



VNZ Brief: HSWA info for officers

This handout summarises the duties of officers of volunteer-involving organisations under new health and safety legislation.

The new Act makes officers of a volunteer organisation with at least one staff member responsible for health and safety duties. The Act calls these 'due diligence' duties.

Useful terms

HSWA: The Health and Safety at Work Act 2015, from here referred to as "the Act".

PCBU: Person Conducting a Business or Undertaking. Under the Act, a volunteer-involving organisation is a PCBU if it employs one or more staff no matter how many volunteers it has. From here, referred to as "your organisation".

Volunteer-involving organisations (VIOs): This is the term Volunteering NZ uses to describe non-profit organisations with a volunteer component.

Volunteer association: An organised group of volunteers who do not employ any staff. Volunteer associations do not have health and safety duties under the Act.

Officer: Under the Act, officers include directors and other people who make governance decisions that significantly affect a business. Officers have a duty of due diligence to ensure their business complies with its health and safety obligations, as decisions made as business leaders will determine the availability of resources and processes at your organisation that enable healthy and safe work.

What is an officer at a volunteer-involving organisation?

The Act makes a distinction between voluntary officers such as volunteer board members or trustees, and officers who are paid, such as CEOs and partners. The distinction is important when considering the liability of officers under the Act.

Liabilities

Under the Act, volunteer officers cannot be prosecuted individually for the failings of an organisation. This immunity is to ensure that voluntary participation in leadership roles is not discouraged. However, your organisation as a PCBU could be prosecuted under the Act.

In addition, all persons may be prosecuted under the Act if they fail to take reasonable care with their own or another individual's health and safety or if they fail to comply with the health and safety instructions given by their volunteer-involving organisation.

Officers' duties

As an officer, you are required to make sure your organisation has appropriate resources and processes for health and safety, and those processes are followed. You must exercise due diligence in guiding your organisation through the management of health and safety.

Examples of this include:

- keeping up to date and knowledgeable about health and safety rules and issues
- knowledge of the risks and hazards identified at your organisation
- providing for appropriate resources and minimisation of the risks -- for example, having processes or checklists in place to minimise risks
- keeping others in your organisation up to date on rules and risks
- ensuring there is an emergency response plan for your organisation
- arranging for an independent review of health and safety at your organisation
- if an incident does occur, reviewing this after the incident is reported to make sure the rules are still relevant and up-to-date
- reviewing these processes as part of the board charter.

Resources

Your organisation may have gathered the following material in the past that should become part of an ongoing set of resources for health and safety review:

- risk identification report
- incident reports
- hazard identification and minimisation report
- (volunteer training material)
- resolutions relating to health and safety at board meetings
- guidance on choosing an independent reviewer (eg HASANZ material)

Worksafe New Zealand also has plenty of information on its website about the new law. See business.govt.nz/worksafe/hswa or read the Act at <http://www.legislation.govt.nz/act/public/2015/0070/latest/whole.html>

Please note:

The information provided in this information sheet does not substitute as legal advice.