

# 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 4: Management of risks



As a PCBU you have a duty to ensure workers' health and safety at work and ensure that other persons are not put at risk from the work.

In deciding how to control risks, you must consult other duty holders, your workers and their health and safety representatives who will be directly affected by this decision.



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.](#)



### What is risk?

Risk is the possibility that harm might occur when people are exposed to a hazard. To manage risks to health and safety you must first try to eliminate the hazard and its associated risk so far as is reasonably practicable. If you cannot achieve this, you must minimise the risks associated with the hazard so far as is reasonably practicable.



### What is the process of risk management?

Risk management is an ongoing, proactive process that helps you respond to any change in your work processes, procedures or the work environment.

The risk management process generally involves four steps:

1. Identify hazards
2. Assess risks
3. Control risks
4. Review hazards and control measures.



### Do I have to apply the risk management process if there are well established control measures in my industry?

In your industry some hazards and their associated risks may be well known and have well established and accepted control measures. In these situations, you do not need to formally assess the risk. However, you should still continually review the control measures to ensure they are effective and that the risk has been eliminated or minimised to the extent that is reasonably practicable. This must be done in consultation with other PCBUs sharing the same duty, as well as workers and any health and safety representatives.



### I don't have the time or resources to undertake a risk management process!

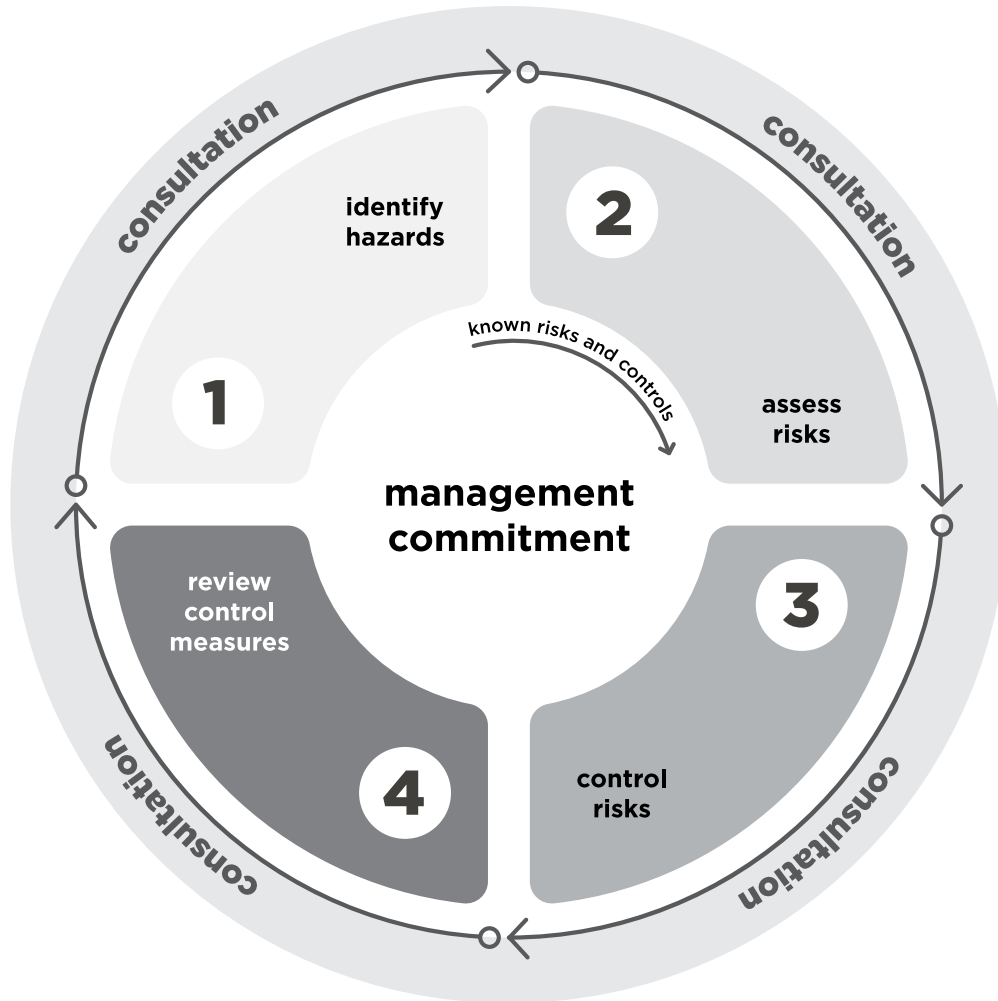
Doing nothing is not acceptable. Your WHS duties as a PCBU require that you take the time and resources necessary to manage the risks.

The process can be undertaken to varying extents depending on the hazard type and the information and resources you have available. It can be as simple as a discussion with your workers or may involve using specific risk management tools. Safe Work Australia and your WHS regulator have resources to guide you through each step.

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## Principle 4: Management of risks



### The hierarchy of control measures

The hierarchy of control measures is an effective tool to help you minimise the risks to health and safety where it is not reasonably practicable to eliminate the hazard and the associated risk.

It ranks control measures from the highest level of protection and reliability (eliminating the hazard) to the lowest (personal protective equipment).

The hierarchy of control measures can be applied in relation to any risk. The WHS Regulations make it mandatory for duty holders to work through this hierarchy when managing certain risks, including risks from construction work, hazardous atmospheres or chemicals, noise, asbestos, confined spaces, plant, falls or falling objects, hazardous manual tasks, and diving work.

### Reasonably Practicable

Reasonably Practicable is the standard you must meet in ensuring health and safety. It is intended to be a high standard. It means doing everything you are reasonably able to do to ensure health and safety.

To determine what is reasonably practicable you must first consider what can be done; that is, what is possible in the circumstances for ensuring health and safety. Then you must consider whether it is reasonable, in the circumstances, to do all that is possible.

Undertaking a risk management process will help you decide what is reasonably practicable in the circumstances.