

# Managing risks in the food delivery industry



## Platforms

This fact sheet is directed at platforms  
in the food delivery industry.

A food delivery platform provides food delivery services marketed to food outlets, usually through a mobile device application (app). The platform engages delivery riders to deliver the food produced by the food outlet. Typically, delivery riders log into the app and can accept available orders or deliveries from the platform. When the rider accepts an order, they will then collect the food/drink from the outlet and make the delivery to the customer, within a given time period.

This fact sheet focuses specifically on food delivery work undertaken by delivery riders on bicycles and scooters, including electric bicycles and scooters (where permitted). It may also be of assistance if the worker delivers the order on a motorbike or in a car. Note the fact sheet is focused solely on work health and safety requirements. When operating any vehicle on a public road, there are additional requirements to be considered including compliance with state or territory road rules, road safety measures and licensing requirements.

As Victoria is not harmonised with the model WHS laws, this guidance does not apply in Victoria. Please contact [WorkSafe Victoria](#) for further information.

## Duties under WHS laws

As a platform, you have duties as a person conducting a business or undertaking (PCBU). Your primary duty of care is to ensure the health and safety of workers so far as is reasonably practicable (s 19). You must also ensure that the health and safety of other persons (such as pedestrians or customers) is not put at risk from the work being carried out.

The workers you owe a duty to under s 19(1) are those you engage, or cause to be engaged, or whose activities you influence or direct while the worker is at work in your business. This includes delivery riders you engage to perform delivery services through your app. From here on in, the fact sheet will refer to delivery riders as delivery workers.

The concept of 'worker' is broad and includes anyone who carries out work. This means that each platform has a duty to take all reasonably practicable measures to ensure the health and safety of all delivery workers who carry out work using the platform's app. Irrespective of whether the delivery workers are employees, independent contractors, employees of contractors etc, they are all

considered 'workers' (s 7) and are all owed this duty by the platform, including delivery workers whose activities in carrying out work are influenced or directed by the platform.

You must do specific things to ensure the health and safety of workers, such as:

- Providing any information, training, instruction, or supervision they need to work safely. This may include information about local road laws and vehicle requirements such as wearing a compliant helmet.
- If you provide plant to delivery workers (such as tools or equipment), you must ensure it is safely maintained. This may include the equipment the delivery worker is using.
- Providing and maintaining safe systems of work. This may include the design and functionality of the app and how it may affect the route the delivery worker takes to make a delivery.
- Providing and maintaining a work environment without risks to health and safety.

You must also ensure the health and safety of others is not put at risk from the work carried out by your business, so far as is reasonably practicable (s 19(2)). This includes the health and safety of those in the vicinity of where work is being performed such as pedestrians and other road users who are near the worker as they make their deliveries, as well as other members of the public and the customer receiving the delivery.

You also have a duty to immediately notify your WHS regulator of all deaths, serious injuries or illnesses, or dangerous incidents arising from the work.

The platform has a duty to consult all delivery workers who carry out work using the platform, so far as is reasonably practicable (s 47). This requires the platform to do all it can in the circumstances to consult delivery workers on health and safety matters that affect them. Further information on consultation is detailed below in this fact sheet.

## Meaning of reasonably practicable

As a PCBU, the standard you must meet to fulfil your WHS duties is to do what is 'reasonably practicable' to ensure health and safety. You must first try and eliminate the risk, so far as is reasonably practicable. If that is not possible, you must seek to minimise the risk so far as is reasonably practicable (s 17).

What is reasonably practicable is an objective test. This means that you must meet the standard of behaviour expected of a reasonable person in the duty holder's position and who is required to comply with the same duty (s 18).

To identify what is (or was) reasonably practicable, all relevant matters must be taken into account and weighed up and a balance achieved that will provide the highest level of protection that is both possible and reasonable in the circumstances. The WHS Act sets out the issues you must, at minimum, consider:

- the likelihood of the hazard or risk occurring
- the degree of harm from the hazard or risk
- knowledge about ways of eliminating or minimising the hazard or risk
- the availability and suitability of ways to eliminate or minimise the risk, and
- cost.

A risk management approach can help you determine what is reasonably practicable. You can find more information about this process in the [Code of Practice: How to manage work health and safety risks](#).

Cost can only be considered **after** assessing the extent of the risk and the ways of eliminating or minimising it. You cannot choose a control measure simply because it is cheaper.

You can find more information about costs and other relevant matters to identify what is reasonably practicable in [How to determine what is reasonably practicable to meet a health and safety duty](#).

### Officer duties

Each officer of a PCBU must exercise due diligence to ensure that the PCBU complies with all its duties and obligations (s 27). This means that each officer (for example directors and senior managers) must:

- acquire up-to-date knowledge of health and safety matters
- understand the PCBU's operations and the hazards and risks arising from those operations, and
- ensure that the PCBU is properly resourced and properly implements a systematic approach to managing health and safety.

### Workers' duties

Your workers also have duties when they are at work (s 28), including:

- Taking reasonable care of their own health and safety.
- Ensuring that their actions do not affect the health and safety of others in the work environment, including pedestrians and other road users.
- Complying with any reasonable instruction given by you about work health and safety matters, so far as they are reasonably able.
- Cooperating with your reasonable policies or procedures relating to work health and safety that you have notified to workers.

## Consulting, cooperating and coordinating activities with other duty holders

Under WHS laws, you have a duty to consult, cooperate and coordinate with other duty holders who have a duty in relation to the same matter, so far as is reasonably practicable (s 46). You must also consult with delivery workers on health and safety matters so far as is reasonably practicable (s 47).

You must not assume that others are taking care of the health and safety matter – that can lead to no action being taken and an incident occurring.

### Consultation, cooperation and coordination with other PCBUs

More than one person can have the same duty and one person can have more than one duty. When this occurs, the following principles apply to these duties (ss 14 to 16):

- A person cannot transfer their duty to others in the food delivery supply chain.
- Each person retains responsibility for their duty.
- Each person must discharge their duty to the extent that they have capacity to influence and control the matter.

In addition, the WHS Act (s 272) provides that a person cannot contract out of their health and safety duties.

This means that your agreement with a delivery worker cannot state that the worker is solely responsible for complying with WHS laws in performing deliveries or that the worker agrees that you do not owe them duties under WHS laws.

You may share a WHS duty in relation to the same matter with another business. As there is likely to be more than one PCBU who has a duty in relation to the same matter (in this case, the health and safety of delivery workers), each PCBU must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a duty in relation to the same matter (s 46). This requirement to consult, cooperate and coordinate applies to all duties, including the primary duty to ensure workers' health and safety (s 19) and the duty to consult workers (s 47).

Consulting, co-ordinating and co-operating with the other PCBUs will help you all understand the type of hazards delivery workers face and the actions required to control the risk of the hazard occurring. It will also help clearly define each PCBU's roles and responsibilities and assist PCBUs to reach agreement on who is the most appropriate person to undertake actions to control risks, ensuring each PCBU meets their WHS duties. It will also assist PCBUs to clarify where they may need to cooperate and coordinate actions to ensure health and safety.

For example, through consultation with other PCBUs you may all agree that you are in the best position to control and manage risks that may arise if workers receive inadequate training. To address risks that may arise, you agree with other parties to provide training to workers on their work health and safety duties.

### **Notifiable incidents**

An example of a WHS duty that may be shared with another business is the requirement to notify the WHS regulator of a notifiable incident (the death of a person, a serious injury or illness or a dangerous incident) where the incident arises from the conduct of your business and another business (such as the food outlet). You must notify the WHS regulator immediately after becoming aware it happened. Notifiable incidents may relate to any person – including the delivery worker, a pedestrian or customer. Failing to report a notifiable incident is an offence and penalties apply.

For more information see the [model Code of Practice: Work health and safety consultation, cooperation and coordination](#).

## **Consultation with workers**

You must consult with your workers and their health and safety representatives on health and safety matters so far as is reasonably practicable (s 47). Consultation is required when:

- identifying hazards and assessing the risks arising from delivery services
- deciding on control measures to eliminate or minimise the risk arising from delivery services
- deciding on the adequacy of facilities for the welfare of workers
- proposing changes that might affect the health and safety of workers, and
- making decisions about procedures for how you will undertake consultation, issue resolution, monitoring of workers' health and workplace conditions and providing information and training to workers.

Consultation should include consideration of:

- the design of the app if it directs or influences the way delivery workers perform work
- training required for delivery workers to ensure their safety on the road

- the type of equipment delivery workers use and its maintenance
- how work is performed, including delivery routes, timing requirements and incident reporting
- management of fatigue and risks of violence or aggression
- personal protective equipment (including high-visibility clothing), and
- ongoing communication and review of health and safety matters.

You can establish arrangements for consultation to suit your workers and the nature of your workplace, but you must consult with workers about these arrangements, including any changes you propose to make to these procedures or other procedures relating to issue resolution, monitoring and providing information and training to workers.

To achieve effective consultation, you should present any information in a way that is easily understood by your workers and take into account literacy needs and the cultural or linguistically diverse backgrounds of your workers. You should also consider how effective consultation may be affected by some workers having limited experience in the workplace (e.g. young workers) or having perceived barriers to engaging with you on safety issues.

If you and your workers have agreed to procedures for consultation, the consultation must be undertaken in accordance with those procedures.

## Health and safety representatives

Health and safety representatives (HSRs) are workers who are elected to represent the health and safety interests of their work group. Elected HSRs are given broad powers under the WHS Act, including rights to inspect places where work is carried out, to receive work health and safety information, to issue provisional improvement notices where they detect a breach of the WHS Act, and to direct that unsafe work cease.

HSRs can foster and facilitate communication between you and workers and can be a single point of contact for you when consulting with workers. HSRs can also improve the efficiency of consultations and gather key information on the work group's specific WHS interests or concerns, helping you to meet your WHS duties and improve WHS outcomes for delivery workers.

If a request is made by a worker, you must negotiate with workers to establish a work group to facilitate the election of HSRs. Union delegates or any other person that a worker nominates to represent them must be involved in negotiating work group formation.

While HSRs need to know which workers are in their work group to represent these workers, an HSR is not entitled to access any personal or medical information concerning a worker without the worker's consent (s 68(3)). Similarly, you must not share any personal or medical information regarding a worker with an HSR without the worker's consent (s 71(2)).

It may be useful to establish a process where each worker is asked to provide informed consent for their contact details to be shared with their HSR upon election so that the HSR can contact them when needed. This will help you and the HSR do their job. You must include HSRs in the consultation process with workers. You must also provide HSRs with reasonably necessary resources, facilities and assistance, and time to perform their functions.

Discrimination against a worker or HSR for seeking to exercise their rights under the WHS Act, or any attempt to coerce them not to exercise their rights, or to exercise them in a certain way, is prohibited and is an offence under the WHS Act. For more information on worker representation and participation see Safe Work Australia's [Worker representation and participation guide](#). WHS regulators are also able to assist you to set up HSR processes.

# Managing risks

To manage risks, you must identify hazards and appropriate control measures to control the associated risks.

## Common hazards

Some common hazards for delivery workers include:

- Design and organisation of work – app design and its influence on worker behaviour and fatigue.
- Unsafe systems of work, for example unrealistic delivery times leading to unsafe riding.
- Being unfamiliar with road rules or not confident in operating bikes or scooters.
- Hazards of riding on public roads and interacting with other vehicles such as buses, cars and bikes.
- Economic pressures that may encourage workers to take unnecessary risks.
- Environmental hazards, such as obstacles like street furniture, pedestrians and animals, and terrain like narrow streets, no cycling infrastructure or steep slopes.
- The effects of physical exertion, shift work and fatigue.
- Weather hazards including heat, hail, wind, rain and natural disasters.
- Visibility hazards including poor lighting and weather conditions.
- Hazardous manual tasks such as carrying and transporting heavy or awkward loads.
- Violence, aggression and harassment including from customers and others.
- Traffic fumes.
- Poorly maintained or unsuitable equipment (e.g. a bike with a flat tyre or poor brakes).
- Unsafe use of mobile devices and/or headphones while riding.

## Control measures

When implementing control measures, you must first aim to eliminate the identified risk. Where a risk cannot be eliminated, all reasonable steps must be taken to minimise that risk.

Before putting control measures in place, you must talk to your delivery workers and any HSRs about the hazards, risks and control measures and take their views into account.

**Key control measures** are outlined below. Not all control measures will be reasonably practicable for all platforms to implement.

- Ensure the app is designed to be used safely, for example by making sure it can only be used when the worker is stationary.
- Ensure the app does not encourage unsafe behaviour—for example, it should allow for safe travel time for deliveries and provide realistic expectations to customers. Delivery times should be based on average delivery worker speed and take traffic, weather conditions and time of day into account.
- Ensure the workers are able to have adequate time between deliveries for a rest break, for example by setting automated rest periods into the functionality of the app.
- Ensure there is a system for workers to report any safety risks or incidents, and they are trained in the use of that system.
- Ensure workers are trained and competent at riding bikes and scooters in a delivery context, including on roads, in traffic, at night, in adverse weather and road conditions, and when

carrying loads. It may not be reasonably practicable to assess a delivery worker's riding competence, but where this cannot be done, other processes should be in place to ensure workers have access to appropriate training and have confirmed their skills.

- Make sure workers are aware of road rules if riding on the road. A delivery worker should never ride on the road if they do not understand or know the road rules.
- Provide information so workers can identify the signs of fatigue.
- Make sure you have training, processes and policies in place and workers know how and when to report incidents (e.g. if a worker is feeling unsafe or threatened, they should call 000).
- Make sure there is training and policies and procedures in place to prevent exposure to violence, aggression and harassment. For example, encourage workers to report abusive customers and communicate to customers that violence and harassment will not be tolerated.
- Reduce the amount/weight that workers carry at one time.
- Ensure workers are using appropriate delivery bags. High visibility insulated delivery bags that can be secured to the bike or scooter are preferable.
- Consider the use of devices that detect crashes and send information to emergency services.
- Train delivery workers on safety matters, including use of PPE and how to inspect a bike before use.
- Ensure workers are encouraged to not use mobile devices while riding.
- If you provide workers with their bike/scooter, provide a system to report safety issues such as poorly maintained or damaged bike/scooter parts.

## Personal Protective Equipment

If you employ the delivery workers or if you otherwise direct them in carrying out deliveries, you also must provide personal protective equipment (PPE) to control any risks that remains after other control measures have been put into place. The correct use of PPE will depend on the type of vehicle your delivery workers are using. PPE is the least effective method for controlling risks on its own and so should always be used with other controls where possible. If you provide PPE to workers, you must:

- ensure, so far as is reasonably practicable, that workers wear PPE
- ensure it is suited to the work that delivery workers carry out, the roads they are travelling on and speeds they are travelling at, and suit each worker's size and fit. You must consult with workers when selecting PPE, and
- provide workers with information, training and instruction on how to properly use and wear PPE and how to store and maintain PPE.

You must also make sure the PPE is maintained in good working order, is clean and hygienic. PPE must be repaired or replaced where required.

You must ensure you meet the requirements of the relevant state or territory WHS regulator and road authority where your business operates. This includes requirements for safety measures and the provision of PPE.

## Review control measures

To ensure the measures are working as planned, you must consult with workers, HSRs and other duty holders to make sure they are maintained and effectively controlling the risks. If the measures are not being taken, or are not adequately controlling the risks, you must revise the measures or implement different measures. You must also ensure that training and skills of workers remain adequate and up to date.