

Safety Guidelines for Live Entertainment and Events

Part 1. WHS Commitment and Responsibilities

Contents

| | |
|--|-----------|
| Disclaimer | 2 |
| Introduction and Purpose | 3 |
| i. Introduction | 3 |
| ii. Acknowledgement | 3 |
| iii. Using these safety guidelines | 4 |
| 1. WHS Commitment and Responsibilities | 6 |
| 1.1 Overview of the Australian Regulatory Framework for WHS | 6 |
| 2. WHS Duty Holders and Responsibilities | 9 |
| 2.1. PCBU | 9 |
| 2.2 Officer | 10 |
| 2.3 Worker | 11 |
| 2.4 Others | 11 |
| 3. Enforcement | 11 |
| 3.1 Enforcement measures | 12 |
| 3.2 Offences | 14 |
| 3.3 Entry permit holders | 14 |
| 4. How to Manage Compliance – Safety Management Systems | 14 |
| 5. Communication, Consultation and Cooperation | 17 |
| 5.1 Consultation requirements and strategies | 17 |
| 5.2 What is meant by consultation? | 17 |
| 5.3 Consulting with workers | 18 |
| 5.4 Powers and functions of Health and Safety Representatives | 20 |
| 5.5 Consulting, cooperating and coordinating activities with other duty holders, influence and control: 20 | |



5.6 Managing consultation, cooperation and coordination with other PCBUs in live entertainment and events 23

6. Competency and Training25

6.1 What training is required under the WHS legislative framework? 25

6.2 What training is recommended as the minimum standard for people working in live entertainment and events?..... 26

6.3 Work safely in live entertainment and events – WHS awareness..... 26

6.4 What training records need to be kept? 29

6.5 National training packages 30

Disclaimer

In legislative terms, the requirements of the *Work Health and Safety Act 2011* (the WHS Act) and Work Health and Safety Regulations (the WHS Regulations) are mandatory. In contrast, a guide is designed to assist obligation holders to comply with the requirements of an act or regulation. The information contained in the LPA guides is not mandatory, has no legal status and may not apply in all work situations.

Obligation holders still have a duty to assess the risks in each work situation and take all reasonable steps to eliminate or minimise the risks that are specific to each work activity.

| Version Control | |
|--|-------------------------------|
| Title: Part 1. WHS Commitment and Responsibilities | Version: V 1.0 |
| Owner: Live Performance Australia | Date amended: |
| Date of release: February 2018 | Date of review: February 2019 |

Introduction and Purpose

i. Introduction

These guidelines have been developed to promote leading practice in delivering safe events and safe working environments for live entertainment and event practitioners.

The objective of the guidelines is to raise awareness of the practical and legislative requirement to manage health and safety issues appropriately, and provide guidance about the best ways in which to do so. This includes providing information on the legal framework and available resources.

The guidelines are based on the *Work Health and Safety Act 2011* (WHS Act) and *Work Health and Safety Regulations 2011* (WHS Regulations), which are operational in all states except Victoria and WA, where adoption of the legislation is not yet enacted (as at Jan 2018).

The key to delivering safe events is understanding event hazards and associated risks and how best to manage and control them. Every event presents a unique combination of hazards and risks and everyone associated with the event has a duty to manage them. This duty applies to ensuring the safety and wellbeing of those organising and working on events, as well as safety of audiences and participants.

These guidelines focus on building a risk management approach to event safety, emphasising the importance of planning, consultation and cooperation between the many parties involved in delivering safe events. They are intended to encourage a consistent approach while leaving scope for flexibility, taking into account the diverse nature of the live entertainment and events.

ii. Acknowledgement

These guidelines were developed by a dedicated working party, representing a diverse range of industry interests, and with extensive consultation with members of the industry. LPA would like to thank the working party who spent many hours writing and reviewing all components of the guides. The working group worked over many months to make this guide a reality. Though the membership of the group changed over the course of the project, each iteration remained committed to developing a guide that is relevant and understandable for our industry. Membership of the group over the life of the project is listed below.

| | |
|-----------------|-----------------|
| Sue Buckle | Andrew Moon |
| Adam Cartwright | Eliza Neil |
| Chris D'Bais | Jim Niesel |
| Susan Gaylor | Tim Panitz |
| Tiny Goode | Matthew Peckham |
| Chris Hayes | Jono Perry |
| Graham Henstock | Kyle Rowling |
| Andrew Hepburn | Kheong Sen Lim |

| | |
|---------------|----------------|
| Marcus Kelson | Frank Stoffels |
| Michael Kent | David Storie |
| Norman May | Andrew Thorne |
| Paul McCarthy | Llyris Young |

iii. Using these safety guidelines

Work Health and Safety legislation places specific duties and obligations on persons at the workplace. These include a person conducting a business or undertaking (PCBU), officer, worker and others. These safety guidelines are a first port of call for these individuals and should be read in conjunction with state legislation and law.

In addition, a risk assessment should be undertaken for every event and care needs to be taken to selectively determine appropriate controls for the risks identified for each individual event.

These guidelines are divided into 3 parts:

Part 1. WHS Commitment and Responsibilities

- Overview of the Australian regulatory framework for WHS
- WHS duty holders and responsibilities
- Enforcement
- How to manage compliance
- Communication, consultation, and cooperation
- Competency and training

Part 2. Hazard Identification and Risk Management

- Principles of risk management
- Risk management template
- Safe Work Method Statement guide and template
- Event hazard checklist

Part 3. Hazard Guides

The Hazard Guides provide information on how to manage common hazards involved in live entertainment and events, including references to codes of practice, Australian Standards and other guidance information:



- Audience and Crowd Management
- Discrimination, Harassment, Sexual Harassment & Bullying*
- Electricity
- Event Rigging
- General Operational Hazards
- Hazardous Chemicals
- Performer Hazards
- Special Effects
- Stage Machinery and Automation Systems
- Temporary Structures
- Traffic and Vehicle Access Hazards
- Work at Height
- Work Environment

**To be issued separately*

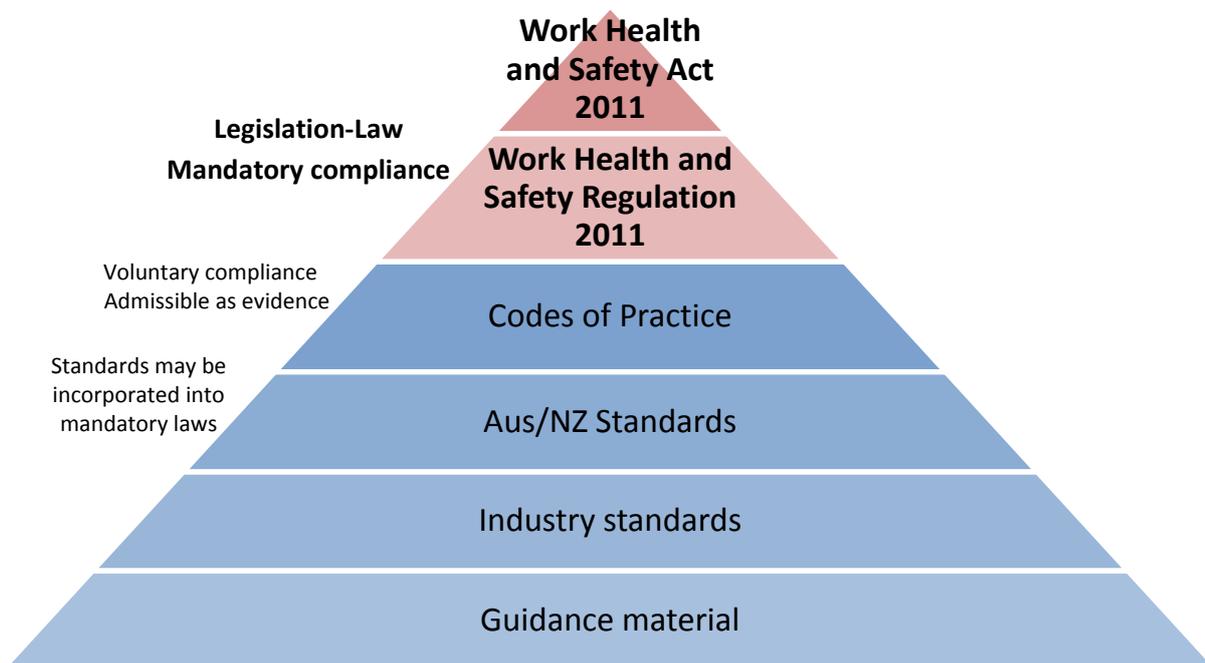
1. WHS Commitment and Responsibilities

1.1 Overview of the Australian Regulatory Framework for WHS

Uniform WHS legislation, laws and standards are being progressively introduced throughout Australia, with the intention of delivering the same work health and safety standards for all Australian workers. Safe Work Australia developed the model *Work Health and Safety Act 2011* (the WHS Act) and *Work Health and Safety Regulation 2011* (the WHS Regulations – Updated 2011) aimed at providing a consistent approach to workplace safety across Australia. Each state and territory has responsibility for regulating work health and safety laws in their jurisdiction and most states have enacted legislation that mirrors the WHS Act.

Victoria and Western Australia have not yet agreed on a date or the terms for adopting the model legislation.

Australian WHS Regulatory Framework



WHS Act 2011 – legislation, which becomes or has become statutory state/territory law that sets out WHAT duty holders must do. Specifies the broad obligations of duty holders to ensure the health and safety of workers and other people present at, or near, a workplace. These are mandatory obligations and also cover workplace health and safety management arrangements.

WHS Regulations 2011 – legislation, which becomes or has become statutory law and defines HOW certain things are to be done. The WHS Regulations supplement the WHS Act and provide more detailed information about a wide range of matters relating to work health and safety including:

- Health and safety representative election process
- Investigators and statutory notices
- Details about incident notification
- Exemptions

The regulations also cover general requirements for hazard identification, risk assessment and controls for high risk areas such as:

- Occupational noise
- Hazardous manual tasks
- Confined spaces
- Falls
- High risk work
- Demolition work
- Diving work
- Plant and structures
- Construction work
- Hazardous chemicals
- Lead
- Asbestos
- Major hazard facilities
- Plant and structures

Codes of Practice provide practical guidance on approved ways to meet the standards of work health and safety. Although they are not laws, they may be relied on to determine what is reasonably practicable in the circumstances to which the code relates. The codes should be followed unless there is another means of achieving the same or better standard of health and safety.

Codes of practice can be accessed here:

https://www.safeworkaustralia.gov.au/resources_publications/model-codes-of-practice

In addition to the model codes of practice established under the WHS Act, some states and territories have preserved selected codes of practice from previous legislation. For further details consult state and territory regulators.

Australian and New Zealand Standards are not law unless they are referenced in the legislation. If they are referenced then they become law and must be followed.

Industry Standards provide advice and guidance to industry members about how to meet their obligations under various forms of legislation. There are a number of standards published for the international entertainment industry and these are an excellent reference for industry best practice, however care needs to be taken that these do not clash with local standards.

Industry standards can be accessed here: http://tsp.esta.org/tsp/documents/published_docs.php



Guidance Material, developed by Safe Work Australia and state and territory regulators also provide advice to duty holders on the application of the legislation and how duty holders are to meet their obligations.

Safe Work Australia provide extensive materials on the WHS regulatory framework, including:

Model Work Health and Safety Act 2011

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/model-whs-act-21march2016.pdf>

Guide to the model WHS Act 2011

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-to-the-whs-act-at-21-march-2016.pdf>

Model Work Health and Safety Regulation 2011

<https://www.safeworkaustralia.gov.au/system/files/documents/1703/model-whs-regulations-28nov2016.pdf>

Guide to the Model WHS Regulation

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/guide-to-the-model-whs-regulations-21march2016.pdf>

Safe Work Australia Codes of Practice

<http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/model-cop/pages/model-cop>

Safe Work Australia Guidance Material

<http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/guidance/pages/guidance-material>



2. WHS Duty Holders and Responsibilities

WHS legislation places specific duties and obligations on persons at the workplace, depending on their level of authority and influence. These include the person conducting a business or undertaking (PCBU), officer, worker and others. The following table provides definitions of those persons at the workplace who have specific duties and obligations and an explanation of those duties and obligations.

2.1. PCBU

Person conducting a business or undertaking

Definition

Defined in Section 5 of the WHS Act

[Person conducting a business or undertaking \(PCBU\)](#)

– a person conducting a business or undertaking alone or with others, whether or not for profit or gain.

A PCBU can be a sole trader (for example a self-employed person), each partner within a partnership, company, unincorporated association or government department of public authority (including a municipal council). This can include a ‘volunteer association’ only if they act as an employer.

Responsible for ...

Has the primary duty of care to *ensure so far as is reasonable practicable, that workers and other persons are not exposed to health and safety risks arising from the business or undertaking* by eliminating or minimising risks

The duty includes:

Providing and maintaining a safe work environment

Providing and maintaining safe plant, structures and systems of work

Ensuring the safe use, handling and storage of plant, structures and substances

The provision of adequate facilities and provisions of information, training, instruction and supervision

A duty cannot be transferred or delegated to someone else

Explanation

Includes both PCBUs with management or control of workplaces, and

PCBUs who are designers, manufacturers, suppliers, importers and installers.

Contractors, subcontractors and self-employed persons may be both a PCBU and a worker.

PCBUs who are designers, manufacturers, importers, suppliers and installers of substances, structures and plant have a duty to ensure the safety of the items produced, designed, imported, supplied and installed. They must carry out or arrange tests. Importantly they must provide necessary information to other PCBUs, officers, and end users.

Sometimes several PCBUs will share responsibility with other business operators involved in the same activity or workplace. Where this happens, each PCBU must carry out their duty in relation to the activities they can influence or control. They must consult, cooperate and coordinate activities with others who also have a duty.

Section 5 (4) of the WHS Act makes it clear that an individual is not a PCBU if they are involved in the business or undertaking only as a worker or officer of the business or undertaking.

Tasks to manage risks may be delegated, but ultimately each relevant PCBU has a duty of care to manage risk under legislation.

Reasonably practicable is defined in Section 18 of the WHS Act as ‘*reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including:*

(a) *the likelihood of the hazard or the risk concerned occurring*

(b) *the degree of harm that might result from the hazard or the risk*

(c) *what the person concerned knows, or ought reasonably know, about the hazard or risk, and ways of*



eliminating or minimising the risk

(d) the availability and suitability of ways to eliminate or minimise the risk, and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.'

To take reasonably practicable steps involves gathering the above information and using that information to determine what steps can be taken to remove or reduce health and safety risks. You are then required to take those steps unless the cost would be grossly disproportionate to the risk. This does not mean risks should only be controlled if you can afford it. If you can't afford to control a hazard and the cost is not disproportionate, then you should cease the activity.

2.2 [Officer](#)

Definition

[Officer](#) means:

- (a) an officer within the meaning of Section 9 of the *Corporations Act 2001* of the Commonwealth other than a partner in a partnership, or
- (b) an officer of the Crown, or
- (c) an officer of a public authority

As defined in the *Corporations Act 2001* an officer can be:

- a director or secretary of a corporation
- any person who can make, or participate in making, decisions that affect the whole, or a substantial part, of the business of the corporation
- a person who has the capacity to affect significantly the corporation's financial standing.

Also included in the full definition are officers such as receivers, administrators, liquidators etc.

Responsible for ...

An officer of a PCBU must take **reasonable steps** to ensure that the PCBU is complying with their safety obligations under WHS laws. It is an officer's duty to exercise **due diligence** to ensure that health and safety obligations are being met. Due diligence is specifically defined and includes knowledge of WHS and business risks, allocation of resources, WHS reporting, compliance and verification processes.

Due diligence

Due diligence is a positive duty that requires proactive action. It can't be passed on to middle managers or supervisors. An officer will need to show that where they rely on information and activities from other people, that they are able to demonstrate that this reliance is reasonable.

The **reasonable steps** officers must take to exercise due diligence include to:

- Acquire and keep up-to-date knowledge on WHS matters
- Gain an understanding of operations, hazards and risks

Explanation

An officer is a broad term that applies to people who can make decisions that significantly affect a [business or undertaking](#).

It is important for all PCBUs to identify their officers within their company or organisation and ensure they are aware of their due diligence obligations.

Officers defined as the top decision makers for the business or PCBU.

If a person is responsible only for implementing those decisions, they are not considered an officer.

Key points in determining *what is reasonable*:

Ensure you have gathered all the information upon which you can make an educated and informed decision about the particular situation

Ensure that the information gathered is accurate

Ensure that you are able to demonstrate that consultation with the appropriate people in the business has occurred and it has helped form the decisions made.



- Use resources and processes to eliminate/minimise risks
- Have processes to receive, review and respond to incident and hazard information
- Ensure PCBU implements processes for complying with duties, such as consultation, training, and reporting of notifiable incidents
- Verify the provision and use of resources and procedures.

Safework NSW provide further information on reasonable steps officers must take to ensure due diligence:

<http://www.safework.nsw.gov.au/media/publications/health-and-safety/whs-pcbus,-workers-and-officers-fact-sheet>

<http://www.safework.nsw.gov.au/law-and-policy/employer-and-business-obligations/due-diligence>

2.3 Worker

Definition

The definition of a **Worker** includes any person who carries out work for a **PCBU**.

A worker includes any person who works as an:

- employee
- contractor or sub-contractor
- employee of a contractor or sub-contractor
- employee of a labour hire company
- apprentice, trainee, outworker, work experience student or volunteer.

Responsible for ...

A worker must, while at work:

- take reasonable care for his or her own health and safety
- take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons
- comply with any reasonable instruction that is given by the PCBU
- co-operate with any reasonable policy or procedure of the PCBU.

Explanation

The application of Section 19 of the WHS Act means that all workers are owed exactly the same primary duty of care.

This is the case regardless of how they are employed or engaged and irrespective of whether or not they are a duty holder in their own right and they in turn owe a primary duty to their workers (i.e. contractors and their workers).

A performer is covered by the definition of worker.

2.4 Others

Responsible for ...

Other persons at the workplace are required to take reasonable care for their own health and safety, take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons and comply with any reasonable instruction that is given by the PCBU.

Explanation

Visitors, customers, members of the public must also comply with directions given on behalf of the PCBU by a worker. Examples would include safety, technical, front of house and security staff.

3. Enforcement

WHS laws are supported by the National Compliance and Enforcement Policy, which sets out the approach taken by state and territory regulators to monitor and enforce compliance with the WHS Act and Regulations.



The state/territory regulators monitor compliance with work health and safety laws in a number of ways such as through the use of inspection powers and carrying out of audits. The regulators also receive incident notifications and requests to respond to work health and safety issues.

State and territory regulators appoint inspectors to monitor and enforce compliance under Part 9 of the WHS Act. While each state regulator directs their inspectors in using their compliance powers, the broad functions and powers of inspectors are defined by the act and include:

- To provide information and advice about how to comply with the WHS Act and Regulations
- To help resolve work health and safety issues at workplaces
- To help resolve issues about entry to workplaces by assistants to Health and Safety Representatives and WHS entry permit holders under the WHS Act
- To review disputed Provisional Improvement Notices
- To require compliance with the WHS Act by issuing notices
- To investigate contraventions and assist to prosecute offences
- To attend coronial inquests for work-related deaths and examine witnesses

3.1 Enforcement measures

The WHS Act provides for a range of enforcement measures. Responsible persons must understand the range of enforcement tools used and their obligation to comply with these.

| | | |
|--|---|---|
| <p>Health and Safety Representative (HSR)</p> | <p>Provisional Improvement Notice (PIN)</p> <p>Issued if the HSR:</p> <ul style="list-style-type: none"> ▪ 'reasonably believes' that a person is breaching or has breached a provision of the Act in circumstances that make it likely that the breach will continue or be repeated ▪ it has not been possible to fix the problem by consultation | <p>Compliance</p> <p>HSR must have received training in issuing PIN notices. PINs can only be issued in relation to a contravention that affects the work area they represent and they must be displayed at the worksite.</p> <p>It is an offence not to comply with a PIN. Penalties for individuals and PCBUs up to \$50K and \$ 250 K</p> |
| <p>WHS Inspector</p> | <p>Improvement Notice</p> <p>A written notice issued by an inspector requiring a WHS contravention to be remedied within a certain period of time or a likely contravention to be prevented</p> <p>An inspector must include what they believe the contravention is, which provision it relates to and a date to fix the contravention</p> | <p>Compliance</p> <p>A person must comply with the notice, in the time specified.</p> <p>Reviews and time extensions may be granted.</p> <p>The notice may include directions or recommendations on how to fix the contravention.</p> <p>Penalties for individuals and PCBUs up</p> |



to \$50K and \$250K

**WHS
Inspector**

Prohibition Notice

Issued by an inspector if an activity is occurring or may occur that would involve a serious risk to the health or safety of a person from exposure to a hazard

The notice may prohibit the activity being done or the way in which it is undertaken.

Must be issued in writing.

Compliance

A person must comply with the notice. It may include directions or recommendations on how to remedy the contravention.

The regulator may take remedial action if the person does not comply

Penalties for individuals and PCBUs up to \$100K and \$500K

**WHS
Inspector**

Non disturbance Notice

A non-disturbance notice may require the person to:

preserve the site at which a notifiable incident has occurred, or

prevent the disturbance of a particular site in other circumstances

A non-disturbance notice must set out what the person should do to preserve the site and for how long

Compliance

A person must comply with the notice in the time specified.

Penalties for individuals and PCBUs up to \$50K and \$250K.

Reviews and time extensions may be granted.

**Relevant
court**

Injunctions

Sought by the regulator to enforce improvement, prohibition and non-disturbance notices

Compliance

An injunction requires the person to comply with the notice

**PCBU and
the
regulator**

Enforceable Undertakings

Sought by a person (PCBU) and agreed to by the regulator, an enforceable undertaking includes the actions that would be taken in response to a WHS contravention

Established to provide an alternative to prosecution and promote resolution of WHS issues rather than imposing fines and punitive action

Cannot be used for Category 1 Offences. (see below)

Compliance

It is an offence for a person to contravene a WHS undertaking.

Penalties for individuals and PCBUs up to \$50K and \$250K.

WHS

Infringement Notice

Compliance



| | | |
|------------------------------------|--|---|
| Inspector | 'on the spot' fines issued by inspectors as an alternative to prosecution or sanctions for prescribed offences | Penalties must be paid by the due date. Person may seek review or may seek to have the matter heard in a court. |
| DPP, Regulator or inspector | Civil and criminal prosecution Prosecutors must prove all matters relating to non-compliance with duties of care | |

3.2 Offences

Health and Safety Duty Offences (Criminal Offences)

Category 1 Reckless Conduct – for reckless conduct that exposes an individual to a risk of death or serious injury or illness and is engaged in without reasonable excuse.

Fines of \$3M for corporations \$600K for PCBU individuals or officers \$300K for workers + 5 years jail.

Category 2 Breach High Risk – a duty holder fails to comply with a health and safety duty that exposes a person to risk of death or serious injury or illness.

Fines of \$1.5M for corporations \$300K for PCBU individuals or officers \$150K for workers.

Category 3 Duty Breach – a duty holder fails to comply with a health and safety duty.

Fines of \$500K for corporations \$100K for PCBU individuals or officers \$50K for workers.

3.3 Entry permit holders

The WHS Act allows union officials who hold a WHS entry permit (and a Fair Work Act permit) to enter a workplace to enquire into a suspected contravention of WHS that affects a relevant worker (member or eligible to be a member). They must have a reasonable suspicion of a suspected contravention to do so, can enter without notice, and must advise they have done so as soon as practicable. They may conduct inspections of the workplace and records, and consult with workers about the suspected contravention. A range of other requirements apply to both the entry permit holders and the PCBUs to ensure safety, privacy, and minimum disruption to work. If there is a dispute regarding the right of entry, either the PCBU or the entry permit holder can request a WHS inspector be sent to resolve the dispute.

Further information:

Model Work Health and Safety Act 2011:

<http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/model-whs-act/pages/model-whs-act>

For more information on WHS laws in your jurisdiction, contact your WHS regulator:

<https://www.safeworkaustralia.gov.au/whs-authorities-contact-information>

4. How to Manage Compliance – Safety Management Systems

A safety management system provides a framework to manage safety in an integrated and coordinated way. The goal of the system is to assure safety outcomes by capturing all elements of the organisation's



approach to safety, making sure that these procedures are comprehensive enough to manage risks, are systematically implemented, and that there are no gaps in the system.

The key elements included in a safety management system are:

- Policies – WHS policy and commitment
- Management – who is responsible, accountable, contacts
- Planning processes – integrated with other systems
- Consultation – involving workers (including contractors) and other PCBUs, and communicating outcomes
- Risk management process – systems, procedures and measures for identifying hazards, risk assessment, controls, review of controls, relevant insurances
- Supervision, information, instruction and training – including competence verification and testing
- Injury management, treatment and claims and return to work procedures
- Incident reporting, analysis and review
- Processed for measuring and evaluating WHS performance
- Safety management systems review – improvement to any element of the system

A quality cycle approach will underpin the safety management system:





Integrating each element into a safety management system will allow an organisation to document their approach to managing WHS responsibilities. Just as important, attention must be focussed on involving workers and others in developing, implementing and improving elements of the system. With the exception of some very high risk industry sectors safety management systems are *not required* under WHS legislation. A safety management system will however provide a primary means for achieving a safer workplace in a systematic and coordinated way.

For further information on safety management systems see:

Australian Standard AS/NZS 4801:2001 – *Occupational health and safety management systems.*

<https://www.saiglobal.com/PDFTemp/Previews/OSH/as/as4000/4800/4801.pdf>

Safe Work Australia (2012) Guide for Major Hazard Facilities: Safety Management Systems:

https://www.safeworkaustralia.gov.au/system/files/documents/1702/safety_management_systems.pdf



5. Communication, Consultation and Cooperation

5.1 Consultation requirements and strategies

Managing workplace health and safety requires effective communication and consultation with internal and external stakeholders. Stakeholders such as managers, employees, suppliers, designers and contractors all have an important role to play in ensuring the workplace is healthy and safe. They have valuable information and knowledge about risks and ways to ensure production and event work can be carried out safely. Each party also carries obligations or duties under the WHS Act that can only be met through planned and effective communication and consultation. The WHS Act makes consultation with workers a legal requirement. Consultation, cooperation and coordination between PCBU's is a requirement where they share a duty for the safety of a worker or for work to be done.

5.2 What is meant by consultation?

Consultation is a two way process of informed communication prior to a decision being made. It does not mean that all parties need to reach agreement but all parties should be given the opportunity to discuss and contribute to decisions around WHS.



5.3 Consulting with workers

WHS Act Section 47

A PCBU must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking and who are (or are likely to be) directly affected by a health and safety matter

When must workers be consulted?

A PCBU must consult with workers and take their views into account when:

- Identifying hazards and assessing risks arising from work
- Proposing changes that may affect the health and safety of workers
- Making decisions about the procedures, including those for consultation or resolving health or safety issues
- Monitoring the health and safety of workers or workplace conditions at the workplace and providing information and training to workers
- Carrying out activities prescribed by the WHS Regulations

How should I consult with workers?

It is up to each workplace to decide on what approach to consultation best suits their work situation. The legislation does not state how to consult, although it does require that workers be consulted on how they want safety consultation to happen.

Similarly, unless requested by workers, there is no obligation to establish Health and Safety Representatives (HSRs) or a Health and Safety Committee. Nevertheless, many organisations working in live entertainment and events will do so as a part of meeting WHS obligations and ensuring good safety practices.

Consultation procedures that are agreed with workers will be more effective if they include:

- The matters that require consultation
- Who will be consulted
- How the consultation will take place, including how workers and HSRs will provide input
- How information will be shared with others
- Timeframes for consultation and review

Consultation should be planned and systematic and noted so that evidence exists if required in the future. If the workforce is small and working in close proximity, daily communication may be sufficient to meet consultation requirements. Where activities involve multiple work groups, a range of suppliers and contractors, or are spread over different hours of work or different sites, the consultation arrangements will need to be more formal.



Live entertainment and events have multiple potential risks due to their complexity and size. Active consultation mechanisms are required to ensure risks are understood and managed.

Examples include:

- HSRs – including formal and informal communication with workers
- Health and Safety Committees – agreed membership with regular meetings at least quarterly where members discuss health and safety issues relevant across the organisation and specific issues
- Weekly general staff meetings with a regular WHS agenda item
- Induction explaining consultation mechanisms and opportunities to contribute advice on workplace health and safety
- Information sessions on specific issues
- Event planning meetings with specific WHS agenda items
- Discussion among workgroups with supervisors or HSR reporting and relaying issues and action
- Communication sessions about action plans and progress to resolve safety matters
- Toolbox meetings and other semi-formal discussions
- Review sessions on satisfaction with the consultation process

For further suggestions on methods to consult see the Work Health and Safety Consultation, Cooperation and Coordination Code of Practice.

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/whsconsultationcooperationcoordination.pdf>

When do I need to establish HSRs or a Health and Safety Committee?

HSRs

If a worker asks for a health and safety representative to represent them on WHS matters, the PCBU must do so and must follow specific requirements to establish the workgroups and elect representatives.

Where HSRs have been elected they must always be included in any consultation that affects their workgroup.

Health Safety Committees

Section 75 of the WHS Act states that a PCBU must establish a health and safety committee within two months after being required to do so by 5 or more workers, or by a HSR. Health and safety committees must meet at least every 3 months.

5.4 Powers and functions of Health and Safety Representatives

HSRs are elected by a work group to represent the health and safety interests of the work group. The HSR must be a member of the workgroup.

The PCBU must keep a current list of all HSRs, display a copy at the relevant workplace and provide a list to the WHS regulator.

Section 68-69 of the WHS Regulations define the powers and functions of HSR to:

- Represent the workers in their work group in relation to work health and safety matters
- Monitor the measures taken by the PCBU to comply with the WHS Act in relation to their work group members
- Investigate complaints from work group members about work health and safety
- Inquire into anything that appears to be a risk to the health or safety of work group members arising from the conduct of the business or undertaking

In undertaking their functions, HSRs can:

- Inspect the workplace at any time after giving reasonable notice to the PCBU, or
- Inspect the workplace without notice if there is a serious risk to the health or safety of a person from immediate or imminent exposure to a hazard
- Accompany an inspector during an inspection of any part of the workplace
- Request the establishment of a Health and Safety Committee
- In some circumstances, direct a work group member to cease unsafe work or issue a Provisional Improvement Notice (PIN)
- In some circumstances request a review of a control measure where the duty holder has not adequately reviewed the control measure as required under the WHS Regulations

The Safe Work Australia Workers Representation and Participation Guide provides further information on health and safety representatives and committees.

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/worker-representation-and-participation-guide-21032016.pdf>

5.5 Consulting, cooperating and coordinating activities with other duty holders, influence and control:

WHS Act Section 46

If more than one person has a duty in relation to the same matter, each person with the duty



must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a duty in relation to the same matter

Multiple PCBUs can concurrently have a duty to ensure the health and safety of workers where the work activities overlap or interact. In this situation each PCBU is required to consult, cooperate and coordinate activities to eliminate or minimise risks to health and safety, so far as is reasonably practicable. Where activities overlap or interact or multiple persons are involved in management or control of the workplace, fixtures, fittings or plant, or the design, manufacture, construction or installation of plant or structures, they all share a duty to consult, cooperate and coordinate with each other.

In live entertainment and events multiple PCBUs will often be involved in work that overlaps or is carried out in the same space at the same time. For example the venue, contractors, promoters and performers working together on an event will have some shared duties along with individual specific duties. Each PCBU is responsible for the safety of its workers and the safety of others, including other workers, contractors, visitors etc. Each person must ensure the elimination or minimisation of risks to health and safety. You might not necessarily be taking action yourself if another PCBU is doing so, but you will need to take steps and verify the actions being taken by others will meet all the obligations.

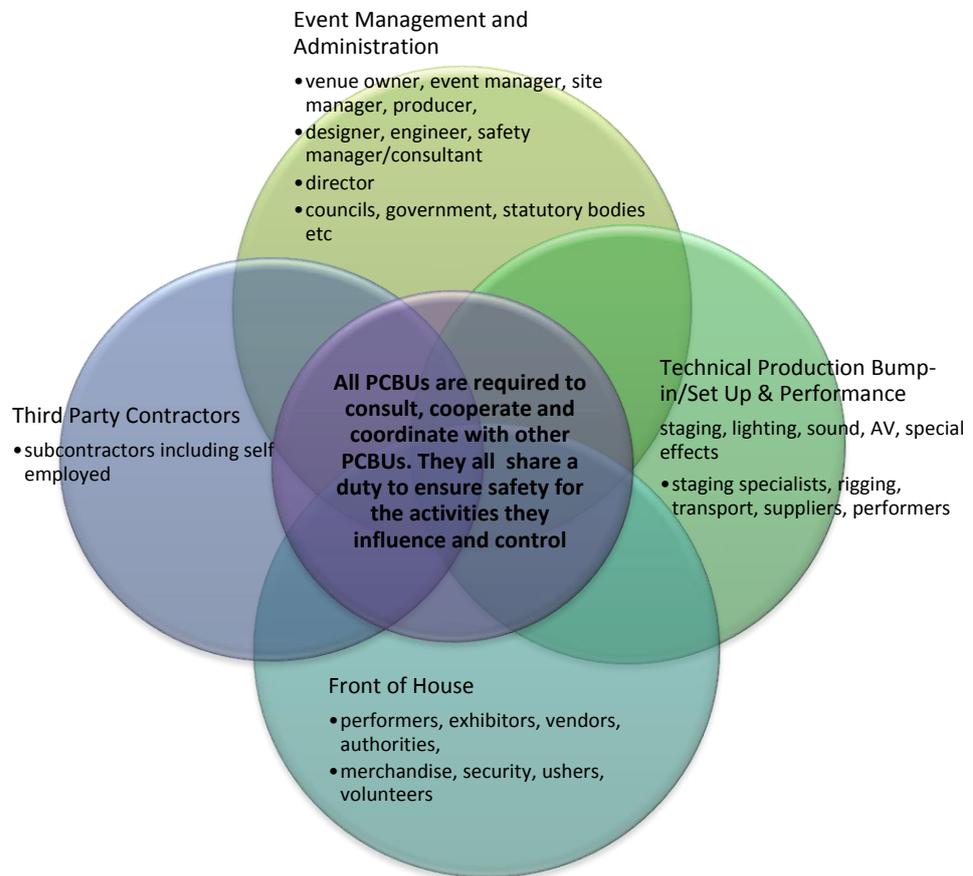
Influence and Control

Section 16 of the WHS Act provides that PCBUs must discharge the duty *'to the extent to which the person can influence and control the matter'*.

In live entertainment and events multiple activities often occur simultaneously, only some of which any PCBU will be involved in, and therefore able to influence and control.

In all circumstances, each PCBU should know about activities and their safety responsibilities in relation to:

- Their role in the event
- The other PCBUs working in the same space, what activities are being undertaken
- The organisations or individuals whose services they are using and who in turn will use their services



The extent of influence and control each PCBU has will also vary according to how many layers of contracting are involved in the event.



For example, the role of an event manager will provide a high degree of influence and control over the planning and set up of technical production services. However, the influence over work practices begins to reduce if the provider of those services subsequently uses specialist contractors, who may in turn engage other individuals. Similarly a PCBU providing security services will have a high degree of influence with other front-of-house service providers, but less influence with technical crew engaged to operate the event.

Consultation, cooperation and coordination must ensure that across the range of PCBUs everyone associated with the work has a shared understanding of what the risks are, which workers are affected and how the risks will be controlled. The exchange of information is intended to allow the duty holders to work together to plan and manage health and safety. **Failing to comply with this obligation carries a maximum penalty of \$20,000 for an individual and \$100,000 for a body corporate.**

5.6 Managing consultation, cooperation and coordination with other PCBUs in live entertainment and events

As a PCBU you should find out and plan:

- What work activities you are responsible for and where you have overlapping responsibilities
- Who else has the influence or control over work activities that overlap or interact
- How each of the parties affect safety in relation to the work activities
- What information you need to share with the other parties
- What information you need to get from the other parties
- What you should do to ensure that you communicate and work together on WHS
- At what stage you need to instigate discussions or provide information to each other to ensure a safe event

Key opportunities for consultation, cooperation and coordination include:

- Contract discussions
- Event planning/approvals phase
- Event operational planning and scheduling
- Induction and orientation
- Production meetings
- Supplier and contractor briefings
- Risk assessments (for activities or the whole event)



- Event safety planning meetings
- Event debrief, review and assessment

The Health and Safety Consultation, Cooperation and Coordination Code of Practice provides further guidance on how to, when to and who to consult including between multiple PCBUs.

<https://www.safeworkaustralia.gov.au/system/files/documents/1702/whsconsultationcooperationcoordination.pdf>

Good practices for working with contractors

The Office of the Federal Safety Commissioner provides a factsheet on subcontractor WHS management for the building industry, which provides practical examples of good management practice in WHS for contractors.

| | |
|--|--|
| <p>WHS plan</p> <p><i>Subcontractors are required to provide an appropriate WHS Plan.</i></p> | <ul style="list-style-type: none"> • <i>Tender documentation stipulates WHS requirements for subcontractors.</i> • <i>A safety information start up pack is available for subcontractors.</i> • <i>A process is in place for subcontractors to submit a WHS plan to demonstrate hazard identification, risk assessment and control procedures.</i> |
| <p>Site induction</p> <p><i>Subcontractors are incorporated into the common system for site induction.</i></p> | <ul style="list-style-type: none"> • <i>All subcontractors are instructed in the site safety rules and site-specific emergency procedures.</i> • <i>A procedure is in place to ensure subcontractors have met minimum induction requirements prior to commencing work.</i> • <i>Pre-start checklists are used to identify whether the subcontractor is licensed to conduct the required work.</i> |
| <p>Communication</p> <p><i>Subcontractors are regularly provided with WHS information</i></p> | <ul style="list-style-type: none"> • <i>Toolbox and pre-start meetings are used to regularly communicate information and to discuss WHS issues with subcontractors.</i> • <i>Toolbox and pre-start meetings and other relevant consultations, are documented.</i> • <i>A site notice board or safety alert/bulletin is used as a weekly source of WHS information and is regularly checked by subcontractors.</i> |
| <p>Hazard identification and risk management</p> <p><i>Subcontractors are consulted in the development of Safe Work Method Statements (SWMS).</i></p> | <ul style="list-style-type: none"> • <i>A procedure for SWMS is in place and is communicated to subcontractors through the induction process.</i> • <i>A SWMS appropriate to the work activity is completed and signed by the subcontractor before commencing work.</i> • <i>All SWMS are regularly reviewed and updated in consultation with subcontractors.</i> |

| | |
|---|--|
| | |
| <p>WHS inspection and audit</p> <p><i>Subcontractors are engaged in WHS inspection and evaluation processes.</i></p> | <ul style="list-style-type: none"> • <i>A schedule for inspections and audits is in place and lists attendance by subcontractors.</i> • <i>A procedure is in place to regularly inspect the safety of plant, substances, equipment and temporary structures used by subcontractors.</i> • <i>Corrective actions are developed in consultation with subcontractors, and included in the applicable SWMS.</i> |

Adapted from The Office of the Federal Safety Commissioner 2009: An Introduction to Subcontractor OHS Management Fact Sheet. <http://www.fsc.gov.au/sites/fsc/resources/pages/subcontractorohs>

6. Competency and Training

Ensuring that workers are appropriately skilled is a critical component in providing a safe workplace. Indeed, it is a legal requirement for all workers, contractors and PCBUs engaged at a worksite to be competent to undertake the work activities for which they are responsible.

6.1 what training is required under the WHS legislative framework?

The WHS Act requires the ‘*provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out*’.

The WHS Regulations expand on this, requiring that the training is:

- Adequate for the work to be carried out
- Relevant to the risks associated with the work and the control measures implemented

This requirement is in place to ensure people have the competencies necessary to do their work safely. It is the duty of the PCBU to meet this requirement, so far as is reasonably practicable. PCBUs should consult with workers and HSRs (where they exist) to establish content and arrangements for the delivery of training. Training must be able to be understood by all workers and the learner’s specific requirements must be considered, such as language and literacy needs.

The term **competent person** is used throughout the WHS Regulations. A competent person means a person who has acquired through training, qualification or experience, the knowledge and skills to carry out a given task. WHS regulators specify the training required to achieve competency for certain types of work, however unless specified, the PCBU must determine what is required for **competence** in their workplace.



There are specialist competency and training requirements around construction work, high risk work, use of hazardous chemicals, operation of plant and machinery and other specialised licensed work. Specific training requirements also apply for Health and Safety Representatives and for WHS Entry Permit Holders.

PCBUs should check with their state and territory WHS regulator to establish the licence and competency requirements relevant to work activities in their workplace.

Penalties for failing to provide adequate and readily understandable training are \$6000 for individuals and \$30,000 for corporations.

6.2 What training is recommended as the minimum standard for people working in live entertainment and events?

WHS awareness training *is recommended* for ALL workers, contractors and PCBUs prior to commencing work on live entertainment and events.

General construction induction training card (White Card) training is required for staff engaged in construction activities during an event or show. Certain jurisdictions have decreed that the bump-in and bump-out are considered as construction work so all staff on the crew MAY be deemed as being on a construction site.

Site induction training must be conducted for all workers, contractors and PCBUs.

All workers must understand the risk factors and apply control measures associated with specific tasks. Task specific training *is recommended* to meet this requirement.

WHS awareness training is recommended for ALL workers, contractors and PCBUs prior to commencing work on live entertainment and events.

Live entertainment and events happen in very dynamic environments, where people are involved in a range of varied and specialised activities during the planning, bump-in, run and bump-out. Everyone involved at every level must understand how to work safely in the environment and what their safety responsibilities are for themselves and others.

The WHS awareness program should meet the following outcomes:

- Understand the overall principles and framework for workplace health safety
- Identify WHS responsibilities
- Understand the principles of using risk management to provide a safe workplace
- Identify common hazards and risks in live entertainment and events

6.3 Work safely in live entertainment and events – WHS awareness

The following is an example of a general WHS awareness training framework/module.

Module objective: To provide participants with basic knowledge of WHS legislative requirements, principles of risk management and the foundations of workplace safety in live entertainment and events.

| Learning outcome 1 | Topic detail |
|--|--|
| Understand the overall principles and framework for workplace health safety | <ul style="list-style-type: none"> • WHS goals and benefits for individuals and enterprises • WHS legislative framework • Key duty holders – PCBUs, officers, workers in live entertainment event context • Compliance and enforcement |
| Learning outcome 2 | Topic detail |
| Identify WHS responsibilities | <ul style="list-style-type: none"> • PCBU definition of primary duty of care and examples • Officer definition of due diligence and examples • Worker definition of ‘to take reasonable care’ and examples including general safety standards and expectations for workers • Communication and consultation requirements and processes • Health and safety representatives and committees • Supervision and training |
| Learning outcome 3 | Topic detail |
| Apply the principles of risk management to providing a safe workplace | <ul style="list-style-type: none"> • Principles of risk assessment • Identifying hazards in the workplace and approaches to controlling risks • Workplace safety information, documentation and procedures |
| Learning outcome 4 | Topic detail |
| Identify common hazards and risks in live entertainment and events | <ul style="list-style-type: none"> • Safety guidelines for live entertainment and events • High risk work and other licensed work • Construction work and general construction induction training card (White Card) • Incident response, emergencies, injury management |



General construction induction training card (White Card) training is required for staff engaged in 'construction activities'

Some work undertaken in live entertainment venues and event sites may fall within the definition of 'construction work'. Such work is usually undertaken for a defined period and in a designated location. Typical examples include some assembly of sets, erection of some temporary stages and rigging work, excluding attaching or suspending items, which is NOT deemed as rigging. People undertaking this work must hold a general construction induction training card (White Card) as a minimum competency.

For some events, all workers on site are required to hold the general construction induction training card (White Card). Workers and contractors should check with the venue or event site to determine whether a general construction induction card (White Card) is required.

Additional specialised licenses may also be required for work activities such as, dogging/rigging, scaffolding, and operation of plant/machinery.

Site induction training is recommended for all workers, contractors and PCBUs

Site induction builds upon the WHS awareness training, focusing on site-specific safety management plans, hazards and approaches to safe work. Evidence of attendance at site inductions should be recorded, maintained and kept on file in the event of any incident involving the individual. Site induction training would typically include:

- Details of the WHS system or management plan and or the event management plan
- Site specific hazards and risk control measures
- Site orientation including safe access/egress, location of amenities, first aid, security requirements
- Site-specific safety rules or procedures, particularly use of plant, equipment and machinery
- Procedures for communicating changes to the work site, such as deeming a construction area or high risk work area
- On-site consultation and reporting arrangements, and details of relevant authorised personnel, including HSRs where they exist, or alternative safety contacts
- Accident, emergency and evacuation procedures and associated equipment on site

All workers must understand the risk factors and apply control measures associated with specific tasks. Task-specific training is recommended to meet this requirement

A risk assessment should guide the development of task-specific training. This training should allow workers to understand the hazards associated with an activity and the control measures in place. They



must be provided with instruction, training and supervision to enable them to carry out tasks safely. Commonly a Safe Work Method Statement (SWMS) will support task specific training.

Typical areas of task specific training include, but are not restricted to:

- Construction activities
- High risk work activities
- Electrical safety
- Manual handling
- Movement
- Working at height, including the stage grid or on trusses
- Working in restricted access areas
- Special effects and pyrotechnics
- Specific plant and equipment
- Hot works including welding, cutting, grinding
- Chemical handling and storage
- Safe use of hand and power tools
- Personal protective equipment (PPE) requirements and use

A specific license or *permit to work* may also be required for work in some of these areas. Check with the venue/event safety personnel or the Government Safety Agency.

6.4 What training records need to be kept?

**Safety regulators expect relevant training records to be kept.
It is recommended that records for all training for workers be retained for a period of 7 years.**

Retaining records of training provides evidence of the steps you have taken to ensure workers are competent to undertake their work. It also provides data, which you can use to plan future skills development, including forecasting both budget and time requirements. Evidence of training undertaken may also be sought by the WHS regulator.

WHS Regulations do not specify how long general training records must be kept. However, there are a number of specific exceptions for example, training records relevant to a notifiable incident, or for working in confined spaces. In these examples, regulations require training records to be kept for a minimum of 2 years.



Recommended good industry practice is to retain a complete record of training for all workers for 7 years.

Training records should be retained for all training activities including:

- WHS awareness training
- Refresher training
- Training undertaken during toolbox meetings
- Skills sessions conducted under structured supervision
- Site induction training
- Task specific training
- Summary of evaluations for training
- Licences, permits and statements of attainment

The PCBU should maintain a training register that provides information for all training participants including:

- Program or module title, key learning outcomes and award/licence/competency
- Participant name and a signature as evidence of attendance
- Training provider or trainer
- Date of commencement and completion
- Evidence of competency and licence awarded

Workers and contractors should retain their own evidence of completion of induction and specific skills training, together with records of licenses and competencies.

6.5 National training packages

A range of nationally recognised qualifications for the live entertainment and events industry has been established in an entertainment training package (CUA Creative Arts and Culture Training Package 2016). These qualifications provide training options from entry level certificates through to advanced diplomas delivering both general industry skills and specialised technical and management managerial competencies.

A complete list of training packages and units of competency can be found on the web site:

<http://training.gov.au/Training/Details/CUA>

Both new entrants and existing workers are encouraged to consider these programs in their career planning.