



WORK HEALTH SAFETY (WHS) – OFFICER **INFORMATION FOR BOARD MEMBERS**

It's all about people: safe, fair, productive working lives.

Welcome to Gleeson College.

As a valued Board member our site would like to provide you with the current Work Health Safety information as this is deemed part of your role.

From January 2013, South Australia's work health and safety legislation – which includes the *Work Health Safety Act 2012 (SA)* and the *Work Health and Safety Regulations 2012 (SA)* was implemented. The *Work Health and Safety Regulations 2012 (SA)* identify the controls measures that must be applied to specific work activities and hazards.

The model Work Health and Safety Act aims to protect the health and safety of all workers nationwide, including volunteers. Protecting the health and safety of volunteers demonstrates that their commitment is valued and recognises the vital role they play in the community.

KEY CHANGES

- 'Person Conducting a Business or Undertaking' (PCBU) replacer employer
- 'Worker' replaces 'employee'
- New positive Duty of Care for Officers, with 'Due Diligence' defined
- Increased penalties
- Expanded consultation obligations
- Union Right of Entry

PREVENTION IS BETTER THAN PENALTY

Three categories of criminal offence penalties apply for breaches of work health and safety duties:

Category 1: covers reckless conduct that exposes an individual to a risk of death, serious injury or illness without reasonable excuse. Maximum penalty for corporation \$3 million.

Category 2: covers failure to comply with a health and safety duty that exposes an individual to a risk of death, serious injury or illness. Maximum penalty for a corporation is \$1.5 million.

Category 3: covers failure to comply with a health and safety duty. Maximum penalty for a corporation is \$500,000.

OFFICERS

An Officer under the Act is a person who makes or helps make decisions that affect the whole, or a substantial part of the PCBU's activities.

The Act requires Officers to exercise due diligence to ensure the PCBU health and safety duties are met. An Officer must actively fulfil this duty and not assume that someone else has taken care of health and safety outcomes.

WORKERS

A worker is anyone who works for a PCBU as an employee, contractor, subcontractor, self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a 'host employer' or a volunteer. Your responsibility is to take reasonable care of yourself and others.

WHAT ARE THE DUTIES OF A VOLUNTEER OFFICER?

Volunteer 'Officers' are required to take reasonable steps that will support a health and safety culture, accountability, the allocation of resources for health and safety and the development or review of appropriate health and safety policies at the organisation.

WHAT IS DUE DILIGENCE – taking reasonable steps

Taking reasonable steps, or demonstrating due diligence, requires Officers to:

- acquire and maintain work health and safety knowledge relevant to their workplace
- understand the workplace's operations and associated hazards and risks
- ensure resources and processes are available to eliminate or minimise health and safety risks
- ensure there are appropriate processes for receiving and considering information about incidents, hazards and risks as well as respond to these in a timely manner
- ensure the PCBU has and implements processes to comply with any duties or obligations such as reporting incidents, consulting with workers, complying with notices issued under the Act, providing training and instructing workers about work health and safety, and making sure that Health and Safety Representatives receive training.

CAN VOLUNTEER OFFICERS BE PROSECUTED UNDER THE WHS ACT?

Volunteer Officers have a duty to exercise due diligence under the WHS Act. A Volunteer Officer is expected to comply with that duty. A Volunteer Officer cannot however, be prosecuted for failing to comply with that duty (section 34(1) WHS Act). This immunity from prosecution is designed to ensure voluntary participation at officer level is not discouraged. A Volunteer Officer can however, be prosecuted in their capacity as a "worker" if they fail to meet their duties as a "worker".

Further information refer www.safeworkaustralia.gov.au – LEGISLATIVE FACT SHEET SERIES – Volunteer 'officers' and their duties under the model Work Health and Safety Act.