or control does not expose any person to health and safety risks.

4 key principles that apply to all WHS duties in the model WHS Act



1. WHS duties are not transferable.



2. A person can have more than one duty.



3. More than one person can have the same duty.



4. Management of risks.



1. WHS duties are not transferable

Your PCBU duties are not transferable. You cannot modify or contract out of your duties. If you attempt to modify or transfer your WHS duties to another person (such as a subcontractor) by way of a contract, that provision in the contract will be invalid.

However, you can enter into reasonable arrangements or agreements with other PCBUs you are working with to make sure everyone's duties (including yours) are met, while at the same time avoiding unnecessary duplication of effort. See the factsheet ['Principle 1: WHS duties cannot be contracted out or transferred'](#).



2. A person can have more than one duty

It is possible to be a multiple duty holder. For example, if you are self-employed or work as an individual contractor, you may be **both a worker** (who is owed work health and safety duties) **and a PCBU** (owing work health and safety duties to yourself and to others).

Self-employed people and individual contractors are usually both a PCBU and a worker. See the factsheet ['Principle 2: A person may have more than one duty'](#).



3. More than one person can have the same duty

You and another PCBU can have the same work health and safety duties relating to a particular work activity, or the environment in which the work is taking place. This means you are both responsible for addressing WHS risks.

Where you share duties with other PCBUs, you must:

- **meet your duty to the extent to which you have capacity to influence and control the matter**
- **consult, cooperate and coordinate with other duty holders.**

The PCBU with the most influence and control over a matter will be in the best position to manage the associated risks. See the factsheets ['Principle 3: more than one person can have the same duty'](#) and ['Duty to consult, cooperate and coordinate with other duty holders'](#).



4. Management of risks

As a PCBU you are required to **eliminate risks to health and safety so far as is reasonably practicable**. If elimination is not reasonably practicable, you must **minimise those risks so far as is reasonably practicable**.

Reasonably practicable means doing all that you reasonably can to keep people safe at work. See the factsheet ['Principle 4: Management of risks'](#).

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Principle 3: More than one person can have the same duty



Multiple PCBUs can have the same duty at the same time. For example, where they are involved in the same work activity, share the environment in which work is taking place, or oversee the same workers through a contractual arrangement.



Work health and safety (WHS) laws have four principles to help guide you as a person conducting a business or undertaking (PCBU) on how to apply your WHS duties:

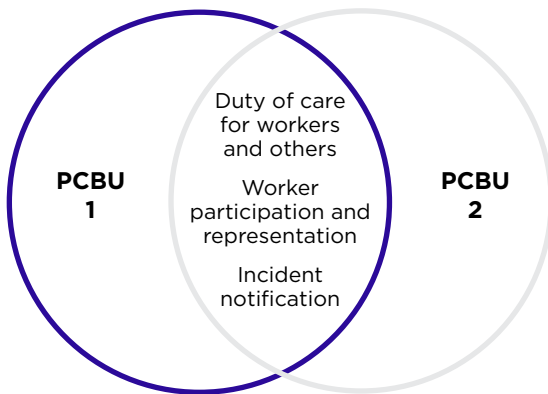
1. [WHS duties are not transferable](#)
2. [A person can have more than one duty](#)
3. [More than one person can have the same duty](#)
4. [Management of risks.](#)

Examples:

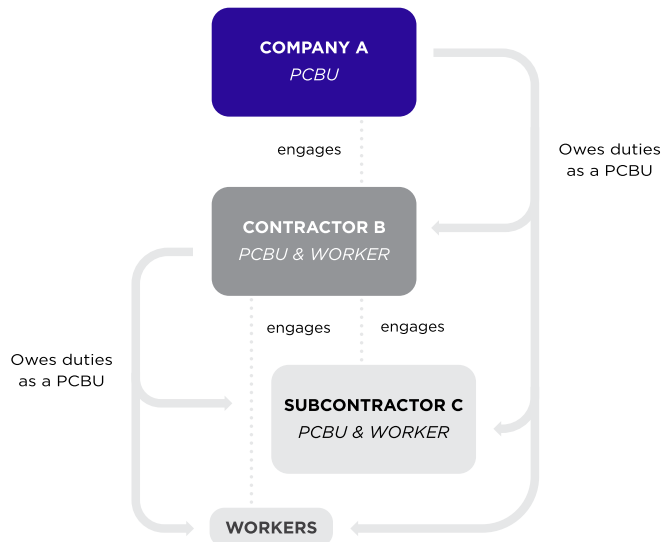
Shared workplaces:

- Office building housing multiple companies
- Shopping centre
- Construction site
- Hospital

Shared duties for PCBUs



Carrying out the same work activity in a contractual chain



Influence and Control

The PCBU with the most influence and control over a matter will be in the best position to manage the associated risks. Your capacity to influence and control the work depends on the circumstances and may change over time.



If you have less influence and control over the work matter, you must satisfy yourself that there are safe systems of work in place that ensure worker health and safety and that these systems are functioning and maintained. You can enter into arrangements with the duty holder who has more control and influence to ensure duties are met, as long as it does not seek to limit or modify your duties.

The more influence and control you have over the work matter, the greater your responsibility to manage the associated risks to meet your duties.

Consult, Coordinate, Cooperate

Working with other PCBUs will help you identify which health and safety duties are shared and how you will cooperate and coordinate your activities to solve problems and manage health and safety risks. You must consult other PCBUs and work together in a cooperative and coordinated way to manage WHS risks. You also have a duty to consult with workers and their representatives. See the factsheet on '[Duty to consult, cooperate and coordinate with other duty holders](#)'.