

Mental Health & Well-being Programs & Legislation Quick Guide

A focussed solution to controlling the risk of psychosocial hazards.

The new legislation and your duty to meet the requirements might feel a little daunting. Training is a critical element to include in your risk management approach and has potential to provide enormous benefits for your works and the business.

Following is how we can help you, including a Quick Guide to understanding the new legislation.

We can assist by providing:

- ✓ Consultation with key stakeholders to gain insight into the dynamics of your work environment, to ensure training is contextualised to industry/business psychosocial hazards.

Worker survey conducted prior to training will gain invaluable insight and assist with identifying psychosocial hazards and associated risks according to your workers. (this will contribute to the consult worker requirement and identify hazard and risk steps)
- ✓ Based on worker feedback and your knowledge of existing psychosocial hazards we can deliver tailored training to meet the business needs. This may entail an appropriate 60 min, 90 min, 2hour, ½ day or full day training course of combination of courses delivered over a defined period of time. - Specialised programs are available for leaders. (This assists in meeting the Administration Control requirement)
- ✓ We will conduct a confidential survey post training of the attendees and provide you with a summary of responses. (Contributing to the consult worker requirement and an additional tool to assist with review control measures)
- ✓ Your business will receive a Certificate of Completion outlining the key learning objectives which provides evidence of training and support offered to your workers. (Satisfying providing evidence record keeping requirement)
- ✓ Participants will receive a Certificate of Completion (satisfying providing evidence and record keeping requirement)
- ✓ Participants will receive an email series for 4 weeks post training providing with the aim to reinforce the learning. (Satisfying Administration Control step)
- ✓ The initial staff survey can then be used at a specific time in the future (Satisfying review control measures)
- ✓ The results of the follow up survey will provide us with feedback where ongoing training and support maybe required. (Satisfying review control measures)

A Quick Guide to the Psychosocial Hazard & Risk Legislation

effective 1 April 2023

It is important that you read the legislation changes that have been made to the [Work Safe Act](#) and be informed of the changes of how this new legislation shall impact on your business.

This new legislation applies to ALL businesses under the Work Safe Act.

Definition

The WHS Act defines 'health' to include both physical and psychological health. This means that where the WHS Act imposes a duty in relation to 'health', PCBU's (person conducting a business or undertaking) **must** manage risks to both physical and psychological health, so far as is reasonably practicable.

What are psychosocial hazards?

A psychosocial hazard is a hazard that arises from, or relates to, the design or management of work, a work environment, plant at a workplace, or workplace interactions and behaviours and may cause psychological harm, whether or not the hazard may also cause physical harm. In severe cases exposure to psychosocial hazards can lead to death by suicide.

Psychosocial hazards can create harm through a worker's experience of a frequent, prolonged and/or severe stress response, where stress is defined as a person's psychological response (e.g. anxiety, tension) and physiological response (e.g. release of stress hormones, cardiovascular response) to work demands or threats.

Common Psychosocial hazards

High and or low job demands

Poor support

Poor organisational change management

Poor organisational justice

poor workplace relationships inc interpersonal conflict

Traumatic events

Bullying

Low job control

Low role clarity

Low reward and recognition

Remote or isolated work

Poor environmental conditions

Violence and aggression

Harassment including Sexual harassment

 [Manage the Risk - Training Solutions](#)

Responsibility of the person conducting business or undertaking

An officer of a PCBU **must** exercise due diligence to ensure PCBU's comply with duties under the WHS laws. A PCBU **must** ensure, so far as is reasonably practicable, the health and safety (including psychological health) of workers visitors, delivery people, clients, patients and their families are not put at risk from work carried out as part of the conduct of the business or undertaking.

Workers

While at work, a worker **must**:

- take reasonable care for their own health and safety, including psychological health
- take reasonable care their acts or omissions do not adversely affect the health (including psychological health) and safety of other persons
- comply, so far as the worker is reasonably able, with reasonable instructions given by a PCBU
- cooperate with reasonable health and safety policies or procedures issued by a PCBU that have been notified to workers.

Requirements under the legislation

1. Identify psychosocial hazards

- a. observe the workplace.
- b. consult workers
- c. Consulting supply chains and networks
- d. Collecting and reviewing available information

2. Assessing psychosocial risk

Once psychosocial hazards have been identified, PCBUs should assess the level of risk the identified hazards may present and conduct a risk assessment.

3. Controlling the risk of psychosocial hazards

A PCBUs **must** eliminate risks to health and safety, so far as is reasonably practicable. If it is not reasonably practicable to eliminate risks to health and safety, the risks **must** be minimised so far as is reasonably practicable.

- a. Eliminating risks is the most effective control measure and PCBUs **must** always consider elimination before anything else. Eliminating risks means completely removing the psychosocial hazard and associated risks.

Where a risk cannot be eliminated, PCBUs **must** minimise the risk so far as is reasonably practicable.

- b. Minimising risks - If the risk remains, it **must** be minimised by implementing administrative controls, so far as is reasonably practicable.

Step 1: Substitution, isolation and engineering controls - substituting or isolating the hazard from the person or implementing engineering controls.

Step 2: Administration controls - ensuring workers have the right information, training, and supervision to perform their job safely.

Step 3: Personal protective equipment - If risk remains after applying substitution, isolation, engineering and administrative control measures, PCBUs **must** minimise the remaining risk by ensuring the provision and use of suitable PPE, so far as is reasonably practicable.

4. Combining risk controls

A combination of control measures may be used to minimise risk if a single control is not sufficient to eliminate or minimise psychosocial risk. In most cases, a combination of control measures will be the most effective approach.

5. Maintaining control measures

A PCBU **must** ensure control measures are effective and are maintained so they remain effective. This includes ensuring control measures are, and remain, fit for purpose; suitable for the nature and duration of the work; and are installed, set up and used correctly.

6. Review control measures

PCBUs must review and, as necessary, revise control measures. If a control measure does not adequately control the risk is likely to give rise to a new or different risk to health or safety a review must be completed.

7. Recording the risk management process

Keeping records of the risk management process may assist with demonstrating what has been done to comply with the WHS Act and the WHS Regulation. It can also assist when undertaking subsequent risk management activities, including reviewing control measures.

***** A WHS inspector may ask to see a copy of records relating to risk management processes if they visit a workplace. If a written record is not available, PCBUs will need to demonstrate how duties have been met by other means.*

Responding to reports, complaints, or incidents

Encouraging workers to raise concerns regarding psychosocial hazards, and in turn effectively responding to those concerns, can assist PCBUs to not only identify hazards, but also review whether control measures are working. The process for investigating or responding to reports, complaints or incidents involving psychosocial hazards should be proactive, fair, objective, conducted in a timely and impartial manner, applied consistently to all workers, and ensure procedural fairness for all parties involved.

Incident reviews

Reviewing an incident of work-related violence and aggression to identify contributing factors will help determine how to prevent a similar incident recurring, how to respond to future incidents, and whether any control measures need to be reviewed. It also provides the opportunity to ensure follow-up support for workers.

PCBUs should consult affected workers about the incident when considering ways to eliminate or minimise the risk of future incidents.

Examples of Control Measures

- Ensure there are workplace specific policies for any psychosocial hazards identified as creating risk in your workplace.
- Ensure there is training for leaders and line-managers about their role in the design and management of work and psychosocial hazards and in providing support, particularly if their workers have experienced demanding, distressing, or traumatic events or have been exposed to bullying, violence, aggression, or sexual harassment.

- Build capability of workers by providing training relevant to any high-risk hazards identified (e.g. conflict management skills, dealing with aggressive behaviour, high work demands, working alone or in remote locations, emotional competencies, or interpersonal skills).
- Provide clear guidelines and expectations about respectful workplace behaviours and ensure leaders and line-managers model these behaviours.
- Ensure professional psychological support is available to workers who are directly or indirectly exposed to traumatic events or other emotionally demanding work.
- Provide clinical supervision in addition to managerial supervision to those who are exposed to work that has risks of occupational violence and traumatic events to manage risks of burnout and PTSD.
- Create an environment in which workers feel comfortable raising concerns about any psychosocial hazards.
- Provide clear guidelines and expectations on how to report psychosocial hazards or concerns in the workplace and respond in a timely, empathic, and effective manner to these concerns.
- Ensure there are appropriate mechanisms to manage any poor performance of workers or supervisors.
- Educate workers and managers about early warning signs of stress and fatigue and how to respond when they recognise them in themselves or others.
- Promote work-life balance and encourage workers to implement self-care practices, take annual leave regularly or to recover from periods of high demands.
- Provide and promote an employee assistance program for professional mental health support to workers who are experiencing high stress levels when they are exposed to psychosocial hazards (particularly exposure to trauma, bullying, violence and aggression or sexual harassment).
- Consult with workers to gain an understanding of specific requirements or reasonable adjustments in their working conditions to support individuals to perform their duties effectively (e.g. workers with a disability, recovering from injury, or neurodiverse individuals).
- Develop and implement systems for professional supervision and debriefing.

Penalties for breaches to work health and safety law

Category 1 These are serious breaches where a duty holder recklessly endangers a person to risk of death or serious injury. Offences involving reckless conduct will be prosecuted in the District Court.

- Corporation: up to \$3 million
- Individual as a person conducting a business or undertaking (PCBU) or an officer: up to \$600,000/5 years jail
- Individual (e.g. a worker): up to \$300,000/5 years jail.

Category 2—failure to comply with a health and safety duty or electrical safety duty that exposes a person to risk of death, serious injury or illness. Offences will be prosecuted in the Magistrates Court.

- Corporation: up to \$1.5 million
- Individual as a PCBU or an officer: up to \$300,000
- Individual (e.g. a worker): up to \$150,000.

Category 3—failure to comply with a health and safety duty or electrical safety duty. Offences will be prosecuted in the Magistrates Court.

- Corporation: up to \$500,000
- Individual as a PCBU or an officer: up to \$100,000
- Individual (e.g. a worker): up to \$50,000.

On-the-spot fines - An on-the-spot fine, also known as an infringement notice, is an alternative to prosecuting alleged offenders directly through court. Both PCBUs and workers can be issued with an on-the-spot fine. Examples of offences which can be issued.

[Penalties for Breach of Work Health & Safety Laws](#)

[WHSQ Inspector Entry Powers](#)

▶▶▶ THE LATEST STATISTICS

It is estimated that absenteeism due employee mental health conditions costs Australian businesses \$4.7 billion per annum, equivalent to 1.1 million days' sick leave.

Presenteeism is estimated to cost Australian business \$6.1 billion a year.

Mental Health compensation claims are estimated to cost Australian businesses \$146 million a year.

Burnout increases the risk of worker physical injury by 19% Source - Pro Choice Safety

86% of staff and management believe that ineffective communication is the root of all workplace failures. Source - Economist Intelligence Unit

91% of employees believe mental health in the workplace is important. However, only 52 percent of employees believe their workplace is mentally healthy. Source - Beyond Blue

Australian workers suffer a higher level of work burnout than other countries surveyed. 62% of Australian workers reported being burned out at work, compared to global average of 48%. Source - Microsoft Trend

“The delivery of the content was relaxed and very relevant to our workplace. I found value in the 4 step communication, this is something that will help me not only at work but at home. The conflict resolution strategies were very helpful as this is something as a teacher we need to manage every day.” – Nicole St Edmunds College