

## Work Health and Safety: Better Practice Procedures

**Summary** The purpose of this Policy Directive, and more specifically, the attached Better Practice Procedures is to support Agencies to implement an effective work health and safety management system that is consistent with NSW Work Health and Safety (WHS) legislation; and provide information to clarify the duties and responsibilities of officers and managers/supervisors in contributing to a safe and healthy work environment.

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**Distributed to** Divisions of General Practice, Government Medical Officers, Health Associations Unions, Ministry of Health, NSW Ambulance Service, Public Health System

**Audience** Senior managers and supervisors

### Secretary, NSW Health

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is mandatory for NSW Health and is a condition of subsidy for public health organisations.

## **WORK HEALTH AND SAFETY: BETTER PRACTICE PROCEDURES**

### **PURPOSE**

The purpose of this Policy Directive is to:

- Support NSW Health Agencies to implement an effective work health and safety management system that is consistent with NSW Work Health and Safety (WHS) legislation.
- Provide information to clarify the duties and responsibilities of officers and managers/supervisors in contributing to a safe and healthy work environment.

This policy applies to all Public Health Organisations and all other bodies and organisations under the control and direction of the Minister for Health or the Secretary of NSW Health, including the NSW Ministry of Health. This Policy also applies to Albury Wodonga Health in respect of staff who are employed in the NSW Health Service. Throughout the attached Better Practice Procedures, these organisations are referred to as 'Agencies'.

### **MANDATORY REQUIREMENTS**

Each Agency, through its officers and manager/supervisors, must:

- Take all reasonably practicable actions to ensure the health and safety of workers when it:
  - Directs or influences work carried out by a worker (e.g. employees, volunteers, students on clinical placement, contractors (including Visiting Practitioners) and subcontractors)
  - Engages or causes to engage a worker to carry out work (including through subcontracting)
  - Has management or control of a workplace.
- Ensure, as far as is reasonably practicable, the health and safety of other persons when they are visiting the workplace (e.g. patients, hospital visitors and sales representatives).
- Ensure they consult, cooperate and coordinate with all other organisations with which the Agency shares a work health and safety duty in relation to the same matter e.g. organisations that lease property on Agency premises.

### **IMPLEMENTATION**

Health and safety in the workplace is a key business risk and must be considered in all planning decisions of the Agency. The Chief Executive, and other officers, should actively drive WHS through communication structures embedded in the Work Health and Safety Management System.

## REVISION HISTORY

Version	Approved by	Amendment notes
PD2018_013	Deputy Secretary People, Culture and Governance	Replaces PD2013_050 Changes include Safety Huddles, the WHS Issue Resolution process and other minor updates.
PD2013_050	Deputy Director- General	Replaces PD2013_005 Changes to WHS Policy/Statement of Commitment and minor updates.
PD2013_005	Director-General	Replaces PD2005_409 Changes to WHS legislation and terminology.
PD2005_409	Director-General	Minor updates

## ATTACHMENTS

1. Work Health and Safety: Better Practice Procedures.

## Work Health and Safety: Better Practice Procedures

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**Issue date:** May-2018

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## CONTENTS

<b>1</b>	<b>BACKGROUND.....</b>	<b>4</b>
1.1	About this document .....	4
1.2	Enterprise Risk Management .....	5
1.3	Key Definitions .....	5
1.4	Legislative Framework.....	6
<b>2</b>	<b>EMBEDDING A SAFETY CULTURE.....</b>	<b>9</b>
<b>3</b>	<b>OVERVIEW OF A WORK HEALTH AND SAFETY MANAGEMENT SYSTEM .....</b>	<b>10</b>
3.1	What is a WHS Management System? .....	10
3.2	Components of a WHS Management System .....	11
<b>4</b>	<b>WHS MANAGEMENT SYSTEM .....</b>	<b>11</b>
4.1	WHS Policy/Statement of Commitment by Chief Executive .....	11
4.2	Management Responsibility: Structures and Governance Arrangements .....	13
4.3	WHS Strategic Planning .....	15
4.3.1	WHS and strategic, operational and service delivery planning.....	15
4.3.2	Incorporating WHS in the planning process .....	16
4.3.3	WHS Planning.....	16
4.4	Consultation, Cooperation and Coordination .....	17
4.4.1	Consultation duties of an Agency .....	18
4.4.2	What is reasonably practicable in relation to the duty to consult? .....	18
4.4.3	Purpose of consultation .....	19
4.4.4	When is consultation required? .....	19
4.4.5	How to consult – consultation arrangements .....	20
4.4.6	WHS Issue Resolution .....	21
4.5	Risk Management.....	21
4.5.1	What is risk management? .....	22
4.5.2	The risk management process .....	23
4.5.3	Risk management and consultation .....	23
4.5.4	Procurement of safe premises, goods and services .....	23
4.5.5	Delivering services in the community safely .....	25
4.5.6	Safety Huddles.....	26
4.5.7	Specific requirements for high risk activities/high risks.....	27
4.5.8	Record Actions Taken.....	28
4.5.9	Multi-layered control strategies.....	28
4.6	Information, Training, Instruction and Supervision.....	28
4.6.1	Duty to provide information, training, instruction or supervision .....	29
4.6.2	Information .....	29
4.6.3	Training .....	30
4.6.4	Keeping training records.....	31
4.6.5	Instruction and Supervision .....	31
4.7	Injury Treatment and Management .....	32
4.8	Claims Management.....	32

4.9	Incident Recording, Investigation, Analysis and Review .....	33
4.9.1	Investigating, Analysing and Reviewing Incidents and Near Misses .....	33
4.9.2	Triggers for investigating incidents .....	34
4.9.3	NSW Ministry of Health reporting requirements .....	34
4.9.4	SafeWork NSW reporting requirements .....	34
4.10	Measuring and Evaluating WHS Performance .....	34
4.10.1	Audits .....	34
4.10.2	Compliance checks/audits .....	35
4.10.3	Hazard specific audits .....	35
4.10.4	Incident Investigation Review .....	35
4.10.5	Remedial action .....	35
4.11	Reviewing the WHS Management System .....	36
4.12	Chief Executive Reporting and Leadership .....	36
<b>5</b>	<b>ADDITIONAL INFORMATION .....</b>	<b>37</b>
5.1	Health Surveillance .....	37
5.2	Registers and plans .....	37
5.2.1	Register of Injuries .....	37
5.2.2	Risk Register .....	37
5.2.3	Hazardous Chemicals Register .....	38
5.2.4	Asbestos Register and Labelling .....	38
5.2.5	Asbestos Management Plan .....	39
5.3	Health and Safety Representatives (HSRs) – Responsibilities under the WHS Act .....	39
5.4	When a SafeWork NSW Inspector Visits .....	40
5.4.1	Powers to Enter a Workplace .....	41
5.4.2	Role of the SafeWork NSW Inspector .....	41
5.4.3	Powers on Entry .....	41
5.4.4	Powers to obtain information, documents or evidence from a person .....	42
5.4.5	Enforcement measures .....	42
5.4.6	Copy of a Notice issued by an Inspector in the workplace must be displayed ..	42
5.5	When a Union Representative Visits – WHS Entry Permit Holders .....	42
5.5.1	Protocols with unions .....	43
5.5.2	Powers to Enter a Workplace .....	43
5.5.3	Conditions for Entering a Workplace .....	44
5.5.4	Register of WHS entry permit holders – Industrial Relations Commission .....	44
<b>6</b>	<b>LIST OF APPENDICES .....</b>	<b>45</b>
<b>7</b>	<b>RESOURCES .....</b>	<b>45</b>
	<b>Appendix 1 – Legislative Framework .....</b>	<b>46</b>
	<b>Appendix 2 – Work Health and Safety - Policy/Statement of Commitment .....</b>	<b>47</b>
	<b>Appendix 3 – Sharing WHS duties with another PCBU .....</b>	<b>49</b>
	<b>Appendix 4 – WHS Issue Resolution Flow Chart .....</b>	<b>50</b>
	<b>Appendix 5 – 5 Steps in Risk Management .....</b>	<b>51</b>
	<b>Appendix 6 – Incident Notification to SafeWork NSW .....</b>	<b>59</b>



## 1 BACKGROUND

### 1.1 About this document

The purpose of this document is to provide a framework within which the *Work Health and Safety Act 2011* (WHS Act) and *Work Health and Safety Regulation 2017* (WHS Regulation) can be implemented in all NSW Health Agencies (Agencies).

It has been developed so that Officers (as defined in Section 1.3), managers and supervisors can understand the scope of the role they have in contributing to:

- The development, implementation and monitoring of a Work Health and Safety (WHS) management system; and
- A safe and healthy workplace.

The document is divided into the following sections:

**Section 1** Introduction

**Section 2** Embedding a Safety Culture

**Section 3** Overview of a WHS Management System

**Section 4** Components of a WHS Management System explained, along with the requirements of duty holders

**Section 5** Additional information

Information in each section has been arranged to include the responsibilities of Officers and managers at the beginning.

**Note:** Injury management and recovery at work are important components of any WHS management system and are separately addressed in the NSW Health policy on [Injury Management](#) as injury management and recovery at work are not covered by WHS legislation.

In this document the term:

- must and will – indicate a mandatory action required that must be complied with.
- should – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

To support the standards provided in this document, particular guidance around specific risk areas, such as [Work Health and Safety – Other Workers Engagement](#), [Fatigue – Preventing and Managing Work Related Fatigue](#), [Work Health and Safety – Management of Patients with Bariatric Needs](#) and [Work Health and Safety – Occupational Exposure Prevention to Blood and Body Substances](#) and Information Sheets, such as Asbestos Management and Hazardous Chemical Management can be found at <http://internal.health.nsw.gov.au/jobs/safety/index-safety.html>.



## 1.2 Enterprise Risk Management

Throughout this document the process described for the management of WHS risks is, where appropriate, consistent with the requirements of the [NSW Health Risk Management Framework](#).

However it must be noted that the risk management standard, AS/NZS ISO 31000:2009, on which the framework is based has limited application to WHS as some strategies allowed by generic risk management processes are not acceptable under WHS legislation. For example, WHS risk cannot be transferred to another party and a level of risk cannot be accepted. Under the WHS legislation, risk must be eliminated or, if that is not reasonably practicable, minimised so far as is reasonably practicable.

## 1.3 Key Definitions

**NSW Health Agency (Agency):** Throughout this document the term Agency is used to mean all public health organisations and all other bodies and organisations under the control and direction of the Minister for Health or the Secretary of Health. Agencies include:

- NSW Ministry of Health
- Local Health Districts
- Statutory health corporations
- NSW Health Pathology
- Ambulance Service of NSW
- HealthShare
- Health Infrastructure
- An affiliated health organisation in respect of its recognised establishments and recognised services.

**Officers:** An 'Officer' means a person who:

- Makes or participates in decision making that affects the whole or a substantial part of the Agency, or
- Has the capacity to affect significantly the Agency's financial standing.

Officers are generally only those people at the most senior levels of an Agency who are in a position to prevent contraventions of the WHS Act. This will include Chief Executives, and is also likely to include other senior executives with substantial Agency wide responsibilities such as Directors of Finance and Directors of Clinical Operations. Middle level managers and supervisors are generally not Officers as their role is to implement the decisions of others or report to more senior levels within their Agency.

Members of Local Health Districts, Sydney Children's Hospitals Network and Justice Health & Forensic Mental Health Network Boards are also likely to be considered as Officers. A Board Members Guideline has been developed to assist them with fulfilling their specific obligations.

**Other persons:** Include patients, consumers, clients, customers, sales representatives and visitors entering or utilising the public health organisation's workplaces.

**Person conducting a business or undertaking (PCBU):** Under the WHS Act NSW Health Agencies are PCBUs and are responsible for the primary duty of care for workplace health and safety, as far as is reasonably practicable.

**Safety Huddles:** The term Safety Huddles is used in this policy to mean a brief meeting in which work health and safety issues are discussed and actions taken to minimise risk to staff safety. NSW Health Agencies have discretion on whether to call it Safety Huddles or another name, other examples include Team Meeting, Toolbox Talks and Safety Moments.

**Safety Huddles (in a clinical setting):** Interdisciplinary team meetings to discuss patient and staff work health and safety matters in order to minimise risk to safety, this would include such issues as patient mobility which may result in manual handling injuries and slips, trips or falls.

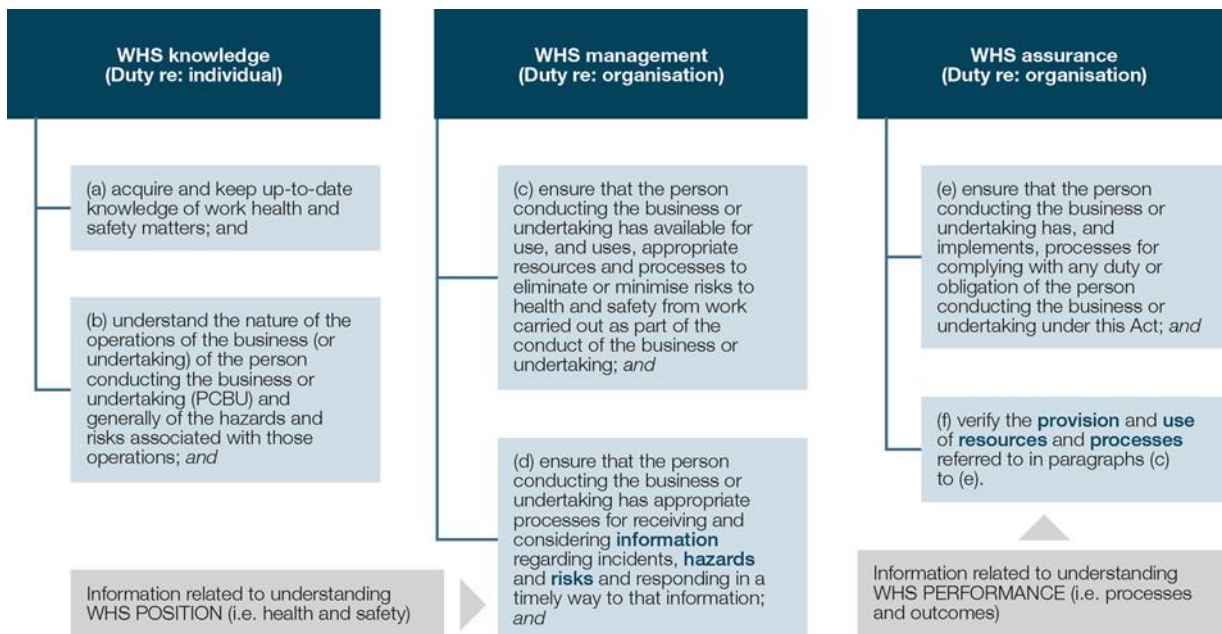
Safety Huddles are in addition to the consultation arrangements required under WHS legislation.

**Worker:** Anyone who carries out work for NSW Health is given the legal status of 'worker', workers include:

- Employees
- Contractors, including Visiting Practitioners
- Sub-contractors
- Sub-contractors and employees of contractors
- Employees of a labour hire company e.g. Agency staff
- Volunteers
- Apprentices or trainees
- Students on clinical, work experience or other placements.

## 1.4 Legislative Framework

Officers must have regard to the following six key reasonable steps as set out in the WHS Act 2011 Section 27(5) in order to meet their due diligence obligations:



For the purposes of paragraph (e) the duties or obligations may include:

- Reporting notifiable incidents
- Consulting with workers
- Ensuring compliance with notices issued under the WHS Act
- Ensuring the provision of training and instruction to workers about work health and safety
- Ensuring that health and safety representatives receive their entitlements to training.

The WHS Act Section 19 is summarised below.

Agencies as PCBUs must ensure, so far as is reasonably practicable, the health and safety of:

- workers engaged, or caused to be engaged by, PCBU; and
- workers whose activities in carrying out work are influenced or directed by the PCBU while the workers are at work in the business or undertaking, and
- other persons who may be put at risk from work carried out as part of the conduct of the business or undertaking e.g. patients, visitors, members of the public.

The obligation of a PCBU to ensure health and safety is assessed by reference to what is “reasonably practicable”. The test of “reasonably practicable” is an element of almost every duty in the Act. It is defined by Section 18 of the Act to mean that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.

In giving effect to this primary duty to ensure health and safety, an Agency must, so far as is reasonably practicable:

1. Provide and maintain:
  - A safe work environment / safe systems of work

- Adequate facilities for the welfare of workers e.g. lunch rooms, toilets, first aid facilities.
- 2. Eliminate risks to health and safety, and if this is not reasonably practicable, to minimise those risks.
- 3. Ensure the safe use, handling, storage and transport of plant, structures and substances.
- 4. Provide information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out by the Agency.
- 5. Monitor the health of workers and conditions at the workplace for the purpose of preventing illness or injury.
- 6. Where premises owned, controlled or managed by the PCBU are being used for worker accommodation, the PCBU must maintain the premises so that the workers occupying the premises are not exposed to risks to health and safety.
- 7. Consult with workers who are directly affected, or likely to be affected, by a health and safety matter.
- 8. Consult, cooperate and coordinate shared work health and safety duties with another PCBU, e.g. public private partnerships and other businesses on a facility campus such as a florist, credit union or cafe.

### **Health and Safety Representatives (HSRs) – Powers and Functions for a work group under the WHS Act**

HSRs are elected by a work group to represent them on work health and safety matters as part of a consultation arrangement agreed between the NSW Health Agency and its workers.

Under the WHS Act Section 68 HSRs have the responsibility to:

- Represent the workers in their work group in matters relating to work health and safety
- Monitor measures taken by the Agency or representatives of the Agency in compliance with the WHS Act in relation to their work group
- Investigate complaints from members of their work group relating to work health and safety
- Inquire into anything that appears to be a risk to the health or safety of their work group arising from the conduct of the Agency
- Inspect the workplace or a part of the workplace where a worker within their work group works under the conditions set out in the WHS Act
- Accompany an Inspector during an inspection of the workplace
- Be present at interviews concerning work health and safety with consent of one or more workers

- Request the establishment of a health and safety committee
- Receive information concerning the work health and safety of workers in the work group
- Request the assistance of any person whenever necessary.

Under Division 6 HSRs can direct work to cease under the circumstances outlined in the WHS Act.

Under Division 7 of the WHS Act HSRs can issue provisional improvement notices after requesting and being provided with the appropriate training.

### Work Health and Safety Issue Resolution

Under the WHS Act Section 81 there is a requirement to resolve work health and safety issues arising at the workplace. Under Section 82 of the WHS Act any party to the issue can refer the matter to SafeWork NSW if a matter cannot be resolved.

Clauses 22 and 23 of the WHS Regulation require an agreed procedure for issue resolution at the workplace. Where there is no agreed procedure, the default procedure as outlined in clause 23 applies.

See **Appendix 1** for the Legislative Framework.

## 2 EMBEDDING A SAFETY CULTURE

The Chief Executive must ensure that Officers within the Agency are aware of their WHS obligations.

Understanding what influences a safety culture can make a significant contribution to changing attitudes and behaviours in relation to workplace health and safety. For a safety culture to be successful it needs to be led by Chief Executives and senior executives who are Officers with defined responsibilities under the WHS Act. This involves leading by example as well as integrating safety considerations into all decision-making.

The due diligence requirements as outlined in Section 27 (5) of the WHS Act (refer Section 1.4 of this Policy Directive) are intended to be drivers of active involvement by Officers in work health and safety matters and the facilitation of leadership of workplace health and safety which is a prerequisite of a positive organisational safety culture.

The Chief Executive, executives and senior managers as work health and safety leaders will influence the culture of their Agency by observing the following principles:

- **Communicating the Agency's values:** Communicate behaviours, decisions and attitudes that are expected, supported and valued.
- **Demonstrating leadership:** Act to motivate and inspire others to work towards achieving common goals or outcomes by sending clear and consistent messages about the importance of work health and safety.

- **Clarifying required and expected behaviour:** Clarify the specific behaviours required and expected in the workplace.
- **Personalising safety outcomes:** Make work health and safety more obvious, relevant and emotional for the individual to personalise their role in preventing and eliminating risks and hazards.
- **Developing positive safety attitudes:** Foster the development of attitudes and beliefs that support safe behaviour.
- **Engaging and owning safety responsibilities and accountabilities:** Increase input, actions and involvement in the safety management process by workers using mechanisms such as Safety Huddles. Underpinning this is an emphasis on encouraging the real time reporting of incidents and near misses and responding to these incidents to effect change.
- **Increasing hazard/risk awareness and preventive behaviours:** Increase the understanding of the work health and safety outcomes associated with decisions, behaviours and actions.
- **Improving understanding and effective implementation of safety management systems:** Enable individuals to increase their knowledge of specific ways in which hazards are managed as well as their ability to apply and implement the actual WHS processes.
- **Monitoring, reviewing and reflecting on personal effectiveness:** Frequently use various sources of information to gain feedback on the effectiveness of culture actions and other safety-related behaviours.

Practical applications of embedding a safety culture include Safety Huddles, work health and safety specific key performance indicators and work health and safety audits.

Further examples are provided throughout this policy directive and are consistent with the principles.

## 3 OVERVIEW OF A WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

### 3.1 What is a WHS Management System?

A Work Health and Safety Management System (WHS Management System) is a systematic approach to managing health and safety risks in the workplace and managing workplace incidents, injuries or illnesses, when they occur.



This system must be part of an Agency's usual business planning processes and become part of core business. Officers, managers and supervisors must develop a culture where safety is valued by the leadership and the workforce that is consistent with the principles outlined in the *Embedding a Safety Culture* section of this policy.

### 3.2 Components of a WHS Management System

A WHS Management System must be integrated into the Agency's wider management system and should be consistent with Australian Standard AS/NZS 4801: 2001 *Occupational health and safety management systems - Specification with guidance for use*. Section 4 of this document takes each of the following components and provides guidance on their implementation, particularly as they relate to the responsibilities of Officers and managers/supervisors.

1. WHS policy and commitment
2. Management Responsibility: Structures and Governance Arrangements
3. WHS Strategic Planning
4. Consultation, Cooperation and Coordination
5. Risk Management Processes
6. Information, Instruction and Training Framework
7. Injury Management and Return to Work
8. Claims Management
9. Incident Recording, Investigation, Analysis and Review
10. Measuring and Evaluating WHS Performance
11. Reviewing and continuous improvement of the WHS Management System
12. CE reporting and Leadership.

AS/NZS 4804:2001 *Occupational Health and Safety Management Systems - General Guidelines on Principles, Systems and Supporting Techniques*, provides further information.

## 4 WHS MANAGEMENT SYSTEM

### 4.1 WHS Policy/Statement of Commitment by Chief Executive

#### What is my role as an Officer?

The Chief Executive is to demonstrate commitment to improve WHS by:

- Authorising a local WHS policy/statement of commitment, communicating the document throughout the organisation and making it available to any interested

parties, such as patients and contractors

- Ensuring the relevancy and effectiveness of the WHS policy/statement of commitment by periodic review:
  - where there is a significant change, such as organisational, policy or legislative changes; or
  - at least every two years.
- Updating, authorising and promulgating the WHS policy/statement of commitment where required after a review and at a minimum every four years to all relevant stakeholders in the organisation
- Developing measurable objectives and targets to meet the commitment outlined in the WHS policy/statement of commitment and to ensure continued improvement aimed at elimination of work-related injury and illness
- Performance agreements and development plans have WHS objectives.

Officers must exercise due diligence to ensure that:

- Safety is embedded in core business, through the inclusion of WHS considerations in all decision making processes, particularly in planning and in purchasing of goods and services
- Visible and active leadership on WHS matters is provided, including prompt action to address WHS issues.

### **What is my role as a manager or supervisor?**

The manager/supervisor must demonstrate commitment to improved WHS by:

- Visible and active leadership on WHS matters, including prompt action to address WHS issues
- Actively communicating and promoting the local policy to workers, making sure they know about it and understand its meaning and implications
- Providing the local WHS policy/statement of commitment (and updates) to staff on the commencement of their appointment, by display in the workplace or by email /intranet distribution.

A local WHS policy/statement of commitment is a public statement giving effect to an Agency's commitment to work health and safety. The policy informs workers, suppliers, patients, visitors and other persons that WHS management is an integral part of all operations. **Appendix 2** provides a model local WHS policy/statement of commitment for use by Agencies (for A3 size paper).

A meaningful local WHS policy/statement of commitment would include the following elements:

- A focus on prevention, based on risk management principles
- A statement reinforcing commitment to improving the safety culture
- A commitment to comply with relevant WHS legislation and with other requirements placed upon the Agency



- Clearly defined responsibilities and accountabilities of Officers, managers, workers and others for work health and safety
- A commitment to effective consultation with workers through agreed consultative forums as a key strategy for eliminating or, if not reasonably practicable, minimising risks
- A commitment to engage in consultation, coordination and co-operation with other duty holders, e.g. businesses on a hospital campus or landlords of leased premises as another key strategy for eliminating or minimising risks
- A commitment to the implementation and continuous improvement of health and safety programs with the establishment of measureable (as far as is practicable) objectives and targets to eliminate work-related injury and illness
- A system of review and monitoring of WHS issues at all levels and in multiple ways including audits, and assessing the effectiveness of procedures and training
- Commitment to the provision of adequate training and resources.

The local WHS policy/statement of commitment must be:

- Signed by the Chief Executive and dated
- Communicated to all workers, including on commencement with the Agency
- Displayed in the workplace and
- Reviewed to ensure it remains relevant to the Agency.

## 4.2 Management Responsibility: Structures and Governance Arrangements

### What is my role as an Officer?

Officers must:

- Maintain an appropriate level of understanding of their WHS obligations
- Have up-to-date knowledge of WHS matters
- Have an understanding of the hazards and risks associated with the Agency
- Ensure the Agency has and uses appropriate resources and processes to eliminate or minimise safety risks from the work carried out
- Ensure the provision and use of resources and processes are verified
- The Agency has appropriate processes to receive information about incidents, hazards and risks, and responds in a timely manner to that information
- Ensure the Agency has and implements processes to comply with any duty or obligation under WHS laws
- Managers/supervisors have specific WHS responsibilities, which should be set out in performance agreements. Managers/supervisors must be provided with the skills, authority and resources to implement and maintain risk control measures effectively.

### What is my role as a manager or supervisor?

Managers/supervisors must:

- Maintain an appropriate level of understanding of their WHS obligations
- Have up-to-date knowledge of WHS matters

- Have an understanding of the risks and hazards associated with their areas of responsibility
- Ensure WHS implications are considered as part of any decisions they make
- Ensure that WHS is a standing agenda item of staff meetings and individual performance development meetings and that information is shared, as appropriate
- Ensure WHS matters or purchases, requiring the approval of more senior managers, are escalated for consideration in a timely way
- Provide timely information to senior managers on WHS matters e.g. Prohibition, Improvement, Non-disturbance and Penalty Notices issued by SafeWork NSW or Provisional Improvement Notices issued by HSRs, Incidents notifiable to SafeWork NSW and emerging issues.

**Note:** Managers and supervisors, under the WHS Act, are classified as workers. As workers they must comply with any reasonable instruction by the Agency and cooperate with any reasonable policies and procedures of the Agency. They will also have appropriate and reasonable levels of administrative responsibility for implementing WHS processes in the workplaces for which they have responsibility.

For Officers to demonstrate that they have been pro-active in ensuring that an Agency has done what is reasonably practicable to address a work health or safety matter, the following structures and systems should be in place:

1. Governance structure that cascades and documents WHS information, both from the Chief Executive/senior management to workers and from the workers to senior management and the Board (top/down and bottom/up). The governance structure should make provision for:
  - Forums where Officers and senior managers are briefed on WHS and discuss WHS issues for the Agency (executive management meetings could be used to achieve this purpose)
  - An escalation process is in place so that urgent WHS issues can be addressed at senior management level
  - WHS briefings/reports for Board meetings
  - Arrangements for consultation within the Agency and with other PCBUs where there are shared WHS duties.
2. Standardised regular WHS reports for informing various levels of the organisation on hazards and risks, for example: progress of WHS projects and improvement plans; emerging issues; trends; training undertaken; equipment purchases; Prohibition and Improvement Notices issued by SafeWork NSW or Provisional Improvement Notices issued by HSRs; actions taken to remedy WHS matters and actions that remain outstanding.
3. A communication system for reinforcing safety, sharing WHS innovation and outcomes of WHS projects.
4. Processes that give Risk Managers access to decision makers for urgent issues.

5. Processes that accelerate approvals for WHS related purchases.
6. Processes whereby WHS matters that require redress are escalated, in a timely way, to the appropriately delegated manager.
7. Clear and appropriate delegations for approving WHS related purchases so that WHS matters are promptly addressed.
8. Documented consideration of WHS issues/implications in all planning and decision making, including the corporate plan and business plans. This could be achieved by including a section titled 'WHS implications' in any templates utilised to seek approval for decisions affecting the Agency, including purchasing/procurement and capital development/ refurbishment templates.
9. WHS education and training processes which identify needs and provide training and instruction to address the identified needs and which target all levels of the Agency, commensurate with responsibilities.
10. WHS requirements included in statements of duties/job descriptions and performance agreements.
11. Feedback on WHS compliance being included in formal meetings with staff to discuss performance development (i.e. performance reviews).

### 4.3 WHS Strategic Planning

#### What is my role as an Officer?

Officers must ensure that:

- WHS implications are considered, and these considerations documented, when making decisions and undertaking planning activities
- WHS objectives, targets and performance indicators are identified in planning documents and progress against these monitored
- Adequate resources are provided to ensure workplaces are safe for workers, patients, visitors and others who may be impacted by the activities of the Agency.

#### What is my role as a manager or supervisor?

Managers/supervisors must:

- Ensure that WHS is considered, and these considerations documented, when plans are developed and workplace decisions made
- Refer up any WHS issues that are outside their authority to remedy
- Respond in a timely way to remedy WHS issues brought to their attention, and within their scope of authority and delegation.

#### 4.3.1 WHS and strategic, operational and service delivery planning

Plans are in place to include the process of making decisions that impact on the future taking WHS into consideration in order to identify and achieve WHS objectives and targets.

A safety culture can be strengthened by ensuring all decisions are made after an analysis of their WHS impact. WHS considerations should be included in planning at all levels of an Agency. Eliminating the risks in the planning phase is required under legislation and is cheaper and more effective than controlling risks.

In line with an Agency's risk management framework WHS considerations need to be reflected in:

- Strategic, operational and annual business plans
- Service development plans
- Building/refurbishment plans
- Individual unit plans
- Procurement risk assessment.

### 4.3.2 Incorporating WHS in the planning process

In a practical sense, the involvement of WHS in the planning process can be demonstrated by:

- Including a section on risk/WHS implications on briefing and planning templates
- Having WHS as a standing agenda item for team meetings and safety huddles
- Analysing WHS risks before the commencement of a new project, such as a new ward or clinical service, and documenting these actions
- Providing access to WHS legal and other documentation updates such as standards and codes of practice
- Considering and addressing WHS implications as part of the health facility design/refurbishment process (noting that failure to consider safety at the design/building stage may result in costly modifications to meet overlooked WHS requirements after commissioning)
- Including a documented WHS assessment for goods and services
- Including specified WHS obligations and accountabilities in all contracts for services and leases etc.

### 4.3.3 WHS Planning

Specific WHS Improvement Plans may also be developed in consultation with Health and Safety Committees/HSRs or any other consultation arrangements that may apply. This type of planning is directly related to improving the overall WHS management system, and may be based on audits and reviews that identify areas for improvement.

Sources of information to assist with WHS planning include:

- Incident reports
- Workers compensation data
- Prohibition, Improvement, Non-disturbance and Penalty Notices issued by SafeWork NSW or Provisional Improvement Notices issued by HSRs
- Reports arising from workplace inspections especially those identifying emerging hazards

- Results of biennial WHS Audits (biennial audit) for a facility or service (refer NSW Health policy on [Work Health and Safety Audits](#))
- Results of biennial Security Audits (refer NSW Health policy on Security Improvement Audits)
- Outcomes of risk assessments and specific audits such as hazard audits
- Minutes of Health and Safety Committee meetings or from other consultation arrangement meetings such as with HSRs
- Input from workers.

WHS priorities should then be determined and reflected in the unit planning documents. Priorities may be, for example, improving incident reporting or hazard assessment.

A WHS Activities Calendar might also be developed for the year with a focus on a particular hazard each month e.g. January - manual handling, April – housekeeping, July dangerous goods storage, October – review a safe operating procedure, December – inspect facilities for trip hazards.

Progress towards achieving targets in WHS plans must be regularly reviewed. Targets at risk of not being met should be prioritised following consideration of the risks of not meeting those targets.

### 4.4 Consultation, Cooperation and Coordination

#### **What is my role as an officer?**

Consultation is a legal requirement – it is not optional.

Officers must ensure that consultation arrangements:

- Meet legislative requirements
- Link to the governance structure of the Agency including a top down/bottom up reporting of significant issues raised within the consultation arrangements
- Are appropriately linked into the Agency's planning and decision making processes
- Are in place where there are shared WHS responsibilities with other organisations.

#### **What is my role as a manager or supervisor?**

Managers/supervisors must consult, so far as is reasonably practicable:

- With Health and Safety Committees/work groups to agree on regular meeting times for them to discuss health and safety issues taking into account the type of work, the level of risk, the effectiveness of risk controls, the individual needs of workers, the size and complexity of the work group and the workplace
- With workers who are, or who are likely to be, directly affected by a work health or safety matter
- When introducing any changes e.g. to premises, systems, procedures, equipment or substances. Information should be provided as early as reasonably practicable so that workers and their WHS representatives have time to consider matters and provide feedback prior to introduction minimising increased risks/costs. Updated processes

and new technology are introduced into the health workplace, new hazards will emerge that must be eliminated or minimised. Ongoing communication with workers about the risks in their jobs and the risk management strategies to be implemented to guard against an injury or illness must be undertaken.

#### 4.4.1 Consultation duties of an Agency

Consultation is a key component in keeping a workplace safe. WHS legislation requires that an Agency must consult, as far as is reasonably practicable, with workers who are, or are likely to be, directly affected by a health and safety matter.

Effective consultation is a two-way process which requires the Agency to:

- Talk to workers about health and safety matters
- Listen to their concerns and raise concerns with them
- Seek and share views and information
- Consider what workers say before making a decision
- Provide feedback on actions and decisions.

#### 4.4.2 What is reasonably practicable in relation to the duty to consult?

The Code of Practice: *Work Health and Safety Consultation, Cooperation and Coordination* (issued by Safe Work Australia) provides guidance on what may be considered reasonably practicable. This document can be found at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

In summary 'reasonably practicable' consultation is that which is both possible and reasonable for the particular circumstances.

What is reasonably practicable will depend on factors such as the:

- Size and nature of the workplace
- Nature of the work being carried out e.g. is it a low risk area such as an administrative unit or a higher risk area such as an inpatient clinical area at a mental health facility
- Nature and severity of the particular hazard e.g. asbestos removal requiring the advice of an Agency's WHS consultant or occupational hygienist or is it a patient transfer matter
- Nature of the decision or action, including the urgency to make a decision or take action
- Availability of the relevant workers and any HSRs e.g. when HSRs are on leave
- Work arrangements, such as shift work and remote work
- Demographics of the workforce, including languages spoken and literacy levels.

The aim of consultation should be to ensure there is sufficient information to make well-informed decisions and that the workers who may be affected are given a reasonable opportunity to provide their views and understand the reasons for decisions.

An urgent response to an immediate risk may necessarily limit the extent of consultation in some circumstances. It may not be reasonably practicable to consult with workers who are on extended leave. However, it would be appropriate to ensure that these workers



are kept informed about any matters that may affect their health and safety when they return to work.

It is not always necessary to consult with every worker in the workplace. The workers consulted with will be those who are, or could be, directly affected by a health and safety matter.

What is reasonably practicable in relation to consulting, cooperating and coordinating activities with other duty holders will depend on the circumstances, including the nature of the work and the extent and duration of the shared duty.

### 4.4.3 Purpose of consultation

Workers may have the best knowledge about hazardous work practices and any gaps in work health and safety management, so effective consultation with workers and their representatives is crucial to the success of any WHS management system.

The purpose of consultation is to:

- Develop an understanding of potential hazards and risks
- Share relevant WHS information with workers
- Provide workers with a reasonable opportunity to express their views and have them taken into account. However, consultation is not necessarily consensus or agreement.
- Provide workers with a reasonable opportunity to contribute to the decision-making process relating to a matter.

Following consultation workers need to be advised of the outcome in a timely manner.

### 4.4.4 When is consultation required?

Consultation must occur when:

- Decisions are to be made about WHS consultation arrangements. Workers must be consulted about the types of consultation arrangements to be put in place in their workplace.
- Identifying hazards and assessing risks to health and safety, and making decisions on how to eliminate or minimise those risks
- Decisions are to be made about amenities for the welfare of workers
- Changes are proposed that affect the health and safety of workers. For example changes to facilities, fixtures, fittings, furniture, equipment, substances or systems of work that may affect the health or safety of workers or other persons. This includes the development of new facilities and refurbishment of existing facilities.
- Developing procedures for:
  - Resolving work health or safety issues at the workplace
  - Monitoring the health of workers
  - Monitoring the conditions at any workplace under the management or control of an Agency
  - Providing information and training for workers.

### Where WHS duties are shared

Where an Agency shares a work health and safety duty with another Agency, company or business (PCBU) in relation to the same matter, they must consult, cooperate and coordinate with each other and their workers, so far as is reasonably practicable.

Other duty holders or PCBUs include:

- Labour hire companies that provide 'Agency staff' in hospitals
- Premises owners
- Contractors
- Public Private Partnerships
- Universities that place students in public health facilities
- Other businesses located on a hospital campus e.g. a florist, cafe, gift shop or credit union
- Agencies that provide a service to a hospital campus or other type of facility such as HealthShare NSW and NSW Health Pathology
- Agencies that lease NSW Health properties
- Agencies that share office space/buildings
- Ambulance Service of NSW in respect of delivering patients to a facility and
- Health Infrastructure.

See **Appendix 3** for examples of sharing WHS duties with another PCBU.

Generally, a standard funding agreement arrangement between an Agency and a non-government organisation (NGO) pursuant to which the Agency provides funding to the NGO to deliver a service will not, by itself, involve the Agency and the NGO holding a duty "in relation to the same matter" for the purposes of Section 46 of the WHS Act.

There may be exceptions to this general position, such as where:

- The Agency's and the NGO's services are co-located (e.g. the NGO provides a service from a public hospital or community health facility) and/or
- The Agency and NGO share workers.

In either of these cases, both organisations would effectively owe duties to each other's workers, and consultation would be required.

#### 4.4.5 How to consult – consultation arrangements

Once there has been agreement to procedures for consultation, consultation needs to be in accordance with those procedures. For example, if the workers are represented by a HSR, consultation must involve that representative.

The Safe Work Australia *Worker Representation Guide* provides information on the representation and participation of workers in health and safety matters at the workplace.

The Safe Work Australia *Work Health and Safety Consultation, Cooperation and Coordination Code of Practice* sets out requirements and advice on the form that agreed consultation arrangements can take, and how they must be supported.



#### 4.4.6 WHS Issue Resolution

Under Division 5 *Issue Resolution* of the WHS Act, Agencies must have documented procedures in place for resolving WHS issues. The issue resolution process applies after a work health and safety matter is raised but not resolved to the satisfaction of any party after discussing the matter. All parties involved in the issue must make reasonable efforts to come to an effective, timely and final solution of the matter.

A party to the issue under the WHS Act Section 80 not only includes the Agency, worker and a HSR but can also include representatives of these persons such as a Union representative.

If the WHS issue is not resolved after reasonable efforts have been made to achieve an effective resolution, anyone who is party to the issue may ask SafeWork NSW to appoint an Inspector to attend the workplace to assist in resolving the issue.

There must be a documented procedure which can be the default procedure as outlined in WHS Regulation clause 23 or an agreed procedure which at a minimum includes the steps set out in clause 23. **Appendix 4** provides a flow chart example of the process.

### 4.5 Risk Management

#### What is my role as an Officer?

Officers must ensure that:

- An Agency has in place, and utilises, an appropriate process for identifying, eliminating or minimising risk and monitoring the effectiveness of these processes
- They monitor compliance with WHS processes
- An Agency directs appropriate resources to ensure that risk is identified, eliminated or minimised and monitored
- Managers/supervisors have the skills to identify hazards and assess, manage and monitor risks
- Assessing WHS implications forms part of, and is documented for, procurement processes
- Managers and supervisors have gone through an approval process that considers WHS ramifications of variations to new buildings and refurbishments
- Appropriate decision making arrangements are in place to allow managers to implement controls or escalate decisions/approvals where the necessary controls fall outside the scope of their decision making.

#### What is my role as a manager or supervisor?

Managers/supervisors must ensure that they:

- Attend Agency training to develop an appropriate level of competence in risk assessment and risk management
- Consistently identify hazards and assess risks, in consultation with workers, including when planning or undertaking development/refurbishment of the workplace, when procuring goods and services, and when staff are delivering services in the

community

- Implement controls to eliminate or minimise identified risk
- Monitor the effectiveness of risk controls
- Apply delegations for approving WHS related purchases to ensure that WHS matters are promptly addressed
- Build WHS risk assessments into the delivery of treatment plans e.g. violence, manual handling considerations
- Seek advice from Risk Managers and WHS or other staff concerning any exposures requiring health surveillance.

#### 4.5.1 What is risk management?

Risk management involves developing systems to identify and analyse hazards, and eliminate or minimise any harmful consequences.

The Agency has obligations under the WHS Regulation to identify any foreseeable hazards that may arise in the workplace and to manage the risk by eliminating the risk. Where elimination is not reasonably practicable, the Agency must minimise the risk using the Hierarchy of control measures provided in clause 36 of the Regulation.

*What is a hazard?*

A hazard is anything that has the potential to cause harm to people, equipment, structures and/or the environment. Hazards in the workplace may include violence, hazardous chemicals, electricity, working from ladders or moving patients.

*What is a risk?*

Risk is the probability, high or low, that somebody could be harmed by the identified hazard, considered in conjunction with how serious the harm could be. Risk is judged or assessed in terms of likelihood (how likely is it that the event will happen?) and consequence or impact (how bad will an event be if it happens?). Risk assesses who could be harmed and what would the consequences be.

The assessment needs to consider foreseeable hazards or risks that may cause harm to an individual or has a latency period e.g. asbestosis following exposure to asbestos.

*What is reasonably practicable?*

Deciding what is 'reasonably practicable' to protect people from harm requires taking into account and weighing up all relevant matters, including:

- The likelihood of the hazard or risk concerned occurring
- The degree of harm that might result from the hazard or risk
- Knowledge about the hazard or risk, and ways of eliminating or minimising the risk
- The availability and suitability of ways to eliminate or minimise the risk
- After assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

The degree of control an Agency has over the hazard/risk will also impact on what is considered reasonably practicable.

#### **4.5.2 The risk management process**

NSW Health has adopted the risk management process outlined in AS/NZS ISO 31000:2009 Risk Management – Principles and Guidelines. The Standard has more steps than those listed in the WHS Regulation and supporting Code of Practice, however, the intent of both processes is consistent.

Managing work health and safety risk is a proactive and ongoing process. The risk management process can be briefly described covering the following key stages:

1. Establishing the context
2. Identifying the hazards
3. Assessing/analysing the risks
4. Eliminating or controlling the risks, considering the hierarchy of risk controls
5. Monitoring and reviewing risks and controls
6. Communicating and consulting during each step of the process.

**Appendix 5** provides guidance to assist managers/supervisors with implementing risk management, including risk assessments.

#### **4.5.3 Risk management and consultation**

Consultation with HSRs, Health and Safety Committees and any other consultative arrangements within the workplace such as work groups is a legal requirement when identifying hazards and assessing risks and when determining risk control strategies. This includes providing all relevant information in controlling the risk or hazard and providing available options.

#### **4.5.4 Procurement of safe premises, goods and services**

Agencies have a duty of care to ensure when procuring premises, goods and services that risks are identified and eliminated or where not practicable to eliminate, risks must be minimised so far as is reasonably practicable.

##### **Leasing of premises**

Agencies must consider WHS issues before signing a lease for premises and must ensure that mechanisms for consulting with landlords are included in lease arrangements, together with the requirement for repairs and maintenance to be undertaken promptly.

Prior to leasing premises consideration should be given to whether:

- The building is fit for purpose for which it will be used
- There is asbestos in the building. Before leasing premises the Agency must identify if asbestos is present by reviewing the Asbestos Register, and if possible find alternative premises. If this is not reasonably practicable, carry out an assessment of the risk of exposure to workers including where refurbishment may be required.

- There is a fire evacuation and emergency plan. This would need to include appropriate procedures so assistance can be provided to staff in the event of an emergency or violent incident, notification to emergency personnel and provision for testing of alarms and fire and emergency drills.
- There is fire safety compliance. This would involve viewing inspection schedules and checking that fire fighting equipment is working and correct for the specific risks
- Residual current devices are installed. This is essential where the premises are a hostile working environment, including for example, kitchens, laboratories, laundries, outpatient clinics, training rooms and administrative offices. There would need to be consideration of whether there are adequate power points and cabling.
- There are adequate and appropriate amenities available. There would need to be consideration of how often they are cleaned, how waste is segregated, frequency of removal and disposal provision.
- There is appropriate storage space, including adequate room for manual handling aids and secure storage for records and for hazardous chemicals
- The carpeting and flooring is appropriate, clean and in good condition
- Egress is appropriate and meets requirements for disabled access and egress
- External lighting is appropriate
- There is appropriate thermal comfort and air quality, including ventilation
- The building structure is sound with no sign of leaks, damp or mould
- The lighting is appropriate to the work to be undertaken and doesn't create unlit areas
- It meets '*crime prevention through environmental design*' standards including no hiding/concealment places, appropriate access control, appropriate barriers between public and private areas, appropriate lines of sight for staff
- There are traffic management plans.

### Building design and retrofitting

Where WHS issues are considered and addressed early in a building design process there is potential to either eliminate or minimise work health and safety risks and eliminate or reduce the costs associated with undertaking expensive retrofitting.

NSW Health utilises a series of health facility guidelines, referred to as the *Australasian Health Facility Guidelines*. This series represents the minimum standards for health facility design specifications. Agencies are required to seek approval to vary these standards during the design, building or retrofitting of facilities. For further information, see NSW [Health Facility Guideline/Health facility Briefing System – Variation Process](#).

### Procurement of goods and equipment

Agencies must carry out risk assessments prior to purchasing goods and equipment available on government contract as well as when they have approval to purchase off contract items. While WHS matters are considered when choosing providers for inclusion in contracts, it is not possible to consider risks that are specific to the use and the location of those goods or equipment. For example, contracts are available for the purchase of lifters and a risk assessment must be carried out to determine which lifter is

the most appropriate based on its use, can it carry the intended weight, can it fit through doors, does it need to lift items directly from the floor, etc.

Agencies must ensure that goods and equipment are fit for purpose by taking the following into consideration when undertaking risk assessments prior to purchase:

- Use of the goods/equipment
- The location and environment in which it will be used
- The workers using the goods/equipment.

Where there are adverse incidents arising out of goods or equipment on NSW Government contract, Agencies, in addition to local actions, there is a requirement to record the details of those incidents in the Health Quality Reporting System (HQRS). This system is monitored by designated HealthShare staff and appropriate action taken where there are identified emerging NSW Government contract issues. For further information see the NSW Health [Goods and Services Procurement Policy](#).

### **Procurement of services**

Agencies must utilise risk management practices when engaging and managing contractors or consultants. In particular, there should be assessment to determine that the work of the contractor/consultant does not create risks for workers and others, there is a safe workplace for the contractor/consultant and there is a process to ensure that appropriate documentation (e.g. licences) are sighted prior to the contractor/consultant commencing work. For further information see the [NSW Health guideline Work Health and Safety – Other Workers Engagement](#).

#### **4.5.5 Delivering services in the community safely**

The delivery of health services in the community, e.g. home or accident sites, introduces specific WHS considerations, particularly the conduct of hazardous manual tasks including patient handling, and personal safety and security issues, which must be assessed and eliminated or controlled.

Regardless of the fact that an Agency may not have complete control over the working environment in the community, it is still responsible for ensuring a safe system of work and for controlling risks as far as practicable.

The risk management process should address issues associated with:

- Infection control procedures, sharps disposal and exposure to blood borne pathogens
- Clinical/Cytotoxic waste disposal
- Hazardous manual handling
- The provision and accessing of appropriate equipment
- Slips, trips and falls
- Spills and waste disposal
- Exposure to smoking
- Violence, particularly mechanisms for summoning assistance e.g. duress alarms and access to an appropriate duress response
- Vehicle selection and vehicle accidents.

A risk assessment, that takes account of the individual circumstances, must occur prior to a visit to a home or other community setting. Workers must be clear that they are entitled to withdraw from a situation if they feel under threat or unsafe in any way.

NSW Health policy [Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach](#) and the [Security Manual Protecting People and Property](#) provide further detailed guidance on the management of security related risks for working in the community.

#### 4.5.6 Safety Huddles

Safety Huddles are brief meetings that provide an opportunity for staff to discuss significant safety and quality issues for both staff and patients with managers in order to identify hazards, assess risks and implement controls to eliminate/minimise risk to their safety in the workplace.

Safety Huddles are to be held regularly and, in clinical areas, at work commencement and each shift handover.

These brief meetings can be incorporated into existing meetings where this is appropriate. For example, Safety Huddles about **staff safety** must be incorporated into existing huddles that are held in clinical areas prior to commencing work and at shift handover to discuss patient safety.

Each Agency must have a mechanism to capture discussions and outcomes. There must be a follow-up process to ensure any actions identified are completed.

Discussions are to include:

- Significant safety or quality issues from last 24 hours/last shift
- Anticipated safety or quality issues in next 24 hours/next shift
- Staff safety concerns relating to patients e.g. aggressive patients (where relevant)
- Serious safety incidents
- Environmental or equipment safety issues
- Follow-up on significant safety issues
- Sharing of safety success stories
- Verifying that duress alarms are working and that personal duress alarms are being worn (where issued).

Each Agency must ensure that Safety Huddles are held as follows:

#### Clinical Areas

Multidisciplinary Safety Huddles are to be held at work commencement and shift handover.

Each Safety Huddle is to consist of managers and key team members from each relevant discipline; this must include Security staff where appropriate, such as in Emergency Departments and where aggression risks are identified.

The Clinical Excellence Commission has prepared guidelines, information sheets and posters about Safety Huddles that incorporate points for discussion about both patient



safety and work health and safety. It also contains useful information on the management and structure of Safety Huddles in general.

### Services/Corporate/Administration

Safety Huddles are to be included as an agenda item at regular team meetings.

Items for discussion must include the same items as those for clinical areas (excluding patient safety concerns where not relevant).

#### 4.5.7 Specific requirements for high risk activities/high risks

Agency Risk Managers and WHS professionals can provide advice on managing these risks.

The WHS Regulation specifies control measures that must be implemented in Agencies for certain identified high risks/high risk activities such as those that follow. A worker may also cease or refuse to carry out work if they have reasonable concerns of immediate or imminent exposure of the hazard to their health or safety. Links to relevant Safe Work Australia Codes of Practice that may be useful are included.

- *Remote or isolated work* – under clause 48 of the WHS Regulation where the worker is isolated from the assistance of other persons because of location, time or the nature of the work, they must be provided with a system of work that includes effective communication. Assistance includes rescue, medical assistance and the attendance of emergency service workers. [How to manage work health and safety risks Code of Practice](#)
- *Hazardous manual tasks* – risks to health and safety relating to a musculoskeletal disorder associated with a hazardous manual task must be risk managed. Hazardous manual tasks Code of Practice.
- *Use of restricted carcinogens, for example, Cyclophosphamide* – application to and authorisation by regulator to use handle and store, the use, handling and storage in the workplace. [Managing risks of hazardous chemicals in the workplace Code of Practice](#)
- *Working in Confined spaces* – risks associated with entering, working in, on or in the vicinity of the confined space (including a risk of a person inadvertently entering the confined space). This requires, for example, confined space entry permits, signage and constant communication with the person in the confined space. [Confined spaces Code of Practice](#)
- *Working at heights* from one level to another or any other place that is reasonably likely to cause injury to a person e.g. stairs. [Managing the risk of falls at workplaces Code of Practice](#)
- *Use of Hazardous chemicals* – storage and incompatibilities, provision of Safety Data Sheets (SDSs), health monitoring of exposure to hazardous chemicals, creation of Registers and Manifests. [Managing risks of hazardous chemicals in the workplace Code of Practice](#)
- *Asbestos* – all asbestos or Asbestos Containing Materials at the workplace must be identified by a competent person and asbestos registers and asbestos management plans maintained. [How to manage and control asbestos in the workplace](#)

- Working in environments with high levels of noise. [Managing noise and preventing hearing loss at work](#)
- High risk work – requiring licences, instruction and training
- Demolition work/ Construction work. [Construction work Code of Practice](#)
- Electrical work for energised (live) electrical work, which is permitted in very limited situations. [Managing electrical risks in the workplace Code of Practice](#).

#### 4.5.8 Record Actions Taken

All consultation should be recorded, including consultation with workers, HSRs/health and safety committees, unions and in house WHS professionals.

Recording actions that have been taken (even if it is simply referral to higher levels of management or consultation with appropriate staff) creates a record that can assist in demonstrating that all reasonable care was taken.

#### 4.5.9 Multi-layered control strategies

Due to the nature of work conducted in NSW Health workplaces there are potentially a wide range of hazards which need to be identified, and eliminated or controlled e.g. hazardous chemicals, carcinogens, violence from patients and visitors, manual handling, slips trips and falls, radiation, biological hazards, electrical hazards and asbestos.

When considering risk controls a range of contributing internal and external factors will need to be identified, considered and managed in order to eliminate or control the risk.

For example, when seeking to prevent violence in the workplace, controls could include elimination of any concealment points in the facility layout; appropriate staff skills; appropriate provision of security personnel, clinical protocols including patient risk assessment and file flagging to identify patients presenting a risk to health and safety of staff; duress response procedures; clear protocols for police assistance; adequate lighting at night; after hour limited access; staff training in de-escalation and evasive self-defence; and appropriate staff support.

Also, when considering how to eliminate or control manual handling risks associated with patients with bariatric needs a range of controls would be required such as communication protocols with the Ambulance Service of NSW and Patient Transport Services, provision of adequate weight bearing equipment such as inflatable transfer mats and hoists, ensuring procedures for clinical assessment, availability of appropriate medical instruments; adequate facility design that allows for the use of bariatric equipment and furniture and appropriately trained staff.

### 4.6 Information, Training, Instruction and Supervision

#### What is my role as an Officer?

Officers must ensure that:



- There is a documented system for identifying and addressing training needs
- An Agency has a WHS training program that is updated regularly.

#### **What is my role as a manager or supervisor?**

Managers/supervisors must:

- Attend available workplace training on WHS and risk management
- Ensure staff have adequate instruction, both on induction and on a continuing basis, particularly in safe systems of work
- Identify when workers need further training
- Provide adequate supervision to ensure compliance with WHS policies and safe workplace conduct
- Ensure workers are aware of potential hazards and any work practices unique to the workplace
- Maintain staff training records and ensure training records have a sign-off date to indicate training was completed.

#### **4.6.1 Duty to provide information, training, instruction or supervision**

Each Agency has a duty under the WHS Act to ensure, so far as is reasonably practicable, the provision of any information, training, instruction or supervision that is necessary to protect all people from risks to their health and safety from work carried out by the Agency.

The extent of information, training, instruction and supervision depends on the nature of the work being carried out, the nature of the associated risks at the time and implemented control measures. The existing skills, knowledge and experience of the workforce must also be considered.

By providing workers with effective training and adequate information, instruction and supervision, they will become aware of safety issues and should be better able to perform their work safely.

#### **4.6.2 Information**

Workers must be provided with adequate information to safely do their work, which includes:

- Information on the nature of hazards in their workplace
- Procedures for emergency evacuation
- Details of the designated first aid officers, first aid procedures and location of first aid rooms
- Correct use of personal protective equipment
- Up to date information for the safe use of equipment
- Sufficient information about the safe use, handling and storage of hazardous chemicals including accessing and interpreting SDSs
- Understanding safety signage.

#### 4.6.3 Training

##### *Training to be provided to Officers and managers*

Officers must have access to training, as required, to:

- Assist them in ensuring appropriate systems and structures are developed and implemented, to fulfil their duty of care obligations
- Ensure they are aware of their due diligence duties and responsibilities
- Ensure they understand WHS legislation and their obligations
- Ensure they understand the hazards and risks arising from the nature of the work undertaken by the Agency.

Managers/supervisors must have access to training, as required, to:

- Understand their obligations under the WHS Act and WHS Regulation as managers/supervisors
- Understand the consultation arrangements in place and utilise them to maintain a safe workplace
- Ensure they can provide adequate supervision to workers, and
- Ensure they have an appropriate level of competence in undertaking risk management.

##### *Training for workers*

Training requirements of workers must be based on the nature of their work and their skills, knowledge and expertise. Generally this covers:

- Understanding their obligations under the WHS Act and the WHS Regulation as workers
- How WHS is managed in the workplace
- How to report a hazard or other safety issues
- The health and safety procedures there are in place for tasks (such as safe work procedures)
- What information is available to help them do their job safely e.g. operator manuals, SDSs
- Manual handling
- Violence prevention and management
- Duress response training (when member of a duress team)
- Complaint management processes
- Hand hygiene
- Safe handling of hazardous chemicals such as cytotoxic drugs for workers who handle hazardous chemicals
- Safe use of cleaning and disinfection chemicals
- Working at heights.

### *Induction training*

Induction information must be provided when a worker first starts at the workplace. At a minimum, this must cover information and instruction on:

- Emergency procedures
- Use of duress alarms or procedures for summoning assistance
- How work health and safety is managed, including consultative arrangements
- Procedures for reporting incidents, injuries and hazards
- Amenity facilities e.g. safe entry and exit to and from the workplace; specific procedures for afterhours work (e.g. able to be escorted to car by security)
- Afterhours access control; toilets, drinking water, eating facilities
- First aid – who provides first aid and location of first aid kits and rooms
- The health and safety procedures required for relevant tasks such as manuals, SDSs (for chemicals), personal protective equipment, safe work procedures etc.
- Accessing the Employee Assistance Program (EAP)
- Procedures for maintaining communication when providing services in the community, where relevant.

### *Other legislated training requirements applicable to NSW Health*

In addition, there are specific training requirements under the WHS Regulation for:

- HSRs, when requested by the HSR
- Working in confined spaces e.g. content of confined space entry permit, control measures, personal protective equipment, emergency procedures.

#### **4.6.4 Keeping training records**

Agencies are required to keep training records according to the *State Records Act 1998*. An example of this is summary records created to facilitate the provision of work health and safety training to employees, contractors etc. such as safety training registers must be retained a minimum of 75 years after action completed.

#### **4.6.5 Instruction and Supervision**

Providing day to day instruction and supervision to workers is a fundamental part of the role of managers/supervisors.

When determining the level of supervision required for workers, the risks associated with the task being completed, the experience of the job holder and their level of skill must be considered. Additional support for job holders with disabilities, English as a second language or poor literacy skills should also be considered and addressed.

Instruction and supervision are especially important when workers are undertaking a new task. In these instances the provision of step by step procedures and coaching will ensure tasks are undertaken safely.

More specific requirements for the supervision of workers who use, handle, generate or store hazardous chemicals are described in the WHS legislation and relevant code of practice.

## 4.7 Injury Treatment and Management

### What is my role as an Officer, manager or supervisor?

The NSW Health policy on [Injury Management](#) provides detailed information on responsibilities for injury management.

The Workplace Injury Management and Workers Compensation legislation provides for the coordination of treatment and recovery at work of occupationally injured or ill employees. In certain circumstances prescribed by the legislation the employee is entitled to seek compensation payments during this process.

The policy provides information on injury treatment and management.

Injury management includes:

- Treatment of the injury
- Early recovery at work
- Rehabilitation in the workplace
- Retraining where the employee cannot recover to their pre-injury job
- Workers compensation benefits.

Agencies are required to have in place a Register of Injuries. Under Workplace Injury Management and Workers Compensation legislation a Register of Injuries must be readily accessible to workers at every workplace. Managers must therefore ensure that the Agency's Register of Injuries is readily accessible to workers. It may be a computerised Register such as IIMS.

Particulars of a workplace illness, injury or near miss should be entered into the Register by the worker or their representative on their behalf if necessary. An entry concerning an injury or illness suffices for the making of a workers compensation claim.

## 4.8 Claims Management

### What is my role as an Officer, manager or supervisor?

For information on responsibilities refer to the NSW Health policy on [Injury Management](#), as amended from time to time.

Claims management refers to the management of an employee's claim for workers compensation and the payment of workers compensation benefits to injured or occupationally ill employees.

The payment of benefits may be approved in an Agency by icare appointed insurers called 'Fund Claims Managers', following an investigation of the injury and receipt of Workers' Compensation certificate of capacity from the employee's nominated treating doctor.

## 4.9 Incident Recording, Investigation, Analysis and Review

### What is my role as an Officer?

Officers must ensure that:

- The Agency has a system for recording and investigating incidents and near misses and for ensuring that WHS reports/notifications are provided to SafeWork NSW and the Ministry of Health as required
- Relevant information on incidents is reported through the governance structure, including findings from investigations, action taken to implement recommendations and actions that remain outstanding.

### What is my role as a manager or supervisor?

Managers/supervisors must:

- Ensure staff know of and can access and use reporting systems for hazards and incidents
- Investigate incidents promptly, in accordance with NSW Health policies
- Provide feedback to staff when reported hazards and incidents are investigated
- Consult with staff in improving systems following incidents and investigations
- Ensure recommendations arising from investigations are implemented, within the scope of their role, to assist in avoiding a reoccurrence.

### 4.9.1 Investigating, Analysing and Reviewing Incidents and Near Misses

Standards on investigating, analysing and reviewing incidents and near misses are set out in NSW Health policies on:

- [Injury Management](#)
- [Incident Management](#)

Incident investigation provides an Agency with an opportunity to examine aspects of the operation, including the process for identifying training needs, safe systems of work, the identification of WHS issues as part of planning, hazard identification, risk control and emergency preparedness.

The aim of incident investigation should be to determine the underlying cause(s) and provide corrective action, rather than apportion blame.

A link between the incident investigation findings and the review of the WHS management system needs to be in place so that:

- The incident/risk investigator considers whether the findings have implications for the WHS management system e.g. training, procedures, equipment, substances etc.
- There is a system for communicating WHS findings to relevant Officers to respond to the findings
- Changes can be made to the system/procedure
- Changes are communicated throughout an Agency.

#### 4.9.2 Triggers for investigating incidents

Triggers for conducting a WHS investigation include the occurrence of incidents or near misses reported by patients, visitors or workers.

#### 4.9.3 NSW Ministry of Health reporting requirements

NSW Ministry of Health reporting requirements are covered in NSW Health policy on [Incident Management](#).

It outlines a system for the prioritisation and notification of incidents to the Ministry using the Severity Assessment Code. There may also be other reporting requirements e.g. in relation to a staff member acquiring a communicable disease.

#### 4.9.4 SafeWork NSW reporting requirements

In certain circumstances an incident, in addition to being managed by the Agency, requires a notification to SafeWork NSW. **Appendix 6** provides guidance on the nature of these incidents.

### 4.10 Measuring and Evaluating WHS Performance

#### What is my role as an Officer?

Officers must ensure that:

- They have regular access to indicators of WHS performance to identify what has happened and what may happen, examples include incident reporting and audit outcomes
- They review, analyse and question the information and take appropriate action to resolve issues or concerns
- Audits and compliance checks are regularly undertaken, and that the Agency responds to the outcomes of such activities
- They undertake periodic inspections of a workplace to see firsthand what controls are in place and how effective they are
- Information is provided to Officers, as appropriate on actions against recommendations arising from audits and compliance checks.

#### What is my role as a manager or supervisor?

Managers/supervisors must:

- Participate in regular compliance checks e.g. emergency evacuation procedures
- Undertake regular workplace hazard audits, in consultation with staff, to ensure that controls are working.

#### 4.10.1 Audits

Audits are conducted to determine the effectiveness and compliance to defined criteria and to identify the strengths and opportunities for improvement.

Work health and safety audits of facilities and services are to be undertaken according to NSW Health policy on [Work Health and Safety Audits](#) within a two-year audit cycle using the *Work Health & Safety Audit Tool*.

The aim of the audit tool is to provide a consistent and effective approach for the gathering of information on which an Agency can act in order to comply with its WHS legislative obligations and improve its performance.

Security Improvement Audits as required by the [Protecting People and Property](#) manual are to be undertaken to ensure compliance with the manual and improve its performance.

### 4.10.2 Compliance checks/audits

Compliance checks/audits can also be done to review operations with specific aspects of legislation or local protocols, for example: workplace fire safety inspections (refer to NSW Health policy on [Fire Safety in Health Care Facilities](#)); to ensure that duress alarms and duress response arrangements are functioning effectively; and to ensure that personal protective equipment is being used correctly and for first aid and infection control.

### 4.10.3 Hazard specific audits

Hazard specific audits can be used to address particular issues e.g. hazardous noise: identify whether areas to which hazardous noise applies have been identified, are there controls in place, are they appropriate, are staff being tested as required by legislation.

Officers, where practicable, should also undertake periodic inspections of a workplace to see firsthand what controls are in place and how effective they are. This demonstrates/models a proactive WHS culture from the top down.

### 4.10.4 Incident Investigation Review

Incident investigation provides an opportunity to examine many aspects of the WHS Management System, for example, training, hazard identification, risk controls, emergency preparedness.

A formal feedback loop between the incident investigation findings and the review of WHS management system needs to be in place so that:

- The incident/risk investigator considers whether the findings have implications for the WHS management system, training, procedures, equipment, substances etc.
- There is a system for communicating WHS findings to senior management
- Changes can be made to the system/policy/procedure
- Changes are communicated throughout the Agency.

### 4.10.5 Remedial action

Urgent remedial action should be taken, starting with actions to ensure compliance with legislative requirements where there may be non-compliance, and including processes to include recommendations into current planning processes to ensure continuous improvement of WHS and injury management performance.



## 4.11 Reviewing the WHS Management System

### What is my role as an Officer?

- The Chief Executive must arrange regular reviews of the WHS management system to ensure that it has been implemented and is effective
- Officers, including the Chief Executive, should consider the outcomes of these reviews and accompanying plans for improvement.

### What is my role as a manager or supervisor?

Managers/supervisors must:

- Participate in any review of the workplace health and safety management system and maintain those systems, to the extent required by their role
- Implement any strategies, consistent with the scope of their role, from WHS management system reviews.

To ensure that the systems which support WHS performance remain effective they should be reviewed. An effective review will consider data such as:

- The findings of the WHS and Security Audits
- Lessons learned from WHS incidents
- Changes in reporting and communication
- Feedback, particularly from workers, Risk Managers, other WHS professionals, HSRs and Committees.

A review would take account of:

- The stated WHS objectives, targets and WHS performance indicators
- Changes in health service structure, directions or activities.

It is important to build strategies for addressing gaps in the WHS Management System into the corporate and business plans and include a timetable for implementing improvements.

## 4.12 Chief Executive Reporting and Leadership

Responsibility for safety starts with senior staff in an Agency. Developing a safety culture requires consistent and visible leadership shown through a commitment of time and resources.

The Chief Executive and senior management influence the safety culture. Their actions and attitudes should send a message to managers, supervisors and workers that an Agency is serious about safety. The principles outlined in the *Embedding Safety Culture* section of this policy provide a framework for developing and promoting that culture.

As outlined in previous sections strategies to influence safety culture include:

- Ensuring WHS implications are considered in all decision making processes and are included in briefs, proposals and submissions



- Ensuring that the Risk Manager/WHS Professionals have access to decision makers where urgent matters arise
- Responding to serious incidents and the recommendations of risk assessments and incident investigation reports
- Communicating with managers, supervisors and workers on WHS activities undertaken at the Agency level
- Incorporating WHS in an Agency's planning and procurement processes
- Specifying WHS activities in the performance agreements of senior management
- Having WHS as a standard agenda item for meetings of the executive and other senior management
- Providing adequate resources for WHS
- Promoting regular safety and security audits (e.g. *Work Health & Safety Audit Tool*) and compliance audits (checks) to ensure compliance with WHS related NSW Health policies and guidelines.

## 5 ADDITIONAL INFORMATION

### 5.1 Health Surveillance

Risk Managers, WHS Professionals, Radiation Safety Officers and Staff Health can provide advice concerning exposures requiring health surveillance.

Health Surveillance is the monitoring of individuals to identify changes in health status that may be due to occupational exposure to a hazard.

The exposure must be such that an identifiable disease or other effect on health may be related to the exposure, and there is a reasonable likelihood that the disease or other effect on health may occur under the particular conditions of work.

At the same time, there must be available an effective technique for detecting indications of the disease or other effects on health. The WHS Regulation also lists particular substances requiring health surveillance e.g. asbestos exposure where workers undertake asbestos-related work.

### 5.2 Registers and plans

#### 5.2.1 Register of Injuries

Refer to Section 4.7 of this document for information on Registers of Injuries.

#### 5.2.2 Risk Register

In accordance with NSW Health [Risk Management - Enterprise-Wide Policy and Framework](#) all Agencies must have an enterprise-wide risk register that is used to record, rate, monitor and report all risk, including work health and safety risk.

### **5.2.3 Hazardous Chemicals Register**

A hazardous chemicals register is required under WHS Regulation clause 346 to be prepared and maintained so that workers can easily find information about chemicals stored, handled or used at the workplace.

Under WHS Regulation clause 344 a Safety Data Sheet (SDS) must be available in the workplace no later than when the chemical is first supplied.

The chemical register and SDSs may be retained electronically or in hard copy.

In NSW Health ChemAlert is utilised as the electronic information system for managing hazardous chemicals, it enables Agencies to:

- Register hazardous chemicals in accordance with WHS obligations
- Access up to date SDSs and chemical inventory reports
- Maintain a consolidated register and stock inventory of dangerous goods and hazardous chemicals on site
- Print labels and stock registers
- Record approvals for use of new chemicals
- Assist with prioritising and conducting risk assessments for hazardous chemicals.

### **5.2.4 Asbestos Register and Labelling**

Asbestos is unlikely to be present in buildings constructed after 31 December 2003 and therefore an Asbestos Register should not be required for such buildings.

A person with management or control of a workplace must ensure asbestos or asbestos containing material at the workplace is identified by a competent person. An asbestos register must be prepared and kept up to date where asbestos has been identified or assumed present by the competent person. The register must:

- Record any asbestos or asbestos containing material (ACM) that has been identified or is likely to be present at the workplace from time to time and includes the date identified and location, type and condition of the asbestos
- State that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is identified or is likely to be present from time to time at the workplace.

Managers and supervisors must refer to Asbestos Registers prior to approving any repairs, building maintenance or renovations to buildings where asbestos has been identified or assumed to be present. The current register must be made available to anyone undertaking asbestos-related work or carrying out work in an area where asbestos has been identified or assumed present. Work must not commence where there is a risk of disturbing asbestos until an assessment has been undertaken and either the asbestos removed or controls put in place to avoid disturbing the asbestos.

Asbestos and asbestos containing materials (ACM) must be labelled where reasonably practicable. Signs can be an alternative option where it is more appropriate.

A new Register is not required where one already exists. If a person with management or control of a workplace plans to relinquish management or control of the workplace, they must, so far as is reasonably practicable, ensure that the Register is given to the person, if any, assuming management or control of the workplace.

### **5.2.5 Asbestos Management Plan**

A person with management or control of the workplace must ensure that a written Asbestos Management Plan for the workplace is prepared. It must include information on:

- Identification of asbestos or ACM – a reference to the Asbestos Register for the workplace and signage and labelling is acceptable
- Decisions, and reasons for decisions, about the management of asbestos at the workplace – e.g. safe work procedures and control measures
- Procedures for detailing incidents or emergencies involving asbestos or ACM
- Workers carrying out work involving asbestos – including consultation, responsibilities, information and training.

A person with management or control of a workplace must ensure that a copy of the Asbestos Management Plan for the workplace is readily accessible to a:

- Worker who has carried out, carries out or intends to carry out, work at the workplace
- HSR who represents a worker referred to in the point above
- Contractor who has carried out, carries out or intends to carry out, work at the workplace
- Managers who require, or intend to require work to be carried out at the workplace
- SafeWork NSW Inspectors, on request
- Entry Permit Holders, after required notice is given.

The plan must be updated at least once every five years or when:

- There is a review of the Asbestos Register or a control measure
- The asbestos is removed, disturbed, sealed or enclosed at, the workplace
- The plan is no longer adequate for managing asbestos or ACM
- A HSR requests a review based on the above three dot points which may have affected a member of the work group the HSR represents, or on the understanding that the management plan is not being adequately reviewed.

## **5.3 Health and Safety Representatives (HSRs) – Responsibilities under the WHS Act**

HSRs are elected by a work group to represent them on work health and safety matters as part of a consultation arrangement agreed between the Agency and its workers.

HSRs facilitate the flow of information about health and safety between management and their work group workers.

They monitor health and safety actions, investigate workers' complaints and look into anything that might be a risk to the health and safety of the workers they represent.

They can, in some circumstances, issue the Agency with a Provisional Improvement Notice but only where they have:

- Completed initial HSR training as set out under the WHS Act
- Consulted with the alleged contravener or likely contravener before issuing a Provisional Improvement Notice, to allow them to rectify the matter.

A Provisional Improvement Notice requires a WHS matter to be remedied or a potential WHS incident to be prevented.

The Agency can seek a SafeWork NSW review of the Provisional Improvement Notice within seven days. A SafeWork NSW Inspector may cancel, confirm, or confirm with modification, the Notice.

Under the WHS Act, a HSR may direct a worker who is in their work group to cease work after consultation with the manager who is directing the work where there is a reasonable concern that to carry out the work would expose the worker to serious risk to their health and safety. A HSR may direct a worker to cease work without consultation where the risk is so serious and immediate or imminent that it is not reasonable to consult before giving direction.

The NSW Health Agency is required to provide any resources, facilities and assistance that is reasonably necessary to enable HSRs to carry out functions and exercise their powers.

## **5.4 When a SafeWork NSW Inspector Visits**

All SafeWork NSW Inspectors must carry an identity card and, on entering a workplace, produce the identity card on request.

The SafeWork Inspector may be accompanied by a management representative and/or workers' representative (e.g. HSR) around the workplace.

Anything that is said to a SafeWork Inspector may be reported in subsequent prosecution proceedings, particularly when a death, serious illness or injury, or dangerous incident has occurred.

Managers and Supervisors are required to:

- Identify the Inspector - ask to see the Inspector's identity card
- Ensure that the most senior member of staff on duty has been notified of the Inspector's presence
- Report an Inspector's visit to their Risk Manager or WHS Professional as soon as possible. The WHS Professional can assist in implementing actions required by SafeWork NSW and communicate these requirements to other facilities/services, where applicable.

In metropolitan hospitals, the Risk Manager or WHS Professional may wish to be in attendance during the visit. In rural NSW, where there may be long distances to travel, managers should inform their local Risk Manager of the visit and provide the WHS Professional with an opportunity to attend.

- Comply with a SafeWork NSW Inspector's request and act on their advice.

SafeWork NSW Inspectors have powers of entry and inspection of a workplace and broad ranging powers of investigation when a breach, or potential breach, of the WHS legislation has occurred.

### 5.4.1 Powers to Enter a Workplace

An Inspector may enter any premises the Inspector has reason to believe is a place of work without giving notice. However the Inspector must notify the occupier of the premises of their entry, and the purpose of their entry, onto the premises as soon as practicable after entering the premises, unless to do so would interfere with an investigation about a breach of the WHS legislation.

### 5.4.2 Role of the SafeWork NSW Inspector

Inspectors visit workplaces to:

- Give advice and information to management, unions and workers
- Investigate an accident and/or breaches of legislation
- Investigate complaints from workers, unions, HSRs
- Carry out a random inspection
- Target hazards as a part of a specific campaign e.g. safe use of cytotoxic drugs
- Make instructions to bring plant, equipment and work methods up to the required standards
- Require the establishment of a workplace injury management program where the PCBU has failed to comply with legislation
- Resolve workplace health and safety disputes
- Review a Provisional Improvement Notice issued by a HSR.

### 5.4.3 Powers on Entry

SafeWork NSW Inspectors have broad powers of investigation. Where there is a breach or potential breach of the legislation, or a reportable incident has occurred, they can:

- Inspect, examine and make enquiries
- Inspect and examine anything (including a document)
- Bring to the workplace and use any equipment or materials that may be required
- Take measurements, conduct tests and make sketches or recordings (including photographs, films, audio, video, digital or other recordings)
- Take and remove for analysis a sample of any substance or thing without paying for it
- Require a person at the workplace to give the Inspector reasonable help to inspect, examine and make enquiries and to take or remove for analysis a sample of any substance or thing

- Exercise any compliance power or other power so that the workplace complies with the WHS Act.

#### 5.4.4 Powers to obtain information, documents or evidence from a person

Inspectors can require persons to appear before them at a time and place specified in a written notice for the purpose of obtaining information or to produce documents or give evidence (Section 155 WHS Act). This would usually only occur if the Inspector believed evidence was being withheld.

#### 5.4.5 Enforcement measures

In certain circumstances, Inspectors have the power to:

- Issue Improvement Notices which require the remedy of unsafe working conditions or hazards within a particular timeframe
- Issue Prohibition Notices to prohibit or immediately stop dangerous work until a hazard is fixed
- Issue Non-Disturbance Notice which requires the person in control of the premises to preserve the site at which a notifiable incident (refer to **Appendix 6**) has occurred for a specified period (so that an Inspector can investigate the incident), or prevent the disturbance (including operation of plant) at a site
- Issue Penalty Notices for breaches of WHS legislation
- Collect evidence and recommend a prosecution.

#### 5.4.6 Copy of a Notice issued by an Inspector in the workplace must be displayed

A copy of a notice issued by an Inspector must be displayed in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.

The notice must not be intentionally removed, destroyed, damaged or defaced while it is in force.

### 5.5 When a Union Representative Visits – WHS Entry Permit Holders

Under the WHS Act union officials can obtain a WHS entry permit issued under the *Industrial Relations Act 1996* or the *Fair Work Act* if they have:

- Satisfactorily completed prescribed work health and safety training;
- Had the application for a WHS entry permit endorsed by their union

A WHS entry permit is valid for three years but can be revoked if the permit is misused.

The WHS entry permit holder must have a valid entry permit and matching photo identification available for inspection by any person upon request when exercising a right of entry to a workplace. The WHS entry permit includes the name of the entry permit holder, their signature, the union that they represent, the expiry date of the permit and any conditions on the permit.

If a union official seeks to enter a workplace under right of entry managers and supervisors must:



- Ask to see the union representative's valid entry permit and photo identification
- Ensure that the most senior member of staff on duty has been notified of the union's presence
- Notify the Risk Manager or person with WHS responsibility of a union representative's visit
- Allow the union representative with a WHS entry permit to enter the workplace without delay
- Not hinder or obstruct a union representative's entry and allow them to exercise their rights while they are in the workplace (if they are entitled to enter – see above sections - this is a legal requirement).

Where possible the most senior person available on duty in the facility should accompany the union representative when they are investigating a possible breach of the WHS legislation.

Risk Managers should be advised of any recommendations provided by the union.

### 5.5.1 Protocols with unions

It is recommended that each Agency has a protocol with unions concerning inspections and how to arrange access on the day of an inspection.

These protocols would include who unions should notify when advising of an entry permit holder's visit i.e. who represents the Agency. For example, the Agency may be represented by the General Manager of the facility/service. When conducting inspections, the union may be accompanied by, for example, the Director of Nursing or the NUM in charge of the shift, and perhaps the Risk Manager or WHS Professional for the facility/service.

### 5.5.2 Powers to Enter a Workplace

The union has the power to enter workplaces (sometimes with notice and sometimes without notice – see below) where their members work any time of the day that work is being carried out or is normally carried out.

A union official with a WHS entry permit may:

- Advise and/or consult with union members or persons eligible to be members of their union
- Assist HSRs if requested
- Assist in resolving issues as part of issue resolution
- Inspect any work system, plant, substance, structure or other thing relevant to a suspected contravention of WHS legislation
- Consult with relevant workers and the Agency in relation to a suspected contravention of the WHS Act
- Assist with conducting an election of a HSR.

The WHS entry permit holder is not required to disclose to the person with management or control of the workplace the name of any worker on whose behalf they are making



enquiries at the workplace. If they do wish to disclose the name of any worker they may only do so with the consent of the worker.

### 5.5.3 Conditions for Entering a Workplace

#### ***Without prior notice***

If a union reasonably suspects a contravention of the WHS laws, they can enter a workplace without prior notice.

They can:

- Inspect the workplace
- Consult with relevant workers and Agency management
- Warn a person exposed to a serious risk emanating from an immediate or imminent exposure
- Make copies of any document that is directly relevant to the suspected contravention that is kept at the workplace or is accessible from a computer kept at the workplace. Unions cannot request access to medical records if to do so would disclose health information about individual patients.

#### ***At least 24 hours' notice (but not more than 14 days)***

If the entry relates to consultation and advice to workers on WHS matters, and there is no suspected breach of legislation, the permit holder must give a written notice of entry to the Agency during usual working hours and at least 24 hours before entry (but not more than 14 days before the entry). Notice should be given to the most senior Officer of the Agency e.g. General Manager of a facility.

This also applies where the union wishes to inspect employee records and documents held by a third party that are directly relevant to the suspected contravention.

### 5.5.4 Register of WHS entry permit holders – Industrial Relations Commission

In accordance with Section 151 of the WHS Act, the Industrial Relations Commission must publish on its website for public access an up-to-date register of WHS entry permit holders. The register can be accessed through the following link:  
[http://www.irc.justice.nsw.gov.au/Pages/IRC\\_procedures\\_legislation/IRC\\_procedures\\_legislation\\_indorg\\_whf\\_register.aspx](http://www.irc.justice.nsw.gov.au/Pages/IRC_procedures_legislation/IRC_procedures_legislation_indorg_whf_register.aspx).

## **6 LIST OF APPENDICES**

Appendix 1 Legislative Framework

Appendix 2 Model WHS policy/statement of commitment (for A3 size paper)

Appendix 3 Examples of sharing WHS duties in relation to the same matter with another PCBU

Appendix 4 WHS Issue Resolution Flow Chart

Appendix 5 Steps in a Risk Assessment

Appendix 6 Incident Notification to SafeWork NSW

## **7 RESOURCES**

NSW Ministry of Health's intranet has a WHS group of policies and guidelines:

[http://www.health.nsw.gov.au/policies/groups/pers\\_WHS.html](http://www.health.nsw.gov.au/policies/groups/pers_WHS.html)

## Appendix 1 – Legislative Framework

### ***Work Health and Safety Act and Work Health and Safety Regulation***

#### **Codes of Practice**

While Safe Work Australia Codes of Practice are not law, they should be followed unless there is an alternative course of action which achieves the same or better standards. An alternative course of action may be to follow a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the Code of Practice.

Failure to follow a Code of Practice (minimum standard) can be used as evidence in legal proceedings concerning a breach of WHS legislation.

Copies of Codes of Practice can be found at

[https://www.safeworkaustralia.gov.au/resources\\_publications/model-codes-of-practice](https://www.safeworkaustralia.gov.au/resources_publications/model-codes-of-practice)

#### **Standards**

Australian Standards are developed by regulating bodies such as Standards Australia, and Safe Work Australia, with the input of industry experts.

Standards set minimum levels of quality or specifications for products, equipment and materials used in work health and safety, and for safe systems of work. Adoption of the standard is voluntary. Where Regulations incorporate or refer to Standards, they become compulsory (legally binding). Examples of Standards incorporated in the WHS Regulation are:

- AS/NZS 1269.1:2005 (Occupational noise management—Measurement and assessment of noise emission and exposure);
- AS 2593:2004 (Boilers—Safety management and supervision systems);
- AS/NZS 3012:2010 (Electrical installations—Construction and demolition sites).

The risk management process in NSW Health policy is based on AS/NZS ISO 31000:2009 *Risk management – Principles and Guidelines*.

Where there is a disparity between the legislation and a Standard, the legislation overrules the Standard.

#### **Industry Guidelines**

Industry Guidelines are produced by industry groups and provide guidance material to assist employers to comply with the law. They do not have the same status as approved industry Codes of Practice (unless they are called up in legislation).

#### **Guidance Notes**

Guidance Notes are explanatory documents issued by various organisations such as SafeWork NSW and Safe Work Australia. They provide detailed information to support the various requirements of legislation, codes of practice and standards, for example *Worker Representation and Participation Guide* which supports the Model Code of Practice *Work Health and Safety Consultation, Cooperation and Coordination*.

## Appendix 2 – Work Health and Safety - Policy/Statement of Commitment

### A safe and healthy workplace

(Agency) is committed to maintaining a safe and healthy working environment for workers and visitors to NSW Health facilities and services, in accordance with Work Health and Safety legislation, Codes of Practice and Australian Standards. Our workers are anyone who carries out work for (Agency), including employees, volunteers, contractors (including agency staff and Visiting Practitioners), subcontractors, the employees of contractors and subcontractors, students, trainees and apprentices.

(Agency) will consult with workers and their representatives on health, safety and welfare matters to ensure that our work health and safety risk management is a continuous process that is of the highest standard. We will take all reasonable actions to prevent injury and illness from occurring.

(Agency) will also consult, co-operate and co-ordinate activities with other organisations, as far as possible, where there is a shared duty of care concerning the same workplace health and safety matter, for example where other businesses are located on a hospital campus.

Incidents will be reported to SafeWork NSW in accordance with the law.

### Senior Management's responsibility

The management team at (Agency) will take all reasonable steps to promote and maintain the workplace health, safety and welfare of workers, patients and visitors to public health facilities and services. This includes keeping under review work health and safety programs and strategies to prevent workplace injuries and illnesses and to continually improve the safety culture of (Agency).

### Specific responsibilities

#### a) Managers and Supervisors will:

- Take actions necessary to maintain a safe workplace, which is fundamental to effective workplace management, and report to more senior managers any work health and safety issues that cannot be resolved within their level of delegation.
- Act quickly on matters raised by HSRs, SafeWork NSW or other entry permit holders.
- Implement work health and safety policies, programs and procedures in their areas of control and reinforce safe workplace practices.
- Ensure that workers receive ongoing supervision and are trained in safe work practices and know who to use work health and safety reporting/recording systems e.g. to report incidents and near misses.
- Ensure that workers are consulted on issues which affect their health and safety and that any concerns they may have are addressed promptly. Workers will be given a

reasonable opportunity to express their views relating to a health and safety matter and have their views taken into account.

**b) Workers and Other Persons at the workplace e.g. visitors and patients have a duty to:**

- Take reasonable care for their own health and safety.
- Take reasonable care that their actions do not harm the health and safety of others.
- Follow any reasonable instruction that is given to ensure health and safety.

Also workers must cooperate with any reasonable policy or procedure they have been made aware of.

## **Work Health and Safety Program**

In order to implement the general provisions of this policy, a program of activities and procedures will be supported, continually updated and effectively carried out.

The program will relate to all aspects of work health and safety including, for example: provision of work health and safety equipment; safe work procedures; workplace inspections and evaluations; the reporting and recording of incidents; and provision of information/training to workers.

(Agency) will establish measurable objectives and targets to facilitate continual improvement of health and safety in the workplace and reduce work-related injury and illness.

**CHIEF EXECUTIVE'S SIGNATURE .....DATE.....**

## Appendix 3 – Sharing WHS duties with another PCBU

### ***PCBU co-located on hospital campus***

If a credit union or any type of retail outlet is located on a hospital campus the Agency must consult, coordinate and cooperate with that PCBU and their workers concerning health and safety matters, for example, emergency evacuation procedures and risk assessment of automatic teller machines.

### **NSW Health Agencies co-located on hospital campus**

The Agency which is the controller of the premises must also have arrangements in place for consulting and coordinating health and safety matters with other Agencies who are co-located on the same campus. These Agencies in most instances provide a service; this includes HealthShare, NSW Health Pathology and Health Infrastructure when managing capital works and infrastructure projects onsite.

### ***Construction/refurbishment***

On a construction site on a facility campus the Agency must consult, coordinate and cooperate with contractors and sub-contractors and their workers concerning health and safety matters, for example, safe access and egress to the site and traffic control.

Where Health Infrastructure is managing the capital works, the consultation arrangement must be agreed by Health Infrastructure with the principal contractor and the Agency who controls the site.

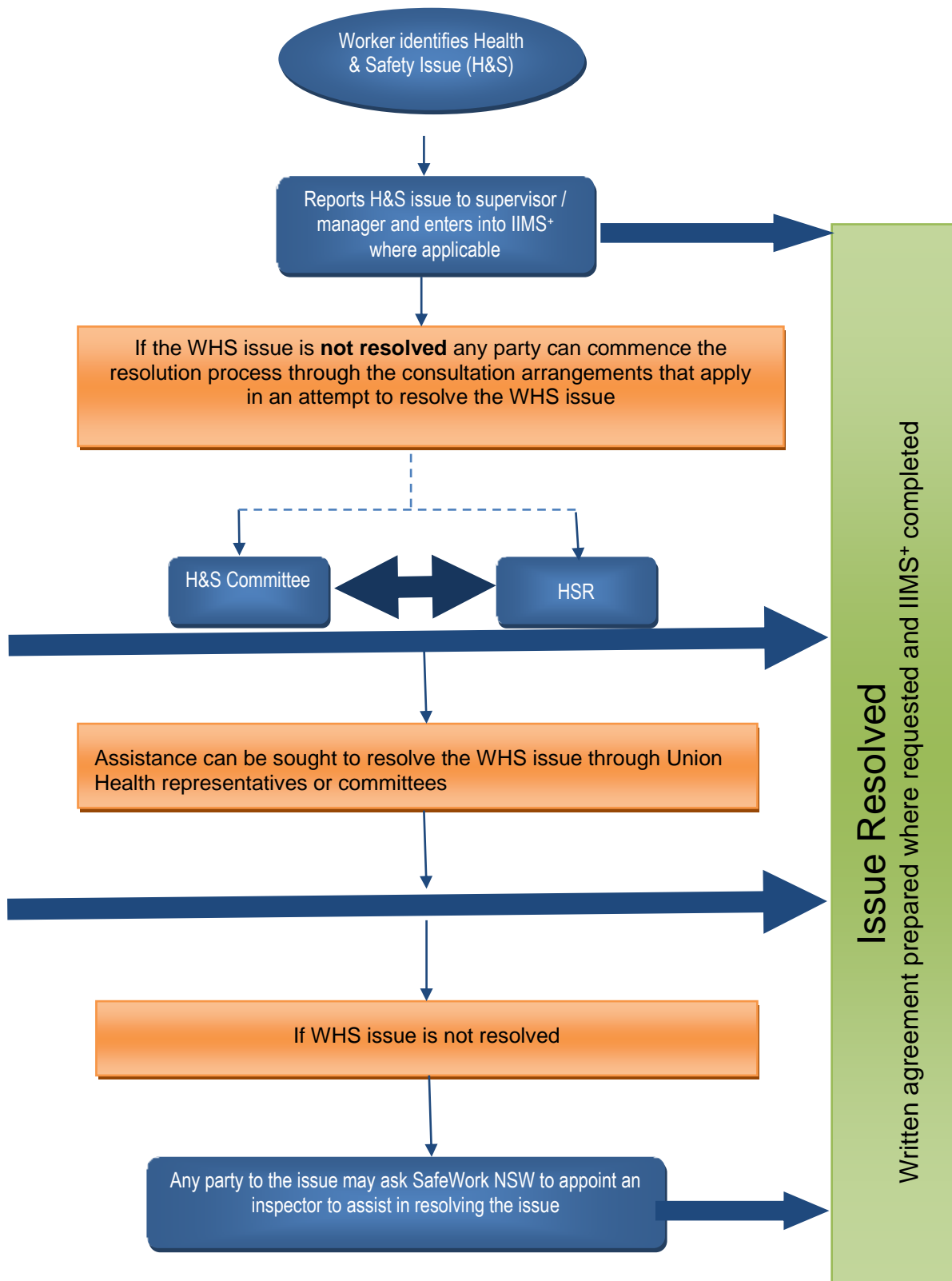
### ***Ambulance Service of NSW***

Consultation, cooperation and coordination must also be undertaken between an Agency and the Ambulance Service of NSW for issues concerning the health and safety of paramedics and the delivery of patients.

### ***Engagement of labour hire staff***

Where labour hire staff (e.g. nursing agency or security contractors) are engaged, the Agency must consult, cooperate and coordinate with the labour hire company and the labour hire staff to ensure that they are given appropriate instruction, training and supervision to undertake the contracted role safely.

## Appendix 4 – WHS Issue Resolution Flow Chart





## Appendix 5 – 5 Steps in Risk Management

### Overview

The risk management process, including risk assessments, should be documented except for hazards with simple solutions e.g. torn carpet, sharp edge on window frame, stiff door hinges, and safe use of an electric toaster.

Formal risk assessments are also unnecessary in the following situations:

- Legislation requires some hazards or risks to be controlled in a specific way – these requirements must be complied with
- A code of practice or other guidance sets out a way of controlling a hazard or risk that is applicable to your situation and you choose to use the recommended controls
- There are well-known and effective controls that are in use in the particular industry, that are suited to the circumstances in your workplace.

Risk management aims to:

- Tease out complex issues with multiple contributing factors
- Determine factors contributing to the risk. These factors then act as pointers concerning where risk controls can be applied to reduce the risk
- Determine whether standard risk control measures are appropriate for the specific circumstances
- Determine the severity of the risk and the urgency of the required response
- Determine which of several risk control measures would be the most effective
- Review the effectiveness of existing risk control measures.

The risk management process must be carried out in consultation with workers. More complex risk assessments may require the input of WHS or content experts.

Some hazards that have exposure standards, such as hazardous chemicals, may require scientific testing or measurement by a competent person to accurately assess the risk and to check that the relevant exposure standard is not being exceeded (e.g. cytotoxic drugs, asbestos and lead exposures and mould spore contamination all of which require an occupational hygienist to measure concentrations for air quality).

Advice should be sought from the Agency Risk Manager on any local risk assessment tools adopted for use by the Agency.

### When to risk manage:

You should undertake a risk management when:

- Changing work practices, procedures or the work environment
- Purchasing new or used equipment or using new substances
- Planning to improve productivity or reduce costs
- New information about workplace risks becomes available
- Responding to workplace incidents (even if they have caused no injury)
- Responding to concerns raised by workers, HSRs or others at the workplace
- Required by the WHS regulations for specific hazards.

Risk management must also be part of the process for designing and planning products, processes or places used for work. It is more effective to eliminate hazards at the design stage.

Generally the risk management process is made up of the following steps:

### Step 1: Establish the context

In establishing the context of work health and safety (WHS) consideration needs to be given to:

#### What type of workplace is it?

For example a crash site for the Ambulance Service of NSW, a remote home for a community nurse, a multipurpose facility in rural NSW, a kitchen, office or a metropolitan teaching facility.

#### Who are the stakeholders, internal and external, who will be affected?

Consider workers and other businesses or organisations that may be impacted by hazards in the workplace, visitors to the workplace, and clients. For example: florists, cafes, credit unions on campus; NGOs or clinical schools that use NSW Health premises; nearby businesses that may be affected by, for example, an evacuation.

#### What is the task?

#### What is the work process?

Consider the activities making up the work process.

### Step 2: Identify the Hazards

#### Hazard categories

The following categories, with examples of potential harm, is not exhaustive but may help you to identify hazards:

Hazard	Potential harm
Manual tasks	Overexertion or repetitive movement can cause muscular strain
Gravity	Falling objects, falls, slips and trips of people can cause fractures, bruises, lacerations, dislocations, concussion, permanent injuries or death
Electricity	Potential ignition source. Exposure to live electrical wires can cause shock, burns or death from electrocution
Machinery and equipment	Being hit by moving vehicles, or being caught by moving parts of machinery can cause fractures, bruises, lacerations, dislocations, permanent injuries

Hazard	Potential harm
	or death
Hazardous chemicals	Chemicals (such as cytotoxic drugs) and dusts (such as asbestos) can cause respiratory illnesses, cancers or dermatitis  Dangerous Goods can be explosive, corrosive, radioactive, flammable, toxic, infectious etc.
Extreme temperatures	Heat can cause burns, heat stroke or fatigue  Cold can cause hypothermia or frost bite
Noise	Exposure to loud noise can cause permanent hearing damage
Radiation	Ultra violet, welding arc flashes, micro waves and lasers can cause burns, cancer or blindness
Biological	Micro-organisms can cause hepatitis, legionnaires' disease, Q fever, HIV/AIDS or allergies
Psychosocial hazards	Effects of work-related stress, bullying, violence and work-related fatigue
Physical aggression	Can cause physical injury and psychological injury

## Identify the hazards

Identify what has potential to cause harm or injury in the workplace and assess the level of harm that may result. Consider also what may cause long term harm e.g. exposure to asbestos, cytotoxic drugs.

A hazard is something that could cause harm. Risk is how serious the harm could be and the likelihood of it happening from exposure to the hazard.

Hazard identification should be conducted in consultation with those who may be directly affected by the hazard.

### How people could be harmed?

First you need to work out how people could be harmed. See the above table which may assist in identifying the various types of hazards.

### Tips to help you identify hazards

When you work in a place every day it is easy to overlook some hazards, so here are some tips to help you identify the ones that matter:

### Regular Safety Inspections

Managers/supervisor and HSRs should regularly walk around the workplace together and see what could reasonably be expected to cause harm, how suitable the work environment or tools are to the work being undertaken and whether changes have occurred in the workplace that may impact on health and safety– observe the workplace and record what you see.

### Consult with Workers

Ask workers what they think is a hazard as they are often more aware of hazards and possible ways of controlling them.

### Review and analyse available information, including:

#### Manufacturer's Instructions

Check the manufacturer's instructions on equipment and products and check SDSs for the safe use of chemicals (ChemAlert is the electronic repository of SDSs in NSW Health).

#### Injury and Illness records

Sick leave records, workers compensation records, reports of accidents and near misses from your workplace, Registers of Injuries (the keeping of one is a requirement under the law) and reports by workers or supervisors, tell you about potential and unnoticed hazards and those work practices that have resulted in someone getting hurt.

#### Safety Audit Results

Results from safety audits of facilities and services will help identify areas needing attention.

#### Results of Health and Environmental Monitoring

WHS Professionals (e.g. occupational hygienists) can provide technical advice about suspected problems, e.g. air quality, radiation levels and asbestos identification, including substances or processes. They can also provide advice about risk assessment and control.

Consider also the long-term impact of exposure to fumes, harmful substances or noise.

#### Complaints

An individual may bring a hazard to the attention of the Agency through a complaint.

#### Observations

A supervisor, manager or HSRs, as part of their usual duties may observe and report a hazard.

#### Task and Location of Equipment

Think about how suitable the things you use are for the task and how well they are positioned.

#### How Equipment is Used

Think about how people use the equipment and materials – is there a better option?

#### Decide who might be Harmed and How

Once you are clear on who may be harmed, and this may involve asking workers to identify anyone you might have missed, you can identify the best way of managing the risk. Consider:

- Particular requirements of the worker e.g. young or new workers, older workers, workers with a disability, pregnant workers, workers with English as a second language
- People who may not be in the workplace all the time e.g. cleaners, visitors, contractors, maintenance workers
- Members of the public, if they could be injured by your workplace's activities
- How your activities affect others present in the workplace if you share your workplace
- How the work affects your workers.

### Step 3: Assess/Analyse the Risks

Risks are expressed as a probability or likelihood of developing a disease or getting injured, whereas hazards refer to the possible consequences (for example, the consequences of exposure to high noise levels is noise induced hearing loss and tinnitus).

If you have found a hazard you must judge how dangerous it is. Ask yourself how seriously someone could be affected and how likely this is to happen. This is a 'risk assessment'.

This step is not an essential requirement under the WHS legislation **if** a hazard and its control are well known or specified in WHS legislation and are suitable to the workplace. While controls may be known the risks may differ in different contexts. The focus is on the outcome, i.e. risk elimination and control, and not the process.

To judge or rate the level of risk, use your Agency Risk Matrix which will take you through the following stages:

#### Judge how dangerous the hazard is

- Judge the **severity** of the risk associated with the hazard.
- Is the risk of injury or illness high or low?

#### Judge the likelihood that someone would be injured by the hazard.

- What is the **likelihood** that someone could get hurt.
- To determine the level of risk also consider:
  - a) The **range of possible effects** or outcomes e.g. a chemical might be toxic if swallowed or absorbed through the eyes or skin, and flammable if exposed to heat. The range of possible effects increases the level of risk
  - b) Exposure (the number of people in contact, how often and for how long) for example, the frequency and duration of exposure to sun increases the risk of skin cancer

- c) Worker differences (skill level, experience, training and physical capabilities). For example the level of knowledge, experience and training can increase or decrease the risk of injury when moving patients.

### Plan and prioritise

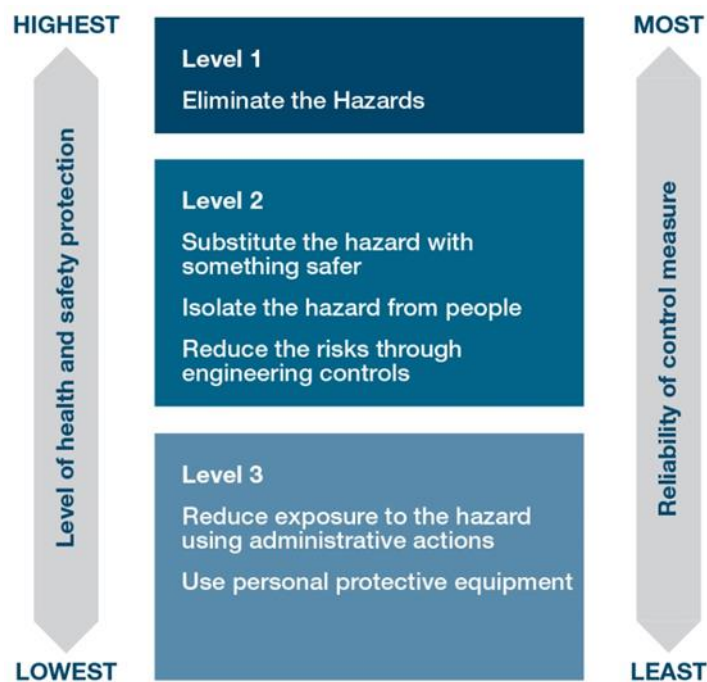
You cannot necessarily immediately fix all hazards, so you need to plan and prioritise your actions to make your workplace safer. Deal with the worst hazards first, plus the hazards that are simple to fix.

### Step 4: Treat or control the risks

Having spotted the hazard and identified the risk, you then need to decide how to deal with the risk:

- Can I get rid of the hazard?
- If not, how can I control the risk so that harm is unlikely or minimised?

A **hierarchy of controls**, as outlined below, acts as a way of ordering controls for treating /controlling the risk. The hierarchy of controls is specified in WHS legislation.



#### Level 1: Eliminate the hazard (the number one goal)

**Remove the hazard from the workplace, for example, fix faulty equipment and use safer materials or chemicals**

Eliminating the hazard is the most effective way of making the workplace safer. Where it is not reasonably practicable to eliminate the hazard, the WHS legislation requires the use of the highest level of controls or a combination of controls that will provide the highest level of protection to workers.

The other types of controls to be considered, in order of their effectiveness are levels 2 and 3 outlined below.

### **Level 2: Substitute and isolate the hazard, and reduce the risk**

One or more of these approaches may be required to minimise the risk to the lowest level possible. These are more reliable controls than those at level 3 on the hierarchy, providing a higher level of safety and reliability.

#### **Substituting the hazard with something safer or a safer process**

For example, use retractable needles to avoid needle stick injuries, or find and use less hazardous materials, equipment or substances.

Alterations to tools, equipment or work systems can often make them much safer, for example patients, when capable, are requested to move from hospital beds onto operating tables to reduce manual handling/team lifting.

#### **Isolating the hazard from people**

Enclose or isolate the hazard through the use of guards or remote handling techniques or by isolating the hazard from workers and others.

Another example is to automate a process, such as using an automatic instrument washing machine/ enclosed system to sterilise heat sensitive probes.

#### **Reducing the hazards through engineering controls**

Engineering controls are measures that are physical in nature and usually involve utilising mechanical devices or processes e.g. purchasing equipment to assist workers moving patients, using retractable syringes to reduce needle stick injuries of operating machinery via remote control systems.

### **Level 3: Minimise the Hazard by using administrative processes or Personal Protective Equipment (PPE)**

Level 3 controls do not treat the hazard at the source but rely on human behaviour and supervision and, used on their own, are the least effective. They should be used as a last resort when there are no other higher level control measures available, or as an interim measure when seeking a more effective way of controlling the risk, or to supplement a higher level control.

#### **Use administrative controls e.g.**

- Safe work procedures or work method statements or procedures developed for the use of machinery
- Job rotation utilised to reduce exposure; or timing the job so that fewer workers are exposed
- Routine maintenance and housekeeping procedures adopted
- Warning signs displayed
- Training provided in hazards and correct work procedures
- Exposure to a risk is time limited.

#### **Use personal protective equipment**



Using personal protective equipment (PPE) is the least effective way of controlling risk. People need to know how to wear it and how to fit and look after it, and therefore this introduces additional risks.

PPE must always be in good condition and be worn correctly and may include protective masks, gloves, goggles, hearing protection, sunscreen.

### **Step 5: Monitor and review risks and controls**

Risk Management does not end with the initial investigation. Hazard identification, risk assessment and risk control steps must be repeated as part of an ongoing practice, especially when there are changes to the workplace.

Once a control, or range of controls, is implemented you must ensure that they are maintained and regularly reviewed for effectiveness/compliance.

Keep checking to see if your controls are working. Talk to your workers for advice and information on whether the control/s are working or if they are creating new or additional risks. Encourage workers to let you know if there is anything dangerous about hazards that you think have been eliminated or treated. Keep checking workers compensation and injury records and reports of near misses as these will be a useful guide to your progress.

Feedback to workers on changes to control measures is necessary and builds credibility in the organisation's commitment to WHS.

Prohibition or Improvement Notices issued by SafeWork NSW or Provisional Improvement Notices issued by a HSR can be used as a trigger to review risk assessments and control strategies, not only locally, but across the Agency.

## Appendix 6 – Incident Notification to SafeWork NSW

### What is a “notifiable incident”

In the Act, **notifiable incident** means:

- a) the death of a person, or
- b) a serious injury or illness of a person, or
- c) a dangerous incident.

SafeWork NSW **must be notified immediately after becoming aware of a notifiable incident.**

Ensure injured persons are attended to and workplace has been made safe noting that the site may need to be preserved.

Keep records of the above notifiable incidents for five years from the date of notification to SafeWork NSW.

To notify SafeWork NSW of a notifiable incident – contact your WHS Manager, Risk Manager and your most senior person on duty at the workplace (e.g. General Manager of a facility) who must phone SafeWork NSW on **13 10 50**.

### Serious illness or injury

Serious illness or injury means that the person requires:

- Immediate treatment as an in-patient in hospital (overnight stay)
- Immediate treatment for:
  - Amputation of any part of a body
  - Serious head, eye or burn injuries
  - Separation of skin from an underlying tissue e.g. Degloving or scalping
  - Spinal injury
  - Loss of a bodily function
  - Serious laceration or
- Medical treatment within 48 hours of exposure to a substance\*.

Notification is also required for the following serious illnesses:

- Any infection where the work is a significant contributing factor such as carrying out work with micro-organisms and providing treatment or care to a person
- Zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste product such as Anthrax and Q fever.

\* NSW Health guideline [on occupational exposure prevention to blood and body substances](#) provides information on when exposures are to be notified to SafeWork NSW. The information is also provided by SafeWork NSW in the fact sheet *When to Notify Blood, Body Substance and Needlestick Injuries* which can be accessed through the following link: <http://www.safework.nsw.gov.au/media/publications/health-and-safety/when-to-notify-blood,-body-fluid-and-needlestick-exposure-incidents>.

## Dangerous incident

A dangerous incident is an incident in the workplace that exposes a worker or any person to a serious risk to the person's health or safety from an immediate or imminent exposure to:

- Uncontrolled escape, spillage or leakage of a substance
- Uncontrolled implosion, explosion or fire
- Uncontrolled escape of gas or steam
- Uncontrolled escape of a pressurised substance
- Electric shock
- Fall or release from a height of any plant, substance or thing
- Collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use by the Regulations.
- Collapse or partial collapse of a structure.

## Preserve the site

In all of the above notifications the person with management or control of the site must preserve the site so that SafeWork NSW, and sometimes the Police, can investigate.

A site includes any plant, substance, structure or thing associated with the notifiable incident.

The incident scene must be preserved until the Inspector arrives at the site or at an earlier time that an Inspector directs/advises (section 39 WHS Act) if the Inspector decides not to attend.

## When can the person with management or control allow the site to be disturbed?

The site can be disturbed when:

- SafeWork NSW/Inspector has given permission as mentioned above
- Assisting someone that is injured and when emergency services attend
- To remove a deceased person
- Making the site safe so that further injury does not occur
- Disturbance is related to a Police investigation.

### NOTE:

Workers compensation legislation has not changed. When an Agency becomes aware of a work-related injury, i must notify the Fund Claims Manager **WITHIN 48 HOURS**.