



WHS – Volunteers

February 2012

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

Under the new work health and safety (WHS) laws, which were effective from 1 January 2012 certain volunteer associations, volunteers and *persons conducting a business or undertaking* (PCBUs) who engage volunteers will now have new responsibilities.

There have also been some changes in terminology, some of these being the term *employers* will be replaced by *persons conducting a business or undertaking* (PCBU) and *employees* will be replaced by *workers*. The term Occupational Health & Safety (OH&S) has been replaced with Work Health & Safety (WHS).

Persons conducting a business or undertaking (PCBU)

Council has a duty under the WHS Act as a *person conducting a business or undertaking* to ensure so far as is reasonably practicable, the health and safety of workers engaged in undertaking activities. If you carry out work for a PCBU, as a volunteer or other worker, then you are owed a duty of care under the WHS Act.

Workers are all who carry out work in any capacity for a PCBU, such as employees, contractors and volunteers. Under the new legislation, volunteers are now classified as workers whilst working for a PCBU.

Officer (PSC's Officers are the General Manager and the Group Managers)

An officer is a person who makes decisions, or participates in making decisions, that affect the whole, or a substantial part of, a business or undertaking and has the capacity to significantly affect the financial standing of the business or undertaking. An officer of a PCBU must exercise due diligence to ensure that the PCBU complies with their duties under the WHS legislation.

Am I protected under the work health and safety laws?

Volunteers at Port Stephens Council do not work for payment or financial reward although some out of pocket expenses may qualify for reimbursement. All workers, including volunteer workers, are protected under the WHS Act.

Volunteer organisations with paid workers

A volunteer organisation with paid workers is regarded as a *person conducting a business or undertaking* (PCBU). As a PCBU, this type of volunteer organisation has responsibilities under the WHS Act, including a primary duty of care to ensure, so far as is reasonably practicable, the health and safety of its workers.

Volunteer directors and officers of a PCBU

Volunteers serving as officers of a volunteer organisation that employs paid workers must exercise due diligence to ensure the volunteer organisation complies with its duties.

For example, a volunteer officer serving on the board of a PCBU, such as a sporting committee, is considered an officer of that committee. As an officer, they must exercise due diligence to ensure the committee complies with its work health and safety duties.

Volunteer officers of associations (including unincorporated associations) that do not employ any paid workers do not have the duties of an officer under the WHS Act.

Payments made to volunteers

Reimbursement payments, such as out of pocket expenses when carrying out volunteer work, are not regarded as wages or salary. However, payments for carrying out volunteer work would constitute a wage or salary and mean that the person is not a volunteer.

Council's work health and safety obligations

Council must ensure, so far as is reasonably practicable, the health and safety of all of its workers including volunteer workers. Volunteers carry out a wide variety of work in a variety of environments and the level of care that is required will depend on the individual circumstances. What Council is required to do to protect you depends on things like:

- the type of work you carry out;
- the nature of the risks and potential injuries associated with that work, and
- the location or environment where the work is carried out.

Risks you may encounter from the working environment or work equipment will depend on the type of work you carry out and may include:

- exposure to and use of machinery, vehicles and chemicals;
- unstable or unsafe structures;
- unsafe entrances, exits or steps, stairs and ramps; and
- slippery floors.

Council makes assessments of the hazards and risks volunteers are likely to encounter and takes reasonably practicable steps to eliminate or minimise those risks. This may mean volunteers are not permitted to undertake some activities. These steps should include making sure that:

- the workplace itself is safe and without risks to health and safety;
- equipment and machinery provided for use is safe;
- there are adequate facilities at the workplace, such as first aid; and
- necessary information, instruction and training is provided to allow volunteers and workers to perform their work safely.

Council should also consult with its volunteers regarding the management of health and safety generally and should ensure volunteers have a reasonable opportunity to contribute to the improvement of health and safety.

As a volunteer do I have duties under the WHS Act?

Port Stephens Council volunteers have the same duties as other *workers* at the workplace:

1. to take reasonable care for your own health and safety;
2. to take reasonable care that your conduct does not adversely affect the health and safety of others;
3. to comply with any reasonable instruction that is given to you by Council (to help it to comply with the WHS Act); and
4. to cooperate with any reasonable policy or procedure relating to health and safety at the workplace.

Can I be prosecuted if I don't meet my duties under the WHS Act?

Volunteers who carry out work for Port Stephens Council are required to take reasonable care for their own health and safety and others. Like any other duty holders who do not comply with their duties under the WHS Act, workers, including volunteers, can be prosecuted. This is the same for any person, including a member of the public, who visits a workplace and is required to take reasonable care for their own health and safety.

Council acknowledges and recognises the important contribution that volunteers make to our community, whose activities strengthen and provide strong social and community benefits.