



PERTH FOOTBALL
LEAGUE

WHS Act and Volunteers

What you need to know

Who has duties under the WHS laws?

A volunteer organisation will have WHS duties as a person conducting a business or undertaking (PCBU) under the *Work Health and Safety Act 2020* where one or more persons are employed to carry out work for the organisation.

There are changes to the workplace health and safety laws in Western Australia – what does this mean for you?

- The incoming WHS Act will extend the same duty of care requirements employers have to workers onto volunteers.

What does this look like in clubland?

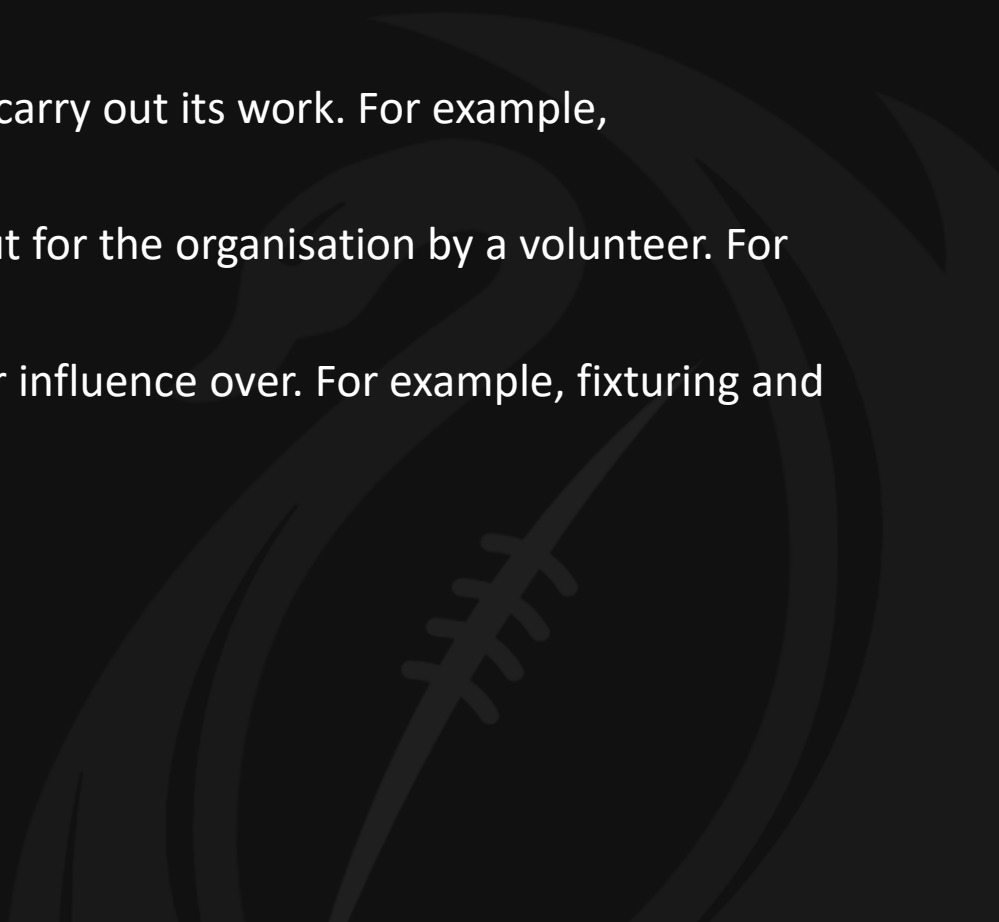
- Clubs that pay volunteers either by invoice, honorarium, memberships, waiver fees ect. will be considered to be a PCBU.
- Volunteers within the club will now be provided the same protections as a “worker” under the WHS Act.



What activities are covered by the WHS laws?

Only work activities are covered by the WHS Act. Activities that are purely domestic, social, recreation or private in nature are not included.

Where do sporting clubs fit?

- Maintenance of the things needed to enable an organisation to carry out its work. For example, groundskeepers.
 - Activities that people are ordinarily paid to do but are carried out for the organisation by a volunteer. For instance, working the canteen.
 - Activities that the organisation has a great degree of direction or influence over. For example, fixturing and events.
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What does the organisation need to do?

If a volunteer organisation is a PCBU under the WHS Act it must ensure, so far as reasonably practicable, the health and safety of all its workers, including volunteers.

This means that the organisation must provide the same protections to its volunteers as it does to its paid workers. The protection covers the physical safety and mental health of all workers, including volunteers.

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

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

Managing health and safety risks

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

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

What are some the risks to volunteers engaging in work?

Injuries may be physical or psychological.

- **Psychological injuries and illness** – caused by challenging behaviour that the volunteer is confronted with or poor management of organisational change.
- **Physical injury or illness** – caused by work equipment, exposure to hazardous chemicals or contact with moving machinery parts. It can also be caused by working in unsafe or unhealthy work environments caused by unsafe or unstable structures or extreme temperatures (particularly outdoors).



Providing information, training and instruction to volunteers

Volunteers must be provided with information, training, instruction or supervision so they can carry out their work safely.

Talking about health and safety

- WHS Act requires PCBUs to consult with workers, including volunteers, so far as reasonably practicable, about WHS matters that affect them.
- Volunteers are given the opportunity to contribute to the identification of hazards and the assessment and control of any risk they face when they carry out their work.

Find the right consultative arrangements

Some of the ways the organisation might consult with its volunteers include:

- Sending out regular newsletters
- Regularly updating the volunteer section of its notice board website
- Having a 'suggestions' email box for workers
- Holding regular meetings to talk to volunteers about the work they do and how to do it in the safest way
- Holding short 'toolbox meetings'
- Through health and safety representatives (HRSs)

Notifying serious incidents

PCBUs are required to let Work Safe WA know if any 'notifiable incidents' occur as a result of the work of the organisation as soon as it is reasonably able.

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

- The death of a person
- The serious injury or illness of a person
- A dangerous incident

A *serious injury or illness* is one that:

Requires a person to have:

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

A *dangerous incident* (also known as a near miss) is an incident in a workplace that exposes a worker or any other person to a serious risk to their health or safety emanating from an immediate or imminent exposure to a number of risk.

What do volunteers need to do?

Volunteers also have health and safety duties to:

- Take reasonable care for their own health and safety
- Take reasonable care to ensure they do not affect the health and safety of other people E.g. other volunteers, members of the public or clients they may be assisting
- Comply, so far as reasonably able, with any reasonable instruction that is given by the PCBU to comply with WHS laws
- Cooperate with any reasonable policy or procedure of the PCBU relating to health and safety at the workplace that has been notified to workers

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

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

Officer duties

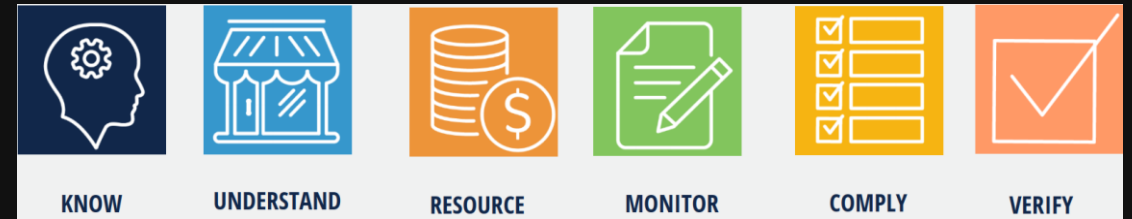
An officer is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the organisation's activities.

Duties of officers

Any officer of an organisation, whether volunteer or paid, has a number of duties, also known as their due diligence obligations.

Due Diligence

- Obligation on Officers to demonstrate a proactive approach to WHS matters.
- Officers must exercise 'due diligence' – taking reasonable steps to protect the health, safety and welfare of all workers and others who could be put at risk from work carried out by the PCBU.
- Applied regardless of whether there is a WHS incident or PCBU commits an offence.



- **KNOW** – Acquire and keep up to date knowledge of work health and safety matters
- **UNDERSTAND** – The nature and operations of the business and the associated hazards and risks
- **RESOURCE** – Use appropriate resources and processes to eliminate or minimise risks to health and safety
- **MONITOR** – Appropriate processes for receiving and considering information about incidents, hazards and risks
- **COMPLY** – Implements processes for complying
- **VERIFY** – The provision and use of resources and processes

Prosecution

Volunteers and Prosecution

- If the volunteers comply with the health and safety duties when carrying out work for the organisation, they cannot be fined or prosecuted under the WHS Act.

Prosecution of Volunteer officers

- A volunteer officer cannot be prosecuted for failing to comply with their officer duties under the WHS Act.
- This immunity for volunteer officers is designed to ensure that voluntary participation at the officer level is not discouraged.
- A volunteer officer can however be prosecuted in their capacity as a worker if they do not take reasonable care as a worker (see Slide 8 - What do the volunteers need to do?).
- Officers who are not volunteers can be prosecuted for failing to comply with due diligence duties under the WHS Act.

Workers' compensation, insurance and civil liability

- PCBUs should have appropriate insurance that adequately covers its workers including volunteers and the activities they carry out when volunteering.
- PCBUs will be liable to pay any compensation for personal injury, property damage or financial loss caused by the volunteer.
- With some exceptions, volunteers are protected by law from incurring personal civil liability.

Visit the [Volunteering Australia](#) website for further information regarding the most common types of insurance that covers volunteers.

It is also important the PCBU has insurance, as volunteers are generally not covered by workers' compensation laws.

Whilst a volunteer may be classified as a Worker, they are not entitled to make a worker's compensation claim as the Workers Compensation and Injury Management Act 1981 has not yet been amended to include volunteers in their definitions of employee/worker.

For further information, contact [WorkCover WA](#).

FAQS

What's a safe work system?

- Documented processes that set out the task to be completed; all the potential hazards associated with that task; how the hazards are to be controlled and what safety equipment is required.

Are all volunteers covered?

- No. Volunteers that are deemed to be part of a volunteer association are not covered by the WHS Act.

What WHS duty of care do volunteers have?

Volunteers have the same WHS duty of care as a worker;

- Take reasonable care of their own safety and take care not to affect the health and safety of another person through their actions
- Report hazards and incidents as they become apparent
- Comply with any reasonable instruction and with workplace safety rules, policies, and procedures

Do I have to train volunteers?

- Yes. All volunteers require some level of health and safety training, as is the case for any other worker, in order to perform their duties without harm. All volunteers must receive a health and safety induction when they commence work.

Where can I get more information?

For further information on managing WHS for volunteers;

- SafeWork Australia – www.safeworkaustralia.gov.au/topic/volunteers
- Volunteering Australia – www.volunteeringaustralia.org/resources