

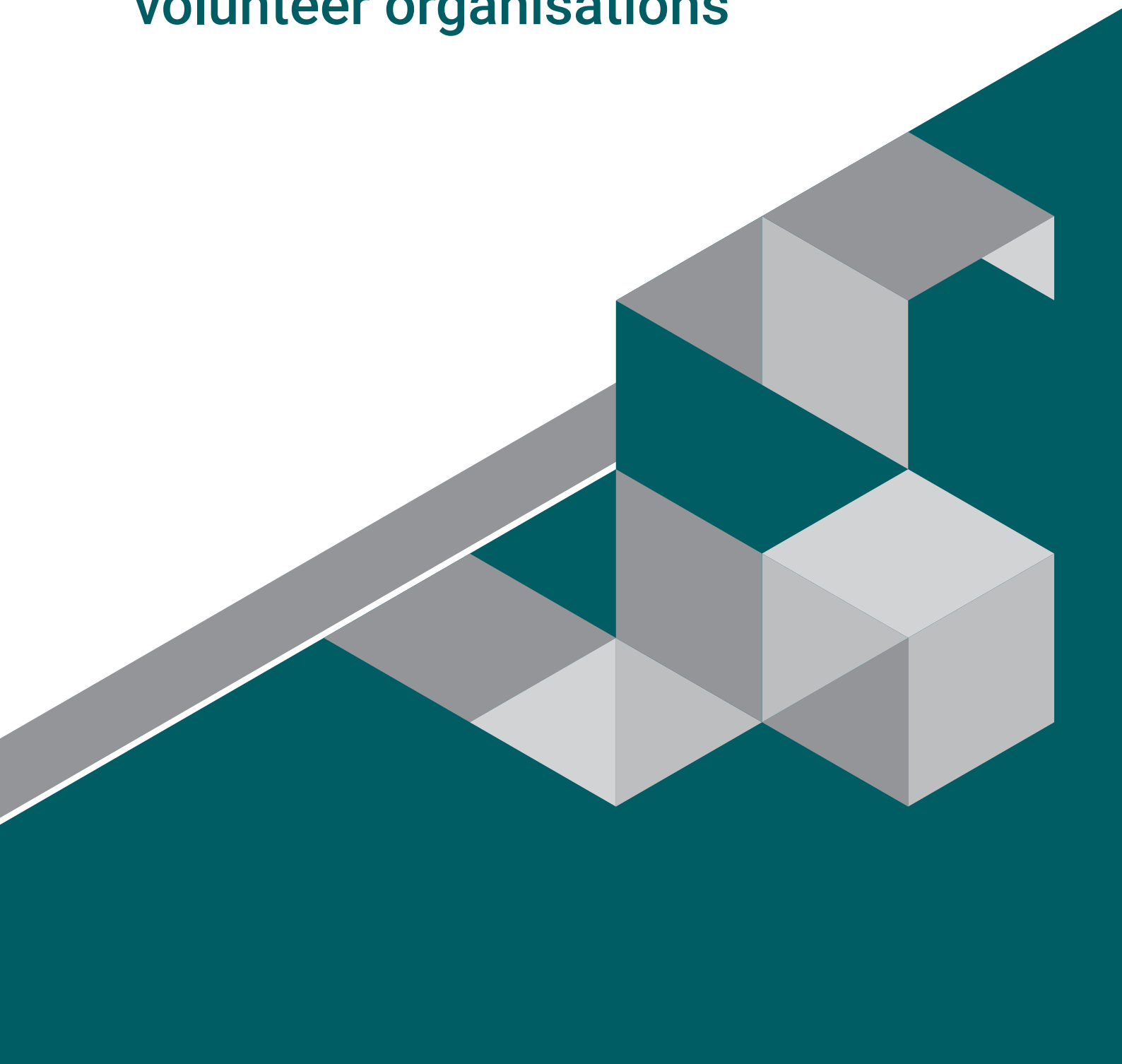


Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**



GUIDE

Work health and safety for volunteer organisations



Disclaimer

The information contained in this publication is guidance material only. It is provided in good faith and believed to be reliable and accurate at the time of publication.

To ensure you understand and comply with your legal obligations, this information must be read in conjunction with the appropriate Acts and Regulations which are available from the Parliamentary Counsel's Office <https://www.legislation.wa.gov.au/>.

The State disclaims all responsibility and all liability (including without limitation liability in negligence) for all expenses, losses, damages and costs you might incur as a result of the information being inaccurate or incomplete in any way, and for any reason.

In this disclaimer:

State means the State of Western Australia and includes every Minister, agent, agency, department, statutory body corporate and instrumentality thereof and each employee or agent of any of them.

Information includes information, data, representations, advice, statements and opinions, expressly or implied set out in this publication.

Loss includes loss, damage, liability, cost, expense, illness and injury (including death).

Reference

Department of Mines, Industry Regulation and Safety, 2021, Work health and safety for volunteer organisations – guide: Department of Mines, Industry Regulation and Safety, Western Australia, 21 pp.

ISBN 978 1 920836 64 1 (web)

© State of Western Australia (Department of Mines, Industry Regulation and Safety) 2021

This publication is available on request in other formats for people with special needs.

Further details of safety publications can be obtained by contacting:

Safety Regulation Group – Regulatory Support
Department of Mines, Industry Regulation and Safety
303 Sevenoaks Street
CANNINGTON WA 6107

Telephone: 1300 307 877

NRS: 13 36 77

Email: Safety@dmirs.wa.gov.au

Acknowledgement

This publication was produced by the Department of Mines, Industry Regulation and Safety, Western Australia using information originally developed by Safe Work Australia.

| | |
|---|----|
| Introduction | 1 |
| 1 Who has duties under the WHS laws? | 2 |
| 1.1 Organisations and their duties..... | 2 |
| 1.2 Organisations with state divisions or local groups and their duties | 3 |
| 1.3 Volunteers..... | 4 |
| 2 What activities are covered by the WHS laws?..... | 5 |
| 3 What does the organisation need to do? | 6 |
| 3.1 Managing health and safety risks | 6 |
| 3.2 What are some of the risks to volunteers engaging in work?..... | 7 |
| 3.3 Providing information, training and instruction to volunteers | 7 |
| 3.4 Talking about health and safety | 7 |
| 3.5 Finding the right consultative arrangements..... | 7 |
| 3.6 Notifying serious incidents..... | 9 |
| 3.7 Resolving issues..... | 10 |
| 4 Volunteers working from their or other person's home | 11 |
| 4.1 Private homes as a workplace..... | 11 |
| 4.2 Volunteering in other people's homes | 11 |
| 5 What do the volunteers need to do? | 13 |
| 5.1 Volunteers and prosecution | 13 |
| 6 Officer duties | 14 |
| 6.1 Who is an officer..... | 14 |
| 6.2 Duties of officers | 14 |
| 6.3 Prosecution of volunteer officers | 15 |
| 7 Emergency service volunteer organisations | 16 |
| 7.1 Duties of emergency service organisations..... | 16 |
| 7.2 Emergency service volunteers and 'officers' | 16 |
| 7.3 Is an 'incident controller' an officer? | 16 |
| 7.4 Attending the same incident as other emergency service organisations..... | 17 |
| 7.5 Risk assessments | 17 |
| 8 Bullying, harassment and discrimination..... | 18 |
| 9 Other laws | 19 |
| 10 Checklist..... | 20 |



Introduction

Everyone has the right to be safe at work, including volunteers. Volunteers play a vital role in communities across Australia and make significant contributions by carrying out unpaid work for a variety of organisations every day.

This guide provides information on how the *Work Health and Safety Act 2020* applies to organisations that engage volunteers. It outlines the primary duty that organisations employing workers and engaging volunteers have under the WHS Act and explains how to meet this duty.

1 Who has duties under the WHS laws?

1.1 Organisations and their duties

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

- the organisation itself
- the organisation's members, whether alone or jointly with any other members.

The organisation will owe a duty to both the paid worker and any volunteers it (or its members) engages.

The WHS Act does not apply if the organisation is a 'volunteer association' (whether incorporated or unincorporated). A volunteer association is a group of volunteers working together for one or more community purposes and none of the volunteers, either separately or jointly, or the association itself employ a person to carry out any work for the association.

Use the flow chart below to find out if the organisation owes health and safety duties.



General and common law duties of organisations who engage volunteers are well established. Australian courts have long recognised that volunteers are owed a general duty of care by the people and the organisations they support. So even if the organisation is a volunteer association and does not fall under the WHS Act it is a good idea to comply with general WHS duties.

1.2 Organisations with state divisions or local groups and their duties

An organisation can consist of a national body with state divisions and local groups. The national body will be a PCBU if they engage paid workers. The national body as a PCBU will owe duties to all workers, including the volunteers of the state divisions or local groups that are volunteer associations. This is because the work of those volunteers is directed or influenced by the national body.

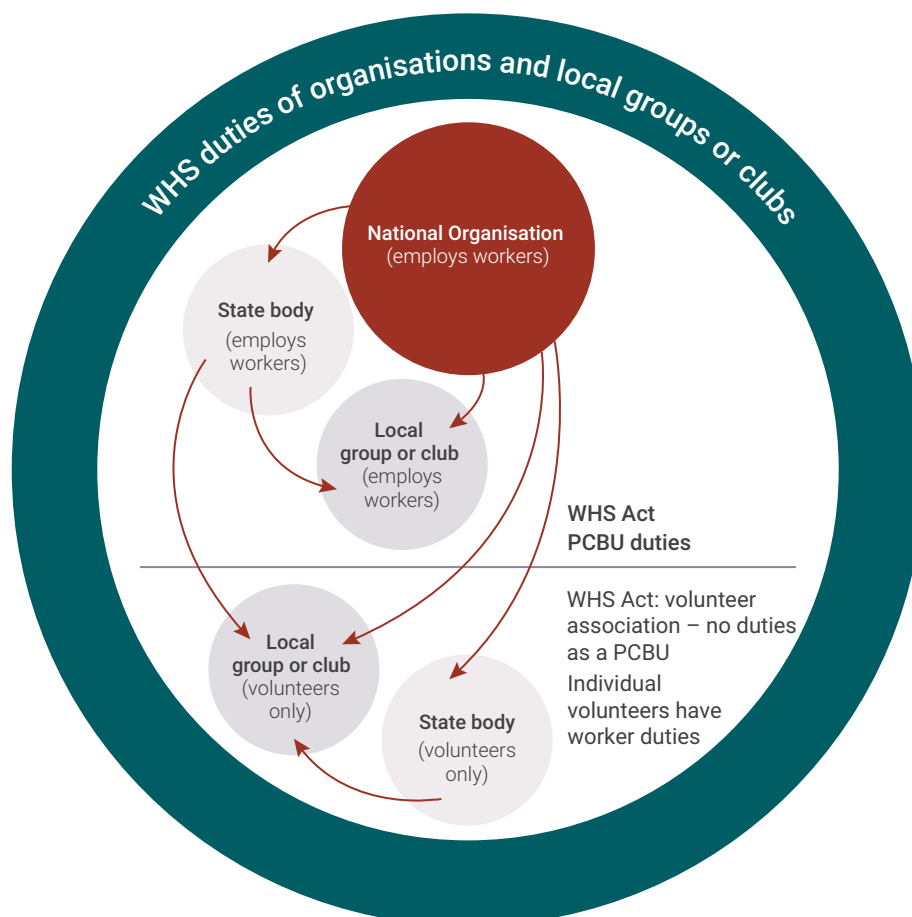
If a state division or local group of the organisation:

- is a separate entity from the national body, and
- engages paid workers to perform work for the organisation (as an incorporated association or through its members as an unincorporated association)

it will owe WHS duties to their volunteers and the volunteers of the local groups to the extent that they direct or influence the work that is carried out.

If the state division or local group (or its members) does not employ workers and is made up entirely of volunteers working for the same community purpose, it is a volunteer association and will not have any duties as PCBUs.

The diagram below illustrates how these duties work.



The duty the national body or state division owes to the local volunteers is qualified by what is reasonably practicable for them to do or what is reasonably able to be done. What is reasonably practicable will vary depending on the:

- specific structure and circumstances of each organisation, and
- the extent to which each organisation can control or influence a particular thing or the actions of another person.

To meet their duty to workers including local volunteers, the national body or state division could, for example:

- ensure the distribution of WHS policies and procedures on a range of topics to each division or group, and
- set up processes to ensure consultation can occur between the national body and state and local groups or divisions.

The WHS Act requires that where more than one PCBU has a duty for the same issue, each person retains responsibility for the matter and must discharge the duty to the extent they can influence and control the issue. In these situations, each person with a duty must, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons with a duty in relation to the same matter.

PCBUs that share the same duty may enter into an arrangement that only one PCBU takes the required action. However, in order to fulfil their duties, the other PCBUs must make sure and check that the other PCBU is carrying out the required action. For example, a PCBU may not need to provide first aid equipment or facilities if these are already provided by another PCBU at the workplace but must check that the equipment and facilities are adequate and accessible for workers.

PCBUs that consult, cooperate and coordinate activities with others who are involved in the work will make controlling risks more likely and help each duty holder comply with their duty. It can also improve the efficiency of health and safety measures.

1.3 Volunteers

Under the WHS Act a volunteer is a person who works for an organisation without payment or financial reward (but they may receive out of pocket expenses). The law also recognises volunteers as workers. This means that the PCBU must provide the same protections to its volunteers as it does to its paid workers.

As a worker, a volunteer has duties under the WHS Act. A volunteer may also be an officer of a business or undertaking with due diligence duties under the WHS Act (see [Officer duties](#)).

2 What activities are covered by the WHS laws?

Only work activities are covered by the WHS Act. Activities that are purely domestic, social, recreational or private in nature are not included. Whether an activity is considered work may depend on specific circumstances. The following criteria may help determine if an activity is work under the WHS Act:

- the activity involves physical or mental effort or the application of particular skills for the benefit of someone else or for themselves (if self-employed), whether or not for profit or payment
- activities where someone would ordinarily be paid may be considered work
- activities that are part of an ongoing process or project may be work if some of the activities are paid
- an activity may be more likely to be work if someone is managed or controlled by another person when they undertake that activity
- formal, structured or complex arrangements may be considered to be work than ad hoc or unorganised activities.

The activity may be work even though one or more of the criteria are absent or minor.

Examples of activities that may be considered work include:

- maintenance of the things needed to enable an organisation to carry out its work. For example, maintenance work on a hall where a volunteer group meets
- activities that people are ordinarily paid to do but are carried out for the organisation by a volunteer, for instance, driving clients to appointments
- activities that the organisation has a great degree of direction or influence over, or
- activities carried out in accordance with formal or structured arrangements.

3 What does the organisation need to do?

If a volunteer organisation is a PCBU under the WHS Act it must ensure, so far as is reasonably practicable, the health and safety of all of 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 a PCBU is qualified by 'so far as is reasonably practicable'. This means the organisation does not have to guarantee that no harm will occur but must do what is reasonably able to be done to ensure health and safety. If the organisation is run by volunteers, this is a factor that will be taken into account in determining what is reasonably practicable for the organisation to do in any given circumstance.

Other factors that will be taken into account in determining what the organisation is required to do to protect its workers, including volunteers, are:

- the type of business or undertaking it is
- the type of work that the organisation carries out
- the nature of the risks associated with that work and the likelihood of injury or illness occurring
- what can be done to eliminate or minimise those risks
- the location or environment where the work is carried out.

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

- the provision and maintenance of a work environment without risks to health and safety
- the provision and maintenance of safe plant and structures and safe systems of work
- 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.

3.1 Managing health and safety risks

A safe and healthy workplace does not happen by chance or guesswork. Organisations will have to think about what could go wrong at the workplace and what the consequences could be. Then it must do whatever it can—whatever is reasonably practicable—to eliminate or minimise the health and safety risks arising from the work the organisation undertakes.

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.

3.2 What are some of the risks to volunteers engaging in work?

Volunteers, like other workers, face a wide range of possible risks and injuries from carrying out work. Such injuries may be physical or psychological and can result from common activities carried out by volunteers undertaking community services. The level of care that is required will depend on individual circumstances, such as the age of the volunteer, where the work is carried out and the relationship between the organisation and volunteer.

Psychological injuries and illness can be caused by challenging behaviour that the volunteer is confronted with or poor management of organisational change.

Physical injury or illness can be caused by work equipment, for example, by electrocution or electric shock, exposure to hazardous chemicals or contact with moving machinery parts. Injury or illness can also be caused by working in unsafe or unhealthy work environments caused by unsafe or unstable structures or extreme temperatures particularly when working outdoors.

3.3 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. Training and information should be tailored to the type of work the volunteers do and where they work.

3.4 Talking about health and safety

The WHS Act requires PCBUs to consult with workers, including volunteers, so far as reasonably practicable, about WHS matters that affect them. PCBUs must also talk to workers when it proposes changes that may affect the workers' health or safety.

The aim of the consultation is to ensure that volunteers are given an opportunity to contribute to the identification of hazards and the assessment and control of any risks they face when they carry out their work. The organisation must take volunteer's ideas into consideration when making decisions about safety in the workplace.

3.5 Finding the right consultative arrangements

Some workplaces may need a mix of consultation arrangements to suit the different types of workers and work situations within the organisation. There is no 'one right way' to talk about WHS. How the organisation does it will depend on factors like:

- the nature and size of the organisation
- the type of work that is carried out
- the current engagement arrangements of workers, including volunteers.

For example, if there are a number of full-time workers in an organisation, structured arrangements involving a health and safety committee may be suitable. Whereas an organisation that engages contractors, on-hire workers or volunteers to carry out specific tasks may find 'toolbox meetings' (short discussions on specific health and safety topics relevant to the task) are the most practical way to consult.

Organisations must consult with workers when making decisions on the process and arrangements for consultation. Both the organisation and workers should agree to and be happy with the arrangements in place for consultation. Some of the ways the organisation might consult with its volunteers include:

- sending out regular newsletters via mail, email or relevant app which feature WHS news, information and updates
- regularly updating the volunteer section of its notice board website or app with information, including its latest safe work policies and procedures
- having a 'suggestions' email box for workers, including volunteers to send suggestions to about ways to work safely and other matters
- holding regular meetings to talk to volunteers about the work they do and how to do it in the safest way. Meetings can be via teleconference or online if required
- holding short 'toolbox meetings' where specific health and safety topics relevant to the task at hand are discussed
- through health and safety representatives (HSRs), if requested by workers.

Health and safety representatives (HSRs)

A health and safety representative (HSR) is one way for workers to be represented in relation to WHS matters. If workers are represented by an HSR you must include them in the consultation process.

The appointment of HSRs is not mandatory, and an HSR is not obliged to undertake training. An untrained HSR can exercise most powers except for directing that unsafe work cease or issuing provisional improvement notices (PINs).

The organisation must facilitate the election of an HSR if one or more of the workers, whether paid or volunteer, ask for an HSR to be elected to represent their health and safety matters. To ensure the best representation of workers, HSRs are elected to represent specific work groups. Work groups must be determined before an HSR can be elected. There is also the option for the WHS regulator to become involved if an agreement cannot be reached. The regulator can determine if it is not appropriate for there to be an HSR.

Health and safety committees (HSCs)

Health and safety committees (HSCs) are another way for larger organisations to facilitate consultation. HSCs are not mandatory but must be established within two months of a request to do so from an HSR or five or more workers, who may be volunteers. An organisation can also establish an HSC without a request from workers.

HSCs can assist in developing health and safety policies and procedures for the organisation.

The organisation should also let the volunteers know what to do and who to contact if something happens when they are volunteering. If volunteers notice a health and safety matter that needs fixing they should know who to raise it with.

3.6 Notifying serious incidents

PCBUs are required to let the regulator 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.

Note: There are additional notification requirements under the WHS Regulations.

To help determine what type of incident must be notified, 'serious injury or illness' and 'dangerous incident' are defined in the WHS Act.

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, a serious burn or a spinal injury and a number of other injuries listed in the WHS Act
- occurs in a remote location and requires the person to be transferred urgently to a medical facility for treatment
- in the opinion of a medical practitioner, is likely to prevent the person from being able to do the person's normal work for at least 10 days after the day on which the injury or illness occurs.

'Treatment' means the kind of treatment that would be required for a serious injury or illness and includes 'medical treatment' by a registered medical practitioner, treatment by a paramedic or treatment by a registered nurse practitioner.

Importantly, it does not matter whether a person actually received the treatment referred to in this definition, just that the injury or illness could reasonably be considered to need the treatment.

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 risks. These risks include an uncontrolled escape, spillage or leakage of a substance, an electric shock, a fall from a height or the collapse of a structure.

Additional notification requirements under WHS Regulations

If a volunteer organisation places volunteers on a mine, petroleum or geothermal energy operation, there may be incident notification requirements under the WHS (Mines) Regulations or WHS (Petroleum and Geothermal Energy Operations) Regulations. Contact WorkSafe for clarification if this circumstance could arise.

3.7 Resolving issues

The WHS Act outlines a process for the resolution of issues about WHS arising out of:

- work carried out at the workplace, or
- the conduct of the organisation.

The issue resolution process applies after a WHS matter is raised but not resolved to the satisfaction of any party after discussing the matter. All parties involved in the issue must make reasonable efforts to come to an effective, timely and final solution of the matter.

If a WHS matter cannot be resolved by talking with all involved parties then the organisation needs to follow the process it and workers have agreed to in writing, or if there is no agreed process, the default issue resolution process set up in the WHS Regulations.

4 Volunteers working from their or other person's home

The organisation may engage volunteers who carry out work for the organisation in their own home. If this is the case, the organisation still needs to talk to its volunteers about doing work safely.

Volunteers that are engaged by the organisation to do work from their own home still need to take reasonable care of their own health and safety and ensure what they do for the organisation does not affect others. They also need to follow any reasonable instructions given to them by the organisation and cooperate with reasonable policies and procedures of the organisation that relate to WHS.

4.1 Private homes as a workplace

Because the organisation obviously does not own, control or manage the places that these volunteers work from (their homes) it means the organisation has a limited ability to ensure a volunteer's health and safety when at work. However, the organisation must still comply with its duty to ensure the health and safety of its volunteers, but **what is reasonably practicable for the organisation will be different than if the volunteers worked in a workplace that the organisation has control over.**

For example, to meet this duty the organisation might:

- give its volunteers who work from their own home **information or advice about how to set up a comfortable workstation, or safely carry out the work they have been assigned**
- give volunteers **information on why they should not be sedentary for long periods of time and how to avoid this**
- ensure volunteers **have all the equipment they need to do the work they are given**
- require volunteers to **familiarise themselves and comply with good ergonomic practices and safe lifting techniques,** consistent with any of the organisation's policies and procedures
- establish **good communication between the organisation** and volunteer including a contact person who volunteers can talk to about any concerns when working in their home.

Similar to when a volunteer works in another person's private home, the organisation might ask its volunteers who work from their own home questions about their homes to gather enough information so that the instructions the organisation provide are appropriate and practical to address the relevant risks to volunteer's health and safety when carrying out the work.

4.2 Volunteering in other people's homes

The organisation might engage volunteers who carry out work in other people's homes. If this is the case, the organisation should provide these volunteers with information about the home they will be visiting before they go there. The organisation might tell its volunteers about specific hazards to be aware of in the home, for example:

- the presence of domestic animals in the yard
- instructions and/or training on how to use unfamiliar machinery or equipment
- the presence of other people in the home
- the layout of the property including any structures that may pose a risk such as stairs, that are particularly steep.

If volunteers visit a number of homes it may not be reasonably practicable for the organisation to provide information about specific hazards in each home. However, the organisation should provide its volunteers with information about the types of hazards they might encounter.

The organisation should also consider asking volunteers questions relating to the work environment to determine if there are any specific risks that should be addressed before the volunteer visits other people's homes. For example:

- is the volunteer comfortable around domestic pets
- does the volunteer have any mobility issues that may impede their ability to access the home (e.g. uses a walking stick or frame and the house has stairs)
- does the volunteer have an allergy
- does the volunteer hold a first aid certificate.

The organisation should always provide the volunteers with any other information that they need to carry out their volunteer work safely. The organisation should also consider the risk of volunteers being exposed to violence when performing volunteering work in a person's home. Violence can harm both the person it is directed at, and anyone witnessing it, both physically and psychologically.

The best way to reduce the likelihood of violence is to eliminate the risk of exposure to it. If that's not possible, the organisation will need to minimise the risk so far as is reasonably practicable. While it is not a requirement that two volunteers attend a home to carry out work for an organisation at any time, the organisation may ask the volunteers to do so as a way of reducing the risk of violence. Other control measures may include providing volunteers with a reliable means of communicating with the organisation to request and obtain assistance when needed.

5 What do the 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, for example, other volunteers, members of the public or clients they may be assisting
- comply, so far as they are reasonably able, with any reasonable instruction that is given to them by the organisation, and
- cooperate with any reasonable policy or procedure that the organisation has provided to them.

Essentially 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.

5.1 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.

6 Officer duties

6.1 Who is an officer

Under the WHS Act an officer of an organisation is not necessarily a volunteer or other worker who has 'officer' in their job title, for example, first aid officer, health and safety officer or administrative officer.

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. Volunteers may sit on the board of the organisation or be in another role where they make or participate in making such decisions. Their decisions may also have the capacity to significantly affect the organisation's financial standing. Only if a person makes, or participates in making, these kinds of decisions are they an 'officer' under the WHS Act.

6.2 Duties of officers

Any officer of an organisation, whether volunteer or paid, has a number of duties, also known as their due diligence obligations. They must exercise due diligence to ensure that the organisation complies with its health and safety duties. This means they must ensure that the organisation has appropriate systems of work in place and they must actively monitor and evaluate health and safety management within the organisation.

Officers cannot delegate these duties. They are legally responsible for ensuring:

- workers and other persons are protected against harm
- the organisation has suitable safe work systems in place.

Exercising due diligence as an officer means that officers must take reasonable steps to:

- continuously learn about and keep up-to-date with WHS matters
- have an understanding of the nature of the work the organisation does and stay aware of the hazards and risks workers and volunteers may face when working for the organisation
- ensure and verify that the organisation has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety
- ensure and verify the organisation has processes in place for communicating and considering information regarding WHS and responding to that information, and
- ensure and verify the organisation has, and implements, processes for complying with any duties and requirements under the WHS laws.

There are things that the organisation can do to help volunteer officers fulfil their due diligence duty and at the same time ensure that their organisation is complying with its health and safety duties. For example, the organisation may:

- make WHS a standing agenda item on board meeting agendas
- implement a process for evaluation and review of safe work policies and procedures
- provide officers with an avenue or contact person to ask questions about WHS in the organisation, for example, the WHS manager or the human resource manager
- provide training or information to its officers about the WHS laws and the work of the organisation which is carried out by its workers, including volunteers.

6.3 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 [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.

7 Emergency service volunteer organisations

Emergency service organisations have always owed duties to take care of the health and safety of their workers and others at their place of work. The WHS Act makes it clear that the duties of organisations are owed to all workers, including volunteers. Volunteers are entitled to the same protections as paid workers.

The WHS Act does not affect the ability of emergency service organisations to respond to incidents as long as they continue to ensure, so far as is reasonably practicable, the health and safety of their workers, including volunteers, and other people. This does not mean the emergency service organisation must guarantee the health and safety of its workers, it simply needs to ensure it does all that can be reasonably done to keep its workers, including volunteers, safe.

7.1 Duties of emergency service organisations

The WHS laws treat emergency service organisations in exactly the same way as any other organisation or volunteer association. The primary duty on an organisation is to ensure, so far as is reasonably practicable, the health and safety of its workers, including volunteers of local groups or clubs, and others. Organisations, including emergency services, also have duties for the management and control of workplaces and the management or control of fixtures, fittings or plant at the workplace, so far as is reasonably practicable.

7.2 Emergency service volunteers and ‘officers’

Under the WHS Act an officer of an organisation does not mean someone with the word ‘officer’ in their job title, for example first aid officer, health and safety officer or administrative officer.

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. Some workers, including volunteers may sit on the board of an organisation or be in another role where they make, or participate in making, such decisions. The decisions they make may also have the capacity to significantly affect the organisation’s financial standing. Only if a volunteer makes, or participates in making, these kinds of decisions are they are an officer under the WHS Act.

Officers under the WHS Act have duties to exercise due diligence to ensure that the emergency service organisation has appropriate and robust WHS measures in place for all its staff and volunteers (see [Officer duties](#)).

7.3 Is an ‘incident controller’ an officer?

Under the WHS Act an incident controller is unlikely to be an officer. An incident controller is generally regarded to be in control of the current situation rather than the whole or substantial part of an organisation.

An officer under the WHS Act is determined by the individual’s level of involvement in decision making for the whole or substantial part of the organisation. It is not determined by a role taken in response to a specific emergency (see [Officer duties](#)).

7.4 Attending the same incident as other emergency service organisations

Sometimes more than one emergency service organisation will attend the same incident. Each PCBU represented at the scene has a duty to ensure, so far as is reasonably practicable, the health and safety of their workers, including volunteers. Workers and volunteers also have duties under the Act. They also must ensure, so far as is reasonably practicable, that their activities do not expose others to unnecessary risk.

To help each PCBU meet their duty under the WHS Act each organisation must also, so far as is reasonably practicable, consult, cooperate and coordinate activities with each other, depending upon the circumstances.

7.5 Risk assessments

The PCBU must have a process in place to ensure a risk assessment is completed to eliminate or minimise the risks to health or safety so far as is reasonably practicable.

There is no need for emergency service organisations to stop and complete paper work before responding to the emergency situation at hand.

However, to help to minimise risks the emergency service organisation may want to develop a checklist to remind incident controllers of things to look out for and steps to follow in an emergency.

8 Bullying, harassment and discrimination

The organisation has a WHS responsibility to ensure not only the physical health of the volunteers but also their mental health. This includes doing what you can to ensure they are not exposed to workplace bullying, harassment and discrimination.

Bullying in the workplace is repeated, unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to health and safety. Some examples of workplace bullying include abusive or offensive language or comments, aggressive and intimidating behaviour, belittling or humiliating comments, practical jokes or initiation and unjustified criticism or complaints.

The responsibility to prevent workplace bullying, harassment and discrimination is covered in the WHS Act by the duty to provide a healthy and safe working environment and safe systems of work.

Volunteers also have a duty under the WHS Act to ensure that their actions do not constitute a risk to their own health and safety or that of other people in the workplace.

Volunteers may also be covered by the national workplace bullying laws. See the Fair Work Commission's website for further information.

Western Australian public servant volunteer workers should contact their agency's Human Resources area or union for advice.

The organisation needs to send a clear message that bullying will not be tolerated and provide information to volunteers about who they can contact if they are bullied in the workplace.

The WHS Act also expressly prohibits the discrimination or unfair treatment of workers, including volunteers, because they have raised a WHS concern. A person found to be engaging in this type of discrimination may be liable to criminal penalties.

9 Other laws

WHS laws are not the only laws that the organisation should be aware of. Below is an outline of some of the laws that the organisation should know about when engaging volunteers. The organisation should seek further information on these laws and other laws from the relevant government body. Organisations in Western Australia can also seek further information on volunteers from [Volunteering WA](#).

Workplace relations laws

- The [Fair Work Ombudsman](#) website has information on when an arrangement between a person and an organisation is a volunteer arrangement as opposed to an employment relationship, for organisations which operate under the national industrial relations system, such as:
 - Ltd companies (e.g. Smith Corp Ltd)
 - Pty Ltd businesses that are trading or financial corporations (e.g. Smith Pty Ltd trading as Jane's Beauty)
 - incorporated associations and other not-for-profit bodies (that are trading or financial corporations)
- The [Wageline](#) website has information for organisations which operate under the state industrial relations system, such as:
 - sole traders (e.g. Jane Smith trading as Jane's Café)
 - unincorporated partnerships (e.g. Jane and Bob Smith trading as Jane's Café)
 - unincorporated trust arrangements (Jane and Bob Smith as trustees for Jane's Café)
 - any incorporated associations or not for profit bodies that are not trading or financial corporations
- Western Australian Government organisations that engage volunteer workers should contact their agency's Human Resources area for industrial relations advice. The Human Resources area may seek further advice from [Government Sector Labour Relations](#) at the Department of Mines, Industry Regulation and Safety.

Anti-discrimination laws

State, territory and Commonwealth anti-discrimination laws prohibit discrimination of a person because of that person's attributes.

- The [Australian Human Rights Commission](#) provides information about Commonwealth anti-discrimination laws.
- The [Equal Opportunity Commission](#) website provides information about Western Australia's anti-discrimination laws.

Workers' compensation, insurance and civil liability

Organisations should have appropriate insurance that adequately covers its workers including volunteers and the activities they carry out when volunteering. Organisations 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. The [Volunteering Australia](#) website provides information about the most common types of insurance that covers volunteers.

It is also important the organisation has insurance, as volunteers are generally not covered by workers' compensation laws. Contact [WorkCover WA](#) for more information.

10 Checklist

If the organisation is covered by WHS laws, this checklist may be used as a guide to assist in complying with WHS duties. You may need to adapt this for your particular circumstances and work environment. When creating a checklist, ensure that the principles of what is reasonably practicable apply (see [How to determine what is reasonably practicable to meet a health and safety duty: Interpretive guideline](#)).

| Question | | Yes | No |
|--|--|-----|----|
| Duties of organisations | | | |
| If you answer 'No' to questions 1-7 or are unsure, the organisation will need to take corrective action to meet WHS duties, so far as is reasonably practicable. | | | |
| 1. | Does the organisation have and keep up-to-date safe work policies, instructions and procedures? | | |
| 2. | Does the organisation tailor and distribute its safe work policies, instructions and procedures? | | |
| 3. | Does the organisation make sure all its volunteers are provided with training, information, instruction or supervision so that they can do their work safely? | | |
| 4. | Does the organisation provide the same protections to its volunteers as its paid workers? | | |
| 5. | Does the organisation consult its volunteers about WHS matters that affect them? | | |
| 6. | Does the organisation provide its volunteers a way to raise WHS matters and make suggestions for WHS practices? | | |
| 7. | Does the organisation consult, cooperate and coordinate with other PCBUs at a shared workplace? | | |
| Officer duties | | | |
| If you answer 'No' to any relevant questions at 8-15, you need to take corrective action to ensure the organisation meets its WHS duties, so far as is reasonably practicable. | | | |
| 8. | Do all officers in the organisation, whether paid or volunteer, know what their duties are under the WHS Act? | | |
| 9. | Do the members of the organisation's board talk about WHS matters, policies, procedures and safe work practices at its meetings? | | |
| Volunteers working from their own or other people's homes | | | |
| 10. | Does the organisation provide its volunteers who work from their home instructions, information and procedures relating to working from home? | | |
| 11. | Does the organisation provide its volunteers who volunteer in other people's homes information about the hazards they may encounter when visiting another person's home including work-based violence? | | |



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**

**Department of Mines, Industry Regulation
and Safety**

303 Sevenoaks Street
CANNINGTON WA 6107

Telephone: 1300 307 877

NRS: 13 36 77

Email: Safety@dmirs.wa.gov.au

Website: www.dmirs.wa.gov.au

The State of Western Australia supports and encourages the dissemination and exchange of its information. The copyright in this publication is licensed under a Creative Commons Attribution 4.0 International (CC BY) licence.



Under this licence, with the exception of the Government of Western Australia Coat of Arms, the Department's logo, any material protected by a trade mark or licence and where otherwise noted, you are free, without having to seek our permission, to use this publication in accordance with the licence terms.

We also request that you observe and retain any copyright or related notices that may accompany this material as part of the attribution. This is also a requirement of the Creative Commons Licences.

For more information on this licence, visit creativecommons.org/licenses/by/4.0/legalcode