

Outsourcing

Case Study



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This case study illustrates four key WHS principles that apply to all WHS duties in the model WHS Act and the duty to consult, cooperate and coordinate with other duty holders.

See the Safe Work Australia website to learn more:
swa.gov.au/law-and-regulation/duties-under-whs-laws/principles-apply-work-health-and-safety-duties



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.

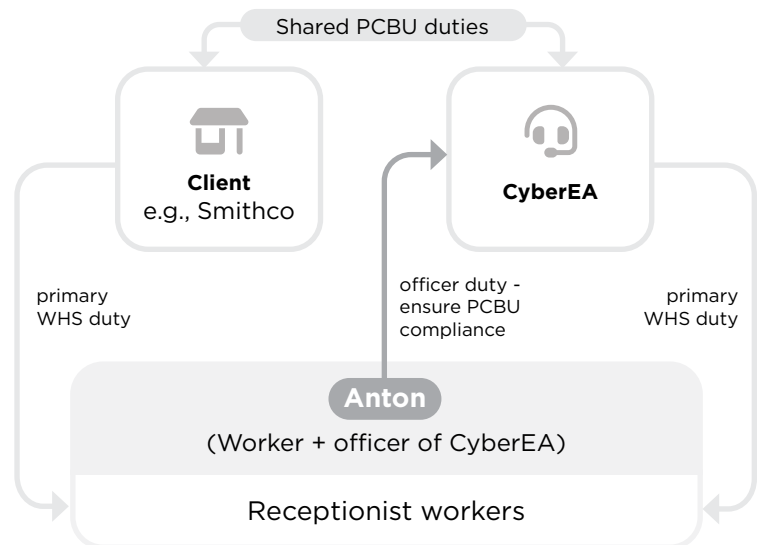


Anton owns and operates a call-answering service, CyberEA, which employs receptionists in a busy Australian city to answer telephone calls on behalf of other businesses. Using a customised script to represent another business, CyberEA receptionists perform an array of tasks for their clients, such as dispatching urgent calls and taking bookings from customers of the business.

CyberEA and each of its clients are persons conducting a business or undertaking (PCBU). As PCBUs they all have a duty to ensure, so far as is reasonably practicable, the health and safety of workers while they are at work in their business and other persons who may be put at risk from work carried out as part of the conduct of the business. Other persons include customers, visitors and suppliers of the business.

The PCBU clients cannot contract out or transfer their duties to CyberEA or vice versa. The PCBU clients and CyberEA each must discharge their duties to the extent to which they have the capacity to influence and control the work activity, workers, and the work environment.

The PCBU clients do not have control or influence over all of the receptionists' daily work activities. However, by providing call scripts each client is able to exert some control over how the receptionists take calls. This includes requiring receptionists to use a particular opening greeting, answers to common questions, and other information relevant to client interactions.



CyberEA owes a **primary duty of care** to ensure, so far as is reasonably practicable, the health and safety of its receptionists while they are at work. Anton has **more than one duty** as he is both an officer and a worker for CyberEA. As an officer he must exercise due diligence to ensure CyberEA complies with its duties as a PCBU.



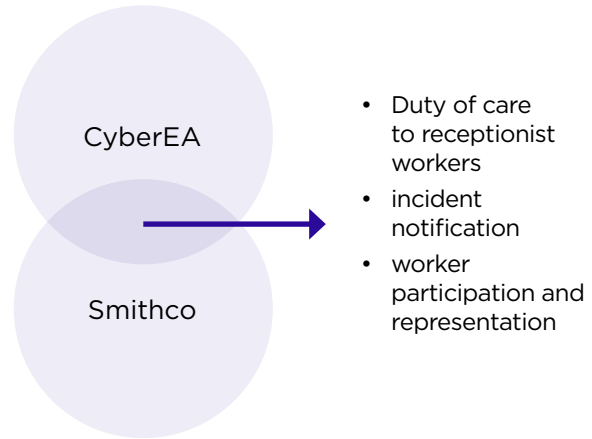
Each client of CyberEA is a PCBU who also owes a duty to ensure the health and safety of the receptionists, so far as is reasonably practicable, as the clients engaged CyberEA to carry out work as part of their business.



Shared duties and consulting, cooperating and coordinating activities



One of CyberEA's PCBU clients is SmithCo, a family law firm who engages CyberEA to provide reception services. CyberEA and SmithCo discuss the scope of services, which will include message taking, new client intake and appointment bookings. As part of its service, CyberEA will have day to day management and control over the receptionists' activities. SmithCo does not provide any direct supervision of the CyberEA workers but does provide input on the messaging and actions the receptionists must undertake when answering calls for its business.



SmithCo asks CyberEA about the management of WHS risks. SmithCo note that as they both **share the same duty** to ensure the health and safety of the receptionists, they must **consult, cooperate and coordinate** with each other to discharge their duties. CyberEA states that as it has control over the day-to-day operations of its receptionists, it is well positioned to manage many WHS risks. It already has existing systems in place to manage these risks. CyberEA informs SmithCo that it holds quarterly meetings with each of its clients to discuss concerns including new or changing WHS issues. It will do the same with SmithCo. SmithCo agrees with this approach, but also asks that CyberEA notify SmithCo as soon as possible if any new or urgent WHS issues arise, so that both PCBUs can ensure the risk is managed.

SmithCo also asks CyberEA to verify that the receptionists are provided with a safe work environment. This includes having systems in place to reduce the physical and psychological risks stemming from their call work activities. SmithCo is aware of the need for controls to minimise the risk of receptionists being exposed to abuse or aggression and other harmful behaviours. SmithCo runs a law firm that sometimes deals with people who are in a heightened emotional state. SmithCo informs CyberEA there is an increased risk of receptionists being exposed to abusive or aggressive behaviour when taking their customer calls. **Violence and aggression** are psychosocial hazards which can lead to psychological harm or injury.

CyberEA already has scripts and systems of work in place to minimise the risk of aggressive behaviour. However, it will review these current measures in light of this information, to ensure they have minimised the risks this client has highlighted. SmithCo will cooperate with CyberEA to provide further information about the type of phone calls the receptionists are likely to receive in relation to its business.

Consultation with workers

Both PCBUs also have a duty to **consult with the receptionists** and their health and safety representatives (HSRs), so far as is reasonably practicable, in relation to health and safety matters. This includes when identifying hazards and assessing risks arising from work, and when making decisions about ways to eliminate or minimise those risks. As the receptionists will be directly affected by an increase in the risk of abusive or aggressive behaviour, both PCBUs will have a duty to consult with the receptionists.

It is reasonably practicable in these circumstances for SmithCo and CyberEA to agree CyberEA will conduct the consultation with the receptionists and their HSRs. On behalf of both PCBUs, CyberEA will seek feedback and provide receptionists the opportunity to raise ideas on how to manage risks. However, this alone will not be enough for SmithCo to meet its duties; SmithCo must still confirm the action is being carried out and the risk has been addressed.

To learn more, see the [Duty to consult, cooperate and coordinate with other duty holders fact sheet](#).



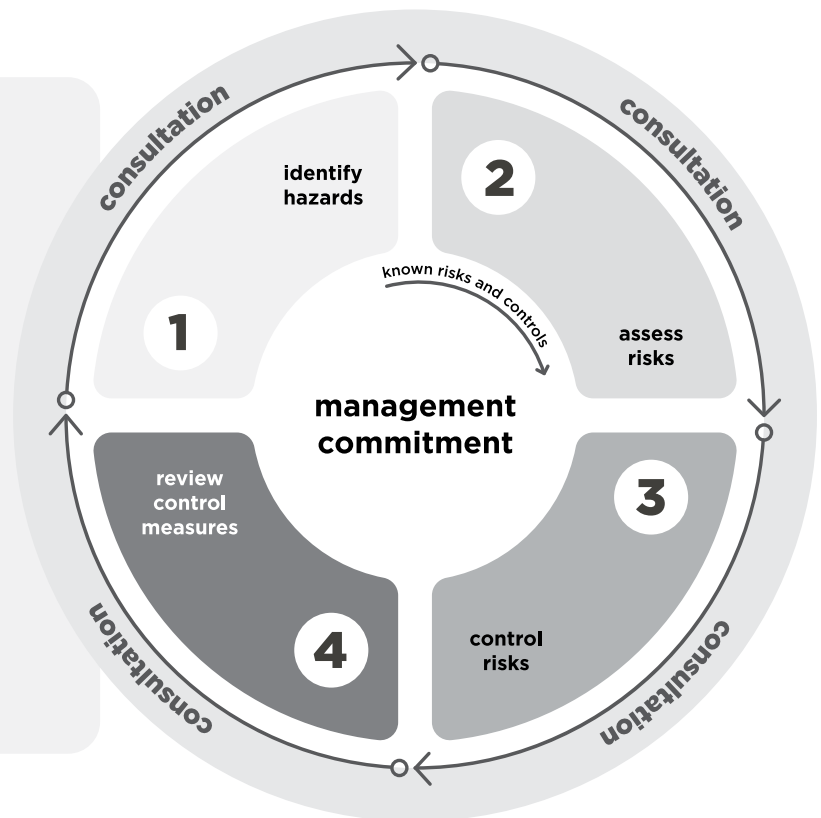
Managing WHS risks in CyberEA



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During consultation, some receptionists state there has been an increase in aggressive calls since the COVID-19 pandemic. Receptionists who work from home note they sometimes feel isolated when they receive abusive phone calls as they have no one to de-brief with after the event. Further, while the receptionists understand there are circumstances in which they can terminate or refuse a call from abusive customers, in practice, they rarely do this. They state this is because they are unsure what the threshold is to terminate or stop answering the abusive person's calls.

CyberEA also reviews records from when receptionists flag a phone call as abusive but finds this doesn't reflect the full extent of abusive calls the receptionists report during the consultation session.



As PCBUs, CyberEA and its PCBU clients must **manage risks to health and safety** by eliminating them, or if not reasonably practicable, minimising them so far as is reasonably practicable.

At all stages of this process the PCBUs must consult, coordinate and cooperate with other relevant PCBUs, so far as is reasonably practicable.

Assessing the risk

Consistent with a **risk management approach**, CyberEA reassesses the severity of the receptionists' exposure to the risk of aggressive or abusive behaviour given the feedback it has received from both SmithCo and the receptionists. It concludes the risk has increased, and current controls need to be improved to reflect this.

To help minimise the risk, CyberEA considers the design of its work. This includes procedures for terminating an abusive phone call and the system of work, such as support from supervisors and other workers. CyberEA notes the system does not reflect recent working from home changes.

Implementing control measures

CyberEA updates procedures and work practices to require supervisors to check in more regularly with the receptionists, especially following abusive or aggressive calls. Online end of shift debriefs must occur when a worker is not physically in the office.

The operating policy is also updated to provide more guidance on how to handle aggressive or abusive calls, including identifying triggers for terminating the call. CyberEA considers these are reasonably practicable measures to implement. CyberEA schedules some refresher training for its staff on interacting safely with abusive callers, as well as training in new systems of work for receptionists and supervisors, using the updated policy materials.

CyberEA also identifies additional measures that can be put in place with the cooperation and coordination of its PCBU clients. This includes working with PCBU clients to improve the scripts given to the receptionists in circumstances where there is a heightened risk of abuse from customers. For example, where a customer has an urgent issue but no immediate appointments are available, providing an avenue for escalating the matter to the business.



Managing WHS risks in CyberEA (cont.)



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Consulting, coordinating and cooperating with client PCBUs to address the risk

At the quarterly meetings it holds with each of the PCBU clients, CyberEA sets out the review it has undertaken, the measures it has already put in place and invites any feedback. CyberEA and the PCBU clients also discuss other actions each PCBU client can take, including reviewing scripts and processes.

One PCBU client suggests they could periodically send emails to customers, reminding them to be courteous and respectful to reception staff. They also suggest they could follow up directly with those customers CyberEA identifies as demonstrating abusive behaviour, in order to understand the cause and help prevent future instances. CyberEA considers this is another way to minimise repeated abusive calls and raises this measure with other PCBU clients for discussion. Some PCBU clients consider it is reasonably practicable in their circumstances to implement this with regular customers.

Monitoring and reviewing control measures

Over the next few months, CyberEA tests the new systems of work and allows time for receptionists and PCBU clients to adjust to the new control measures before assessing whether they are effective. CyberEA frequently checks in with the receptionists to seek their feedback on the improvements and provides additional supervision to make sure the changes are implemented effectively.

CyberEA's management documents the outcomes of their consultation and risk management processes and shares these with the receptionists, their HSRs and other PCBU clients. This helps to ensure all relevant stakeholders have a shared understanding of the identified risks, and how they are managed.

CyberEA and its PCBU clients continue to monitor the safety of the work environment to identify if anything more can be done to improve health and safety, making sure to provide each party with relevant information as required. CyberEA continues to meet with each of its clients on a quarterly basis to discuss and review health and safety policies and procedures.

To learn more, see the [Principle 4: Management of risks fact sheet](#)