

# Outsourcing

## Case Study

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](https://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.

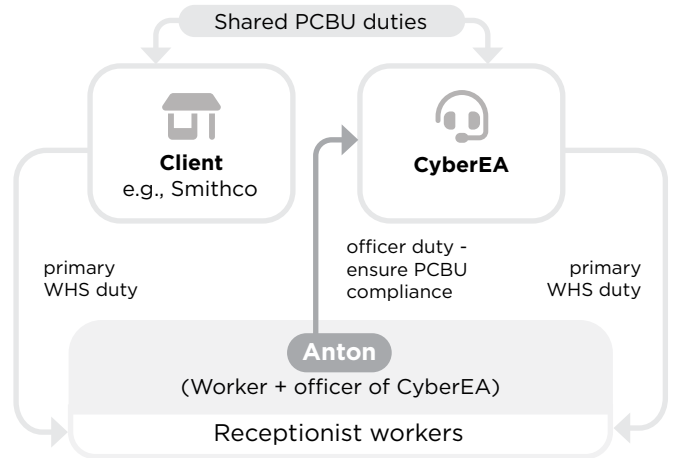


4. Management of risks.



Anton owns a call answering service company, CyberEA Pty. Ltd. CyberEA employs receptionists in a busy Australian city to answer telephone calls on behalf of clients who have outsourced their reception activities to CyberEA. Using a customised script to represent their clients, CyberEA receptionists perform an array of tasks such as dispatching urgent calls, taking bookings from customers and answering common questions.

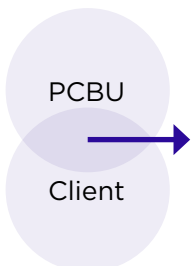
CyberEA and each of its clients are persons conducting a business or undertaking (PCBU). CyberEA has a duty to ensure, so far as is reasonably practicable the health and safety of its workers, the receptionists. Each PCBU client also owes a duty to the receptionists as workers. This is because the clients engage CyberEA to supply receptionists to carry out work for their business.



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 and 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.

CyberEA and each PCBU client also share other duties in relation to the receptionists including incident notification and worker participant and representation.



- Duty of care to receptionist workers
- incident notification
- worker participation and representation



Anton has more than one duty as he is both an officer of, and a worker in, CyberEA. As an officer he must exercise due diligence to ensure CyberEA complies with its duties as a PCBU. To learn more see [principle 2: A person can have more than one duty](#) factsheet



The PCBU clients cannot contract out or transfer their duties to CyberEA or vice versa. To learn more see [principle 1: WHS duties are not transferable](#) factsheet



## 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 receptionists to answer calls for the firm. CyberEA and SmithCo discuss the scope of services, which will include message taking, new client intake and appointment bookings. SmithCo will provide input on the messages and actions the receptionists must undertake when answering calls for its business.

To learn more see [principle 3: More than one person can have the same duty](#) factsheet

CyberEA and SmithCo must consult, cooperate and coordinate with each other to discharge their shared duties to the receptionists.

SmithCo 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 receptionist activities.

CyberEA informs SmithCo it:

- has control over the day-to-day operations of its receptionists and has existing systems in place to manage WHS risks.
- holds quarterly meetings with each of its clients to discuss concerns, including new or changing WHS issues. It will do the same with SmithCo.
- will inform SmithCo as soon as possible if any new or urgent WHS issues arise, so that both PCBUs can ensure the risk is managed.



## Managing the risk of workers being exposed to violence and aggression

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. Throughout the risk management process the PCBUs must consult, coordinate and cooperate with other relevant PCBUs, so far as is reasonably practicable.

To learn more see [principle 4: management of risks](#) factsheet.

SmithCo informs CyberEA that as a family law firm it sometimes deals with people who are in a heightened emotional state. This means 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.

Cyber EA already has scripts and systems of work in place to minimise the risk of aggressive behaviour. However, consistent with a risk management approach, it will review these current measures in light of this information, to ensure they have minimised the risks SmithCo has highlighted.

### Consultation with workers

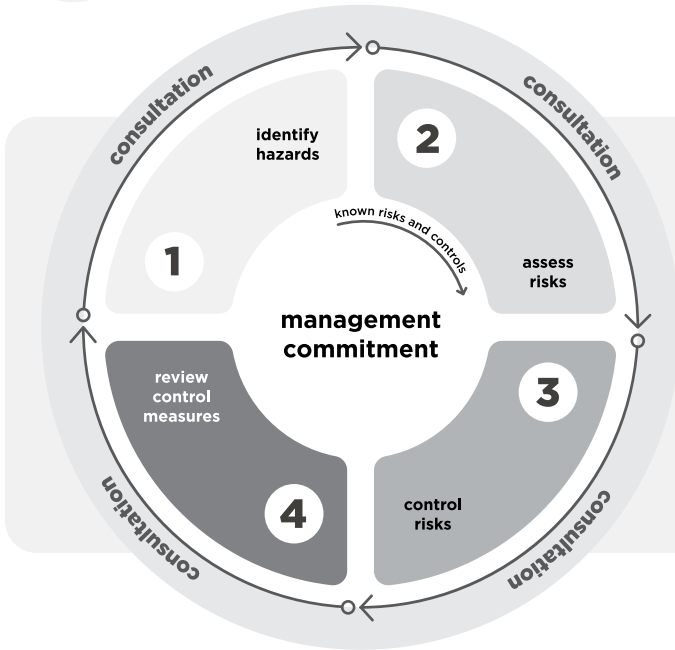
Both PCBUs also have a duty to **consult with the receptionists** and their health and safety representatives (HSRs), so far as is reasonably practicable, in relation to health and safety matters. This includes when identifying hazards and assessing risks arising from work, and when making decisions 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 (cont.)



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, the receptionists state they are unsure what the threshold is to terminate or stop answering the abusive person’s calls.

### Assessing the risk

CyberEA:

- reassesses the severity of the receptionists’ exposure to the risk of aggressive or abusive behaviour in light of the feedback it has received from the receptionists.
- concludes the risk has increased, and current controls need to be improved
- considers the design of its work to help minimise the risk e.g. procedures for terminating abusive calls, supervisor support and working from home.

### Implementing control measures

CyberEA considers the following are reasonably practicable measures to implement:

- update procedures and work practices to require supervisors to check in more regularly with the receptionists including those who are not physically in the office.
- update the operating policy on handling aggressive or abusive calls, including termination of calls.
- schedule refresher training on interacting safely with abusive callers and training on the updated work procedures.

### Consulting coordinating and cooperating with clients to address the risk

At the quarterly meetings 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.
- discusses other actions each PCBU client can take, including reviewing scripts to respond to risk of abuse from customers.

One client suggests they could periodically send emails to customers, reminding them to be courteous and respectful to reception staff. They could also follow up with customers demonstrating abusive behaviour. 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 provides the time for receptionists and clients to adjust to the new control measures before assessing whether they are effective.
- regularly checks in with the receptionists to seek their feedback on the improvements and provides additional supervision to make sure the changes are implemented effectively.
- documents the outcomes of their consultation and risk management processes and shares these with the receptionists, their HSRs and clients. This helps to ensure all relevant stakeholders have a shared understanding of the identified risks, and how they are managed.

CyberEA and its 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.