



HEALTH AND SAFETY RESPONSIBILITIES

The Health and Safety at Work Act (2015) is the main legislation that governs health and safety in New Zealand workplaces. It places duties on all Persons Conducting a Business or Undertaking (PCBU). This means that most businesses and charities that employ people have obligations under the Act.

Understanding the terminology

Due Diligence	Due Diligence means exercising the care, diligence and skill a reasonable person would take in the same circumstances.
Duty of Care	The duty owed to all workers and volunteers.
Officer	A person involved in managing a PCBU.
PCBU	Persons Conducting a Business or Undertaking. (This includes organisations such as Neighbourhood Support NZ.)

ARE YOU A PCBU?

Most NSNZ member organisations meet the criteria of being a PCBU because they employ someone to carry out work on their behalf.

If your organisation undertakes work in the community but all that work is carried out by a group of volunteers, and you do not employ anyone, then your organisation is **not** a PCBU. Instead you are considered to be a Volunteer Association, and you do not have duties under the Act. It is still good practice, however, to follow health and safety guidelines.

Checklist: Does the HSWA Act apply to your organisation?

- Yes – we employ a worker to carry out some work for us
- No – we are all volunteers
- No – we are all volunteers, apart from the contractor we engage.

WHAT DOES A PCBU NEED TO DO?

If your organisation is a PCBU then it is your responsibility to ensure, as far as is reasonably practical, the health and safety of:

- all the people who carry out work for you. This includes both your employees (whether they are casual, part-time or full-time) and volunteers. Contractors are considered to be PCBUs in their own right but you still have a duty of care to them if they are working in your workplace.

and



- that other people are not put at risk by your work.

Your organisation has a primary duty of care to all your employees, volunteers and visitors. This includes providing:

- A work environment that is free from risks to health and safety.
- The necessary information, training, instruction or supervision to do work safely.
- A workplace with adequate facilities (such as toilets and drinking water).
- Safe equipment, such as vehicles, appliances and tools.
- Safe use, handling and storage of potentially dangerous goods and materials.
- Monitoring of worker health and workplace conditions to prevent injury and illness.

Policies and Procedures

Documenting your health and safety policies and procedures is a good way of communicating what is expected to your employees and volunteers and demonstrating that you understand your duty of care. In the event that there is an incident that leads to an investigation your Policies and Procedures will be examined by Worksafe to ensure that you have the necessary systems and procedures in place.

It is a good idea to have:

Document:	What Should it Cover?
Policy Statement	The general way health and safety will be managed in your organisation.
Procedures and Guidelines	Specific instructions that employees, volunteers and visitors need to follow to ensure everyone is safe at work. These should be specific to your circumstances and identify who is responsible for what.
Risk and Hazard Register	The specific foreseeable risks and hazards for your workplace and how to manage them in a way that is reasonable and practical.
Incident Register	A document where incidents can be recorded and the action taken can be noted. This could be a notebook or an online form.
Risk Assessment and Management Sheet	A form that can be used to identify and assess risks or hazards associated with a specific event or activity, and how they will be managed.

Samples and templates can be found in the Policy Bank section of the Toolkit.

Notifiable incidents

Under Section 24 of the Health and Safety Act organisations are obliged to notify Worksafe when certain work-related events occur. A notifiable event is when there is a death, illness or injury as a result of work, or an event that poses a serious risk to health and safety.

If someone has been killed as a result of work, then you **MUST** notify Worksafe immediately.

You can call them 24/7 on: 0800 030 040.



WHO IS RESPONSIBLE?

The Act places responsibilities on both the people who manage a PCBU and the people who work or volunteer there.

The Officer's Role

A person who is involved in managing your organisation has special obligations to exercise due diligence over health and safety requirements and is considered to be an 'Officer'.

An officer is a person who has a position that allows them to exercise significant influence over the management of the organisation. Organisations can have more than one officer. For most Neighbourhood Support organisations the Officers will be the members of their Committee or Board, but may also include Managers or Coordinators (especially if they manage volunteers).

As an officer you are required to make sure that your organisation has appropriate resources and processes for health and safety, and that processes are followed.

Examples of this include:

- Keeping up to date with health and safety rules and issues.
- Understanding your organisation's operations and the risks associated with these.
- Having processes and resources (such as checklists) to minimise risks.
- Ensuring there is an emergency response plan for your organisation.
- Carrying out regular inspections (at least annually) to review the health and safety of your organisation. You may want to arrange for an independent person to do this.
- Having processes for reporting any incidents that occur and ensuring that these are reviewed in a timely manner and actions are taken as required.
- Making Health and Safety a standing item on the agenda at your Committee meetings. This is where any incidents are reported and processes updated to ensure they are still relevant.

Workers and Volunteers

Volunteers and paid employees both have the same duties in regards to health and safety. These are to:

- Take reasonable care of their own health and safety.
- Take reasonable care that they do not adversely affect the health and safety of others.
- Comply and cooperate with the health and safety instructions, policies and procedures of the PCBU.

LIABILITIES

Under the Act, volunteer officers cannot be prosecuted individually for the failings of an organisation. However, the organisation itself, as a PCBU, could be prosecuted under the Act.



In addition, all persons may be prosecuted under the Act if they fail to take reasonable care with their own or another individual's health and safety, or if they fail to comply with the health and safety instructions given by their organisation.

Insurance

There is no single or specific insurance policy that covers health and safety liabilities, but there are broader liability insurance policies that provide protection.

Liability insurance packages can offer cover for the defence costs associated with a prosecution under the Health and Safety at Work Act 2015 and any reparations that are awarded. Under the Act however, you cannot pay a fine with insurance.

FOR MORE INFORMATION:

Worksafe is the government agency that is responsible for workplace safety. They have a range of resources about how to meet your obligations under the Health and Safety at Work Act 2015 on their website: www.worksafe.govt.nz

These include:

Worksafe Fact Sheet: Information for PCBUs that engage Volunteers

<https://worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/volunteers/>

Information for officers who are volunteers

<https://worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/volunteers/information-for-officers-who-are-volunteers/>

Please Note: The information provided in this Information Sheet does not substitute as legal advice.