

Work Health and Safety Act

There are several facts that sporting clubs or associations and should know about health and safety laws.

Protecting volunteers in sport from harm is a mandatory requirement.

The *Work Health and Safety Act 2012* (the WHS Act) took effect on 1 January 2013 and aims to provide a balanced and nationally consistent framework to protect the health and safety of all workers nationwide, including volunteers. Like paid staff, volunteers undertaking community services face a wide range of possible risks and injuries in carrying out work.

Protecting the health and safety of volunteers demonstrates that their commitment is valued and recognises the vital role they play in the community.

Does the legislation apply to your sporting club or association?

The WHS Act applies if your sporting club or association has paid workers, as well as utilises volunteers in your sporting club or association's activities.

If your sporting club or association uses both paid workers and volunteers, the laws provide the same rights and responsibility to both.

The WHS Act does not apply to your sporting club or association if you only use volunteers.

For the purpose of the WHS Act, a person is considered a volunteer if they are working without payment or financial reward although they may be being reimbursed for out of pocket expenses they incur directly while carrying out volunteer work.

What do you need to do to comply with the WHS Act?

If the legislation does apply to your sporting club or association, your duty is to ensure, so far as is reasonably practicable, the health and safety of workers, including volunteers, engaged in work for you.

'Reasonably practicable', means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account all relevant factors.

In particular, you should do all that is reasonably practicable to:

- ensure the health and safety of volunteers in their role;
- provide an environment free of risks to health and safety;
- provide safe equipment and structures;
- provide safe systems of work;

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- ensure safe use, handling, storage and transport of equipment and substances;
- provide access to adequate facilities for the welfare of volunteers;
- provide information, training and supervision as needed;
- monitor volunteer health and work conditions; and
- ensure work by volunteers does not impact on the health and safety of other people.

Under the WHS Act, there is a legal duty for your sporting club or association to consult with your paid staff and volunteers in relation to decision making around health and safety issues, including:

- identifying and managing risks;
- ensuring the election of health and safety representatives (if requested by the workforce) and the processes and procedures involved in representation; and
- following and documenting a formal process for resolving issues and disputes.

Under the WHS Act, volunteer officers are people who make decisions that affect all, or a substantial part of, the organisation, for example volunteer board members.

Volunteer officers have a duty under the WHS Act to exercise due diligence to ensure the organisation complies with its health and safety duties and are expected to comply with that duty. However, if you fail to comply with your officer duties under the WHS Act, you cannot be prosecuted. This immunity is designed to ensure voluntary participation in community groups at the officer level is not discouraged.

A volunteer officer can still be prosecuted in their capacity as a worker.

What does it mean if I'm a volunteer?

The legislation applies to you if you are a volunteer in a sporting club or association that also employs paid staff.

If you are a volunteer in a sporting club or association that also employs paid staff the legislation will require you to exercise the same level of due diligence as paid staff, and:

- take reasonable care of your own health and safety;
- take reasonable care that your conduct does not adversely affect the health and safety of others;
- comply with any reasonable instruction that is given to you by your sporting club or association; and
- cooperate with any reasonable policy or procedure relating to health and safety at the club or association.

If you are a volunteer undertaking activities for a sporting club or association to which the legislation applies, you can be prosecuted if you do not take reasonable care in undertaking your work, although it is unlikely unless there is a high degree of recklessness or negligence in relation to a serious incident. This is the same for any person, including any paid staff or any member of the public who visits a sporting club or association to which the legislation applies.

The legislation does not apply to you if your sporting club or association only uses volunteers.

Where can I get more information?

For more information on the legislation visit www.safeworkaustralia.gov.au or <https://www.worksafe.tas.gov.au>