**Work Health & Safety Laws 2012 – What You Need To Know**

Summary and key changes

In their publication *“Model Work Health and Safety Regulations – Summary and key changes for NSW”*, WorkCover NSW states: Overall, the implementation of the Work Health and Safety Regulations (WHS Regulations) should not have a significant impact in how NSW businesses operate and manage work health and safety matters. Essentially, many requirements are unchanged, or substantially the same as is currently prescribed in the existing *Occupational Health and Safety Regulation 2001* (OHS Regulation).

Our school is currently compliant with the OHS Regulations 2001. It is not a major undertaking for us to become compliant with the new WHS Regulations.

**Definitions:**

**PCBU** – Person Conducting a Business - A PCBU is the legal entity conducting the business. The PCBU has the primary duty of care to ensure workers and others are not exposed to a risk to their health and safety. In the case of our Catholic School System this will probably end up being the Trustees of the Diocese. This is still to be determined.

**Officer** – Officer is defined to mean those who make or participate in the making of decisions that affect the whole business or a substantial part of it. So, for the Catholic School System, the Director and Principals would most likely be Officers.

**Due Diligence** – An Officer must exercise due diligence, which at its simplest, requires an officer to concentrate on managing the work health and safety (WHS) risks of the business or undertaking. Note that in practice, due diligence will operate more effectively if the whole management team tries to apply its principles, regardless of who may legally be an officer.

**Workers** – A worker is any person who performs work in any capacity for a business or undertaking including employees; contractors; sub-contractors; employees of contractors or sub-contractors; outworkers; employees of labour hire companies; work experience students; apprentices; casuals; and volunteers (eg our Canteen ladies).

**Duties of a worker –** A worker must, while at work:

* take reasonable care for their own health and safety
* take reasonable care for the health and safety of others
* comply with any reasonable instruction by the PCBU or Officer
* co-operate with any reasonable policies and procedures of the PCBU or Officer.

**Work Groups** – Work groups are workers represented by a Health and Safety Representative (HSR) – see below. Usually these workers perform similar types of work and have similar health and safety concerns and conditions within the workplace. In our school there are probably three clearly defined work groups – Teaching Staff, Support Staff, Cleaners & Groundstaff – please let me know if you think other workgroups should be defined.

**Health and Safety Representatives (HSR’s)** - The role of an HSR in a school setting is to facilitate the flow of information about health and safety between the Officer and the workers in their work group.  
  
They represent workers on health and safety matters through ongoing consultation and cooperation between workers of a work group and an Officer.   
  
The powers and functions of an HSR are to:

* represent workers in a work group on work health and safety (WHS) matters
* monitor WHS actions taken by the Officer or PCBU
* investigate WHS complaints from workers of the work group
* look into anything that might be a risk to the WHS of the workers they represent.

If an HSR has completed approved HSR training, they can exercise additional powers:

* to direct unsafe work to stop when they have a reasonable concern that carrying out the work would expose a worker to a serious risk
* to issue a 'Provisional Improvement Notice' (PIN) when they reasonably believe there is a contravention of the *Work Health and Safety Act 2011* (WHS Act).

HSRs provide benefits to workers, Officers and PCBUs by fostering consultation.

**Election of HSRs**

In the near future we will need to elect HSRs for each of our work groups. This will be done by calling for nominations and if necessary conducting an election.

It is my intention to have each of our HSRs trained.

**Health & Safety Committee** – our existing OH&S Committee has done an excellent job under the old regulations. Under the new WHS Laws & Regulations we are allowed to have a Health & Safety (H&S) Committee. The functions of the committee under the WHS Act are somewhat different from previous functions under the OHS Act. The committee should:

1. Facilitate co-operation between the Officer & workers to instigate, develop & carry out health & safety measures.
2. Help develop health & safety standards, rules and procedures to be complied with at the workplace.
3. Perform such functions as prescribed by the Regulation or agreed between the Officer and the Committee.

**Difference Between Roles of HSR and H&S Committee** – The HSR is focussed on dealing with specific health and safety issues relevant to the workgroup they represent – they solve issues as and when they arise. The H&S Committee on the other hand is the forum for consultation on the management of health and safety across the whole workforce. It is a more strategic role to help plan and achieve WHS performance improvements. Note that no training is needed by H&S Committee members.

Further information on the new WHS Laws & Regulations can be found at:

<http://www.workcover.nsw.gov.au/newlegislation2012/whatsnewfornsw/Pages/default.aspx>

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