

BSBWHS302

Apply knowledge of WHS legislation in the workplace

Release 1

Learner guide

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Aspire Version 1.1

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BSBWHS302 Apply knowledge of WHS legislation in the workplace Release 1

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Before you begin

This learner guide is based on the unit of competency *BSBWHS302 Apply knowledge of WHS legislation in the workplace*, Release 1. Your trainer or training organisation must give you information about this unit of competency as part of your training program. You can access the unit of competency and assessment requirements at: www.training.gov.au.

How to work through this learner guide

This learner guide contains a number of features that will assist you in your learning. Your trainer will advise which parts of the learner guide you need to read, and which practice tasks and learning checkpoints you need to complete. The features of this learner guide are detailed in the following table.

Feature of the learner guide	How you can use each feature
Learning content	Read each topic in this learner guide. If you come across content that is confusing, make a note and discuss it with your trainer. Your trainer is in the best position to offer assistance. It is very important that you take on some of the responsibility for the learning you will undertake.
Examples and case studies	Examples of completed documents that may be used in a workplace are included in this learner guide. You can use these examples as models to help you complete practice tasks and learning checkpoints. Case studies highlight learning points and provide realistic examples of workplace situations.
Practice tasks	Practice tasks give you the opportunity to put your skills and knowledge into action. Your trainer will tell you which practice tasks to complete.
Video clips	Where QR codes appear, learners can use smartphones and other devices to access video clips relating to the content. For information about how to download a QR reader app or accessing video on your device, please visit our website: www.aspirelr.com.au/help
Summary	Key learning points are provided at the end of each topic.
Learning checkpoints	There is a learning checkpoint at the end of each topic. Your trainer will tell you which learning checkpoints to complete. These checkpoints give you an opportunity to check your progress and apply the skills and knowledge you have learnt.



Foundation skills

As you complete learning using this guide, you will be developing the foundation skills relevant for this unit. Foundation skills are the language, literacy and numeracy (LLN) skills and the employability skills required for participation in modern workplaces and contemporary life.

The following table outlines specific foundation skills noted for your learning in this learner guide.

Foundation skill area	Foundation skill description
Learning	<ul style="list-style-type: none"> Identifies and evaluates information from formal and informal sources to update knowledge
Reading	<ul style="list-style-type: none"> Interprets a range of textual information to determine regulatory and procedural requirements and necessary actions
Writing	<ul style="list-style-type: none"> Documents WHS information in a sequential manner using required format, correct grammar and industry specific language
Oral communication	<ul style="list-style-type: none"> Provides information or advice using language appropriate to audience Uses listening and questioning to clarify and confirm understanding
Navigate the world of work	<ul style="list-style-type: none"> Follows policies, procedures and legislative requirements relevant to own role Keeps up to date on changes to legislation or regulations relevant to own role
Interact with others	<ul style="list-style-type: none"> Selects appropriate communication protocols and conventions to provide or seek information
Get the work done	<ul style="list-style-type: none"> Plans, sequences and prioritises tasks and activities to support compliance with WHS regulatory requirements Initiates standard procedures in response to non-compliance issues, requesting assistance if necessary Uses the main features and functions of digital tools to complete work tasks and access information

What do you already know?

Use the following table to identify what you may already know. This may assist you to work out what to focus on in your learning.

Topic	Key outcome	Rate your confidence in each section
Topic 1 Determine the legal framework for WHS in the workplace	1A Identify and access current WHS legislation and related documentation	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1B Apply knowledge of the relationship between WHS Acts, regulations and codes of practice	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1C Identify duty holders	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1D Identify legal obligations for consulting and training workers and health and safety representatives	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	1E Identify the consequences of noncompliance with WHS legislation, policies and procedures	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
Topic 2 Contribute to activity that reflects WHS legislative requirements	2A Contribute to monitoring legislative compliance	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	2B Contribute to ensuring legislative compliance	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	2C Identify and take appropriate action on noncompliance	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	2D Recognise the limits of your own expertise and legal duties and access help	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
Topic 3 Keep up-to-date with legislation and relevant publications	3A Use relevant sources to keep up-to-date with legislation and publications	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident
	3B Communicate information on legislative changes and publications	<input type="checkbox"/> Confident <input type="checkbox"/> Basic understanding <input type="checkbox"/> Not confident

Topic 1

Determine the legal framework for WHS in the workplace

Work health and safety (WHS) legislation is one of the most important pieces of legislation dealing with the work environment in Australia. It addresses the fundamental right of all workers to a safe and healthy work environment.

The Commonwealth and relevant state and territory WHS Acts are part of a WHS legislative framework that includes health and safety regulations that support the legislation, and codes of practice that provide practical guidance on how to meet the standards set out in the Act.

It is essential that you understand your responsibilities in regard to workplace safety. This means understanding the legislation you are expected to follow and the health and safety procedures and requirements of the organisation you work for.

In this topic you will learn how to:

- 1A Identify and access current WHS legislation and related documentation
- 1B Apply knowledge of the relationship between WHS Acts, regulations and codes of practice
- 1C Identify duty holders
- 1D Identify legal obligations for consulting and training workers and health and safety representatives
- 1E Identify the consequences of noncompliance with WHS legislation, policies and procedures

1A

Identify and access current WHS legislation and related documentation

WHS legislation is designed to protect the health, safety and welfare of all people at work. This applies to all industry sectors. In addition to your main job role and duties, you have a responsibility to participate in reviewing and contributing to achieving compliance with WHS legislation in the workplace. You therefore need to be aware of and know how to access current WHS legislation and other WHS documentation relevant to your specific workplace, occupation and industry. This documentation includes regulations, codes of practice and your organisation's health and safety policies and procedures.

Keeping up-to-date with this information is essential. One of the most significant changes has been the national workplace health and safety reforms that resulted in development of the *Work Health and Safety Act 2011* (Cth) and model regulations and codes of practice. These reforms are designed to improve national workplace health and safety by simplifying the system and making laws more consistent across Australia.

WHS legislation: the framework

On 1 January 2012, the *Work Health and Safety Act 2011* (Cth) came into effect, replacing the *Occupational Health and Safety Act 1991* (Cth). The Australian Government developed this model legislation to harmonise WHS laws across the nation.

The harmonisation of WHS laws, according to the Explanatory Memorandum – Model Work Health and Safety Bill (Safe Work Australia, 2010), had several objectives as outlined here.

The objectives of the harmonisation of WHS laws

- Protect the health and safety of workers.
- Improve safety outcomes in workplaces.
- Reduce compliance costs for business.
- Improve efficiency for WHS regulators.

WHS legislation: the Commonwealth regulator

For the Act to be legally binding, it must be passed by the Parliament in each state and territory. Although the aims of the various Acts may be similar, it is important for you to find out about the specific legislation that applies to your workplace. By regularly visiting the relevant website, you can keep up-to-date with current legislation. If you have difficulty finding or understanding the material, you can approach your supervisor or a WHS specialist for assistance.

For more information about the Commonwealth authority, Comcare (at: www.comcare.gov.au) implements the Australian Government's policies in federal workplaces – *Work Health and Safety Act 2011* (Cth).

WHS legislation: the state regulators

The following table provides the name of the health and safety legislation and the regulator responsible for its implementation in each state and territory, as at the time of publication.

Region	Health and safety legislation	WHS regulator
Commonwealth	<i>Work Health and Safety Act 2011</i> (Cth)	Comcare www.comcare.gov.au
Australian Capital Territory	<i>Work Health and Safety Act 2011</i>	WorkSafe ACT www.worksafe.act.gov.au
New South Wales	<i>Work Health and Safety Act 2011</i>	WorkCover NSW www.workcover.nsw.gov.au
Northern Territory	<i>Work Health and Safety Act 2011</i>	NT WorkSafe www.worksafe.nt.gov.au
Queensland	<i>Work Health and Safety Act 2011</i>	WorkCover Queensland www.worksafe.qld.gov.au
South Australia	<i>Work Health and Safety Act 2012</i>	SafeWork SA www.safework.sa.gov.au
Tasmania	<i>Work Health and Safety Act 2012</i>	WorkSafe Tasmania www.worksafe.tas.gov.au
Victoria	<i>Occupational Health and Safety Act 2004</i> (Vic)	WorkSafe Victoria www.worksafe.vic.gov.au
Western Australia	<i>Occupational Safety and Health Act 1984</i> (WA)	WorkSafe WA www.worksafe.wa.gov.au

WHS legislation: Safe Work Australia's guide

While state and territory WHS legislation may vary, all legislation has the objective of creating and maintaining a safe and healthy working environment by requiring the provision of a safe workplace, adequate training and supervision and the control of workplace hazards and risks.

WHS legislation imposes strict duties of care on persons conducting a business or undertaking (PCBUs), including employers and their representatives, and on workers themselves to ensure the health and safety of all workers and others that may be affected by the businesses activities.

Safe Work Australia's *Guide to the Model Work Health and Safety Act* provides an explanation of the aims of the Model WHS Act.

Aims of the WHS Act according to Safe Work Australia's Guide to the Model WHS Act:

- Protect the health and safety of workers and other people by eliminating or minimising risks arising from work or workplaces.
- Ensure fair and effective representation, consultation and cooperation to address and resolve health and safety issues in the workplace.
- Encourage unions and employer organisations to take a constructive role in improving WHS practices.
- Assist businesses and workers to achieve a healthier and safer working environment.
- Promote information, education and training on WHS.
- Provide effective compliance and enforcement measures.
- Deliver continuous improvement and progressively higher standards of WHS.

Regulations

WHS regulations supplement the WHS Act, and the Acts of those states yet to harmonise, by providing more detailed information about WHS obligations and the duties that apply in relation to particular hazards. They specify how some duties under the WHS Act must be met and the procedural or administrative processes that must be in place.

A wide range of matters are covered by the regulations, including:

- representation and participation
- managing risks to health and safety and general workplace management
- hazardous work involving noise, hazardous manual tasks, confined spaces, falls, demolition work, electrical safety, licensing of high-risk work
- accreditation of assessors of competency
- plant and structures
- construction work
- hazardous chemicals
- asbestos
- major hazard facilities
- mines.



Codes of practice

Codes of practice, sometimes referred to as compliance codes, provide practical guidance on how to meet the standards contained in WHS Acts and regulations.

Codes of practice are generally developed through consultation with representatives from industry, workers and employers, special interest groups and government agencies. They provide guidance on a range of matters, including duty of care, hazard identification, risk assessment processes and risk control.

The following are examples of model codes of practice developed by Safe Work Australia:

- How to Safely Remove Asbestos
- WHS Consultation, Cooperation and Coordination
- First Aid in the Workplace
- Hazardous Manual Tasks

How to access codes of practice

You need to be familiar with the codes of practice that apply to your industry. Codes of practice are available on the Safe Work Australia website and from your state/territory's WHS authority. Although they are not enforceable by law, codes of practice should be followed unless there is an alternative course of action that achieves the same or better standards. Employers and workers are failing to meet their obligations if they have not adopted a method as safe as, or safer than, the code.

Codes of practice deal with particular issues and do not cover all hazards or risks that may arise. Duty holders must consider all risks associated with work, not just those risks for which regulations and codes of practice exist.

You can keep up-to-date with your state or territory's codes of practice by regularly visiting the website of your state or territory's WHS authority or Safe Work Australia.



Standards

The following are three types of standards that may be relevant to your organisation.

Australian standards

Standards produced by Standards Australia and Safe Work Australia are specifications and procedures designed to ensure that products, services and systems are safe, reliable and consistently perform the way they were intended to. If a standard is referenced in legislation or regulations, then it is enforceable by law. For example, there are standards that relate to machinery guards, building and construction, transport and high-risk plant.

Identify the standards that cover aspects of the work your organisation does. Ask your supervisor if you are unsure about how to find this information.

Industry standards

Industry standards are similar to codes of practice. They:

- give detailed advice on particular aspects of work or the safe operation and use of specific types of plant and equipment
- guide organisations on how to meet specific industry and/or work-specific safety obligations.

Industries that are designated high risk due to the type of work conducted, such as mining, electrical, and building and construction, have very specific and rigorous standards that employers and workers must comply with.

International standards

The International Organization for Standardization (ISO) creates industrial and commercial standards that have a worldwide application. ISO standards are part of ISO 9001, a global quality management system. They provide a single set of standards that people, irrespective of their location, can recognise. Remember that codes of practice should be complied with unless a system equal to or better than them is implemented. Organisations that use the ISO quality management system may choose to adopt ISO standards.

Guidance material and alerts

Guidelines or guidance notes developed by regulators, unions or employer associations provide comprehensive step-by-step directions, safety and prevention information and a range of initiatives to deal with the particular hazards and risks specific to an industry. The guidelines assist workers to understand how to work safely and meet the requirements set out in the WHS legislation they are working under. For example, there are guidelines for working safely with electricity, handling heavy goods, purchasing goods, controlling hazards and risks.

Guidance notes should be viewed as a starting point to address WHS issues that require consideration in the workplace. However, any strategy adopted by a workplace must ensure the workplace's specific hazards and risks are eliminated or reduced as far as practicable.

Check where your organisation keeps its guidance notes. It may be useful to prepare a file of the guidelines relevant to your work area and level of responsibility.

Example: WHS guidance notes in specific industries

Guidance notes are available to control hazards and risks in specific industries, as outlined in the following table.

General WHS guidance material		
<ul style="list-style-type: none"> Dealing with bullying at work Formal consultative processes General duty of care Exposure standards Preparing for emergency evacuations 	<ul style="list-style-type: none"> Safety data sheets (SDSs) Working safely with forklifts Assessing risks of hazardous substances Working alone Preventing slips, trips and falls at work 	<ul style="list-style-type: none"> Violence in the workplace Dangerous goods Electrical safety Manual handling Working at heights Young workers Work experience
Agriculture, forestry and fishing industries	Manufacturing industry	Construction industry
<ul style="list-style-type: none"> Fall prevention in the agricultural sector Quad bikes on farms Farm safety Safe use of chainsaws Maintaining mechanical forest harvesters 	<ul style="list-style-type: none"> Controlling hazards in the electroplating industry Controlling isocyanate hazards at work Isolation of plant Safe use of chemicals in the woodworking industry Safe use of woodworking machinery 	<ul style="list-style-type: none"> Fall prevention for scaffolders Construction induction training Demolition Working safely near overhead power lines
Automotive repair industry	Community services industry	Wholesale and retail industry
<ul style="list-style-type: none"> Asbestos materials Workshop safety Chemical handling 	<ul style="list-style-type: none"> Reducing infectious diseases in child care 	<ul style="list-style-type: none"> Cash in transit Workplace hazardous substances in retail Health and safety for food processing workers

Other legislation relevant to WHS

A range of other legislation is relevant to WHS. You need to understand where this legislation fits into the broader legal framework of WHS.

Other relevant legislation includes:

- dangerous goods
- environmental protection

- equal employment opportunity and anti-discrimination law
- industrial relations law
- privacy laws.

Dangerous goods

State and territory Acts and regulations make it an offence to fail to take all reasonably practicable measures to minimise the risk to people, property and the environment when handling, transporting, storing, treating and disposing of dangerous goods. There are strict penalties for failing to comply. Legislation requires those who store or use dangerous goods to develop risk management strategies.

Environmental protection

Care of the environment has become an increasingly important aspect of an organisation's responsibilities. The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) provides the legal framework to protect and manage Australia's built and natural environment, although the control of the environment is left to each state and territory through individual environmental protection Acts.

You need to be aware of your state or territory's environmental Acts and regulations and the role and powers of the regulator. There are laws relating to the management and transportation of hazardous waste, noise, pollution, waste products and water. For example, relevant state and territory's conservation and land management regulations impose a penalty for discharging or depositing waste on crown land managed for conservation.

Equal employment opportunity and anti-discrimination law

In Australia, national, state and territory laws cover equal employment opportunity and anti-discrimination in the workplace. PCBUs have an obligation under their duty of care to assess work tasks to develop safe systems of work and provide a workplace free from discrimination. For example, discriminating against pregnant women in employment is unlawful. PCBUs must comply with these laws; for example, by undertaking risk assessments to identify work hazards to pregnant and breastfeeding women and making modifications to minimise those risks.



Laws also address issues related to people with disabilities and those with learning and language difficulties. For example, employers are required to provide safe and easy access to their building or site for everyone, regardless of their physical abilities. Similarly, instructions for responding to emergencies must be clearly displayed and presented in such a way that they can be understood by all workers.

Industrial relations law

Industrial relations law covers employment matters such as pay rates and other entitlements. Issues that have WHS implications, such as any risk to employee health and safety from working additional hours, shift work or working in hot or cold conditions, may be dealt with under industrial relations legislation, in particular through the *Fair Work Act 2009* (Cth).

For more information on the Fair Work Act and Fair Work Australia, visit the Fair Work Commission website.

The Fair Work Act includes several provisions directly relevant to WHS, which follow.

Union right of entry

Although health and safety legislation in some states already permits union officials with permits to enter workplaces, the Fair Work Act also provides powers to union officials to enter a workplace for health and safety purposes. In doing so, those officials must demonstrate compliance with a number of conditions.

Industrial action

Fair Work Australia, the regulator of Australian industrial relations, has the power to terminate industrial action if the action threatens or endangers life, personal safety or the health and welfare of the population.

Working conditions

The National Employment Standards, which provide basic standards of employment for all Australian workers, also address some conditions of employment that can have implications for health and safety including hours of work, maternity leave and alternative duties for pregnant women.

Dismissal

Under the unfair dismissal and discrimination provisions of the Fair Work Act, safety is considered as a factor when determining a dismissal's validity.

The 'general protections' provisions under the Fair Work Act also make it an offence to take adverse action such as dismissal, discrimination or refusal to employ a person for exercising a right or responsibility under health and safety law.

Discrimination

The Fair Work Act is relevant if a worker has been discriminated against because of their characteristics, such as their religion, gender or a physical or mental disability; however, it does not address bullying and harassment.

The Privacy Act

The principles within the *Privacy Act 1988* (Cth) do not tell agencies and organisations what they must do in each situation. The Act does, however, offer principles about the way in which personal information should be handled.

In relation to WHS, there can be confusion in workplaces about what information PCBUs can release and what information workers and health and safety representatives can access.

It is important to understand that a PCBU cannot refuse a health and safety representative access to WHS information on the basis that privacy legislation prohibits them from making this information freely available. This is because health and safety representatives have the right under the health and safety legislation to access WHS information, and this right is not affected by state or Commonwealth privacy legislation.

Most state health and safety agencies have a clear position on what constitutes 'privacy', which should be considered when making requests or providing information that may contravene the Act.

The *Privacy Act 1988* (Cth) regulates how the personal information of Australian citizens is handled by covering:

- how personal information is collected
- how personal information is used and disclosed
- accuracy of personal information
- how securely personal information is kept
- the general right to access personal information.

Workers compensation

In addition to WHS legislation, each state and territory has legislation dealing with the consequences of workplace accidents and injury. Generally, the legislation provides for a compulsory insurance scheme, with premiums paid by employers to registered insurance agents. Premiums vary depending on the size of the payroll, claims history and the risk profile of the industry sector.

Many Australian workplaces have workers performing ‘alternative duties’ as part of a return-to-work plan. When determining these duties, employers must consider the safety of those workers, as well as identify potential safety risks for fellow workers as a result of the worker’s incapacitation.

State and territory safety regulators oversee workers compensation schemes and have extensive information on safety issues and strategies for preventing or exacerbating further injury of injured workers on return-to-work plans.

Organisational WHS policies and procedures

PCBUs need to consult with workers to plan and develop WHS policies, procedures and processes to ensure a safe and healthy workplace. The type and number of policies, procedures and processes will vary depending on the nature of the work and the hazards in each workplace.



WHS policies: main content

Policies aim to show what the organisation plans to achieve in clear and simple terms. They outline how management will achieve workplace safety, along with the specific responsibilities of the PCBU and the organisation’s officers, management and workers. A WHS policy may include the following information.

Statement

A statement committing the organisation to providing a safe and healthy working environment.

Objectives

Objectives of the policy, including how health and safety will be integrated into all organisational activities.

Strategies

Strategies (procedures) the organisation will use to achieve its WHS objectives, such as:

- emergency evacuation procedures
- WHS audits
- reporting accidents
- reporting incidents and near misses.

Roles and responsibilities

Roles and responsibilities of key positions such as the officers, managers and supervisors with specific accountability for implementing health and safety practices and procedures.

Function

The function of the health and safety committee and its commitment to consultation and cooperation between management and workers.

Review process

The review process for assessing the policy's effectiveness, stating a commitment to regularly monitoring and reviewing the policy to ensure health and safety in the workplace.

WHS policies: policy areas

Workers should be consulted and actively encouraged to participate when developing, reviewing and evaluating policies to ensure they are relevant and practical.

Typical policy areas include:

- hazard identification and management
- incident reporting and investigation
- emergency planning and response
- bullying and harassment
- environmental management
- visitors and contractors
- induction, training and supervision
- consultation and participation
- alcohol, drugs and smoking
- manual handling
- mobile phone use.

WHS procedures: key areas for organisations

WHS legislation sets out the minimum requirements for industry practices and mandatory provisions about various procedures, responsibilities and obligations, such as issue resolution and emergency procedures. While general procedures can be used as a guide, it is important for established procedures to reflect the unique health and safety needs of the particular workplace.

Organisations need to have procedures for a range of areas, including:

- hazard identification and risk assessment
- issue resolution
- induction and training
- first aid
- accident, incident and near miss reporting
- emergencies
- general work issues relating to hazardous substances, noise, manual handling, personal protective equipment, electrical safety and vehicle safety
- workplace-specific issues such as hot works, working at heights, plant safety, welding and cutting, working in confined spaces and trenching.

WHS procedures: safe work procedures

Safe work procedures are a means of documenting the risks associated with a work task. They incorporate appropriate risk control measures into a sequence of steps for doing the task safely.

To ensure effective and reasonable procedures are in place, safe work procedures should be developed in consultation with workers who are experienced in performing the tasks. Together, management and workers should assess each task, identify the risks and consider the most effective way to eliminate or minimise the risk of harm.



WHS procedure: access procedures

Training and supervision underpin safe work procedures. Organisational policy should ensure that workers are trained to work safely and can follow the procedures that document:

- instructions for performing the task safely
- the hazards associated with performing a particular task
- details about any personal protective equipment (PPE) that should be worn or used while performing the task.

Make sure you know where to access your organisation's policies and procedures. Generally, organisations have both hard and electronic copies. Companies must provide workers with policies, preferably on commencement of employment, in other languages if relevant.

Policies should also be displayed on noticeboards and other places such as in weekly newsletters, near sign-on books or in lunch rooms.



Example: safe work procedure

The following is an example of a safe work procedure for the supply of hazardous substances and the use of safety data sheets (SDSs).

Hazardous substances and safety data sheets	
Purpose	SDSs provide information on handling hazardous substances safely. It is vital that all workers know the procedures to employ, the potential health effects and required safety precautions.
Responsible person	Any person requesting the supply of a hazardous substance that has not previously been ordered and/or used within the workplace.
Access	Freely available to any worker via the central computer system (SDS database) or near the hazard; for example, by the machinery or in the lunch room where detergents and other chemicals may be kept for cleaning.
Purchase of hazardous substances	Request the supply of the SDS at the time of purchasing a hazardous substance. In the event that the SDS does not accompany the delivery of the substance: <ul style="list-style-type: none"> • contact the supplier immediately • access the SDS on the supplier website (if available) • quarantine the substance – it is not to be used until a current SDS is on site.
Currency	Check the currency of SDSs stored on site every two years. Ask suppliers to supply up-to-date SDSs.
Supervision and training	Training and information consistent with the information and advice provided by the SDS will be provided to workers using a hazardous substance before they begin working with it.

Practice task 1

1. Access your state or territory's current health and safety legislation. Write down the web link where you found this information.

2. Identify and document the provision/s relating to consultation detailed in the relevant Act.

3. Explain why it is important that workers can identify and access current WHS legislation.

1B

Apply knowledge of the relationship between WHS Acts, regulations and codes of practice

Once you have identified the various WHS Acts, regulations, codes of practice and other related documentation that applies to the workplace and where to access them, you also need to understand the relationship between these legislative tools and be able to apply this knowledge to help identify WHS legislative requirements in your workplace.

The relationship between WHS Acts and regulations

All WHS Acts describe PCBU and worker responsibilities for creating and maintaining a safe and healthy working environment. They also describe the relationship between the Act and regulations, and the relationship between regulations and approved codes of practice.



WHS Acts are supported by WHS regulations. There may be references throughout an Act to regulations that provide further information and requirements. This means that each associated regulation takes the intention of the Act a step further and describes additional measures.

For example, if you are accessing the relevant WHS Act to determine your organisation's obligations in relation to consultation, and you read within the Act that further provisions relating to consultation are in the regulations, you need to access the regulations to determine the full extent of your obligations.

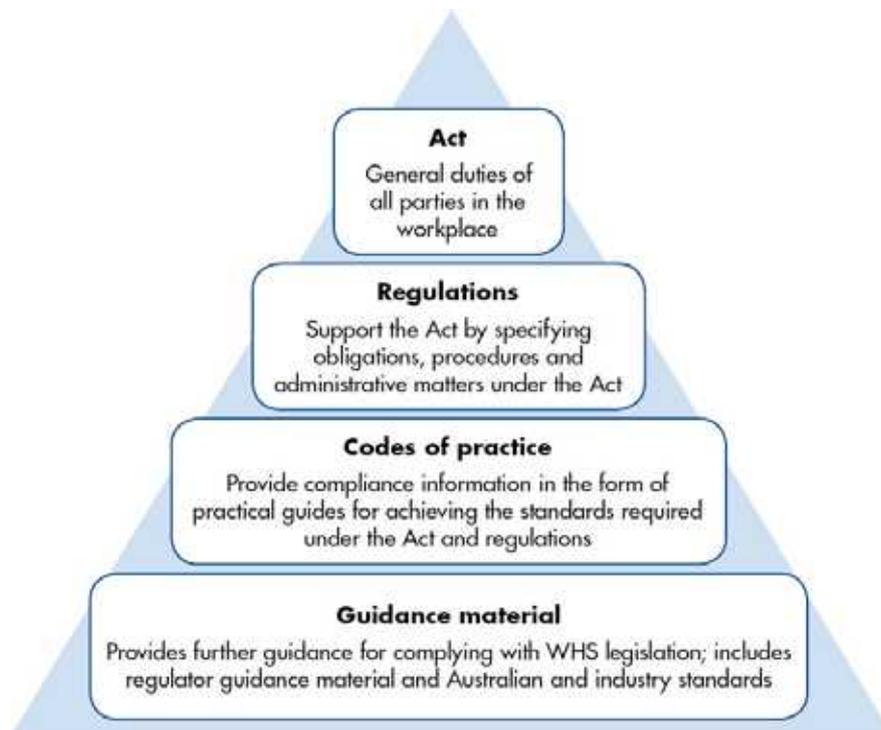
The relationship between WHS regulations and codes of practice

Approved industry codes of practice are designed to be used in conjunction with the WHS Act or regulations. Although compliance with a code of practice is not enforceable by law (unlike the Act or regulations), an approved industry code of practice can be used as evidence that a person or company has contravened or failed to comply with the relevant WHS Act or regulations.

The main purpose of a code of practice is to provide practical guidance, based on the WHS Act and regulations, for people to meet their legislative obligations. For example, a code of practice for manual handling builds on the legal requirement for PCBUs to provide manual-handling training for their employees.

Example: relationship diagram between the WHS Acts, regulations, codes of practice and guidance material

The following diagram provides an overview of the relationship between the WHS Acts, regulations, codes of practice and guidance material.



Identify WHS legislative requirements in the workplace

Once you understand the full extent of the documents that set out legal WHS requirements in the workplace and their interrelationships, you can more easily determine the particular WHS obligations that apply to your workplace.

The range of requirements that need to be addressed include:

- the duties and responsibilities of the PCBU and their officers and workers
- the powers and functions of health and safety committees and health and safety representatives
- hazard and risk identification
- strategies to minimise or eliminate risks and hazards
- strategies to maintain a safe and healthy workplace
- procedures to address staff illness and workers compensation
- record keeping.

Example: duty of care in asbestos removal

The following case study shows how the Act, regulations and codes of practice can be used together to meet the legislative requirements of a business.

The chief executive officer of an asbestos removal company in Georgina, Queensland is familiarising herself with the WHS Act to understand her duty of care under the Act. She reviews Section 27 Duty of Officers. She also conducts research to identify any model regulations or codes of practice specifically relevant to asbestos removal. As a result of her research, she identifies a range of relevant documents as outlined below.

WHS regulations

Work Health and Safety Regulations 2011: Chapter 8 Asbestos:

- Prohibitions and authorised conduct
- General duty
- Management of asbestos and associated risks
- Management of naturally occurring asbestos
- Asbestos at the workplace
- Health monitoring
- Training
- Control on use of certain equipment
- Demolition and refurbishment
- Asbestos removal work
- Asbestos removal requiring Class A licence
- Licensing of asbestos removalists and asbestos assessors

Codes of practice

Safe Work Australia's Model Codes of Practice:

- How to Safely Remove Asbestos
- How to Manage and Control Asbestos in the Workplace

Practice task 2

Alek works as a machinist at AAAB Electronics, a manufacturing company that produces equipment for a local car company. One particular machine emits a loud noise every 20 minutes.

1. Refer to the current Model Work Health and Safety Regulations and locate the section relevant to noise. Document the section number within the regulations.

2. Locate the Code of Practice section on the Safe Work Australia website. Is there a code of practice that deals with noise and noise reduction? If yes, record the name of the code of practice and the web link where it can be accessed.

1C

Identify duty holders

The concept of duty of care is central to defining roles and responsibilities in the workplace. Duty of care describes the legal obligation of individuals and organisations to anticipate and act on possible causes of injury and illness that occur in their work environment.

While aspects of WHS legislation may vary between states and territories, there are common legislative requirements and obligations under the duty-of-care principle. Everyone in the workplace has the responsibility of duty of care for themselves, customers, visitors and each other. A person or organisation must do everything they can to eliminate or minimise a possible cause of harm. More than one person can have the same WHS duty and therefore share the duty. However, duties cannot be transferred to another individual. The list of duty holders, as clearly identified in the WHS Act, is provided below.

PCBUs

Persons conducting a business or undertaking, such as an employer, corporation, association, partner in a partnership or sole trader

Officers

Senior managers in a business who have the decision-making power to determine the direction a business takes on health and safety issues, such as a director, company secretary, chief executive officer or chief financial controller

Workers

Any individual who carries out work for a PCBU such as an employee, independent contractor, work experience student or outworker

Other persons

Other people in the workplace such as visitors, customers, WHS inspectors or members of the public

Reasonably practicable

A key principle that underpins health and safety legislation is that everything 'reasonably practicable' is done to make a workplace healthy and safe.

Factors to be considered to determine what is reasonably practicable:

- The likelihood of a person being exposed to harm due to a hazard or risk occurring
- How serious the injury or harm might be if the hazard or risk occurs
- What the individuals know, or should be expected to know, about the hazard or risk and how to eliminate or minimise it
- How accessible the ways to eliminate or minimise the risk are
- The cost of eliminating or minimising the hazard or risk

Persons conducting a business or undertaking

A person conducting a business or undertaking (PCBU) may be an employer, a corporation or association, partner in a partnership or a sole trader.

Designers, manufacturers, importers and suppliers of plant, structures or substances are also considered to be PCBUs, as they fall under the business categories listed. These PCBUs have a responsibility to make sure their products do not present a risk to health and safety when they are used in a workplace.

PCBUs have a duty to consult, cooperate and coordinate between duty holders.

So far as is reasonably practicable, the primary duty of care of all PCBUs is to:

- provide and maintain a safe working environment
- provide and maintain safe plant and structures
- provide and maintain safe systems of work
- ensure safe use, handling and storage of plant, structures and substances
- provide adequate facilities for the welfare of workers at work and access to facilities
- provide information, training, instruction or supervision
- monitor the health of workers and conditions in the workplace.

Officers

An officer is a senior manager in a business who has the decision-making power to determine the direction that a business takes on health and safety issues. They may be a director, company secretary, chief executive officer or chief financial controller.

Officers must take reasonable steps to exercise due diligence; that is, to carry out their role with perseverance and care. Under the WHS Act, this has become a specific duty of care of officers.

To demonstrate due diligence, officers must take reasonable steps to:

- keep their knowledge of WHS up-to-date
- understand how the business operates and the workplace's hazards and risks
- have processes in place for receiving and responding to information in a reasonable time frame
- allocate appropriate resources to eliminate or minimise risk
- put in place processes for monitoring that the business is complying with WHS.



Workers

A worker is any individual who carries out work for a PCBU. This includes employees, independent contractors, outworkers (home-based workers), apprentices, work experience students, trainees and volunteers who work in an employment-like setting. Below is the list of responsibilities that come under a worker's duty of care.

A worker's duty of care involves:

- taking reasonable care of their own safety
- cooperating with any reasonable policy or procedure they have been notified of that relates to WHS
- complying with any reasonable instruction given by the PCBU
- taking reasonable care to make sure their conduct does not adversely affect the safety of others.



Other people at a workplace

Other people at a workplace include:

- visitors
- customers
- a WHS inspector on a visit
- people walking past a construction site.

Like workers, these other people must take reasonable care for their own health and safety, not adversely affect the health and safety of others, and comply with any reasonable instruction given by a PCBU.

Practice task 3

Read the case study, then answer the questions that follow.

Case study

Vinh had worked for 12 years at the Garden Valley Brewing Company, located on the outskirts of Melbourne. His job at Garden Valley was on the production line packing bottles of beer.

Vinh only had basic English language skills. He received a brief induction in English a few weeks after starting his job, but had no training after that.

On 26 April 2016, Vinh was working on the production line when a bottle became stuck in between the conveyor belt and the guard protecting the machinery. This had occurred before. Vinh, as on previous occasions, opened the gate and reached into the machinery to dislodge the bottle. But this time, as Vinh dislodged the bottle, the conveyor belt began moving and Vinh was crushed between the guard and the gate. He died in hospital later that day.

The company was investigated by the Victorian safety regulator and was found guilty of breaching health and safety laws in the County Court. The judge found the accident could have been avoided if simple, necessary safety steps had been taken.

The judge fined the company \$1 million.

1. Refer to *Section 19 – Primary duty of care of the Work Health and Safety Act 2011 (Cth)*. What provisions within this section, if any, do you think the employer did not address?

2. What steps should the company have taken, as part of its duty of care, to ensure Vinh's safety?

1D

Identify legal obligations for consulting and training workers and health and safety representatives

Effective consultation and training is central to maintaining a safe and healthy work environment. In recognition of this, WHS laws set out the obligations of PCBUs to put consultation processes in place and provide access to training. This requirement to consult is part of the broader obligation of PCBUs to consult, cooperate and coordinate activities with all other duty holders. By drawing on and sharing the knowledge and experience of those involved in the work, a safe workplace is more likely to be achieved. Effective consultation creates greater awareness of and commitment to WHS decisions and fosters positive working relationships.



Consultation obligations

A safe workplace can be more easily achieved if everyone in the workplace is consulted and given the opportunity to share information relevant to WHS. WHS legislation has therefore made consultation a legal obligation. Consultation is seen as being essential for effective safety management. It is used to provide information, obtain the view of others, consider and explore possible solutions and new ideas, and give feedback. A shared understanding of workplace risks, who has control over which aspects of the risk and what is needed to comply can be achieved through this process.

Although PCBUs are responsible for making decisions about health and safety, they may not necessarily have a sound understanding of the work being undertaken and the general working conditions. For this reason, it is important that they consult with workers before making changes that may impact on WHS. However, even though the workers' views must be taken into account, there is no requirement that an agreement must be reached.

Persons that PCBUs must consult on matters affecting WHS

- Other duty holders, including manufacturers and designers
- Workers who could be affected by a WHS issue
- Health and safety representatives, if one has been appointed

When consultation must take place

- WHS hazards are being identified and risks assessed
- Deciding on how to control risks
- Discussing facilities for worker welfare
- Proposing changes that may affect workers' health and safety
- Deciding on procedures for consulting with workers:
 - Resolving WHS issues
 - Monitoring workers' health
 - Monitoring workplace conditions
 - Providing information and training

Consultation processes

Consultation processes can be facilitated using a range of strategies including establishing health and safety committees (HSCs), appointing health and safety representatives (HSRs), participating in safety inspections and seeking feedback through surveys and informal discussions.

Consultation can take many forms. A small business may consult simply by talking regularly with workers. A larger organisation may conduct formal consultation through HSCs attended by elected HSRs and PCBUs or officers.

The processes used will vary due to a range of factors, including:

- the size of the business
- the number of duty holders
- whether or not there are HSRs
- whether a health and safety committee has been established
- the communication technology available and the workforce's ability to access this.

Health and safety committees (HSCs)

HSCs can be a valuable way to achieve WHS consultation. Legislation does not require all organisations to have an HSC; however, one must be set up if requested by an HSR or by at least five workers in an organisation. At least half the committee members must be workers who have been nominated by fellow workers, with the remainder appointed by the PCBU.

WHS legislation requires an HSC to meet every three months and at any reasonable time if requested by at least half the committee members. Likewise, PCBUs must allow each committee member to attend a scheduled meeting.

HSCs play an important role in organisations by:

- facilitating cooperation between the PCBU and workers on WHS
- discussing identified WHS problems
- consulting with workers and making recommendations to improve health and safety in the workplace
- assisting in developing health and safety standards, rules and procedures
- monitoring and reporting on WHS performance, including compliance with legislation and workplace policies and procedures.

Health and safety representatives (HSRs)

Organisations must ensure WHS issues are dealt with promptly and legally. Workers have the right to elect colleagues to represent them to management, either by being members of the health and safety committee or acting as independent representatives.

The HSR's role is to consult with workers through informal discussion, formal discussions at staff meetings and via surveys to identify WHS issues that need to be resolved by management.



WHS meetings

To make a meaningful contribution to formal and informal WHS meetings, you need to adopt the strategies provided below.

Plan in advance

If you have a contribution to make, plan in advance what you are going to say by:

- taking any information you need with you
- explaining any health and safety issue or matter clearly
- referring to any evidence you have.

Make a suggestion

Make a suggestion about how to solve any problems raised, if possible.

Discuss with others

Discuss with workers any new hazards and possible safety measures, such as identifying the hazards associated with the proposed purchase of a piece of equipment and deciding the best way to control the risk.

Assist

Assist in conducting 'walk-through' safety inspections.

Seek feedback

Ask workers for feedback and input.

Communicate

Use sound communication and interpersonal skills to contribute to meetings by:

- listening to other team members
- encouraging others to express ideas and opinions
- encouraging other team members when they contribute a good idea or raise an important issue.

WHS consultation information

There are a number of places where you can do research on WHS.

For further information on WHS consultation, cooperation and coordination, refer to Safe Work Australia's Model Code of Practice – Work Health and Safety Consultation, Cooperation and Coordination at: www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/consultation-cooperation-coordination-cop.

Example: run safety meetings effectively

The following example provides some tips given by an experienced HSR for running safety meetings.

- Choose a topic that needs a safety review, such as a recent health and safety problem, or discuss a recent accident or incident.
- Encourage workers to contribute to a meeting by discussing a safety topic of their choice.

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Example: run safety meetings effectively

- Tell workers about any changes planned that may affect their health and safety, such as purchasing new plant and equipment – make sure you seek their views and encourage them to raise safety concerns before making any decisions on matters that directly affect their work safety.
- Allow workers ample time to provide feedback and input about any plans that may affect their health and safety.
- Consider all possible suggestions and solutions – this shows you are committed to consultation and addressing workers' safety concerns, and that you value the input and views of your workers.
- Actively encourage the participation of all workers; for example, you may need to speak to some workers before or after a meeting, perhaps because English is not their first language or they seem uncomfortable speaking in front of a group.



Training obligations

To ensure safe work practices are understood and followed, PCBU's have a duty of care to induct, train, give instructions to and supervise workers so they can do their jobs safely. This applies to all workers including employees, casuals, labour hire, contractors and volunteers.

To contribute to compliance with WHS legislation in the workplace, you may be required to provide workers, contractors, visitors or suppliers with information about common hazards in the specific workplace and how they should be managed. Aside from a general knowledge of obligations under WHS laws, this may include the following.

Induction training

Induction training to provide information, instruction and training in:

- evacuation and other emergency procedures
- hazards that workers may be exposed to while working
- using, maintaining and storing PPE
- hazard reporting and accident/incident/injury reporting procedures
- the organisation's alcohol and drug policy
- the organisation's anti-bullying policy.

Task-specific training

Task-specific training, information and instruction, and risk factors and control measures related to a person's work role, such as how to:

- operate a piece of equipment using the prescribed safe working procedure
- adopt the correct manual-handling technique
- use PPE
- identify and control hazards using the prescribed procedure
- access SDSs
- raise health and safety concerns.

Training obligations: SOPs and WHS induction

Your organisation may use standard operating procedures (SOPs) or standardised work instructions that show how a process is to be completed. If so, show all new workers the SOP and related documentation. If your organisation does not use these, you should analyse the job and produce a job breakdown that lists the important steps and key safety and quality points.

You may be involved in conducting a WHS induction session for new workers or explaining emergency procedures to visitors. If your organisation does not have one, develop a WHS induction file you can use for training purposes.

An induction file may include:

- a map of the workplace showing exits
- WHS personnel details and contact numbers
- information about the role of the health and safety committee
- the organisation's WHS policies, procedures and standard precautions in a WHS manual
- details about expectations of workers, such as wearing appropriate protective clothing
- how to report an incident, accident or near miss
- an example of an SDS
- checklists for operating equipment.

Training obligations: HSR training

Specific requirements also exist for HSR training. Under the *Work Health and Safety Act 2011* (Cth), PCBUs must allow HSRs and deputy HSRs to undertake WHS training approved by the regulator. To confirm that the selected course is relevant to the HSR's role, courses must be selected in consultation with the PCBU.

Once approved the HSR must be granted paid time off to attend the training, with the course costs and related expenses also covered by the PCBU. Without this approved training, an HSR is not able to direct workers to stop work or issue a provisional improvement notice (PIN).

You can access more information and practical advice about legal obligations to provide training from your state or territory WHS authority. For example:

- Safe Work Australia has developed a National Code of Practice for Induction for Construction Work that all states and territories have agreed on, thereby providing building and construction workers with nationally recognised induction training. See www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/244/InductionForConstructionWork_2007_PDF.pdf.
- NSW has established the website Talking Safety with Young Workers. See www.talkingsafety.org.

Example: employer's WHS training obligation

A Somerton boat company has been found guilty and fined \$275,000 over the death of a worker in December 2011.

Monst Pty Ltd (formerly Lloyd Brewer Marine Pty Ltd) was convicted on Friday on charges relating to the death of an independent contractor, Andrew Lagana, in the Melbourne Magistrates Court.

The company, which manufactures, services and sells boats, was found guilty of failing to provide or maintain a safe system of work, and failing to provide information, instruction, training or supervision in relation to overhead obstructions and risk controls.

The court heard that on 1 December 2011, Mr Lagana asked a colleague, Mr Madin-Berry, to help him access a part. Mr Madin-Berry, who was licensed to perform high-risk work, was reversing a forklift when its mast became entangled in the chain of a crane, pulling a hoist unit and chain off a gantry. The hoist unit and chain hit Mr Lagana on the head.

Other workers immediately rendered assistance to Mr Lagana and he was taken to the Alfred Hospital where he died a short time later.

The court was told that a hazard identification and risk assessment should have been conducted in the workplace to identify specific obstacles and overhead obstructions. In addition, information, instruction and training should have been provided to employees and other persons at the workplace regarding overhead obstructions and risk controls.

WorkSafe General Manager of Health and Safety, Lisa Sturzenegger, said the incident highlighted the need for ongoing appropriate hazard identification and risk assessment.

'While this employer was aware of the risks associated with the use of forklifts and had complied with WorkSafe instructions in the past, there had been changes made to the workplace prior to this incident,' she said.

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Example: employer's WHS training obligation

'As a result, a worker has not returned home to his family and friends at the end of the day. Ensuring your hazard identification and risk assessment is up-to-date could help avoid a similar tragedy in the future.'

(Source: WorkSafe Victoria News)

Practice task 4

Conduct some research to identify the relevant section of your state or territory's current WHS Act and regulations that relate to an employer's responsibility to provide information, instruction and training to ensure workers' safety while they are at work.

Answer the following questions in relation to an organisation with which you are familiar.

1. When and how frequently should training of workers occur?

2. Who should conduct the training?

1E

Identify consequences of noncompliance with WHS legislation, policies and procedures

It is important for your safety and the safety of others that you comply with all WHS Acts, regulations, codes of practice, standards and WHS policies, procedures, processes and systems. This section examines the common areas of noncompliance and the potential consequences.

Consequences of noncompliance

Noncompliance can:

- result in injury or death
- cost a company money through fines and lost production time
- result in the prosecution or imprisonment of officers
- damage a company's reputation.

Injury or death

Workplace accidents can have an enormous impact on both the physical and mental health of injured workers. Depression, post-traumatic stress disorders and substance abuse are possible outcomes of being injured at work. Sadly, many family relationships also suffer with marriages and parental relationships breaking down.

Safe Work Australia, in its publication *Key Work Health and Safety Statistics, Australia 2012*, highlights the following information.

Highlights from Key Work Health and Safety Statistics, Australia 2012

In 2008–09, there were 133,485 claims for serious work-related injuries or illnesses. This is an incidence rate of 13.5 serious claims per 1000 employees.

Male employees experienced nearly twice the rate of serious injury or disease compared with female employees.

Incidence rates of serious workers compensation claims increase with employee age.

The highest incidence rates were recorded by labourers and related workers: over double the rate for all occupations.

The transport and storage, manufacturing, and agriculture, forestry and fishing industries recorded highest incidence rates – nearly twice the average incidence rate.

Costs: types of costs

The cost of workplace injuries to individuals, workmates, families, organisations, the Australian community and the Australian economy is extensive. In monetary terms alone, Safe Work Australia estimated the cost of work-related injuries as \$60.6 billion in 2008–09, or 4.8 per cent of Australia's gross domestic product.

The cost to a company when a worker is injured and off work is considerable and can in some instances, particularly for small businesses, mean the difference between ongoing viability and bankruptcy.

Costs include:

- replacing the injured worker
- training a new worker
- loss of productivity
- decreased workplace morale
- increased workers compensation premiums.

Workers need to be assisted with rehabilitation. This includes providing return-to-work plans and offering alternative duties until the injured worker is fully fit to return to work.

Each year, thousands of companies across Australia are charged and found guilty of health and safety breaches, such as failing to provide a safe workplace and adequate training, or ignoring the orders of safety inspectors.

Costs: state regulators

State regulators are provided with powers under the relevant WHS Acts to investigate and commence legal action against any employer or worker they believe has contravened provisions of Acts or regulations. These investigations are standard practice when a worker is seriously injured.

If the state regulator believes a breach has been committed, action is taken within the appropriate legal jurisdiction, such as the Magistrates' Court or the County Court. The courts determine what fines employers must pay if found guilty.

Although many costs of workplace injuries are paid for by state workers compensation schemes and Comcare, the Australian community also pays both directly and indirectly. In a study commissioned by the National Health and Safety Commission in 2004, entitled 'Work-related injury and illness for Australian employers, workers and the community', it was found that 53 per cent of the cost of workplace accidents was borne directly by the community. Indirectly, many Australian community organisations, from local football teams to charity groups, often suffer as a result of the loss of a valued volunteer when workers are injured and in rehabilitation.

Prosecution or imprisonment of officers

As a deterrent, there are penalties for PCBUs, officers and workers found to have breached the legal demands placed on them under the Acts and regulations. Three categories of offences apply for failing to comply with a health and safety duty under the *Work Health and Safety Act 2011* (Cth). These categories and penalties, stipulated in Division 5 – Offences and penalties, are set out below.

1

Most serious breaches

Breach: the most serious breaches where a duty holder recklessly endangers a person to risk of death or serious injury.

Penalty:

- Corporation: up to \$3,000,000
- Individual as a PCBU or an officer: up to \$600,000 or five years' jail time
- Individual (for example, worker): up to \$300,000 or five years' jail time
- Category 1 offences, involving reckless conduct, are prosecuted in the District Court (County Court in some states)

2

Exposure to serious risks

Breach: failure to comply with a health and safety duty that exposes a person to risk of death, serious injury or illness.

Penalty:

- Corporation: up to \$1,500,000
- Individual as a PCBU or an officer: up to \$300,000
- Individual (for example, worker): up to \$150,000
- Offences are prosecuted in the Magistrates' Court

3

Failure to comply

Breach: failure to comply with a health and safety duty.

Penalty:

- Corporation: up to \$500,000
- Individual as a PCBU or an officer: up to \$100,000
- Individual (for example, worker): up to \$50,000
- Offences are prosecuted in the Magistrates' Court

Damage to a company's reputation

The negative media associated with court action due to breaches in WHS legislation can have a significant impact on a company's brand, ability to attract workers and future profits.

A prime example of this is action taken against James Hardie, a company that manufactures fibre cement building products for the Australian market. The case involved a worker, Bernie Banton, who contracted mesothelioma after exposure to asbestos when he worked for the company 40 years earlier. The union and community campaign conducted from 2003 to 2007 led to the resignations of the company Chair and CEO and cost the company \$4 billion dollars in compensation.

Large organisations in Australia are now more commonly disclosing their health and safety performance in company annual reports. These companies seek to be transparent in their safety activities for fear of repercussions similar to those that occurred with James Hardie.

Common areas of noncompliance

The following are common areas where noncompliance may occur:

- Failure to meet legal requirements
- Inadequate systems of information, instruction, training or supervision
- Plant, equipment or substances not maintained, or used or stored in unsafe conditions
- Poor consultation practices
- Poor design
- Workplace hazards not identified or controlled
- Workplace systems not in place or inadequate

Failure to meet legal requirements

WHS noncompliance is the failure to conform to obligations specified in the relevant WHS Act and/or WHS regulations, or achieve the same or a better standard of work health and safety as described within relevant codes of practice.

Be aware of the areas where noncompliance may occur. If you know where people are likely to cut corners or disregard their legal obligations, you should advise your PCBU, officer, supervisor or workplace safety specialist such as an HSR.

Examples of noncompliance include failing to:

- consult with workers on matters that affect their health and safety
- provide adequate systems of information, instruction, training and supervision
- maintain plant and equipment
- adequately identify and control workplace hazards
- provide safe systems of work.

Inadequate systems of information, instruction, training or supervision

As previously mentioned, PCBUs have a legal obligation and duty of care to provide appropriate information, instruction, training and supervision to workers so they have the skills, knowledge and experience to perform their work in a way that is safe and without undue risks to health.

An organisation's policies and procedures should include avenues for consultation, such as HSCs, WHS meetings or surveys. There should be an induction program for all new workers that includes WHS training, as well as refresher information for all personnel when laws or situations in the workplace change. Training should always be conducted by qualified people. Follow-up should also take place to ensure workers understand and are complying with the requirements.



Plant, equipment or substances not maintained, or used or stored in unsafe conditions

Employers have a legal obligation and duty of care to ensure adequate risk assessments are carried out on machinery and any associated system of work, and to provide and maintain plant and systems of work that are, so far as reasonably practicable, safe and without risks to health.

If equipment and machinery are not regularly maintained or stored correctly, they may pose a danger to users. Organisations should have comprehensive maintenance schedules in place. If a piece of machinery is identified as unsafe, a temporary notice should be placed on it that can be clearly understood and followed by all workers.

One of the most common causes of workplace injury is defective and/or poorly maintained equipment or machinery. Instructions for storing equipment correctly should also be part of the training process.

Poor consultation practices

Both WHS legislation and regulations require PCBUs to consult with workers about any matters that may affect their health and safety, including consulting with HSCs and HSRs.

Consulting workers on WHS issues is more likely to lead to a cooperative approach to health and safety processes and risk control measures. Therefore, as well as being a legal responsibility, consultation is also sound business practice.

Options for worker consultation include:

- establishing an HSC
- having meetings, workshops and suggestion boxes
- conducting surveys
- providing general WHS information
- involving workers in identifying and assessing hazards
- developing control strategies and evaluation of controls.



Poor design

WHS laws include a duty for designers of buildings and structures to make sure the design does not pose risks to workers. Each state and territory regulator has produced information in relation to designing a safe work environment; for example, WorkSafe Victoria's *Designing safer buildings and structures and the ACT's Safe design – Safe structures, systems and workplaces (guidance material)*.

Poorly designed equipment can also be a major hazard.

Work practices should be designed for workers to carry out their tasks in the safest and most efficient manner possible. Workers are at risk of experiencing discomfort, fatigue or poor health if they are forced to adapt to poor working conditions. The main hazards related to poor workplace design are provided below.

The main hazards related to poor workplace design

1

Poorly designed seating

2

Poorly placed lighting

3

Poor access to and from buildings, such as footpaths, corridors, doorways and stairs; these must be of sturdy construction, have appropriate floor surfaces and be kept free from obstructions

4

Inappropriate design and layout of work areas

5

Poorly designed hand tools

6

Workers coming into contact with electricity through overhead wires; carrying out maintenance work on live electrical circuits; or working with damaged electrical equipment, extension cords and plugs or sockets

7

Inadequate or missing machine/equipment guards – unguarded machines cause many of the most serious workplace injuries such as amputations and crushing; check to see whether your state or territory has a code of practice for safeguarding machinery

8

Inadequate fall protection

9

Inadequate rollover protection on mobile equipment such as forklifts, which can mean workers are not adequately protected in the event of a rollover crash

10

Exposure to airborne hazards such as dust, fumes, smoke and gases, which have the potential to cause or worsen respiratory diseases such as asthma; these hazards may be reduced by installing appropriate ventilation systems or using machines that are enclosed or fitted with effective local exhaust ventilation

Workplace hazards not identified or controlled

WHS legislation and regulations require PCBUs to implement risk management practices that include systems to identify hazards, and then to assess, eliminate or control the risks arising from these.

Noncompliance may result in harm or permanent injury to workers or visitors to the workplace. For example, carpet or lino that has come unstuck may cause someone to trip, chemical spills that remain on a factory floor may cause a fall, or a poorly maintained air-conditioner may result in a polluted environment that causes an asthma attack.

Hazards and risks can be avoided with:

- a comprehensive maintenance program
- regular safety audits
- purchasing and using equipment and machinery that meets recognised safety standards
- a system to evaluate and review risk management practices.

Workplace systems not in place or inadequate

PCBUs have a legal obligation and duty of care to provide systems of work that contribute to a safe and healthy work environment. If any of these measures are not in place, the health and safety of PCBUs, workers, visitors and the wider community may be compromised.

WHS systems of work include:

- WHS policies and procedures being documented in an easily accessible format
- a comprehensive maintenance schedule
- comprehensive induction programs being undertaken by properly qualified personnel
- an initial training program for equipment and plant machinery, followed by refresher courses
- safety audits being undertaken on a regular basis
- specific HSCs or HSRs being appointed to consult with staff, and decisions being disseminated to all stakeholders.

Example: consequences of not identifying hazards

A worker was fatally injured while cleaning the steam-heated rollers on an industrial ironing machine when his cleaning mitten caught his hand in the machine and he was crushed to death.

It was identified that:

- the machine did not meet Australian standards
- the machine was not adequately guarded
- there was no record of the company having conducted an adequate risk assessment of the hazards associated with operating the machine
- there was no system in place for regular maintenance
- workers felt they would be 'in trouble' if they complained
- workers had not been adequately trained in operating the steam-heated rollers.

The company was fined a total of \$750,000 for noncompliance in a number of areas: failing to provide and maintain plant and systems of work; having no system for a regular safety audit to identify likely WHS issues; a culture of fear that prevented everyone taking responsibility for WHS; and failing to provide adequate information, instruction, training and supervision.

Practice task 5

1. Consider the situations listed below and identify whether each organisation is compliant or noncompliant with WHS Acts and regulations. Give reasons for your response.
 - a) A worker slips on spilt coffee in the tea room. The HSR provides first aid promptly, records the incident in the record book, reports the situation at a staff meeting and asks people for their advice on eliminating such a risk in future.

- b) A new worker is told, 'There is no time for a proper induction, but we'll train you on the go when the need arises. You're always free to ask us questions.'

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- c) A worker notifies the HSR that the photocopier appears to be faulty and is starting to overheat. The HSR places a notice on the machine and sends an email to everyone informing them not to use the photocopier.

- d) Furnley Manufacturing supplies hard hats and goggles to its staff. They are not supplied to visitors.

- e) The walkway to the entrance of the Cinder Vale Day Care Centre has been adjusted to provide access to those in a wheelchair. Because of this, most staff now use alternative steps that are poorly lit.

- f) The workers at East/West Mining Company are used to being involved in a regular safety audit that makes WHS the responsibility of everyone in the company. This makes them aware of any safety infringements or hazards.

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2. Give reasons why it is essential for a worker to be aware of what might happen if WHS legislation and procedures are not complied with.

Summary

1. The WHS legislative framework:
 - provides guidance to employers and their representatives to help them ensure they are complying with legislative requirements
 - gives powers to each state and territory regulator to inspect workplaces and investigate incidents, and where such an inspection or investigation reveals evidence of a breach of the relevant WHS Act, the regulator will determine what action should occur.
2. Each state and territory legislative and compliance framework is made up of the same elements and each has similar intentions:
 - WHS Acts set out the key principles, duties, obligations and rights in relation to WHS.
 - Regulations supplement the WHS Act and provide more detailed information about the duties that apply in relation to particular hazards, procedures and WHS obligations.
 - Codes of practice provide practical guidance to duty holders on complying with a duty under the relevant Act or regulation.
 - Guidance notes and alerts offer valuable guidance to people working in particular industries and occupations, and assist duty holders to understand what is reasonable and practicable and meet the requirements set out in the relevant WHS Act.
3. It is important to stay up-to-date with current WHS legislation, codes, standards and procedures.
4. WHS Acts impose a strict duty of care on PCBUs, as well as their representatives and workers to ensure the health and safety of all workers and others within the workplace.
5. PCBUs have legal obligations to provide WHS systems, training and consultation opportunities.
6. PCBUs are legally required to comply with their applicable state, territory or Commonwealth legislation. Noncompliance may cause injury or harm and can result in legal and financial penalties.

Learning checkpoint 1

Determine the legal framework for WHS in the workplace

This learning checkpoint allows you to review your skills and knowledge in determining the legal framework for WHS in the workplace.

Part A

1. What WHS Act currently applies in your state or territory? Record the name of the Act and the weblink where it can be viewed.

2. Name the documents that are part of the legislative framework for WHS that you would refer to for the following information:
 - Compliance information in the form of practical guides for achieving the standards required under the Act and regulations
 - Obligations and procedures and administrative matters under the Act
 - General duties of all parties in the workplace

3. Who are 'duty holders' under the *Work Health and Safety Act 2011* (Cth)?

4. List four ways that organisations can provide workers with an opportunity to express and contribute their views on WHS.

5. Under the *Work Health and Safety Act 2011* (Cth), what are the duties of a PCBU in relation to consultation with and induction training for workers and training of health and safety representatives?

6. What are the consequences of noncompliance with WHS legislation for a PCBU? Explain in a short paragraph or as a bullet list.

Part B

Read the case study, then complete the tasks that follow.

Case study

Su-Lin received comprehensive site and job task training when she commenced her employment at a factory in New South Wales over two years ago.

One day, she was cleaning her machine at the end of the shift. Although Su-Lin was well aware of the procedure she should follow, she was eager to leave early, so she speeds up the rollers to save time. In her rush, she accidentally touches the rollers, which pull her hand into the machine. She suffers extensive injuries to her left hand.

The team leader responsible for the section Su-Lin works in conducted an incident investigation and raised the issue at the next safety meeting.

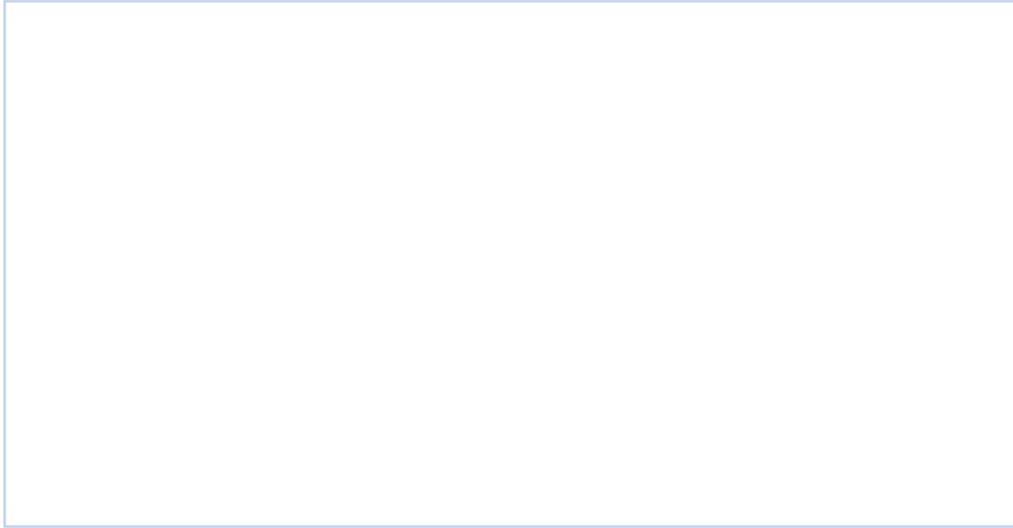
In discussing the accident, the team leader, along with other workers who operate the type of machine involved in Su-Lin's incident, identify ways to minimise and/or control the risks in future.

As the factory is in NSW, the *Work Health and Safety Act 2011* is the relevant legislation.

1. Outline the duties of a worker under the legislation. Did Su-Lin adhere to these duties?

2. Identify the actions the team leader took that conformed with the consultation obligations under the *Work Health and Safety Act 2011*. Visit the Safe Work Australia website and identify a model code of practice that can also be referred to for guidance on workplace consultation.

3. If the primary cause of the accident was Su-Lin not following safe work procedures, why is the organisation obliged by law to conduct a risk assessment and undertake procedure modifications? Explain in at least one paragraph.



Topic 2

Contribute to activity that reflects WHS legislative requirements

You have various opportunities to contribute to activities that reflect work health and safety (WHS) legislative requirements. To contribute, you need to be familiar with the processes for monitoring and contributing to compliance with legislation. Your ability to do this relies heavily on you having the skills and knowledge to identify and take appropriate action on any noncompliance with legislation.

It is also vital that you can recognise the limits of both your individual expertise and legal obligations, so you seek help and advice when necessary.

In this topic you will learn how to:

- 2A Contribute to monitoring legislative compliance
- 2B Contribute to ensuring legislative compliance
- 2C Identify and take appropriate action on noncompliance
- 2D Recognise the limits of your own expertise and legal duties and access help

2A

Contribute to monitoring legislative compliance

Noncompliance is the failure to conform to the duties specified in the WHS Act or regulations, or the failure to achieve the same or a better standard of workplace health and safety than that described by relevant codes of practice. You have an important role to play in identifying noncompliance in the workplace. The monitoring strategies used in your workplace will present you with opportunities to participate in this compliance process.

Monitor compliance: your role

You may be asked to help in several ways to ensure your organisation complies with WHS legislation. In most cases, you will be assisting a WHS specialist to perform the required activities or tasks.

As you read the following list, note which activities you are confident you could carry out yourself and those you may need to seek advice or further training about.



WHS activities and tasks in monitoring compliance for your role:

- Research and collect data to show evidence of compliance; for example, check audits, accident forms or feedback forms.
- Check the organisation's safety system by doing walk-through inspections and safety audits in the workplace.
- Identify hazards and assess risks and make recommendations for controlling these hazards and risks.
- Report breaches of WHS procedures.
- Ensure actions arising from health and safety committee meetings are carried out and followed up to check their effectiveness.
- Confirm that accidents, incidents and near misses are being reported and dealt with appropriately.
- Ensure hazardous substances located in the workplace have been recorded and the safety data sheets (SDSs) are stored in the hazardous substances register.
- Stay up-to-date with WHS trends and developments by reading legislation, standards, manufacturers' manuals and product specifications.
- Check that records of consultation and risk management activities are being correctly maintained.

Monitor compliance: what to look for

Monitoring compliance with WHS legislation involves checking that any control measures implemented actually eliminate or reduce health and safety risks, while reviews such as workplace inspections and audits check that the overall process is working effectively. Monitoring compliance involves checking the following activities.

Activities to check to monitor compliance

- Workers are aware of their safety obligations and duty of care
- Workers are following safety procedures, including wearing personal protective equipment (PPE) when necessary
- Emergency evacuation procedures are reviewed regularly
- An equipment/machinery maintenance program is in place and adhered to
- New workers undergo WHS training as part of their overall induction
- Regular WHS training occurs for all workers
- Consultation occurs regularly on WHS matters with all workers
- Individuals appointed to represent workers on WHS issues are effective in their consultation and reporting
- Incidents and hazards are routinely identified, reported and checked to see if there are any trends that need to be investigated
- The redesign of work processes has reduced risk or increased worker safety
- SDSs are obtained and stored in the hazardous materials register
- WHS instructions are displayed clearly and can be understood by workers, visitors, suppliers and anyone else in the workplace

Strategies for checking compliance

Your organisation should have a formal system in place that enables WHS compliance to be monitored on a regular basis. This may include conducting biannual safety audits, observing specific safety measures through walk-by inspections, conducting WHS meetings to clarify procedures, checking the quality and currency of WHS information and checking incident reports.

Workplace inspections/observation

Workplace inspections should be conducted in consultation with workers. They are usually carried out by a small inspection team made up of the area manager or supervisor, a health and safety representative and/or a member of the work team.

Their task is to check work spaces, work schedules, equipment, work processes and worker skills to confirm that WHS legislation is being complied with. Examples of informal and formal workplace inspection activities are provided below.



Informal inspections

Inspections may be conducted informally by walking through the workplace unannounced, checking for obvious issues, such as:

- workers not wearing PPE
- poor housekeeping
- slip, trip and fall hazards
- machine guards not in place or not working properly.

Formal inspections

Formal inspections may be conducted where you use checklists to identify hazards and risks. These may include a:

- manual-handling risk assessment checklist
- chemical audit checklist
- housekeeping checklist
- hazard checklist.

Workplace audits

Another form of inspection is the safety audit, which is conducted on a regular basis to determine if your organisation's WHS management system is operating as expected.

The number of times a workplace audit is carried out depends on the nature of the hazards and levels of risk, with high-risk areas being audited more frequently than low-risk areas.

On a broad scale, audits may look at items such as hazard and risk management, consultation and training to see whether the systems in place are working effectively to provide a safe and healthy workplace with minimal risks of injury and harm.

Several WHS authorities have developed audit tools and checklists that may help you to evaluate the effectiveness of your organisation's health and safety management system. Below are some examples.

Audit tools and checklists from WHS authorities

WorkSafe Victoria – SafetyMAP (Safety Management Achievement Program)

Provides a set of audit criteria against which current performance can be measured.

WorkSafe Victoria – Officewise: a guide to health and safety in the office

Includes a series of checklists covering workstations, psychological issues, environmental factors, equipment and tools.

The New South Wales Department of Primary Industry

Has developed numerous safety tools and audit checklists for use by the mining industry.

Western Australia's Department of Commerce WorkSafe Plan

Can be used to rate an organisation's WHS management system and identify areas in need of improvement.

Standards Australia

Publishes the standard AS/NZS 4804:2001 Occupational Health and Safety Management Systems – General Guidelines on Principles, Systems and Supporting Techniques.

Example: work area audit checklist form

Detailed audits may be conducted for each work area. Below is an example of a portion of an audit checklist suitable for a factory workplace.

Work area audit checklist					
Company name:					
Work area:			Date:		
Key: 0: Not yet started; 1: Started; 2: Almost compliant; 3: Compliant					
Items	Scoring				Total
	0	1	2	3	
Is the work area free of unnecessary equipment?					
Is the work area free of unnecessary waste?					
Are work surfaces free of clutter?					
Is all machinery properly secured?					
Does all equipment have a designated place?					
Is safety equipment, including PPE, properly stored and easily accessible?					
Is the area well lit?					
Is the floor clear of items that may cause a slip or trip?					
Is there a regular cleaning schedule in place?					
Are checklists available for recording maintenance duties?					
Are workers wearing PPE where appropriate?					
Is there a meeting schedule, and is it followed?					

Meetings

Because employers are legally required to consult with workers on health and safety matters, it is important that meetings are held regularly to discuss health and safety issues, and that WHS is a regular item on company or department meeting agendas.

Check that WHS is acknowledged and respected as an essential part of workplace procedures. By speaking directly with those who carry out the organisation's business, you can identify staff attitudes and determine whether workers recognise that WHS is everyone's responsibility. You can also establish whether they are willing to actively participate in achieving a safe and healthy workplace by contributing to, and complying with, WHS procedures.

Discussions at meetings may also identify how workers are adapting when changes are made to the work environment, such as when new plant, equipment, substances or new methods of work are introduced.



Check incident reports

Analysing data collected from incident, accident and near-miss reports can indicate whether WHS legislation is being complied with. A reduced number of serious occurrences may demonstrate that procedures and management systems are effective. Trends indicated in the reports, such as the possibility that people are disregarding the need to wear PPE, can lead WHS specialists to identify where stricter procedures may need to be developed.

Example: a worker contributes to WHS compliance

A leading hand at a manufacturing company, Haj has been asked to help carry out a job safety check.

Together with his work team, Haj lists all the jobs and tasks that take place in the team, and then watches how workers perform each task, recording details with the help of a manual-handling checklist.

Haj

Haj checks:

- the equipment used to perform each task
- that safety rules are written and displayed for the most risky tasks and equipment
- that benches and work areas are clear of clutter
- that the floors are free of trip and slip hazards
- that machine guards and safety switches are operational
- that machines and equipment have maintenance schedules, and that they are followed
- that workers have all received adequate instruction and training to safely complete work tasks
- that all workers know who to speak to about safety concerns or any incidents and who to ask for safety information.

Team

Haj and his team:

- identify risk factors that are present
- prioritise the tasks for action by reviewing the likelihood of injury along with the severity of each possible injury
- list the control measures required for each identified hazard.

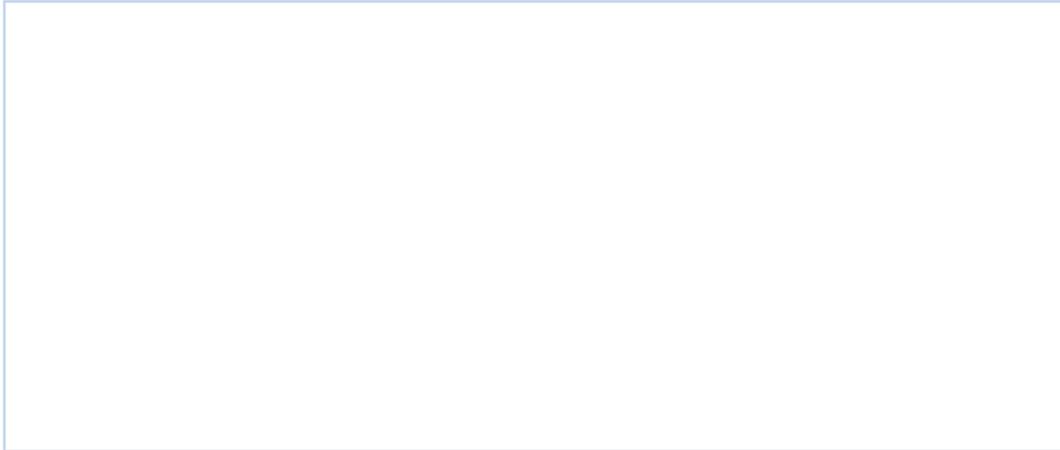
Outcome

The outcome of the job safety check is discussed at the weekly safety meeting. The health and safety representative is involved in deciding:

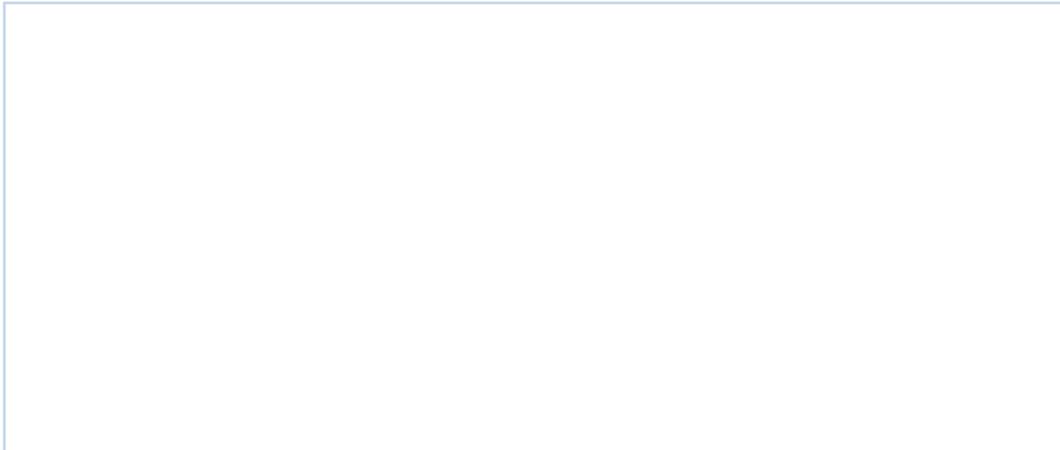
- how compliant the organisation is with WHS legislation
- which problems need to be dealt with first
- the people responsible for each control
- a time frame for the implementation of each control
- an implementation process to put the controls in place in the work area.

Practice task 6

1. Use a checklist from your organisation, one provided on a regulator's website or one contained within a code of practice to undertake a hazard identification inspection of a work area in your organisation or a workplace you are familiar with. Consult with individuals in the work area to help identify the hazards.



2. Discuss the outcome of the inspection with the individuals in the work area. Explain whether you found the organisation to be WHS compliant. Give examples of areas in which they are:
 - compliant
 - noncompliant.



2B

Contribute to ensuring legislative compliance

An effective WHS management system ensures sound processes and procedures are in place for identifying hazards and assessing their risks. The necessary steps can then be taken to eliminate or control the identified risks.

Employing a health and safety specialist does not reduce the responsibilities of persons conducting a business or undertaking (PCBUs), their officers, managers or supervisors, or the primary responsibility of every individual to comply with WHS laws, regulations and standards. It remains everyone's responsibility to contribute to achieving a safe workplace.

The main role of anyone with specific WHS responsibilities is to:

- make sure all workers are following WHS procedures
- identify where unsafe practices may be occurring
- handle WHS issues quickly and efficiently.

What to check

All workers need to be aware of and report hazards in the workplace. Specific duties for ensuring personal safety may include checking that a range of safety procedures are being followed.

You can use the following as the basis for a checklist:

- Workers are aware of organisational risks and hazards.
- Workers know the safety procedures they are expected to follow and where to access information.
- All work areas are kept clean and free of slip, trip and fall hazards.
- Equipment is always checked before being operated.
- A safety guard is always in place and checked before equipment is operated.
- Loads are lifted correctly.
- PPE is worn when needed.
- Chemicals are handled correctly.
- Spills are cleaned up immediately.
- WHS concerns and incidents are promptly reported and dealt with.
- Workers take adequate rest or exercise breaks, especially when engaged in repetitive activities, handling heavy loads or constant computer work.
- Maintenance schedules are in place and carried out for all machinery and equipment.
- Chemicals and equipment are regularly reviewed to work towards eliminating the hazards exposed to workers.

Communicate with workers

Work environments may change due to the introduction of new work methods, the recruitment or transfer of workers, or the introduction of new equipment or materials. These changes may in turn introduce new safety hazards into the workplace. It is therefore very important to communicate with workers about workplace safety on an ongoing basis.

Health and safety committees (HSCs), health and safety representatives (HSRs), WHS specialists and those who assist them play an important role in maintaining a safe workplace and providing mechanisms for workers to raise safety concerns.

You may like to consider nominating your organisation for safety awards such as the:

- Annual Safe Work Australia Awards
- WorkSafe Tasmania Awards
- Annual WorkSafe Victoria Awards
- Queensland Safe Work Awards
- Work Safety Awards Western Australia



Communicate with workers: engagement strategies

You can adopt several strategies to ensure work is undertaken in a safe manner and all WHS legislation is complied with. Adopt one of the following strategies.

Actively promote a health and safety culture

Take steps to actively promote a health and safety culture and effective workplace consultation. This fosters a workplace culture where workers are more likely to be committed to health and safety because they 'own' the process and have contributed to the solutions. You may:

- emphasise the responsibility of workers to actively contribute to WHS in the workplace
- arrange for WHS specialists to speak with workers
- display WHS posters from relevant authorities in locations such as lunch rooms or staff amenities areas
- have a health and safety suggestion box so workers have the opportunity to write down and submit their safety ideas
- set up a WHS noticeboard to display the latest safety news or important health and safety information
- ensure WHS is on meeting agendas
- conduct regular audits and inspections
- appoint someone to promote WHS, even if the organisation is small.

Increase WHS awareness

- Involve workers in audits. Ensure they are aware of the hazards associated with their work, such as slipping on oily or wet floors and steps; tripping over tools, equipment or parts lying on the floor; manually handling heavy objects; or working in cramped positions.
- Check there is adequate supervision and training for workers, keeping in mind that the appropriate amount of training, assistance and supervision depends on the specific risks involved. Ensure that workers are educated about health and safety responsibilities and accountabilities.
- Check that everyone is involved in identifying and eliminating or controlling risks, and that any incidents are investigated to determine what caused them and how they can be prevented in the future.
- Ensure documented safe work procedures are in place for all work tasks and workers understand and know where to access them.

Regularly consult workers and contractors on WHS issues

- Walk through the work area regularly, inspecting the workplace and discussing and listening to any safety concerns workers may have.
- Discuss health and safety at regular management meetings.
- Provide essential information and instructions to workers.
- Identify safer methods of getting the job done.

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- Discuss common injuries with workers.
- Hold 'toolbox' talks and planning days to exchange safety information and reinforce your workplace's commitment to a safe and healthy workplace. Make sure you:
 - hold meetings in a quiet area where you are unlikely to be interrupted or distracted
 - choose relevant topics, keep the meeting short and to the point
 - prepare your topics and stick to your agenda
 - use relevant workplace examples that workers can easily relate to
 - allow time for questions; encourage participation
 - discuss the positive actions and outcomes as well as areas for improvement.

Provide opportunities for recognition

For example, several WHS authorities conduct annual safety awards that:

- highlight to workers and the general community that your workplace believes workplace safety is a priority and is recognised for its outstanding WHS practices
- showcase and reward innovative ideas, leadership and dedication with regard to workplace health and safety
- provide you with an opportunity to be recognised as a leader in the prevention of workplace accidents and incidents.

Using WHS documents

You may be asked to prepare simple documents for a range of target groups including HSCs, HSRs, managers and supervisors. Below is some information on some of these documents.

Memos

Safety messages can be communicated in most workplaces via memos, which can be disseminated as an email or displayed on noticeboards. Make sure you structure your message so it is easy to read. Keep the message short and concise, and stick to the facts. Explain what has happened, why a new work method is being introduced or how a solution will address a specific problem. Provide your email address or phone number to encourage workers to comment on the content of your memo.

For example: Because there have been a number of incidents in the loading dock area where pedestrian workers have nearly been struck by forklifts, the company has mounted safety mirrors on the ceiling to improve floor visibility.

Reports

To meet legislative requirements, you may be asked to write reports for management that contain the details of near misses, incidents and injuries. Make sure you clearly describe:

- the incident or event
- what might have caused the incident/event; for example, chemical fumes from a spill that caused a person to become unconscious
- any injuries sustained, including the location of such injuries; for example, the worker received a cut to the back of her head when she fell to the concrete floor
- any follow-up investigation and actions taken to prevent anybody being further exposed to the hazard and to eliminate or reduce the risk of the incident recurring; for example, stopping people from using the chemical until the investigation is completed.

Inspection reports

A workplace inspection report usually summarises the results of an inspection carried out with the help of a checklist. Several WHS authorities provide practical information that may help you evaluate the effectiveness of your health and safety management system, and what you should look for when conducting workplace inspections (both formal and informal). For example, WorkSafe WA's Checklist for inspecting the workplace can be downloaded from its website. The guide focuses on hazards that cause the highest rate of injury or death in Western Australian workplaces each year. The following areas are listed:

- Chemicals and harmful substances
- Electricity
- Health: manual tasks, slips and trips, violence, aggression and bullying
- Human factors: evacuation, new and young workers, work experience and transient workers
- Machinery and plant
- Noise
- Work practices: confined spaces, working at heights, working alone



Example: make contributions to ensure work is undertaken in a safe manner

Michelle works in the office of a car repair firm that employs 25 people. One of her responsibilities is to assist the manager with WHS matters. They are currently developing a checklist for an audit. Michelle has also been asked to look at areas that can be improved. She makes a list and offers these workplace safety suggestions based on WHS legislation. Her next step is to discuss these with staff to see which ones are a priority and how they might be implemented.

Consultation

- Decide how workers can be involved in matters that affect WHS, including hazard identification and control.
- Decide how we might communicate to workers the reasons that change is needed; for example, if a report highlights high incidences of injury.
- Implement a system to enable workers to improve the workplace safety management system.
- Get workers to trial risk control methods before any solution is made permanent.
- Get workers to review controls after the initial testing period and contribute to discussion about the possibility that controls may need modification.

Manual handling

- Decide if a task is really necessary or if other methods could be used.
- Reduce manual handling using aids, equipment or work redesign.
- Check if redesigning the work area will reduce the amount of handling required.
- Plan for more rest breaks.
- Rotate a job between workers.
- Provide further training in safe work methods.
- Ask workers for their ideas on how the work could be performed more safely.

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Checking hazards

- Adequate housekeeping processes and procedures are in place to keep the workplace free of slip, trip and fall hazards.
- Work areas have sufficient lighting.
- Workers wear suitable footwear for the workplace.
- Workers are familiar with emergency and evacuation procedures.
- All electrical fittings and electrical equipment are regularly inspected and maintained.

Equipment checking

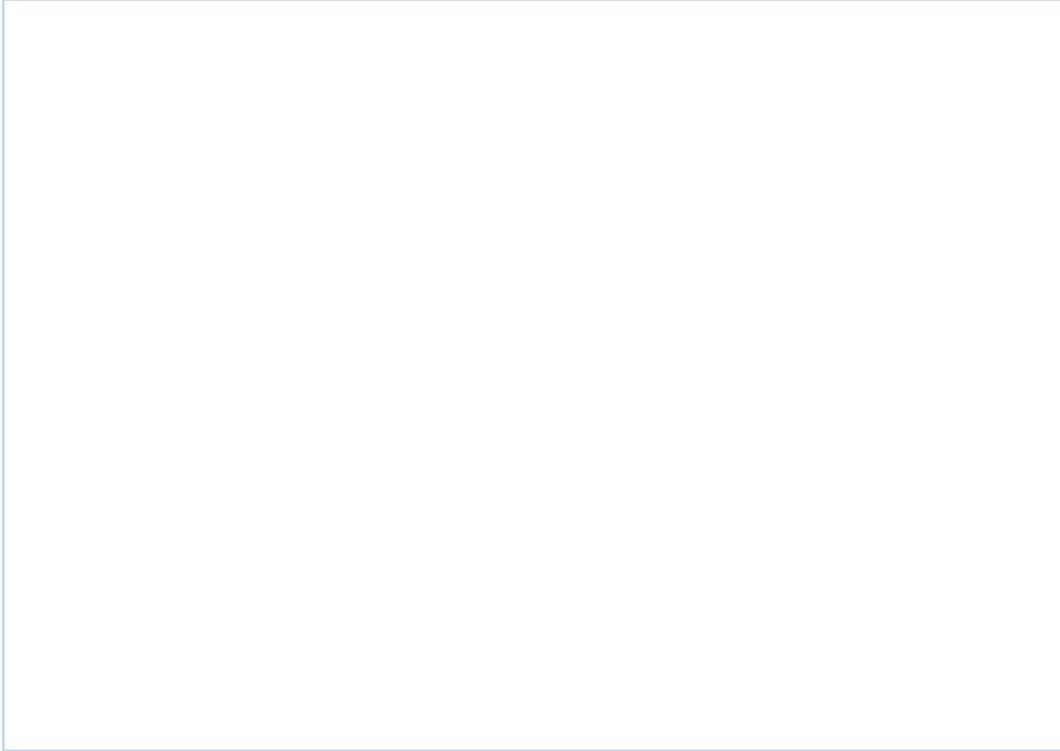
- Workers are provided with the necessary PPE.
- Machine guards are in place.
- Emergency stop buttons are operational.
- Work areas are clean and tools and equipment are stored correctly.
- Adequate ventilation is provided.
- Noise levels are within acceptable limits or PPE is provided.
- Workers have received adequate training in safe work methods.
- Workers have been asked for ideas on how the work could be performed more safely.
- Workers receive adequate supervision.
- Equipment is regularly inspected for wear and tear.
- Equipment is regularly maintained.

Chemical handling

- All chemicals are clearly labelled.
- The SDS for each chemical is contained in the hazardous substances register.
- Workers are aware of any harmful effects of chemicals and have access to the SDSs.
- There are adequate first-aid supplies to deal with chemical splashes or burns.
- Workers have received adequate training in safe work methods.
- Workers have been asked for ideas on how the work could be performed more safely.
- Workers receive adequate supervision.

Practice task 7

Describe a strategy you can use to assist to ensure that work is carried out safely. Choose a task for a job you are competent in. Organise a time to consult with colleagues who have experience with the task to help accurately describe the strategy. You may wish to assess whether you think the current method of controlling risks is effective.



2C

Identify and take appropriate action on noncompliance

Noncompliance with WHS legislation, regulations, codes of practice and workplace policies and procedures may be related to a range of factors. People with specific WHS responsibilities must know the appropriate actions to take to ensure compliance.

Actions to ensure compliance may include:

- contributing to a WHS inspection
- contributing to a WHS audit
- contributing to engaging external specialists and consultants
- contributing to identifying noncompliance with WHS legislation
- contributing to implementing, monitoring and evaluating actions to ensure compliance with WHS legislation
- making recommendations about how compliance with WHS legislation may be achieved
- reporting breaches of compliance
- carrying out roles or functions specified in legislation or workplace policies and procedures.



Contribute to a WHS inspection

Under the *Work Health and Safety Act 2011* (Cth), certain individuals both within and external to organisations have the power to conduct a WHS inspection if they suspect there has been a contravention of the Act. This includes:

- HSRs
- union officials with a WHS entry permit
- regulators.

HSRs and union officials with a WHS entry permit have some limitations on their powers to inspect a workplace. Inspectors who are representatives of the regulator, on the other hand, have unlimited powers to access any part of the workplace at any time to inspect for breaches of the Act.

Contribute to regular WHS inspections

Organisations should conduct regular health and safety inspections as part of their strategy for preventing workplace accidents and monitoring safety performance. These inspections usually involve a supervisor and the HSR, or HSC members who have undertaken training in hazard identification and risk management. Input should also be sought from workers who understand the work activities and are working in the area being inspected. How often these WHS inspections are conducted will depend on the industry and individual workplace.

To conduct an inspection, a checklist can be used to identify common hazards and risks. Examples of these industry-specific checklists can be accessed on the websites of regulators. Once the inspection is completed, an action plan can be developed to address and prioritise the identified hazards and risks. The results of the inspection and the action plan should then be communicated to everyone in the workplace.

Contribute to a WHS audit

The purpose of a WHS audit is to see if systems or processes are being followed. For an audit to take place, there must be some criteria on which to base the assessment. This can be in the form of a checklist of WHS procedures and systems.

An audit may be conducted by workers, HSRs, internal health and safety specialists or external WHS service providers. They may be conducted in teams or by individuals.

Your job may be to collect data from a recently conducted audit or inspection and analyse the results to identify compliance, noncompliance and trends. You may be asked to compare past audits to check whether improvements have been made in previously identified areas of noncompliance.

For some highly hazardous industries, such as the petrochemical industry, audits are a regulatory requirement. These audits are conducted by WHS experts with extensive industry-specific technical and legal knowledge.

In some states, regulators have developed audit tools to help businesses:

- evaluate and improve the performance of their current health and safety systems
- benchmark their health and safety performance against established criteria
- gain recognition for the standards achieved.

Contribute to engaging external specialists and consultants

If you believe a person or an area of the workplace does not show compliance with WHS legislation, you may become involved in arranging for a WHS specialist or consultant to visit the workplace. It may be your job to compile and maintain a database of WHS consulting services and their areas of specialty, such as electrical safety or dangerous goods.

Consultants and specialists may be called in to advise management on safety procedures, make suggestions to improve workplace design, speak to workers to raise WHS awareness or demonstrate safety practices. For example, if there is an increase in back injuries, an organisation may call on the services of an expert in manual handling to show workers the correct techniques to use.

Other areas in which WHS specialists offer support include:

- audits of WHS management systems
- accident and incident investigations
- workplace inspections
- risk and hazard assessments
- WHS training services
- developing WHS policies and procedures.



Contribute to identifying noncompliance with WHS legislation

In the workplace, each and every person has a role to play in identifying noncompliance with WHS legislation. To participate in this process, workers need to be:

- trained in hazard identification
- advised on how they can contribute
- given the opportunity to voice their concerns.

Opportunities to contribute may be provided through toolbox meetings, safety walks and inspections or through meeting with supervisors and HSRs.

Contribute to implementing, monitoring and evaluating actions to ensure WHS compliance

People contributing to achieving WHS compliance must be familiar with the strategies used to ensure compliance. Always ask your supervisor if you are unsure about your responsibilities in relation to compliance. In some instances, it may be beyond your level of authority to conduct compliance checks. Below are some WHS compliance strategies to use.

1

Checking there is a system in place for assessing hazards and risks and that it is routinely followed, especially when new equipment or work practices are introduced.

2

Ensuring workers are aware of safety procedures by arranging for information sessions, training and specialist advice.

3

Holding regular WHS meetings to consult with workers about WHS issues, and ensuring everyone is aware of their obligation to comply with WHS legislation.

4

Checking that the design of work spaces meets WHS regulations and standards.

5

Checking that maintenance schedules are being followed.

6

Checking that training is provided when necessary (it may be your responsibility to maintain training records; these are important as they may be called on in disputes).

7

Ensuring adequate supervision is provided; for example, for new workers, trainees or apprentices.

Make recommendations about how compliance with WHS legislation may be achieved

You can make a valuable contribution to WHS improvement by making suggestions and recommendations based on your analysis of audits, meeting notes, informal feedback and observations. Always communicate clearly and concisely and keep your audience in mind.

Recommendations may be made informally or as part of formal WHS reports, depending on the nature of the recommendations and your organisation's procedures. For example, you and your team may make the following recommendations to the organisation.

WHS recommendations to consider

1

Modify the working environment to provide better lighting and space so workers are not forced to adopt awkward positions.

2

Modify the design or layout of the workplace; for example, by making sure workstations encourage comfortable head and neck postures.

3

Provide more mechanical lifting aids or assistive devices.

4

Change work organisation and work practices; for example, splitting loads to reduce the overall weight a worker is required to lift and carry.

5

Provide refresher training on a regular basis.

6

Prepare a database of specialist WHS consultants and service providers to help with noncompliance.

7

Raise the profile of WHS to ensure all staff are aware of WHS legislation by having regular WHS meetings or competitions between departments to reach compliance.

Report compliance breaches

It is the legal obligation of a person who witnesses a WHS compliance breach, workplace hazard or unsafe situation to report it to the relevant person or authority. Procedures should be in place to ensure all staff know who to report a breach to, and what supporting documentation is required.

In most cases, you will need to report to the senior person in charge of WHS in your organisation. Be prepared with a concise account of the situation, including what occurred, where, the date, the personnel involved, safety outcomes and the follow-up action required.

All breaches should be addressed promptly. The employer, in consultation with the relevant worker, must attempt to resolve WHS issues in accordance with agreed workplace procedures or the issue resolution process detailed in the WHS Act or regulations.

If the matter is not resolved within a reasonable time, either party may request that an inspector from their state or territory's regulator visit the workplace and assist in resolving the matter.



Carry out roles or functions specified in legislation or workplace policies and procedures

Your state or territory safety laws detail the obligations of employers to keep records as part of their WHS management system. Be aware of the procedures you need to follow and always write in clear, plain language so no-one can misunderstand what you are saying.

Keep in mind that records can be used by your employer to show that your organisation complies with your state or territory's WHS laws. Inspectors have a right to inspect these records at any time. They can also be used in court to demonstrate compliance or noncompliance with the relevant laws.

You can access more information and practical advice about the actions you can take on noncompliance from your state or territory's safety regulator.

You may be asked to help take notes and keep records about:

- processes implemented and steps taken to resolve WHS issues
- methods used to control risks to health and safety
- notifiable incidents
- consultation arrangements for risk assessments
- training conducted on and off the job
- health monitoring activities
- plant and equipment operations, including hours of operation
- maintenance of and repairs to plant and equipment
- items in the hazardous substances and dangerous goods register
- fire equipment maintenance
- testing residual current device performance
- accident, incident and near-miss reports, including accident investigations, injury reports and any corrective action taken
- workplace inspections and audits
- first-aid treatment provided to workers
- permits to work and licences held by workers
- HSC or toolbox meeting minutes
- workers compensation claims, rehabilitation records and return-to-work plans.

Example: taking action on noncompliance

In the following case study, a company identifies and takes appropriate action on noncompliance.

Each month at Pacific Manufacturing, HSC members use the WorkCover NSW Safety Meter tool to undertake a routine inspection of the workplace that records both compliance and noncompliance with the employer's safety obligations.

The measurement technique used by the Safety Meter provides a safety snapshot of the workplace and allows the HSC to:

- monitor WHS compliance over time
- identify priorities in relation to control measures
- evaluate the effectiveness of any control measures implemented.

After each meeting, a report is prepared that includes a detailed account of any noncompliance and recommendations for improvement. On one occasion, the committee felt that staff would benefit if a specialist visited and explained how staff could personally conduct their own safety checks of their workstations and work practices.

Practice task 8

Undertake a safety walk-through of your work area or the work area in a workplace you have access to. Consult with individuals in the work area about the hazards present. For one of the hazards, prepare responses to the following questions in the form of a half-page report:

- a) What is the hazard/incident?
- b) Who is exposed to the hazard?
- c) How often are people exposed to the hazard?
- d) Has this hazard already caused any problems?
- e) How easily could someone be hurt; that is, how high is the risk level?
- f) How seriously could someone be hurt?
- g) Which factors relating to this hazard need to be taken into account, according to WHS laws?
- h) Explain the appropriate action you should take to ensure the organisation complies with WHS requirements related to the hazard.

2D

Recognise the limits of your own expertise and legal duties and access help

Everybody in a workplace, including visitors, workers, officers and PCBUs, have duties under WHS legislation. Visitors are required to take care of their own safety and the safety of others as well as follow reasonable instructions. Workers have the same duties and are also required to follow procedures. The PCBUs and their officers have a higher level of responsibility that covers all aspects of the organisation.

It is important that you seek help if you are unsure about an issue, rather than ignoring it or taking inappropriate action.

Identify sources of expertise

Keep in mind that your state or territory regulator provides valuable resources that can help you comply with WHS laws. Regulators' websites usually contain fact sheets, checklists, safety alerts and other resources that you can download free of charge, and most regulators produce a regular safety newsletter that you can subscribe to.

Here are some useful resources for keeping up-to-date with the latest developments in WHS.

Safe Work Australia

www.safeworkaustralia.gov.au

Safe Work Australia offers advice and assistance on:

- how to meet your duty of care
- a range of health and safety topics
- interpreting WHS legislation
- locating and accessing WHS publications and guidance material.

WorkSafe ACT

www.worksafe.act.gov.au

WorkSafe ACT should be the first place you contact regarding any questions about WHS. The website provides a great number of resources, including tips for:

- understanding your obligations
- doing a risk assessment
- reporting an incident.

The authority also runs a number of training sessions.

WorkCover NSW**www.workcover.nsw.gov.au**

WorkCover New South Wales has a help line you can call for information, complaints, advice or assistance. It also provides a range of free services to small businesses, including:

- advisory visits
- workshops
- safety solution rebates
- forums
- a mentor program that provides small businesses with advice, assistance and practical solutions for WHS, workers compensation and injury management practices from experienced businesses in the same industry.

NT WorkSafe**www.worksafe.nt.gov.au**

NT WorkSafe works with employers and workers by:

- explaining and interpreting laws and standards
- providing guidance materials
- helping them meet responsibilities through workplace visits, advice, audits and inspections.

WorkCover Queensland**www.worksafe.qld.gov.au**

WorkCover Queensland has a help line you can ring to ask questions or make complaints regarding a suspected breach of the law.

Inspectors provide information and advice to workplaces on:

- employer and worker responsibilities and rights
- practical guidance material on hazard identification and risk control.

The Small Business Program provides operators with free guidance, advice and information, including:

- one-on-one workplace consultations
- information sessions
- workshops
- resources to help you establish simple safety management systems
- various tools and templates to help you identify safety issues.

SafeWork SA**www.safework.sa.gov.au**

SafeWork SA has a help centre that you can call for advice or to make complaints regarding a suspected breach of the law. It also offers an industry-based, self-paced (online) WHS improvement program, The SafeWork Management Program, which is a step-by-step guide to managing safety in your workplace based on the requirements of AS/NZS 4804.

WorkSafe Tasmania**worksafe.tas.gov.au**

WorkSafe Tasmania has a help line you can call for advice on legislation or information on safety issues, along with numerous online resources to help you improve the standards of safety in your workplace.

WorkSafe Victoria**www.worksafe.vic.gov.au**

Visit the WorkSafe Victoria for:

- general WHS inquiries
- advice to workers about their rights, including what to do if they are injured
- employers' advice on WorkSafe premiums and WorkSafe policy issues
- return-to-work and rehabilitation rights and obligations
- assistance to resolve worker, employer and service-provider concerns with the WorkSafe scheme.

WorkSafe WA**www.commerce.wa.gov.au/worksafe**

Visit the WorkSafe WA website for:

- organising for a community education officer to come to your workplace to explain the obligations of employers and workers under the Act, give talks on the role of WorkSafe and discuss specific workplace hazards relevant to your business
- a free agriculture safety advisory service
- WHS seminars for small businesses as part of the ThinkSafe program
- free, independent and confidential WHS advice and training to small businesses through the ThinkSafe Small Business Assistance Program.

Getting specialist advice

By law, your organisation must employ or engage a suitably qualified person to give advice on issues that affect workers' health and safety. If your workplace does not employ anyone with the right skills or knowledge to provide this advice, the PCBU should consider engaging an external consultant to give advice about:

- establishing, maintaining and improving safe systems of work
- identifying, eliminating and controlling workplace hazards
- taking workplace environment samples and measurements; for example, of noise levels or air quality.



Specialist advice

Keep in mind that consultants usually specialise in particular aspects of safety management. One consultant may be able to provide guidance about how to better manage ergonomics, while another may be better equipped to provide advice about risk assessments. Be sure to select the consultant best suited to your needs.

It is also a good idea to make sure any consultant you seek advice from has experience with your industry and is a member of a professional body such as the Safety Institute of Australia.

You may also need help in other areas, such as writing reports or presenting to groups. Watch what others do; read reports and recommendations that have been written by experienced personnel; and ask to attend professional development writing courses.

Areas of specialty and what they can offer are outlined here.

Auditing

With regards to auditing, inspections and risk assessment, a consultant visits your organisation and looks for risks, hazards and compliance with your state or territory's safety laws, then provides an audit report with recommendations on how to achieve compliance.

Dangerous goods

These experts provide regulatory and technical advice on storing and handling dangerous goods safely.

Electrical safety

Electrical WHS experts monitor/audit internal practices and identify opportunities for improvement, report findings and recommend new or revised work methods.

Emergency planning

Emergency experts assist in developing and implementing emergency and evacuation procedures.

Ergonomics

Ergonomists help design systems that ensure the needs of the worker are catered for. You may engage an ergonomist to undertake activities, such as analysing and designing operator tasks or conducting risk assessments, including manual-handling risk assessments and providing advice on how to prevent musculoskeletal disorders.

Fire safety

Fire safety consultants provide advice on compliance issues related to fire safety management plans and fire safety measures that meet legislative requirements.

Investigations

A consultant may investigate accidents, incidents, injuries and near misses to identify why a problem occurred and what action needs to be taken to prevent similar situations in the future.

WHS management systems

A consultant may develop and document WHS management systems, including policies and safe work procedures, which reflect the organisation's needs, state and territory safety laws, contemporary advice and Australian standards.

Occupational health

You can contract the services of an occupational health nurse who is trained in the tests and procedures necessary to conduct worker health surveillance (regularly watching out for early signs of work-related ill health); for example, looking for skin damage related to chemical use, or performing hearing tests.

Example: the importance of seeking expert advice

The following example demonstrates the importance of seeking help from relevant experts.

A worker at a construction company died on a building site when he fell to the floor and was crushed under falling blocks and panels that had been placed on the partially-built floor. It was found that the partially-built floor collapsed because excessive weight had been placed on it.

The health and safety inspector determined that the worker's death was preventable. 'The people responsible for this workplace should have known the risk of loading heavy materials onto a floor under construction ... all the company needed to do was to seek the advice of an engineer on how much material could be stored on the floor', he said.

Practice task 9

1. Complete the WHS training needs analysis and professional development plan. Be honest with yourself when completing the plan. You may wish to revisit this with your manager or supervisor to discuss your training requirements.

WHS training needs analysis and professional development plan			
Skills/knowledge to ensure compliance with the WHS legislative framework	Rating	Professional development activity planned	Comments
Scale: 1. Not confident 2. Need improvement 3. Skilled and confident 4. Able to supervise others		<i>For example, attend workshop on ...</i>	<i>For example, increased confidence level after completing professional development activity</i>
a) How confident are you in undertaking responsibilities and duties related to duty of care?	1 2 3 4		
b) How confident are you in undertaking responsibilities and duties related to incident notification?	1 2 3 4		
c) How confident are you in undertaking responsibilities and duties related to consultation?	1 2 3 4		
d) How confident are you in undertaking responsibilities and duties related to issue resolution?	1 2 3 4		
e) How confident are you in undertaking responsibilities and duties related to first aid?	1 2 3 4		

continued ...

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WHS training needs analysis and professional development plan			
Skills/knowledge to ensure compliance with the WHS legislative framework	Rating	Professional development activity planned	Comments
Scale: 1. Not confident 2. Need improvement 3. Skilled and confident 4. Able to supervise others		<i>For example, attend workshop on ...</i>	<i>For example, increased confidence level after completing professional development activity</i>
f) How confident are you in undertaking responsibilities and duties related to emergency plans and safety equipment?	1 2 3 4		
g) How confident are you in undertaking responsibilities and duties related to identifying hazards and assessing risk?	1 2 3 4		
h) How confident are you in undertaking responsibilities and duties related to identifying and controlling work health and safety risks posed by manual tasks?	1 2 3 4		
i) How confident are you in undertaking responsibilities and duties related to identifying and controlling work health and safety risks posed by hazardous chemicals?	1 2 3 4		

continued ...

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WHS training needs analysis and professional development plan			
Skills/knowledge to ensure compliance with the WHS legislative framework	Rating	Professional development activity planned	Comments
Scale: 1. Not confident 2. Need improvement 3. Skilled and confident 4. Able to supervise others		For example, attend workshop on ...	For example, increased confidence level after completing professional development activity
j) How confident are you in undertaking responsibilities and duties related to managing noise and preventing hearing loss at work?	1 2 3 4		
k) How confident are you in undertaking responsibilities and duties related to general induction training?	1 2 3 4		
l) How confident are you in undertaking responsibilities and duties related to providing the necessary information, instruction, training and supervision to a worker to enable them to work in a safe manner?	1 2 3 4		

2. List three WHS specialists – internal or external to your work area or a workplace you are familiar with – that you could consult for specialist advice. Provide full contact details, their areas of expertise and a description of the support they can offer. You may need to search for this information on the internet.

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3. Explain why it is essential that you do not attempt to work beyond your level of responsibility and expertise in WHS matters.

Summary

1. You can make a number of contributions to monitoring compliance with WHS legislation by:
 - consulting with workers on matters that affect their health and safety
 - assisting to provide adequate systems of information, instruction, training and supervision
 - assisting to provide safe systems of work that meet the obligations specified in the Act
 - adequately maintaining plant and equipment
 - adequately identifying and controlling workplace hazards
 - monitoring the effectiveness of any health and safety actions implemented by the organisation
 - assisting management to resolve health and safety issues.
2. Strategies to ensure work is undertaken in a safe manner include:
 - using workplace inspection checklists
 - carrying out audits
 - promoting a health and safety culture
 - arranging for regular consultations with staff
 - checking there is adequate supervision and training for workers
 - providing opportunities for recognition.
3. Appropriate actions to ensure compliance may include:
 - researching and collecting data to obtain evidence of compliance with WHS legislation
 - engaging external specialists who offer WHS consulting services
 - making recommendations about how compliance with WHS legislation can be achieved.
4. Managers, supervisors and workers all play an important role in monitoring compliance with WHS legislation by developing, implementing and reviewing WHS procedures on an ongoing basis. It is important for you to understand your specific WHS responsibilities, accountabilities and level of authority.

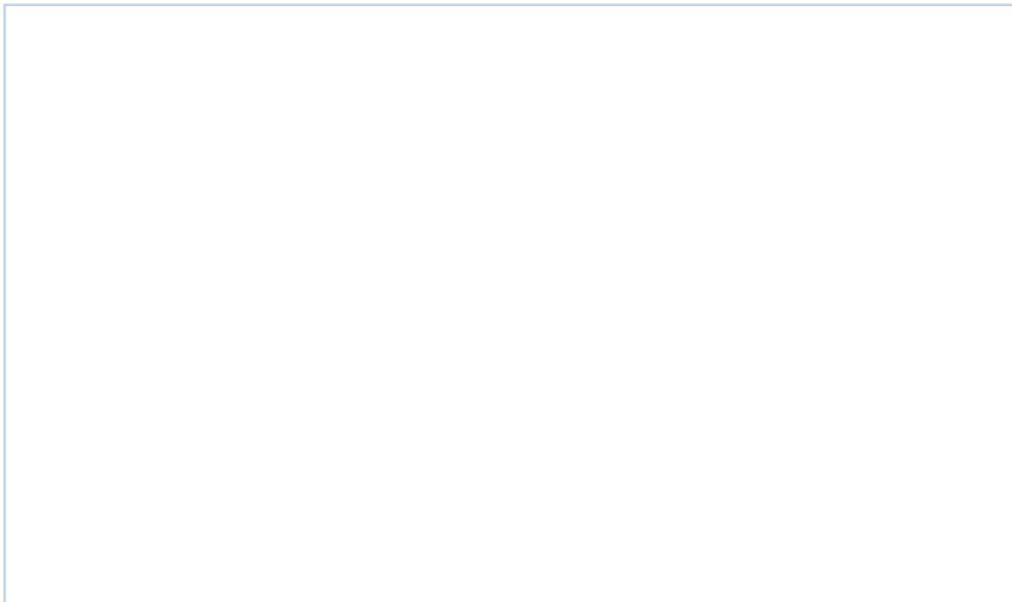
Learning checkpoint 2

Contribute to activity that reflects WHS legislative requirements

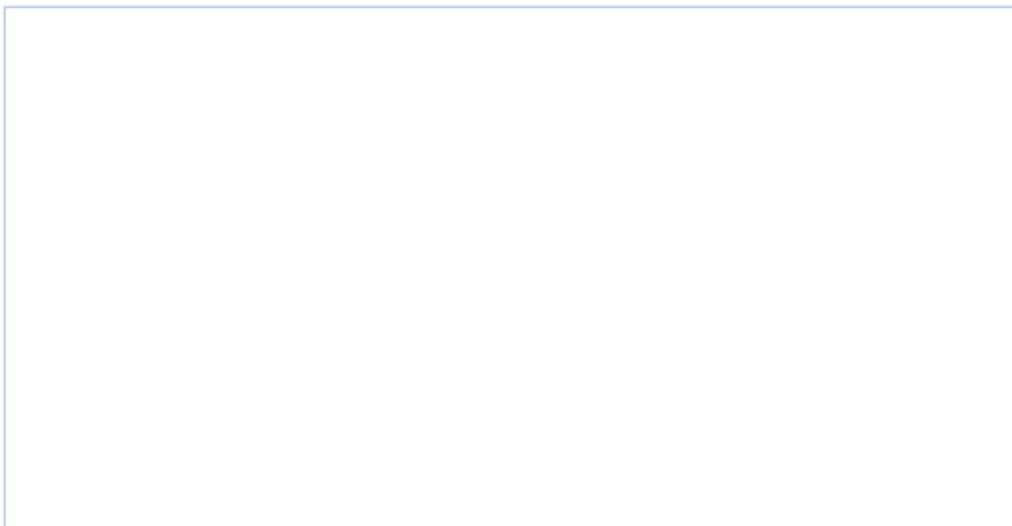
This learning checkpoint allows you to review your skills and knowledge in contributing to activity that reflects WHS legislative requirements.

Part A

1. What can a worker assisting a WHS specialist do to contribute to monitoring WHS compliance?



2. List three ways you can contribute to ensuring work is carried out safely.



3. List at least four things that should be regularly checked to identify noncompliance.

4. Explain at least three actions that can be taken to address identified breaches in compliance.

5. In a paragraph, explain why you need to know and understand your specific WHS responsibilities and accountabilities.

6. Explain in a paragraph why literacy and communication skills are important for someone who assists in WHS matters. Include examples of how you may be required to apply these skills.

Part B

Read the following case studies. Choose two of the case studies and explain the following in a half-page report:

- What WHS legislation and regulations apply (in your state or territory)
- Whether the company is compliant or noncompliant and why
- What action you would take to ensure staff work safely
- What expert or specialist agency you would approach for advice or support and why

Before documenting your response, discuss your answers with another learner, work colleague or supervisor. You may also need to visit the website of your state or territory regulator to identify relevant legislation and regulations.

Case study 1

All new workers at Goanna Graphics undergo a one-hour safety induction about emergency procedures, manual handling and how to report accidents. The company then relies on workers to help each other. One day, a new worker is restocking a stationery cupboard. She wants to show she is efficient and can work independently, so she carries the huge boxes into the storeroom by herself, staggering under their weight. She then grabs a chair and starts to pile the boxes on the top shelf. Unfortunately, the chair is unstable and the weight of the boxes is too great, and she wobbles and falls, fracturing her ankle.

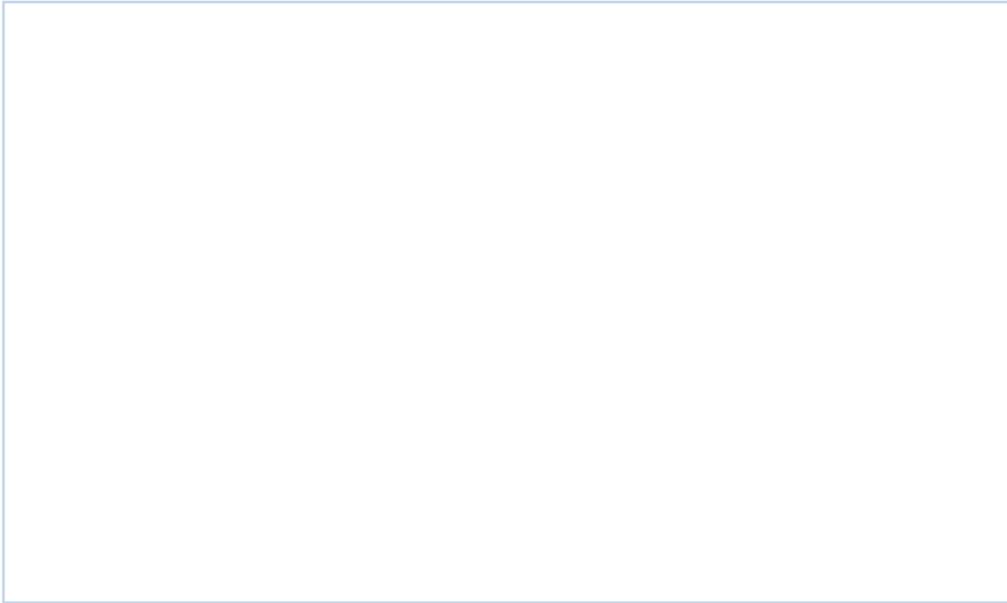
Case study 2

Jelena has been asked to do a safety audit for her work area. She discovers:

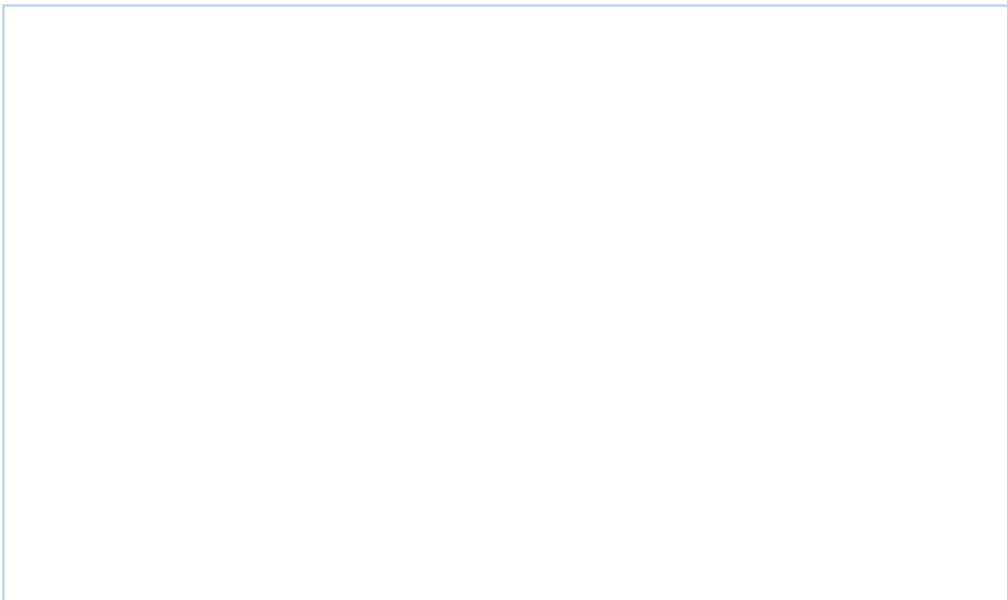
- some of the safety goggles in the storeroom have broken straps
- product cartons are blocking the entrance to the fire exit in the storeroom and obscuring the emergency exit sign
- the external light outside the exit door is not working
- new safety notices alerting staff to changed safety procedures have been posted in the reception area, offices and the kitchen area
- some staff are working through their lunchbreaks in order to complete work
- the maintenance register is up-to-date.

Case study 3

On a routine walk-through safety inspection, Todd notices that warehouse staff are not wearing hairnets when working in and walking through production areas.

**Case study 4**

Anh has been asked to prepare a brief safety information flyer for contract workers who will be responsible for clearing vegetation near overhead lines. This is definitely not Anh's area of expertise, so he knows he needs to seek some specialist advice.



Topic 3

Keep up-to-date with legislation and relevant publications

It is important to maintain your knowledge of WHS legislative, industry and organisational requirements. By using a range of sources of information, you can remain up-to-date with legislation. This information can then be communicated to others in the workplace so they are aware of and can find out more about legislative changes.

In this topic you will learn how to:

- 3A Use relevant sources to keep up-to-date with legislation and publications
- 3B Communicate information on legislative changes and publications

3A

Use relevant sources to keep up-to-date with legislation and publications

Individuals who assist with WHS matters must keep up-to-date with WHS legislation and guidelines that impact on workplace requirements, so they can help ensure the workplace is compliant with WHS legislation. The best way to do this is to undertake ongoing professional development activities that enhance and reinforce WHS skills and knowledge. This may include attending courses, seminars, conferences or virtual chat groups and reading current information presented in safety books, manuals or online.

The primary sources of information that can help you meet your organisation's WHS obligations are the relevant state and territory WHS Act, regulations and codes of practice. This topic provides additional information on where to access more information and practical advice about contributing to implementing, monitoring and evaluating actions to ensure WHS compliance, and making recommendations about how compliance can be achieved.

Sources of information

In general, to keep up-to-date with legislation and publications, you can refer to the following:

- Audits
- Australian and international standards
- Hazard, incident and investigation reports
- Industry bodies or groups
- Manufacturer manuals and specifications
- Regulatory authorities
- Training or information sessions and forums
- Unions
- WHS professional bodies

Audits

The purpose of a WHS audit is to see whether systems or processes are being followed. For an audit to take place, there must be some criteria on which to base the assessment. This can be in the form of a checklist of WHS procedures and systems.

Some state and territory regulators provide examples of these audit tools on their websites.

Australian standards

Australian standards provide a framework that allows organisations to demonstrate that their operational standards and management systems meet endorsed guidelines. The current Australian standard for occupational health and management systems is AS/NZS 4801.

Such systems help to ensure that an organisation:

- has an effective WHS policy and objectives
- can establish, assess and review its own WHS procedures
- can demonstrate its commitment to WHS to others, via self-declaration or certification.

International standards

International standards provide a similar framework that allows organisations to benchmark

their operational standards and management systems at a global level. The international standard for occupational health and safety management systems is OHSAS 18001. Organisations that have been accredited to these standards will promote this achievement widely.

The Standards Australia website at: www.standards.org.au has a news section that provides information about updates to standards. For example, in 2012 Australian Standards published a new edition of AS 1851 – Routine service of fire protection systems and equipment.

Reports: hazard and incident

A hazard report form is used to report a hazard or potential hazard for investigation by the person/s responsible for health and safety within the organisation. These people may include supervisors, health and safety committee (HSC) members, health and safety representatives (HSRs) or health and safety specialists.

Most workplaces develop a generic report or template and make it available on their intranet or provide copies to workers to use if a hazard or risk is identified. These reports include the name of the person identifying the hazard, a description of the hazard, the possible consequences of the hazard, the action to be taken and who is responsible for this action.

Incident reports play a similar role. The major difference, however, is that these generally provide details of a specific incident such as an electric shock or chemical spillage. It is common for incident reports to also be used to document near misses, where no injury occurred, but possibly could have.



Reports: investigation

The hazard and incident reports can be used when HSCs meet to address urgent risks or to gain an understanding of emerging patterns of risk. It is common for employers in large organisations to communicate information contained in these reports to workers to keep them informed on workplace safety. Workers compensation claimants may also use incident reports as evidence of injuries sustained during the course of work.

All Acts require persons conducting a business or undertaking (PCBUs) to complete incident forms and to notify the relevant regulator after a dangerous workplace incident has occurred, such as a fall from height or collapse of a structure. Most states allow this notification to occur either by phone or in writing, with the regulator able to demand further information in writing at a later date. Failure to notify of an incident can result in penalties.

Investigation reports are usually prepared after a hazard or incident report has been prepared and detail actions that:

- have been undertaken by the organisation to gain an understanding of an incident or potential incident
- need to be taken to eliminate the hazard and prevent or reduce the likelihood of the incident recurring.



Industry bodies or groups

Industry bodies or groups are dedicated to the advancement of their industries as well as the professional development of their members. They often work together with the Australian Government and education providers to promote their industries.

Employer associations represent the interests of employers who operate in similar or related industries. They provide WHS publications and general information for members, and conduct WHS education and training programs.



The Australian Chamber of Commerce and Industry (ACCI) is the peak body representing business organisations in Australia. It represents its membership on a range of issues including health and safety. The membership is diverse and includes industries such as hospitality, construction and retail.

Industry bodies relevant to your workplace may be found on the ACCI website at: www.acci.asn.au.

Manufacturer manuals and specifications

A PCBU who designs, manufactures, imports or supplies plant, structures or substances and equipment has duties under WHS legislation. They must provide information about what the plant, structure or substance was designed for and information about safe use.

Manufacturers, designers, importers and suppliers provide manuals and specifications for use and issue safety alerts and updates as new information becomes available.

Regulatory authorities

Your state or territory's WHS regulator regularly updates information on its website. Some regulators provide opportunities for you to subscribe to electronic newsletters or to register to receive electronic notifications about health and safety updates. They may also have sections on their sites dealing with incidents and prosecutions.

Training or information sessions and forums

There are a broad range of organisations that offer WHS training and professional development opportunities. These include registered training organisations (RTOs), unions, industry associations, WHS consultants and government authorities. Professional development and training should form part of your individual work plan. Under WHS legislation, there is a requirement to ensure that the WHS knowledge and skills of workers is maintained and up-to-date.

Unions

The Australian Council of Trade Unions (ACTU) is the peak body representing individual unions in Australia. Unions represent workers from a diverse range of industries and job types and are able to address a broad range of issues including health and safety. Ensure you know which union is relevant to your workplace and industry and the services it offers.

Available advice and services

- Health and safety specialists who can provide members with safety information and give advice on addressing safety problems.
- Training: many unions run courses on different aspects of safety within the relevant industry.

Website information

For examples of safety information and services provided by unions, visit:

- the Australian Metal Workers Union's FAQ section at: www.amwu.asn.au/helpdesk/14/faq
- ACTU Campaign, Speak up for Health and Safety at: www.actu.org.au/get-involved/current-campaigns.

WHS professional bodies

Australia has a number of professional bodies specifically related to managing health and safety, including the following.

	<p>Health and safety</p> <p>The Safety Institute of Australia (SIA) is the body for health and safety professionals. SIA has state and territory divisions. Each has a news and update section on its website and information about current major safety initiatives. Most regulators link to the SIA because they certify their members as having appropriate qualifications and sufficient experience to be recognised as WHS professionals.</p>
	<p>Professional ergonomists</p> <p>The Human Factors and Ergonomics Society of Australia (HFESA) certifies professional ergonomists who have the skills and experience to provide high quality, consistent advice and support in the areas of ergonomics and human factors.</p>
	<p>Occupational hygienists</p> <p>The Australian Institute of Occupational Hygienists (AIOH) certifies people who are qualified, trained and experienced scientists and engineers. An occupational hygienist's role is to monitor and measure air quality, noise, odour and radiation levels, and provide professional advice on workplace hazards such as asbestos.</p>
	<p>Medical specialists</p> <p>Members of the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) are highly trained medical specialists who provide services related to workers' health, including comprehensive assessments of the underlying causes of illness and disease, and develop strategies to minimise the risk of further illness, injury or disease.</p>

Other sources

Other sources of up-to-date safety information include the following:

- websites, journals and newsletters developed by regulators, employer associations and unions including sections dedicated to health and safety matters
- WHS guidance notes, fact sheets, guidelines, alerts and other publications issued by the Australian, state or territory governments, WHS regulators, other bodies and organisations.



Example: keep up-to-date with safety developments

The Nuts & Bolts factory employs an experienced factory hand, Jenny, to work as a leading hand. As part of its standard induction procedure, Jenny undertakes a half-day induction program that covers a range of issues including emergency procedures.

At her previous workplace Jenny had been an area warden and part of the emergency control team for that employer. She had received training and was familiar with the requirements of the role.

She does not think the emergency procedures outlined in the induction to her new workplace are very clear. She discusses this with her supervisor, who says the procedures were written by a previous manager and have not been updated for some time. Her supervisor asks her to have a look at the issues when she has time.

Jenny searches the internet for evacuation procedures and finds a well-known training provider who offers on-site training to staff. In the details of the training she notices that the training complies with Australian standards 3745 and 1851.

Jenny gives the information to her supervisor, who says he will suggest the training is implemented at the next management meeting.

Practice task 10

1. Using the internet, look up the full title of Australian standards AS 3745 and AS 1851.

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2. Identify the union or unions that cover workers in an industry with which you are familiar.

3. Identify the industry body or employer organisation that covers a business with which you are familiar.

4. Access the website of your state or territory regulator and identify what newsletters, updates or alerts are available for the business you have identified in Question 3.

3B

Communicate information on legislative changes and publications

The continuous improvement process of WHS involves a strong commitment to regularly reviewing and improving the health and safety system. This involves planning improvements, implementing changes, monitoring progress and continuously renewing the cycle.

It is crucial to regularly update and communicate information on legislative changes and publications to others. You need to use sound communication and interpersonal skills to work with others in both formal and informal settings, and write clearly and accurately in reports, memos, emails and other documents when you are asked to disseminate WHS information.

Type of WHS information

You may be asked to present or pass on WHS information to staff and others.

Examples of WHS information you may present to staff:

- Changes to key WHS management system procedures such as dispute resolution, incident investigation or consultation
- Alterations to site/work area safety rules
- Changes in WHS legislation, regulations and codes of practice
- Modifications of workplace practices to improve WHS
- Changes to workplace WHS forms
- Recent workplace incidents; WHS risks and control measures
- Production time lost to workplace injuries
- Decisions made at recent WHS meetings
- Actions taken by management to address identified WHS issues, such as changes in work procedures or introduction of new equipment
- Results of site safety checks and WHS audits
- Records of toolbox meetings
- Key performance indicators that need to be achieved for a specific work area/site

Communicate information

The way you disseminate WHS information depends on a range of factors, including the type of information, its urgency, the organisation's structure, the communication technology used and the language, literacy and general communication skills of the workers. For example, a large organisation with branches in separate locations will benefit from having an intranet, newsletters and regular staff and WHS meetings. A business with a number of staff for

whom English is a second language may need to present information visually using graphics, or in the relevant language via presentation sessions or leaflets. Information about a change of legislation that requires immediate implementation can be distributed via email and followed up by supervisors or team leaders.

When a variety of communication methods are used, people are more likely to be aware of and remember the information. Electronic communication tools are now in common use in the workplace, including emails, texting, intranets and websites.

No matter what communication tool is used, some general principles of effective communication can be applied.

General principles of effective communication:

- Planning your message and using a logical structure
- Using plain English
- Avoiding the use of jargon
- Explaining technical terms and any acronyms commonly used
- Providing examples and diagrams
- Encouraging individuals to seek clarification or assistance if required

Team meetings

Whether formal or informal, team meetings are a particularly useful way to consult with team members about WHS issues and communicate information on legislative changes and available publications. Below are a number of considerations when communicating with team members about WHS issues.

Considerations when communicating at team meetings

- Carefully plan how you will communicate the information.
- Apply the general principles of effective communication.
- Make constructive and practical suggestions about how to apply the changes in the workplace.
- Explain where support resources and publications can be readily accessed.
- Encourage feedback and questions.
- Focus on the information you need to communicate.

Flyers

Flyers that you have created or downloaded from a regulator's website are an easy way to quickly communicate information to people who may not have access to electronic information at work. Flyers can be distributed by hand, put into workers' pigeonholes or displayed on workplace noticeboards.

Workplace noticeboards

Posting safety information on a noticeboard is an effective way to promote and maintain safety awareness and remind everyone that safety is a workplace priority. Legislative changes can be communicated by displaying safety posters highlighting the changes. By incorporating diagrams, pictures and simple steps, these posters can be used to explain revised safety procedures. You may also display a regularly updated list of WHS publications with a summary of the information that each provides.

Emails

Email is the quickest way to distribute information to everybody at the same time. Individuals in the workplace often receive many emails on a daily basis. If you have important information about a legislative change or newly released publication, you need to feel confident that the email will be opened and the information read and understood. In most email systems you can set up a 'received and read' confirmation for your email.

Here are some tips for preparing effective emails.

Write a meaningful subject line

Clearly state what the email is about and the level of importance of the information so the reader knows why they should read the message.

Use email flags

Use email flags to indicate the level of importance of the information. WHS legislative change may have a significant impact on the workplace and require immediate implementation.

Keep the message focused

Avoid including information that is not important or relevant to the subject.

Avoid attachments if possible

Copy and paste or summarise the important part of the source document into the body of the email. Links to documents or attachments can still be included for further reference.

Include a signature statement

Make it clear who the message is from so you can be contacted for further information.

Use appropriate language and simple layout

Legislative change and information about new publications is a serious subject. The language you use should be formal and precise. Your message will be easier to read if you use short paragraphs, bullet lists, numbered steps and a simple typeface.

Staff newsletters

Staff newsletters provide an opportunity to highlight changes in legislation and key information. A regular column can be included to cover WHS topics. Whether disseminated in print or via an intranet, newsletters are an effective way to communicate with all individuals in the organisation and to reinforce a WHS message.



Safety alerts and bulletins

Electronic safety alerts can be sent to staff via email or placed on your organisation's intranet. Safety alerts usually communicate important information about a specific safety issue or topic.

A bulletin is a brief report or official statement that provides workers with information or news. If new legislation or a code of practice requires changes to workplace practices, it may be your job to prepare a bulletin to inform all staff. For example, part of the WHS Act may have been revised to clarify and include stricter consequences of noncompliance for workplace bullying.



Example: strategies to communicate safety information

The following case study shows how an organisation uses a number of different communication strategies to communicate safety information.

Recent concerns about the spread of infection have resulted in stricter codes of practice. Staff at the Llewellyn Medical Centre are informed about correct hand-washing procedures in several ways:

- A memo is prepared and sent to all staff that says: 'Hand-washing and hand hygiene are the most important ways to prevent the spread of infection. All employees of the Llewellyn Medical Centre are required to use standard precautions and frequent hand-washing to remove visible dirt and potentially harmful microorganisms. The objective of this policy is to minimise the risk of cross-contamination through physical contact with patients and colleagues, and touching inanimate objects such as door handles and telephones.'
- The HSC approves the safety manager's suggestion to download and print off the World Health Organisation's 'How to handrub?' and 'How to handwash?' posters. Hard copies are posted on noticeboards and in relevant work areas, and electronic versions are distributed to area supervisors.
- Health and safety meetings are held and the HSRs explain the new practices and ensure everyone is aware of what to do.
- Team leaders are asked to make sure all staff understand by observing them as they perform their day-to-day tasks.

Practice task 11

You have been asked by your supervisor to find some display material on manual handling.

1. Using the internet, search for 'manual-handling poster' or 'manual-handling signage' to find something that would be suitable for an office workplace. Record the web address of the most suitable site.

2. List locations in an office workplace where you could display the posters and/or signage.

Summary

1. Employers and people who assist them must have up-to-date knowledge of WHS matters.
2. Sources of current WHS information include your state or territory's WHS regulator, unions, employer groups or associations and professional bodies.
3. Other sources of up-to-date safety information include WHS specialists; audits; data contained within hazard, incident and investigation reports; manufacturers' manuals and specifications; Australian and overseas safety standards; information sessions and forums; and websites, journals and newsletters.
4. Individuals who assist WHS specialists need regular, ongoing professional development so they can successfully contribute to compliance with WHS legislation in the workplace.
5. Professional development opportunities that enhance and reinforce your WHS skills and knowledge come in many different forms. These can include courses, seminars, conferences, virtual chat groups and reading up-to-date information presented in safety books, manuals or online.
6. Work environments and legislation may change, so it is important to regularly update and communicate WHS information to others using a number of different communication strategies, such as conducting team meetings, distributing flyers, putting information on workplace noticeboards, sending emails to staff, putting articles in the staff newsletter and posting information on the intranet or website.

Learning checkpoint 3

Keep up-to-date with legislation and relevant publications

This learning checkpoint allows you to review your skills and knowledge in keeping up-to-date with legislation and relevant publications.

Part A

1. Name at least three sources you can use to access current WHS information for your industry and workplace or a workplace you are familiar with. Explain the types of information they each provide.

2. Why should you use a number of strategies to communicate WHS information to others in the workplace?

3. Explain why it is crucial to keep up-to-date with WHS legal requirements and corresponding work practices.

4. Prepare a list of tips for effectively preparing WHS information to be displayed in the workplace.

5. List at least three ways you can continue to learn about WHS legislation. Consider opportunities relevant to your current role.

Part B

Read the case study, then complete the task that follows.

Case study

Matt assists Cameron, the health and safety officer at Commercial Office Supplies, which is a company in your state. The company owns the building it occupies.

Recently workers have noticed that temperatures in the workplace vary wildly throughout the day. Several staff have complained that it is too hot for them to be able to work efficiently and some have said they feel sick. Cameron has asked Matt to find out what the workplace temperature range should be.

1. List at least six sources of information Cameron can use to find out what the recommended temperature range should be.

