

WORK HEALTH AND SAFETY: WHAT IT MEANS FOR VOLUNTEERS

Volunteers play a vital role in communities across South Australia and make significant contributions by carrying out unpaid work for a variety of organisations every day.

The following chart provides information on how work health and safety laws apply to organisations that (A) employ workers and engage volunteers; or (B) are volunteer associations with no employed workers.

WORK, HEALTH AND SAFETY FOR VOLUNTEERS

The **Work Health and Safety Act (WHS) 2012** (SA) provides for the safety, health and welfare of persons at work in South Australia.

The Act together with the **Work Health and Safety (WHS) Regulations 2012** (SA) set up health and safety duties to provide protections from hazards and risks in the workplace. The duties fall not only on the employer running a business and their officers, but also on individual workers.

A volunteer is a **worker** for the purposes of the WHS Act when volunteering for a **Person Conducting a Business or Undertaking** (PCBU) i.e. an organisation that employs at least one worker.

A volunteer is **not** a worker if they carry out volunteer work for a 'volunteer association' that is run entirely by volunteers.

However, whether managing volunteers within a PCBU or a non-PCBU, it is imperative to ensure the health and safety of your volunteers.

This includes developing and informing your volunteers of policies and procedures of the organisation. They do not need to be onerous and some of the publications listed **on this resource** have simple check lists for this purpose.

It is also important to investigate other forms of protection for your volunteers, which can include insurance coverage to protect them for personal injury and liability.

PCBU

A PCBU is the main duty holder under the WHS Act and may be a partnership, company, unincorporated body or association, a sole trader, a government department or statutory authority.

If a volunteer association employs someone to carry out work then it:

- meets the definition of a PCBU
- falls within the scope of the WHS Act
- must ensure the health and safety of workers (including volunteers), consult with them on WHS matters, and provide adequate information, training and supervision.

Non PCBU

A 'volunteer association' for the purposes of the WHS Act is a group of volunteers working together for one or more community purposes that has no paid employees. It may be an incorporated or unincorporated association.

This type of volunteer association is not regarded as a PCBU.

WORKER / VOLUNTEER

A worker is a person who carries out work in any capacity for a PCBU, including work as a volunteer.

WHS

If a volunteer association is run purely by volunteers it:

- is not captured by the WHS Act
- does not have duties under the WHS Act.

However, general and common law obligations to ensure the safety of their volunteers remain. Australian courts have long recognised that volunteers are owed a general duty of care by the people and the organisations they support.

Therefore, even if your organisation is a volunteer association and does not fall under the WHS Act, as part of good risk management processes, you should still identify potential risks and develop processes for managing those risks.

Please note; a volunteer association may sometimes undertake tasks for a PCBU. In those instances, the PCBU may owe the volunteers a duty as workers even though the volunteer association will be exempt.

WHS

Volunteers classified as 'workers' mean that they are owed a health and safety duty under the WHS Act and receive the same protection as paid workers.

However, volunteers, as workers, also have a duty of care for their own health and safety as well as that of others. They must comply with any reasonable instruction and co-operate with a PCBU's work health and safety policies and procedures.

Refer **Section 28 WHS Act** for duties of workers (including volunteers)



RESOURCES

VOLUNTEER INSURANCE:

Volunteer related insurance is a key way a volunteer organisation can protect itself and its volunteers.

While not mandatory, it is good management to ensure the organisation holds personal accident and public & product liability insurances and that this cover extends to include volunteers. It is not the duty of the volunteer to arrange individual covers while with the organisation.

Volunteer involving organisations should also reduce risk to its staff, clients and customers through proper health/safety, training and management practices and document procedures.

Therefore, it is important to ensure that any organisation has appropriate insurance that adequately covers its workers, including volunteers and the activities they carry out when volunteering. This means checking that existing policies, like public & product liability policies, extend to include the activities of volunteers.

Volunteer Workers Personal Accident Insurance

PCBU and NON PCBU

When considering Volunteer Workers Personal Accident insurance, it is important to check what the current policy covers through the details of the schedule e.g. who is insured, the breadth of cover, payment limits, benefit payment periods etc.

Areas to consider are age limits for volunteers (which can vary considerably), reimbursement of medical costs, death or disablement (permanent or otherwise), benefits for non-income earners, domestic help and student tutorial benefits.

Other Insurance for your volunteers

The *Volunteer Protection Act 2001* provides some protection for volunteers doing community work from being sued for damage, loss or injury they may have caused to others while undertaking voluntary work for an incorporated organisation or government program. However, it does not provide insurance cover for personal injury, or public liability to an organisation or its members. It does not protect unincorporated organisations.

Therefore, careful consideration should be given to identifying the basic insurance cover required to provide protection to an organisation, its volunteers and the community:

1. Volunteer Workers – Personal Accident Insurance

Benefits can include financial compensation for disability, death, home support and lost wages.

2. Public & Products liability Insurance

Protects against third party claims for personal injury or property damage because of accidents or negligence by staff or volunteers.

3. Associations and Officers Liability Insurance (or Directors and Officers liability, Professional indemnity)

Associations and Officials Liability cover protects the committee members against potential financial losses or compensation associated with management activities and their duties as officials.

Related policy variations include Association Liability Insurance, Directors and Officers Liability and Professional Indemnity Insurance.

Note: Some insurance companies now provide a combined:

Officers and Directors liability and Public Liability package to the organisation and its volunteers against being sued.

More information on insurance can be found at:

- sa.gov.au - [Risk management and insurance](#)
- ourcommunity.com.au - [What types of insurance does my organisation need?](#)
- [Local Community Insurance Services](#)
- [Community Underwriting](#)
- [The Centre for Volunteering - Managing Volunteers](#)
- [Volunteering Australia Insurance](#)

PUBLICATIONS:

- [Work Health and Safety Act 2012 \(SA\)](#)
- [Work Health and Safety Regulations 2012](#)
- [Volunteer Protection Act 2001](#)
- [Work Health and Safety Act 2012 - Volunteer Workforce Health and Safety Training Framework: A guide for South Australian Local Government](#)
- [Volunteer Organisations - The Essential Guide to Work Health and Safety for Organisations that Engage Volunteers](#)
- [SafeWork SA: Community Workers - Work health and safety guidelines \(4th Edition, July 2014\) \(updated February 2015\)](#)
- [2015 - The National Standards for Volunteer Involvement](#)
- [Return to Work Act 2014 \(SA\)](#)
- [Return to Work Regulations 2015 \(SA\)](#)
- <http://publicsector.sa.gov.au/policies-standards/guidelines-and-determinations/> (Guideline of the Commissioner for Public Sector Employment – Volunteers 2016)

TOOLS:

- SAFECOM - [Work, Health, Safety and Injury Management responsibilities chart](#)
- [DECD – Work Health and Safety Law in SA](#) – an informative video clip that provides an overview summary of SA WHS Act that was introduced as a law on 1 January 2013.
- [STARservice Development Program](#) - an online management and governance assessment tool for community organisations to measure their organisation against a set of simple governance and management criteria.
- [SafeWork Australia – Volunteers and the new work health and safety laws](#) - volunteer resource kit and guidance material to help volunteers and organisations understand and comply with any obligations under the WHS Act.
- [SafeWork SA online learning](#) – ‘Safety Check’ is an online Work Health and Safety test designed for workers to better understand basic health and safety issues at work.
- [Work Health and Safety Harmonisation Act Information Session Feb 2012](#) – Session presented by Erin McCarthy, Partner at national law firm Piper Alderman that is aimed specifically at not for profit organisations.

OTHER LAWS:

There are other laws that volunteers must comply with or that offer protection to volunteers. Below is a guide to some of these laws. If further clarification is required, advice should be sought from your organisation or relevant volunteer body.

Click on the below links, to find out more information about other laws relevant to volunteers.

- **Anti-discrimination laws** - In addition to the protection from discrimination in the work health and safety laws, state, territory and Commonwealth anti-discrimination laws prohibit discrimination of a person because of that person's attributes. For example, the laws prohibit discrimination because of a person's race, gender, age, disability, religious belief, political belief, parental status or trade union activity as well as other attributes. The [Commonwealth Human Rights and Equal Opportunity Commission website](#) provides information about Commonwealth anti-discrimination laws and links to the websites of [State and Territory anti-discrimination bodies](#).
- **Industrial relations laws** - If you are engaged as a volunteer it is unlikely that industrial relations laws, such as the Fair Work Act 2009 or State or Territory industrial relations laws, will apply to your volunteer arrangements. However, the Fair Work Amendment (Respect for Emergency Services Volunteers) was passed in October 2016. If you think you have been engaged as an employee or contractor and not as a volunteer, you can find information from the [Fair Work Ombudsman website](#).
- **Tax laws**
- **Whistleblowers Protection Act 1993**
- **Privacy Act 1988 (Cth)** - governs the collection, protection and disclosure of personal information provided to an organisation by clients, Board members, staff, volunteers, students and stakeholders.