

## D-33 Legal Responsibilities and WHS Information

### NQS

QA. 2.1	Health.
QA. 2.1.1	Wellbeing and comfort.
QA. 2.1.2	Health practices and procedures.
QA. 2.1.3	Healthy lifestyle.
QA. 2.2	Safety.
QA. 2.2.1	Supervision.
QA. 3.1.1	Fit for purpose.
QA. 3.1.2	Upkeep.
QA. 4.1	Staffing arrangements.
QA. 7.1.2	Management systems.
QA. 7.1.3	Roles and responsibilities.
QA. 7.2.1	Continuous improvement.

### National Regulations

Reg. 77	Health, hygiene, and safe food practices
Reg. 103	Premises, furniture, and equipment to be safe, clean and in good repair
Reg. 105	Furniture, materials, and equipment
Reg. 106	Laundry and hygiene facilities
Reg. 109	Toilet and hygiene facilities
Reg. 115	Premises designed to facilitate supervision
Reg. 168	Education and care service must have policies and procedures
Reg. 175	Prescribed information to be notified to Regulatory Authority

### My Time, Our Place

LO. 1	Children feel safe, secure, and supported
LO. 3	Children take increasing responsibility for their own health and physical wellbeing
LO. 5	Children are effective communicators

### Purpose

To identify and highlight the key management responsibilities for WHS under the legislation and to ensure WHS information is available to all staff.

## Related Policies

- CONCORD OSHC Policy A-4: Enrolment
- CONCORD OSHC Policy A-13: Participation and Access
- CONCORD OSHC Policy A-17: Privacy and Confidentiality
- CONCORD OSHC Policy A-19: Nominated Supervisor
- CONCORD OSHC Policy C-3: Staff Orientation and Induction
- CONCORD OSHC Policy C-9: Relief Staff
- CONCORD OSHC Policy C-10: Volunteers / Students / Visitors
- CONCORD OSHC Policy C-15: Return to work Program
- CONCORD OSHC Policy D-22: Child Protection – Mandatory Reporting
- CONCORD OSHC Policy D-28: Workplace Health, Safety and Environment

## Scope

This policy sets out the general WHS responsibilities for a Person Conducting a Business or Undertaking ('PCBU'), Officers and Directors, Managers, Supervisors and Workers and provides references for the key sources of WHS information. These responsibilities should be included in individual position descriptions.

## Responsibilities

### Person Conducting a Business or Undertaking (PCBU)

The PCBU in Centres is the employer / Approved Provider. The WHS Act 2011 sets out the duty of the PCBU to:

*So far as is reasonably practicable, to provide a safe and healthy workplace for workers and others by ensuring:*

- safe systems of work
- a safe work environment
- safe use of plant, structures, and substances
- facilities for the welfare of workers are adequate
- notification and recording of workplace incidents
- adequate information, training, instruction, and supervision is given
- compliance with the requirements under the work health and safety regulation
- effective systems are in place for monitoring the health of workers and workplace conditions

### Officers and Directors

The Employer and others who have a high level of obligation for the WHS in the Centre are designated 'Officers' and have a key responsibility for WHS in this workplace in accordance with the WHS Act 2011 Section 27 'due diligence' provisions. The main elements of due diligences are:

- To acquire and keep up to date knowledge of WHS matters
- To gain an understanding of the operations of the business and the hazards and risks involved
- To ensure appropriate resources and processes are provided to enable hazards to be identified and risks to be eliminated or minimised

- To ensure information regarding incidents, hazards and risks is received and the information is responded to in a timely way
- To ensure the PCBU has and implements processes for complying with any legal duty or obligation

### **Managers**

Directors / Coordinators and Assistant Directors / Coordinators are responsible for the WHS of all workers. Whilst they may delegate some WHS duties, they acknowledge that they are accountable for the operational implementation of all aspects of the Centre's WHS system. Some key responsibilities include:

- Carry out all duties required to implement and maintain the WHS Management System including supervision, training, and provision of safe systems of work
- Ensure steps are taken to maintain compliance with WHS Legislation and Australian Standards
- Distribute WHS information to staff as and when it becomes available and consult regularly with staff on WHS issues
- Keep records of all injuries in the Incident Register
- Carry out regular workplace inspections and risk assessments or delegate to staff members
- Include safety as an item on the agenda at staff meetings and record minutes
- Actively promote Health and Safety in the workplace to all workers
- Ensure completion of the Self Audit Questionnaire as a means of regular WHS Management System review.

### **Supervisors**

Supervisory roles (e.g. Responsible Persons on Duty) are responsible for the following:

- Carrying out any WHS duties delegated to them
- Completing the Incident Register and report the incident to Management
- Investigate incidents as required in accordance with workplace policy and legislation
- Immediately reporting any unsafe working practices to management
- Actively promoting health and safety in the workplace to all staff and visitors
- Ensuring that all employees are working in a safe manner
- Taking note of (and recording) any suggestions made by staff, or visitors regarding safety

### **Workers**

Workers are responsible for the following:

- Observing safety rules, working safely, and reporting any hazards and incidents to Management
- Following the procedures for safe work contained within this Policy and Procedures Manual and associated documents
- Maintaining high standards of housekeeping at all times
- Using protective equipment as directed or as reasonably identified for use
- Asking for specific training and instruction regarding any hazards associated with performing a task
- Making suggestions and participating in meetings to further the development of a safer working environment

### **Procedure**

All Staff will be advised of their respective WHS responsibilities during staff induction training and responsibilities will be included in job descriptions.

The WHS performance of all staff will be included in job descriptions and is measured during performance reviews. Where staff are not performing in accordance with those responsibilities additional training is provided.

Access to WHS information and guidance documents is available on GELSafe ([www.gelsafe.com.au](http://www.gelsafe.com.au))

Other generic information sources are listed below

<a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a>	WorkCover NSW Website for legislation and guidance documents
<a href="http://www.safeworkaustralia.gov.au">www.safeworkaustralia.gov.au</a>	Safe Work Australia for Codes of Practice and advisory information
<a href="http://www.saiglobal.com">www.saiglobal.com</a>	The Australian Standards for technical standards
<a href="http://www.industrialrelations.nsw.gov.au">www.industrialrelations.nsw.gov.au</a>	The Industrial Relations Website for HR and industrial relations information
<a href="http://www.nsw.gov.au">www.nsw.gov.au</a>	New South Wales Government for legal and general information
<a href="http://www.ahri.com.au">www.ahri.com.au</a>	Australian Human Resource Institute for HR advice and information
<a href="http://www.training.gov.au">www.training.gov.au</a>	National Training Information and vocational information

### Sources:

- WHS Act 2011
  - pt.2 div.2 s.19 (primary duty of a 'person conducting a business or undertaking')
  - pt.2 div.3 s.20 (duty on the person with management or control of a workplace)
  - pt.2 div.4 s.27 (duty of Officers)
  - pt.2 div.4 s.28 (duty of workers)
- GELsafe

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