



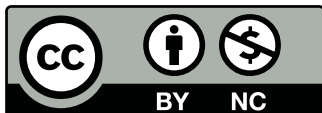
The Essential Guide
to Work Health and
Safety for Organisations
that Engage Volunteers

This resource kit was developed by Safe Work Australia in conjunction with the Department of Prime Minister and Cabinet Not-for-Profit Reform Council working group. The Working Group was comprised of representatives from peak volunteer organisations:

- Volunteering SA & NT
- Uniting Care Australia
- Anglicare Australia
- The Smith Family
- The Red Cross
- Scouts Australia
- Surf Life Saving Australia, and
- The Australian Sports Commission.

Safe Work Australia acknowledges the contribution of the working group in the development of this important resource for volunteers and the vital role volunteers play in communities around Australia.

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INTRODUCTION

1 Introduction

Everyone has a right to be safe at work, including volunteers. Volunteers play a vital role in communities across Australia and make significant contributions by carrying out unpaid work for a variety of organisations every day.

This guide provides information for anyone operating a business or undertaking on how the new work health and safety (WHS) laws apply to organisations that engage volunteers, their rights and obligations. It outlines the primary duty that organisations employing workers and engaging volunteers have under the WHS Act and explains how to meet this duty. This guide also refers to other useful resources which organisations can use to help them understand and meet their work health and safety duties. This guide is part of a resource kit that includes a separate guide for volunteer workers - *The Essential Guide for Volunteers*.

Harmonised Work Health and Safety laws

On 1 January 2012 the Australian Capital Territory, New South Wales, Queensland, the Northern Territory and the Commonwealth harmonised their WHS laws. This means that persons conducting a business or undertaking (organisations) and workers, including volunteers, in these jurisdictions are protected by the same WHS laws. Tasmania will implement the same WHS laws on 1 January 2013.

Regardless of the jurisdiction your business or undertaking operates in, the information in this guide will help you to understand the rights and obligations your organisation owes its volunteers under WHS law.

If your business or undertaking is already complying with the work health and safety requirements in your jurisdiction, that's great! Keep going - your organisation is on the right track.

Key terms used in this Guide

Some of the words used in this guide have specific meaning under WHS law. A list of these terms and their meanings are provided below.

Key Term

Person conducting a business or undertaking (PCBU)

Meaning

A person conducting a business or undertaking (PCBU) is the main duty holder under the WHS Act. They are usually the employer and may be a partnership, company, unincorporated body or association, a sole trader, a government department or statutory authority.

A volunteer organisation is a PCBU if it employs one or more paid workers.

Throughout this guide a PCBU is referred to as an '*organisation*'.

Key Term	Meaning
Reasonable care	This term describes the standard of care that workers, including volunteers must meet. It means doing what a reasonable person would do in the circumstance having regard to things like: ■ the person's knowledge ■ the person's role ■ the person's skills and the resources available to them ■ the person's qualifications ■ the information the person has, and ■ the consequences to health and safety of a failure for them to act in the circumstances.
Reasonably practicable	This term is used to qualify or limit some work health and safety duties. With work health and safety if something is reasonably practicable it means it is, or was at a particular time, reasonably able to be done, taking into account: ■ the likelihood of the hazard or the risk concerned occurring ■ the degree of harm that might result from the hazard or the risk ■ what the person concerned knows, or ought reasonably to know, about the hazard or risk, and ways of eliminating or minimising the risk ■ the availability and suitability of ways to eliminate or minimise the risk, and ■ the cost of eliminating or minimising the risk.
Volunteer	A person working without payment or reward for a PCBU.
Volunteer association	A group of people working together for one or more community purposes that do not employ any paid workers. Volunteer associations are not covered by the WHS Act.
Worker	A worker is any person who carries out work for a PCBU in any capacity, including as a volunteer.



WHO HAS DUTIES UNDER
THE WHS LAWS?

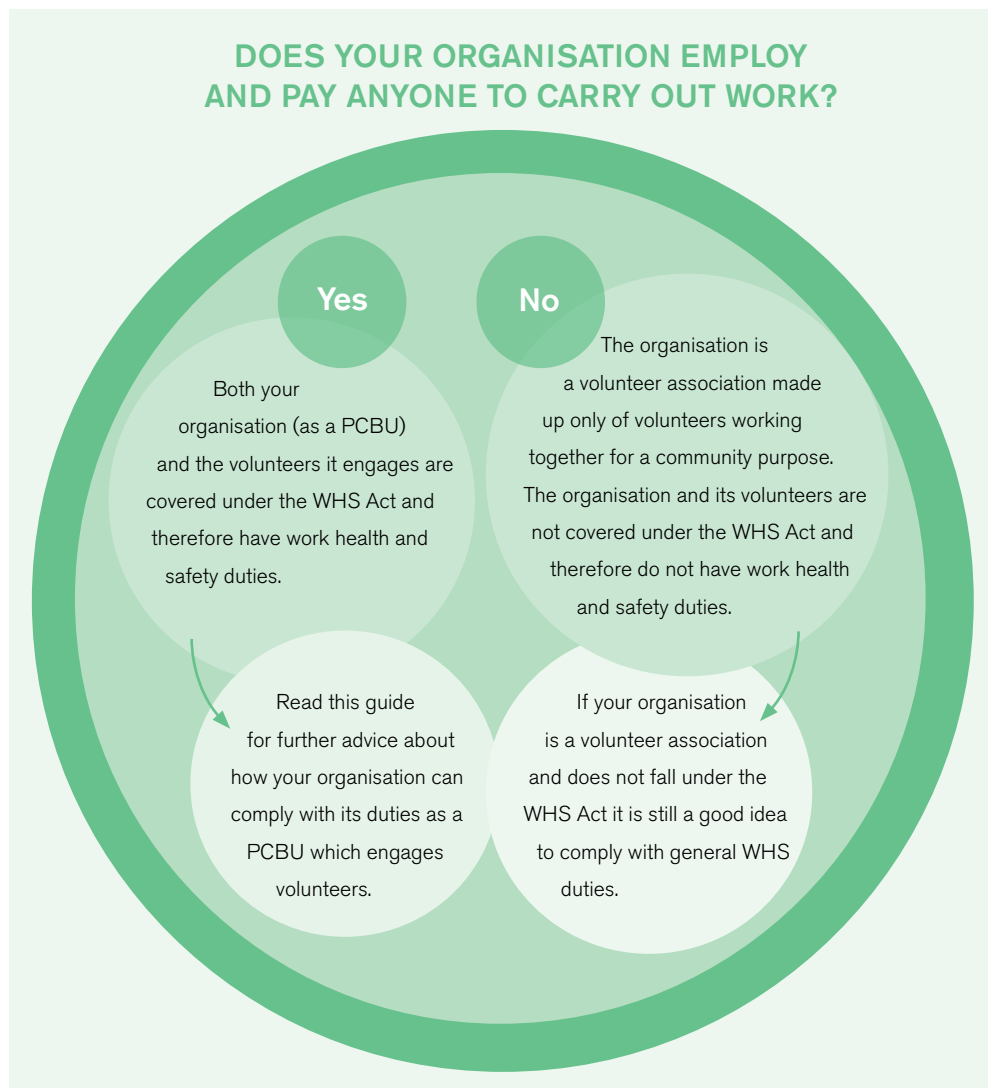
2 Who has duties under the WHS laws?

Organisations

The harmonised WHS laws require that organisations that employ paid workers ensure, so far as is reasonably practicable, the physical and mental health and safety of its workers, including volunteers.

The new WHS laws require most organisations to meet specific duties but *volunteer associations*—organisations that do not have any paid staff—do not have those duties.

Use the flow chart below to find out if your organisation owes health and safety duties.



General and common law duties of organisations who engage volunteers are well established. Australian courts have long recognised that volunteers are owed a general duty of care by the people and the organisations they support. So even if your organisation is a volunteer association and does not fall under the WHS Act it is a good idea to comply with general work health and safety duties.

Did you know?

The duty owed to volunteers is not entirely new. In Queensland, the Northern Territory South Australia and the Australian Capital Territory previous occupational health and safety laws specifically required the health and safety of volunteers to be protected. In other jurisdictions there was a duty on employers to protect other people at the workplace including volunteers and visitors.

Organisations with local groups or divisions

An organisation can consist of a national body with state and local groups or divisions. That national body will be a PCBU if they engage paid workers. Whether a state or local group or division of the organisation is also a PCBU depends on whether it is recognised as a separate entity that engages paid workers, even if it is an unincorporated association.

If a state or local group or division are identified as a PCBU, then they will owe work health and safety duties to their volunteers, unless they are classified as a volunteer association. Volunteer associations are excluded because they are made up entirely of volunteers working for the same community purpose and therefore will not have any duties as PCBUs.

The national body who is a PCBU because they employ paid workers will owe duties to all workers, including the volunteers of the state or local groups that are volunteer associations. This is because the work of those volunteers is directed or influenced by the national body. Similarly, if the state division is a PCBU (in that they employ workers) they will also owe duties to the volunteers of the local groups to the extent that they direct or influence the work that is carried out. The duty owed to the local volunteers is qualified by what is reasonably practicable for the national body or state division to do or what is reasonably able to be done.

The extent to which a duty holder can control or influence a particular thing or the actions of another person, may be relevant to what the duty holder may reasonably be expected to do to protect the health and safety of volunteers working for them in a local group.

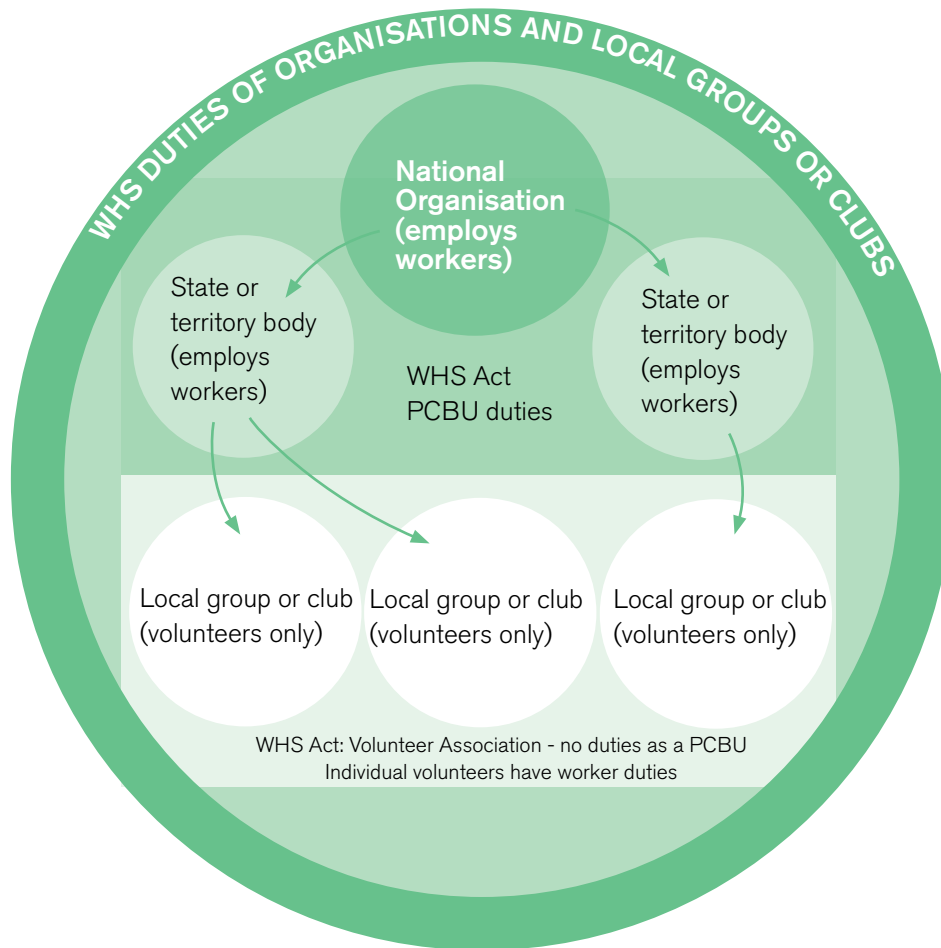
For example the national body or state division could exercise its duty to protect its workers by:

- ensuring the distribution of work health and safety policies and procedures on a range of topics to each division or group
- setting up processes to ensure consultation can occur between the national body and state and local groups or divisions.

What is reasonably practicable for a PCBU to do to ensure the health and safety of its workers, including volunteers, will vary depending on the specific structure and circumstances of each organisation.

The diagram below illustrates how these duties work.

WHS Duties of Organisations and local groups or clubs



The WHS Act requires that where more than one person, in this case more than one PCBU, has a duty for the same issue, each person retains responsibility for the matter and must discharge the duty to the extent they can influence and control the issue. In these situations, each person with a duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons with a duty in relation to the same matter.

You must ensure that your duties as a PCBU are met even if others have the duty to do so. You can meet your duty by not necessarily taking the required action yourself, but making sure and checking that another person is doing so.

Talking to, co-operating and co-ordinating activities with others who are involved in the work will make controlling risks more likely and help each duty holder comply with their duty. It can also improve the efficiency of health and safety measures.

As volunteers at the local group or club level are workers covered by the PCBU at the national or state level they also have duties under the WHS Act.

WHS laws and work

Only *work* activities are covered by the WHS laws. Activities that are purely domestic, social, recreational or private in nature are not included. Whether an activity is considered work may depend on specific circumstances. The following criteria may help determine if an activity is *work* under the WHS Act:

- the activity involves physical or mental effort or the application of particular skills for the benefit of someone else or for themselves (if self employed), whether or not for profit or payment
- activities where someone would ordinarily be paid may be considered work
- activities that are part of an ongoing process or project may be work if some of the activities are paid
- an activity may be more likely to be work if someone is managed or controlled by another person when they undertake that activity
- formal, structured or complex arrangements may be considered to be work than ad hoc or unorganised activities.

The activity may be work even though one or more of the criteria are absent or minor.

Examples of activities that are not considered work include:

- running a game of tag with children as a volunteer leader
- teaching a group of children how to light a camp fire safely, or
- leading bush walks with a group of young people on a weekend.

Examples of activities that may be considered work include:

- maintenance of the things needed to enable an organisation to carry out its work. For example maintenance work on a hall where a volunteer group meets
- activities that people are ordinarily paid to do but are carried out for your organisation by a volunteer, for instance, driving clients to appointments

For more information on what is and is not '*work*' under the WHS Act, please refer to Safe Work Australia's [Interpretive Guideline: The meaning of 'person conducting a business or undertaking'](#).

Volunteers

Under WHS law a volunteer is a person who works for an organisation without payment or financial reward (but they may receive out of pocket expenses). The law also recognises volunteers as workers. This means that your organisation must provide the same protections to its volunteers as it does to its paid workers.

As a worker, a volunteer has duties under the WHS Act (see Chapter 4). A volunteer may also be an officer of a business or undertaking with due diligence duties under the WHS Act (see Chapter 5).

A white rectangular sign is held up by two hands, one on the left and one on the right. The sign has a thin black border and contains the text "WHAT DOES YOUR ORGANISATION NEED TO DO?" in a black, hand-drawn, sans-serif font. The background of the entire page is a solid light pink color.

WHAT DOES YOUR
ORGANISATION NEED TO DO?

3 What does your organisation need to do?

If the WHS laws apply to your organisation it must ensure, so far as is reasonably practicable, the health and safety of all of its workers, including volunteers. This means that the organisation must provide the same protections to its volunteer workers as it does to its paid workers. The protection covers the physical safety and mental health of all workers, including volunteers.

This primary duty on an organisation is qualified by '*so far as is reasonably practicable*'. This means the organisation does not have to guarantee that no harm will occur, but must do what is reasonably able to be done to ensure health and safety. If your organisation is run by volunteers, this is a factor that will be taken into account in determining what is reasonably practicable for the organisation to do in any given circumstance.

Other factors that will be taken into account in determining what the organisation is required to do to protect its workers, including volunteers, are:

- the type of business or undertaking it is
- the type of work that the organisation carries out
- the nature of the risks associated with that work and the likelihood of injury or illness occurring
- what can be done to eliminate or minimise those risks, and
- the location or environment where the work is carried out.

The primary duty of an organisation includes ensuring, so far as is reasonably practicable:

- the provision and maintenance of a work environment without risks to health and safety
- the provision and maintenance of safe plant and structures and safe systems of work
- the safe use, handling and storage of plant, structures and substances
- the provision of adequate facilities for the welfare at work of workers, including volunteers, (e.g. toilets, first aid facilities)
- the provision of information, training and instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from their work.

Managing health and safety risks

A safe and healthy workplace does not happen by chance or guesswork. You have to think about what could go wrong at your workplace and what the consequences could be. Then you must do whatever you can—whatever is reasonably practicable—to eliminate or minimise the health and safety risks arising from the work your organisation undertakes.

The process of eliminating or minimising health and safety risks is called risk management and involves four steps:

1. *identifying hazards* – find out what could cause harm
2. *assess the risks if necessary* – understand the nature of the harm that could be caused by the hazard, how serious the harm could be and the likelihood of it happening
3. *control risks* – implement the most effective control measure that is reasonably practicable in the circumstances, and
4. *review control measures* – to ensure they are working as planned.

For further information refer to the [Code of Practice: How to Manage Work Health and Safety Risks](#).

Providing information, training and instruction to volunteers

Volunteer workers must be provided with information, training, instruction or supervision so they can carry out their work safely. Training and information should be tailored to the type of work your volunteers do and where they work.

Talking about health and safety

The WHS Act requires organisations to consult with workers, including volunteers, so far as reasonably practicable, about work health and safety matters that affect them.

Talking to your volunteers and other workers is a good way to ensure they contribute to the identification of hazards and the assessment and control of any risks they face when they carry out their work.

The aim of the consultation is to ensure that volunteer workers are given an opportunity to provide ideas about how to do their work safely. The organisation must take volunteer's ideas into consideration when making decisions about safety in the workplace. Discussions about work health and safety can be carried out in various ways—there is no 'one right way' to talk about work health and safety. How your organisation does it will depend on factors like:

- the nature and size of the organisation
- the type of work that is carried out, and
- the current engagement arrangements of workers, including volunteers.

Finding the right consultative arrangements

Some workplaces may need a mix of consultation arrangements to suit the different types of workers and work situations within the organisation. For example, if there are a number of full-time workers in an organisation, structured arrangements involving a health and safety committee may be suitable. An organisation may also engage contractors, on-hire workers or volunteers to carry out specific tasks. In these situations 'toolbox talks' (short discussions on specific health and safety topics relevant to the task) may be the most practical way to consult.

Your organisation might already have established ways of talking to its workers, including volunteers, about work health and safety. This can continue under the WHS Act if your organisation and its workers, including volunteers, are happy with the arrangements. Ways your organisation might consult with its volunteers include:

- sending out regular newsletters via mail or email which feature work health and safety news, information and updates
- regularly updating the volunteer section of its notice board or website with information, including its latest safe work policies and procedures
- having a 'suggestions' email box for workers, including volunteers to send suggestions to about ways to work safely and other matters
- holding regular meetings to talk to volunteers about the work they do and how to do it in the safest way
- holding short 'toolbox talks' where specific health and safety topics relevant to the task at hand are discussed, and
- through Health and Safety Representatives (HSRs), if requested by workers.

If your organisation already consults with its workers, including volunteers, about work health and safety and everyone agrees it's working well, that's great! Your organisation can keep consulting that way.

Health and Safety Representatives (HSRs)

A Health and Safety Representative (HSR) is one way for workers to be represented in relation to work health and safety matters.

The appointment of HSRs is not mandatory, and a HSR is not obliged to undertake training. An untrained HSR can exercise most powers except for directing that unsafe work cease or issuing provisional improvement notices (PIN).

Your organisation must facilitate the election of a HSR if one or more of your workers, whether paid or volunteer, ask for a HSR to be elected to represent their health and safety matters. To ensure the best representation of workers, HSRs are elected to represent specific work groups. Work groups must be determined before a HSR can be elected. There is also the option for the work health and safety regulator to become involved if an agreement can't be reached. The regulator can determine if it is not appropriate for there to be a HSR.

Health and Safety Committees (HSCs)

Health and Safety Committees (HSCs) are another way for larger organisations to facilitate consultation. HSCs are not mandatory but must be established within two months of a request to do so from a HSR or five or more workers, who may be volunteers. An organisation can also establish a HSC without a request from workers.

HSCs can assist in developing health and safety policies and procedures for the organisation.

You should also let your volunteer workers know what to do and who to contact if something happens when they are volunteering. If volunteers notice a health and safety matter that needs fixing they should know who to raise it with.

For more information about consultation refer to the:

- [Code of Practice: Work Health and Safety; Consultation, Cooperation and Coordination](#)
- [Worker Representation and Participation Guide.](#)

Notifying serious incidents

Your organisation is required to let your state or territory work health and safety regulator know if any notifiable incidents occur as a result of the work of the organisation as soon as it is reasonably able.

A notifiable incident is a serious incident that relates the work organisation carries out and involves:

- the death of a person
- the serious injury or illness of a person, or
- a dangerous incident.

To help determine what type of incident must be notified, 'serious injury or illness' and 'dangerous incident' are defined in the model WHS Act.

A *serious injury or illness* is one that requires a person to have:

- medical treatment within 48 hours of exposure to a substance
- immediate treatment as an in-patient in a hospital, or
- immediate treatment for a serious injury or illness such as a serious head injury, a serious burn or a spinal injury and a number of other injuries listed in the model WHS Act.

Importantly, it does not matter whether a person actually received the treatment referred to in this definition, just that the injury or illness could reasonably be considered to need the treatment.

A *dangerous incident* is an incident in a workplace that exposes a worker or any other person to a serious risk to their health or safety emanating from an immediate or imminent exposure to a number of risks. These risks include an uncontrolled escape, spillage or leakage of a substance, an electric shock, a fall from a height or the collapse of a structure.

If a notifiable incident occurs it is the responsibility of the person with management or control of a workplace to ensure, so far as is reasonably practicable, that the site is not disturbed until an inspector arrives or otherwise directs.

To ensure your organisation satisfies this duty, you could require your volunteer workers to inform your organisation immediately of any incidents that occur. While only incidents that cause serious injury or illness will be considered notifiable, being

informed of any other incidents may help your organisation to comply with its duties under the WHS Act. Your organisation may even create and implement a policy or procedure for reporting of incidents. Talking with volunteers about the less serious incidents that might arise from the work of your organisation may also help to prevent more serious incidents from happening in the future.

Resolving issues

The WHS Act outlines a process for the resolution of issues about work health and safety arising out of:

- work carried out at the workplace, or
- from the conduct of the organisation.

The issue resolution process applies after a work health and safety matter is raised but not resolved to the satisfaction of any party after discussing the matter. All parties involved in the issue must make reasonable efforts to come to an effective, timely and final solution of the matter.

If a work health and safety matter cannot be resolved by talking with all involved parties then your organisation needs to follow the issue resolution process set up in the WHS laws.

For more information on issue resolution and the WHS laws contact your work health and safety regulator.





WHAT DO YOUR VOLUNTEERS
NEED TO DO?

4 What do your volunteers need to do?

Volunteer workers also have health and safety duties to:

- take reasonable care for their own health and safety
- take reasonable care to ensure they don't affect the health and safety of other people, for example, other volunteers, members of the public or clients they may be assisting
- comply, so far as they are reasonably able, with any reasonable instruction that is given to them by your organisation, and
- co-operate with any reasonable policy or procedure that your organisation has provided to them.

Essentially what is reasonable care and what is expected of workers is what a reasonable person would do in the circumstances having regards to things like:

- their knowledge
- their role
- their skills and the resources available to them
- their qualifications
- the information that they have, and
- the consequences to health and safety of a failure to act in the circumstances.

Volunteers are unlikely to be prosecuted

If your volunteers do the things listed in the previous section when carrying out work for your organisation they cannot be fined or prosecuted under the WHS Act.

In some jurisdictions work health and safety duties have been placed on volunteers for more than two decades but there have been no reported prosecutions of volunteers under those laws. Likewise, there have been no prosecutions of volunteers under the new WHS laws.

Prosecutions against paid workers in the past have been rare and only in relation to serious incidents where there was a high degree of recklessness or negligence.

It is expected that work health and safety Regulators will take the same approach under the new WHS laws in relation to paid workers and volunteers and that prosecutions will be as rare as they have been in the past.



OFFICER DUTIES

5 Officer Duties

Under WHS law an officer of an organisation is not necessarily a volunteer or other worker who has 'officer' in their job title, for example, first aid officer, health and safety officer or administrative officer.

Volunteers may sit on the board of your organisation or be in another role where they make, or participate in making, decisions that affect the whole or a substantial part of your organisation. Their decisions may also have the capacity to significantly affect the organisation's financial standing. Only if a person makes, or participates in making, these kinds of decisions are they an 'officer' under the WHS Act.

Duties of officers

Any officer of an organisation, volunteer or paid, must exercise due diligence to ensure that the organisation complies with its health and safety duties. This means they must ensure that the organisation has appropriate systems of work in place and they must actively monitor and evaluate health and safety management within the organisation.

Exercising due diligence as an officer means that officers must take reasonable steps to:

- continuously learn about and keep up to date with work health and safety matters
- have an understanding of the nature of the work the organisation does and stay aware of the risks workers and volunteers may face when working for the organisation
- ensure and verify that the organisation has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety
- ensure and verify the organisation has processes in place for communicating and considering information regarding work health and safety and responding to that information, and
- ensure and verify the organisation has, and implements, processes for complying with any duties and requirements under WHS law.

More information on a volunteer officer's duties are explained in the *Essential Guide to Work Health and Safety for Volunteers*.

There are things that the organisation can do to help volunteer officers fulfil their due diligence duty and at the same time ensure that their organisation is complying with its health and safety duties. For example the organisation may:

- make work health and safety a standing agenda item on board meeting agendas
- implement a process for evaluation and review of safe work policies and procedures

- provide officers with an avenue or contact person to ask questions about work health and safety in the organisation, for example the work health and safety manager or the human resource manager
- provide training or information to its officers about the WHS laws and the work of the organisation which is carried out by its workers, including volunteers.

Volunteer officers cannot be prosecuted

A volunteer officer cannot be prosecuted for failing to comply with their officer duties under the WHS Act. This immunity for volunteer officers is designed to ensure that voluntary participation at the officer level is not discouraged. A volunteer officer can however be prosecuted in their capacity as a worker if they do not take reasonable care as a worker (see Chapter 4).

Officers who are not volunteers can be prosecuted for failing to comply with due diligence duties under the WHS Act.





VOLUNTEERS WORKING
FROM A HOME

6 Volunteers working from a home

Your organisation may engage volunteers who carry out work for you in their own home. If this is the case, your organisation still needs to talk to its volunteers about doing work safely.

Volunteers you engage who do work for your organisation from their own home still need to take reasonable care of their own health and safety and ensure what they do for your organisation does not affect others. They also need to follow any reasonable instructions given to them by your organisation and cooperate with reasonable policies and procedures of the organisation that relate to work health and safety.

Private homes as a workplace

Because your organisation obviously does not own, control or manage the places that these volunteers work from (their homes) it means your organisation has a limited ability to ensure a volunteers health and safety when at work. Your organisation must still comply with its duty to ensure the health and safety of its volunteers but what is reasonably practicable for your organisation will be different than if your volunteers worked in a workplace that you have control over.

For example to meet this duty your organisation might give its volunteers who work from their own home information or advice about how to set up a comfortable workstation, or safely carry out the work they have been assigned. Your organisation might also ensure its volunteers have all the equipment they need to do the work they are given. Similar to when a volunteer works in another person's private home, the organisation might ask its volunteers who work from their own home questions about their homes to gather enough information so that the instructions the organisation provide are appropriate and practical to address the relevant risks to volunteer's health and safety when carrying out the work.

Volunteering in other people's homes

Your organisation might engage volunteers who carry out work in other people's homes. If this is the case, your organisation should provide these volunteers with information about the home they will be visiting before they go there. The organisation might tell its volunteers about specific hazards to be aware of in the home, for example there may be a dog in the yard or the stairs might be particularly steep.

If volunteers visit a number of homes it may not be reasonably practicable for your organisation to provide information about specific hazards in each home. However, the organisation should provide its volunteers with information about the types of hazards they might encounter.

Your organisation should always provide your volunteers with any other information that they need to carry out their volunteer work safely.

It is not a requirement that two volunteers attend a home to carry out work for an organisation at any time however your organisation may ask your volunteers to do so as a way of better ensuring their health and safety.



EMERGENCY SERVICE VOLUNTEER ORGANISATIONS

7 Emergency Service Volunteer Organisations

Emergency service organisations have always owed duties to take care of the health and safety of their workers and others at their place of work. The WHS Act makes it clear that the duties of organisations are owed to all workers, including volunteers. Volunteers are entitled to the same protections as paid workers.

WHS laws do not affect the ability of emergency service organisations to respond to incidents as long as they continue to ensure, so far as is reasonably practicable, the health and safety of their workers, including volunteers, and other people. This does not mean your emergency service organisation must guarantee the health and safety of its workers, it simply needs to ensure it does all that can be reasonably done to keep its workers, including volunteers, safe.

Duties of emergency service organisations

The WHS laws treat emergency service organisations in exactly the same way as any other organisation or volunteer association. The primary duty on an organisation is to ensure, so far as is reasonably practicable, the health and safety of its workers, including volunteers of local groups or clubs, and others. Organisations, including emergency services, also have duties for the management and control of workplaces and the management or control of fixtures, fittings or plant at the workplace.

Emergency service volunteers and 'officers'

Under the WHS Act an officer of an organisation does not mean someone with the word 'officer' in their job title, for example 'first aid officer', 'health and safety officer' or administrative officer.

Some workers, including volunteers may sit on the board of an organisation or be in another role where they make, or participate in making, decisions that affect the whole or a substantial part of the organisation. The decisions they make may also have the capacity to significantly affect the organisation's financial standing. Only if a volunteer makes, or participates in making, these kinds of decisions are they are an officer under the WHS Act.

Officers under the WHS Act have duties to exercise due diligence to ensure that the emergency service organisation has appropriate and robust work health and safety measures in place for all its staff and volunteers (see Chapter 5).

Is an 'incident controller' an officer?

Under the WHS Act an incident controller is unlikely to be an officer. Although incident controllers may direct particular response operations, they do not generally make, or participate in making, key decisions which affect the whole or a substantial part of an organisation or on how the organisation operates.

An officer under the WHS Act is determined by the individual's level of involvement in decision making for the whole or substantial part of the organisation. It is not determined by a role taken in response to a specific emergency (see Chapter 5).

Attending the same incident as other emergency service organisations

Sometimes more than one emergency service organisation will attend the same incident. For example, a car accident might be attended by the volunteer fire brigade, the State Emergency Service and the ambulance service. As they may all be PCBU's or organisations that employ paid workers, they all have duties and obligations under WHS law. Each organisation at the scene has a duty to ensure, so far as is reasonably practicable, the health and safety of their workers, including volunteers. They also must ensure, so far as is reasonably practicable, that their activities do not expose others to unnecessary risk.

To help each organisation meet their duty under the WHS Act each organisation must also, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with each other.

Risk assessments

There is no need for emergency service organisations to stop and complete paper work before responding to the emergency situation at hand.

An emergency service organisation may consider that there is a real risk during the emergency for people to overlook or simply forget agreed safety processes and procedures. To help to minimise this risk the emergency service organisation may want to develop a checklist to remind incident commanders of things to look out for and steps to follow in an emergency. Whether or not a checklist is required to meet the organisation's work health and safety duties, and what would be most effective given the urgent nature of the required emergency response, is something the organisation needs to consider by talking with its workers, including volunteers.



BULLYING, HARASSMENT AND DISCRIMINATION

8 Bullying, harassment and discrimination

Workplace bullying

Your organisation has a work health and safety responsibility to ensure not only the physical health of your volunteer workers but also their mental health. This includes doing what you can to ensure they are not exposed to workplace bullying, harassment and discrimination.

The responsibility to prevent workplace bullying, harassment and discrimination is covered in the WHS Act by the duty to provide a healthy and safe working environment and safe systems of work.

Volunteer workers also have a duty to ensure that their actions do not constitute a risk to their own health and safety or that of other people in the workplace.

Your organisation needs to send a clear message that bullying will not be tolerated and provide information to volunteer workers about who they can contact if they are bullied in the workplace.

WHS and discrimination

The WHS Act also expressly prohibits the discrimination or unfair treatment of workers, including volunteers, because they have raised a work health and safety concern. A person found to be engaging in this type of discrimination may be liable to criminal penalties.





OTHER LAWS

9 Other laws

WHS laws are not the only laws that your organisation should be aware of. Below is an outline of some of the laws that your organisation should know about when engaging volunteers. You should seek further information on these laws and other laws from the relevant government body.

Anti-discrimination laws

In addition to the protections from discrimination in the WHS laws, state, territory and Commonwealth anti-discrimination laws prohibit discrimination of a person because of that person's attributes. For example, the laws prohibit discrimination because of a person's race, gender, age, disability, religious belief, political belief, parental status or trade union activity as well as other attributes.

The [Commonwealth Human Rights and Equal Opportunity Commission website](#) provides information about Commonwealth anti-discrimination laws and links to the websites of [State and Territory anti-discrimination bodies](#).

Workers compensation and insurance cover

Generally, volunteers are not covered by workers' compensation laws. Therefore it is important to ensure that your organisation has appropriate insurance that adequately covers its workers, including volunteers and the activities they carry out when volunteering. This means checking that existing policies, like public liability policies, extend to volunteers.

The most common types of insurance cover are:

- Public Liability Insurance
- Personal Accident Insurance
- Directors and Officers Liability
- Professional Indemnity Insurance, and
- Motor Vehicle Comprehensive Insurance.

The [Volunteering Australia website](#) provides information about the most common types of insurance that covers volunteers.

Working with vulnerable clients

Organisations that engage volunteers and work with vulnerable clients have an increased duty of care. These organisations should have appropriate policies and procedures in place which cover things such as reference checks, training and induction, supervision and clear processes for volunteers and others to raise concerns.

Workplace relations laws

Workplace relations laws do not consider volunteers to be workers. Arrangements made between volunteers and organisations must not include an intention to progress to a paid employment relationship. Volunteers can only be engaged as volunteers under workplace relations law if they agree to carry out work for the organisation for

no payment. The arrangement must be at the volunteer's own free will. There must not be any element of coercion in the relationship.

Whether or not an arrangement between a person and an organisation is a volunteer arrangement depends on a number of factors including the details of the situation, in particular whether or not there was an intention to create a paid employment relationship. An unpaid work trial, work experience or other type of work is not and must not be considered to be a voluntary arrangement.

Employment relationships are governed by the Fair Work Act 2009 or state or territory industrial relations laws. You can find information about workplace laws on the [Fair Work Ombudsman website](#).

Protection from personal civil liability but not criminal liability

Across Australia there are laws that protect volunteers from incurring personal civil liability if anything they do, or fail to do, when volunteering results in loss or damage to another person. As noted above your organisation should ensure it has the appropriate insurance to cover its volunteers for these purposes.

These laws will not protect a volunteer from personal liability for any damage or loss that results from anything they do, or fail to do, while under the influence of drugs or alcohol or while acting outside the scope of activities authorised by the organisation or contrary to the organisation's activities. These laws will also not protect a volunteer from criminal liability, other than in limited situations where a volunteer has acted in good faith. For example, damaging property that they believed was necessary to aid in responding to an emergency.

For instance, if a volunteer is involved in a car accident when driving as part of their volunteer work these laws will generally place any civil liability resulting from damage on the organisation that the person volunteers for. But, if the volunteer was engaging in criminal conduct, such as speeding, drink driving or dangerous driving they would be personally liable for the damage.

There are some differences between the volunteer protection laws in each jurisdiction. For instance, in some states and territories a volunteer is not protected by these laws if insurance laws apply to any liability that the volunteer may face, such as compulsory third-party motor vehicle insurance.

The [Volunteering Australia website](#) provides further information on insurance for volunteers or contact your state or territory WorkCover authority.



CHECKLIST

10 Checklist for volunteer organisations

If your organisation is covered by the WHS laws, this checklist may be used as a guide to assist in complying with work health and safety duties. It is not a comprehensive list and there may be other actions needed to comply.

Question		Yes	No
Duties of organisations (Chapter 2 and 3) If you answer 'No' to questions 1-7 or are unsure, you need to take corrective action to meet your work health and safety duties.			
1	Does your organisation have and keep up to date safe work policies, instructions and procedures?		
2	Does your organisation tailor and distribute its safe work policies, instructions and procedures?		
3	Does your organisation make sure all its volunteers are provided with training, information, instruction and supervision so that they can do their work safely?		
4	Does your organisation provide the same protections to its volunteers as its paid workers?		
5	Does your organisation consult its volunteers about work health and safety matters that affect them?		
6	Does your organisation provide its volunteers a way to raise work health and safety matters and make suggestions for work health and safety practices?		
7	Does your organisation tell its volunteers about what to do and who to tell if something goes wrong while they are volunteering?		
Officer Duties (Chapter 5) If you answer 'No' to any relevant questions at 8-15, you need to take corrective action to ensure your organisation meets its work health and safety duties.			
8	Has your organisation identified who are its officers, paid or volunteer?		
9	Do all officers in your organisation know what their duties are under the WHS Act?		
10	Do the members of your organisation's board talk about work health and safety matters, policies, procedures and safe work practices at its meetings?		

Question		Yes	No
Volunteers working from their own or other people's homes (Chapter 6)			
11	Does your organisation provide its volunteers who work from their home instructions, information and procedures relating to working from home?		
12	Does your organisation provide its volunteers who volunteer in other people's homes information about the hazards they may encounter when visiting another person's home?		
Emergency Service Volunteer Organisations (Chapter 7)			
13	Does your emergency service organisation consult, cooperate and coordinate with other emergency service organisations that attend the same incident at the same time as your organisation?		
14	Does your emergency service organisation have safe practices, policies and procedures it activates when responding to an incident?		
15	Does your emergency service organisation know who its 'officers' under WHS laws are?		

