

The *Work Health and Safety Act 2011* (the WHS Act) imposes a specific duty on officers of corporations and unincorporated bodies, such as clubs and associations, to exercise due diligence to ensure that it meets its work health and safety obligations. The duty requires officers to be proactive in ensuring that the corporation, club or association complies with its duty.

What is due diligence?

In demonstrating due diligence, officers will need to show that they have taken reasonable steps to:

- acquire and update their knowledge of health and safety matters
- understand the operations being carried out by the person conducting the business or undertaking in which they are employed, and the hazards and risks associated with the operations
- ensure that the person conducting the business or undertaking (PCBU) has, and uses, appropriate resources and processes to eliminate or minimise health and safety risks arising from work being done
- ensure that the PCBU has appropriate processes in place to receive and respond promptly to information regarding incidents, hazards and risks
- ensure that the PCBU has, and uses, processes for complying with duties or obligations under the WHS Act.

This approach emphasises the corporate governance responsibilities of officers. It is critical to the achievement of positive safety outcomes for senior management to lead the

corporate safety agenda.

Demonstrating due diligence

The due diligence criteria listed in the WHS Act, with suggestions on how to meet them are as follows:

1. **Acquiring knowledge of health and safety issues**

- acquire up-to-date knowledge of the WHS Act, regulations and codes of practice
- investigate current industry issues through conferences, seminars, information and awareness sessions, industry groups, newsletters
- acquire up-to-date knowledge of work health and safety management principles and practices
- ensure that work health and safety matters are considered at each corporation, club or association board meeting.

2. **Understanding operations and associated hazards and risks**

- develop a plan of the operation that identifies hazards in core activities
- ensure that information is readily available to other officers and workers about procedures to ensure the safety of specific operations that pose health and safety risks in the workplace
- continuously improving the safety management system.

3. **Ensuring that appropriate resources and processes are used to eliminate or minimise risks to health and safety**

- establish and maintain safe methods of work
- implement a safety management system

- recruit personnel with appropriate skills, including safety personnel
- ensure staffing levels are adequate for safety in operations
- give safety personnel access to decision makers for urgent issues
- maintain and upgrade infrastructure.

4. Implementing processes for receiving and responding to information about incidents, hazards and risks

- employ a risk management process
- have efficient, timely reporting systems
- empower workers to cease unsafe work and request better resources
- establish processes for considering/ responding to information about incidents, hazards and risks in a timely fashion
- measure against positive performance indicators to identify deficiencies (e.g. a percentage of issues actioned within agreed timeframe).

5. Establishing and maintaining compliance processes

- undertake a legal compliance audit of policies, procedures and practices
- testing policies, procedures and practices to verify compliance with safety management planning.

6. Verifying the provision and use of the resources mentioned in steps 1-5.

You will need to ensure there is a system in place that records and provides evidence of the matters mentioned in steps 1-5.

Retraining trained safety advisors

State government departments, Government Owned Corporations and Statutory Authorities are all required to retain trained safety advisors under the policy [engaging trained safety advisors to meet due diligence requirements in government](#) (PDF, 68.22 KB).

There are also advantages for businesses and undertakings in retaining a trained safety advisor (although not mandatory) to assist an officer to satisfy their due diligence obligations.

Maintaining a role for a trained safety advisor will:

- promote a positive work health and safety culture by sending a clear message that health and safety is valued by the business
- support officers in meeting their due diligence requirements
- ensure safety information is updated
- be a cost effective way of demonstrating due diligence.

However, it is important to note the duty to exercise due diligence will always remain with the officer and cannot be outsourced or delegated to a trained safety advisor. Employing a trained safety advisor is only one option to help officers meet their duties.

Training for safety advisor

The voluntary retention of a trained safety advisor is best supported by at least Vocational Education and Training (VET) accredited training course. This enables safety officers with a nationally recognised formal qualification.

It will also be important for trained safety advisors to update their skills and knowledge annually. This is to ensure they have knowledge of current workplace health and safety legislation and initiatives.