

**FACT SHEET**

## **INFORMATION FOR OFFICERS WHO ARE VOLUNTEERS**

The primary piece of legislation governing health and safety practices in New Zealand is the **Health and Safety at Work Act 2015 (HSWA)**. The legislation places a **personal due diligence duty on officers of a PCBU, to ensure the organisation complies with its health and safety duties and obligations.**

### **WHAT IS A PCBU?**

A PCBU is a 'person conducting a business or undertaking'. A PCBU may be an individual person or an organisation. A 'business' is generally a profit making entity, whereas an 'undertaking' may not be commercial in nature.

It does not include workers or officers of PCBUs, volunteer associations with no employees, or home occupiers that employ or engage a tradesperson to carry out residential work.

HSWA places duties on all PCBUs.

A PCBU must ensure, so far as is reasonably practicable, the health and safety of:

- > workers who work for the PCBU, while the workers are at work in the business or undertaking
- > workers whose work activities are influenced or directed by the PCBU while the workers are carrying out the work.

A PCBU must also ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out as part of the business or undertaking.

### **WHO IS AN OFFICER OF A PCBU?**

An officer is a person who occupies a specified position or who occupies a position that allows them to exercise significant influence over the management of the business or undertaking.

Organisations can have more than one officer.

Officers are:

- > company directors (even if they do not have 'director' in the title)
- > any partner in a partnership (other than a limited partnership)
- > any general partner in a limited partnership

- > any person who holds a position comparable to a director in a body corporate or an unincorporated body
- > any person who occupies a position that allows them to exercise significant influence over the management of the business or undertaking (eg the Chief Executive).

**WHO IS A VOLUNTEER OFFICER OF A PCBU?**

Officers who perform their duties on a voluntary basis, ie they do not receive payment or reward, are volunteer officers.

**Note:** volunteers can be reimbursed for out of pocket expenses.

**WHAT IS THE DUTY OF VOLUNTEER OFFICERS?**

Volunteer officers have a due diligence duty to ensure the PCBU complies with its duties and obligations.

**WHAT IS DUE DILIGENCE?**

An officer of a PCBU must exercise due diligence to ensure that the PCBU complies with its health and safety duties.

This means they must exercise the care, diligence and skill a reasonable officer would take in the same circumstances, taking into account the nature of the business or undertaking, the officer’s position and the nature of the responsibilities they undertake.

**HOW DO I MEET MY DUTY?**

DUE DILIGENCE INCLUDES TAKING REASONABLE STEPS TO:	EXAMPLES
1. Acquire knowledge of work health and safety matters and keep up to date.	Learn what HSWA requires and find out how to so far as is reasonably practicable, eliminate or minimise the risks that arise from the work of the PCBU.
2. Understand the nature of the PCBU’s operations and the associated health and safety risks.	Get advice from a suitably qualified person about the hazards and risks associated with the organisation’s operations. Discuss health and safety with volunteers and other workers.
3. Make sure the PCBU has appropriate resources and processes to eliminate or minimise risks to health and safety, and uses them.	Understand the organisation’s risks and needs, make sure resources are provided and processes are implemented.  Review incident data and identify trends. Identify how the system can be improved.
4. Make sure the PCBU has processes for receiving and considering information about incidents, hazards and risks, and for responding in a timely way.	This should include processes for reporting incidents, hazards and risks, then identifying if action is required to eliminate or minimise the risks (so far as is reasonably practicable).  Consider results and trends from workplace exposure and health monitoring activities, including participation rates.
5. Make sure the PCBU has, and implements, processes for complying with HSWA.	Make sure everyone in the organisation understands the health and safety processes and their obligations. Talk about health and safety at board meetings and record resolutions.  Review incident data and identify trends. Identify how the system can be improved.

## **WHAT IS THE LIABILITY OF VOLUNTEER OFFICERS?**

While officers who are volunteers have a due diligence duty to ensure the PCBU complies with its duties and obligations, they do not commit an offence if they fail to meet it. This immunity ensures that voluntary participation at a leadership level is not discouraged.

However, volunteer officers may be prosecuted as 'other persons' at the workplace if they fail to take reasonable care of their own, or another person's health and safety while at the workplace, or fail to comply with reasonable instructions about health and safety given by the PCBU.

## **NOTE ABOUT VOLUNTEER ASSOCIATIONS**

A volunteer association is a group of volunteers working together for a community purpose who do not employ any person. Purposes could include the promotion of art, culture, science, religion, education, medicine, or to support a charity, sport or recreation activity.

Volunteer associations do not have health and safety duties under HSWA, as they are not PCBUs.

## **FURTHER INFORMATION**

For information about volunteers, see the fact sheet *Information for volunteers*.

For information about what a PCBU's duty to volunteers is, see the fact sheet *Information for PCBUs that engage volunteers*.

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