

FACT SHEET

INFORMATION FOR PCBUS THAT ENGAGE VOLUNTEERS

The primary piece of legislation that governs health and safety in New Zealand is the Health and Safety at Work Act 2015 (HSWA). This fact sheet explains the health and safety duties of a person conducting a business or undertaking (PCBU) that engages volunteers.

PCBU OR VOLUNTEER ASSOCIATION

WHAT IS A PCBU?

A PCBU is a 'person conducting a business or undertaking'. A PCBU may be an individual person or an organisation. A 'business' is a profit making entity, whereas an 'undertaking' may not be commercial in nature.

It does not include workers or officers of PCBUs, volunteer associations with no employees, or home occupiers that employ or engage a tradesperson to carry out residential work.

HSWA places duties on all PCBUs.

WHAT IS A VOLUNTEER ASSOCIATION?

A volunteer association is a group of volunteers working together for a community purpose who do not employ any person. Purposes could include the promotion of art, culture, science, religion, education, medicine, or to support a charity, sport or recreation activity.

Volunteer associations do not have health and safety duties under HSWA, as they are not PCBUs.

Other volunteer organisations are recognised as PCBUs and have the same duties as other PCBUs.

IF YOU ARE A PCBU, DO YOU HAVE VOLUNTEER WORKERS OR OTHER VOLUNTEERS?

Some volunteers are classified as **volunteer workers** and are treated as 'workers' under HSWA except for worker engagement, participation and representation purposes.

A volunteer is a volunteer worker when:

- > they work for a PCBU who knows they are doing the work or has given consent for the work to be done
- > the volunteer does the work on an ongoing and regular basis
- > the work is an integral part of the business or undertaking and
- > the work is not:
 - participating in fundraising
 - assisting with sports or recreation for an educational institute, sports club or recreation club
 - assisting with activities for an educational institute outside its premises or
 - providing care for another person in the volunteer's home eg foster care.

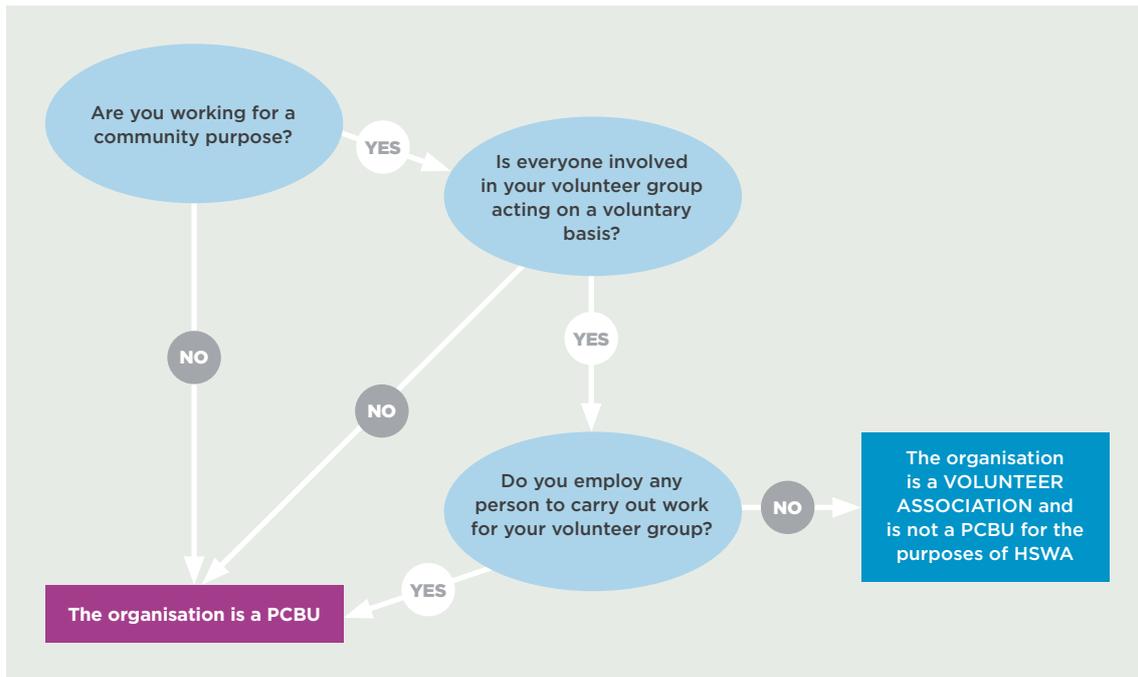


Figure 1: PCBU or volunteer association?

THE PRIMARY DUTY OF CARE OF A PCBU TOWARDS VOLUNTEER WORKERS AND OTHER VOLUNTEERS

A PCBU must ensure, so far as is reasonably practicable, the health and safety of:

- > workers who work for the PCBU, while the workers are at work in the business or undertaking
- > workers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.

A PCBU must also ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out as part of the business or undertaking. This duty is owed to **volunteers who are not volunteer workers**.

The primary duty of care is a broad overarching duty. It includes but is not limited to providing:

- > a work environment that is free from risks to health and safety
- > safe equipment, structures and systems of work
- > provision for safe use, handling, and storage of plant, substances, and structures
- > adequate and accessible welfare facilities
- > the necessary information, training, instruction, or supervision to do the work safely
- > monitoring of worker health and workplace exposures to assess effectiveness of controls.

The same level of protection required by the primary duty of care must be given to volunteer workers as paid workers (except for worker engagement, participation and representation purposes).

WHAT IS REASONABLY PRACTICABLE?

The primary duty of care to ensure health and safety is limited by what is reasonably practicable. PCBUs are not expected to guarantee the health or safety of their workers (or others who may be affected by work carried out as part of the business or undertaking), but they must do what can reasonably be done to ensure health and safety.

Factors that will affect what is reasonably able to be done include:

- > the hazards and risks associated with the work and the likelihood of the hazard or risk occurring
- > the severity of the injury or harm to health that could result from the hazard or risk
- > what the person knows or reasonably should know about the hazard or risk and the ways of eliminating or minimising it
- > what can be done to eliminate or minimise the risks and how available and suitable these risk controls may be
- > as a final consideration, the cost associated with eliminating or minimising the risk, including whether it is grossly disproportionate to the risk.

WHAT ABOUT NATIONAL NOT-FOR-PROFIT ORGANISATIONS WITH REGIONAL BRANCHES OR CHAPTERS?

A PCBU has a primary duty of care for all its workers (including volunteer workers) as set out above, regardless of the location of the work. For example, a PCBU with workers in a national office and volunteer workers at a regional office owes duties to their workers at both locations.

Depending on the structure of the organisation the regional office may be a PCBU, which would owe workers at that office a duty of care. If this is the case, the PCBU operating the national office and the PCBU operating the regional office would each have duties to, so far as is reasonably practicable, consult, cooperate with, and coordinate their activities. This ensures that workers (and others) are being properly protected, and nothing 'falls through the gaps'.

If there is only one PCBU, the steps a national office PCBU could take to make sure that health and safety is managed throughout the organisation include:

- > providing the regional groups with health and safety procedures
- > providing information about risks and tools such as risk assessment templates

- > training volunteers to work safely
- > sending health and safety updates
- > sharing information about health and safety incidents
- > ensuring all regional offices have emergency procedures in place
- > having a designated health and safety contact person at the national office.

The PCBU must make their own assessment of what they can reasonably do to ensure health and safety, as they are best placed to assess their own organisation.

WHAT ARE SOME RISKS THAT VOLUNTEERS MIGHT FACE WHILE AT WORK?

Volunteers may face a range of risks that could cause them harm while at work. Harm can be physical or psychological.

Physical injury can be caused by work equipment or the work environment such as from:

- > electric shock
- > falls from height
- > contact with moving machinery parts
- > exposure to hazardous substances
- > slips, trips and falls
- > non-ergonomic work stations.

Acute or chronic ill-health can result from work. Examples include:

- > melanoma from UV exposure
- > hearing loss from excessive noise
- > neurological damage from solvent exposure
- > legionnaires disease from exposure to contaminated soil.

Psychological harm such as anxiety, stress and depression can be caused by the demands of the work such as:

- > workload
- > challenging client behaviour
- > bullying
- > organisational change
- > lack of control over the work.

PCBUs need to think about how their workers' health and safety (including volunteer workers) could be put at risk while doing their work and do what is reasonably practicable to eliminate or minimise the risk.

WHAT ARE THE DUTIES OF VOLUNTEER OFFICERS, VOLUNTEER WORKERS AND OTHER VOLUNTEERS?

DUTY OF VOLUNTEER OFFICERS

Officers of a PCBU, including officers who are volunteers, have a duty to exercise due diligence to ensure that the PCBU complies with its duties and obligations under HSWA. They are only required to exercise the care, diligence, and skill that a reasonable officer would exercise, taking into account the nature of the business or undertaking and their position and responsibilities.

In exercising due diligence, officers must take reasonable steps to:

- > know about work health and safety matters and keep up-to-date
- > gain an understanding of the operations of the PCBU and the hazards and risks generally associated with those operations
- > ensure the PCBU has appropriate resources and processes to eliminate or minimise those risks and uses those resources and processes
- > ensure the PCBU has appropriate processes for receiving information about incidents, hazards and risks, and for responding to that information
- > ensure the PCBU has processes for complying with any duty under HSWA, and that these are implemented
- > verify that these resources and processes are in place and being used.

While volunteer officers have this due diligence duty they cannot be prosecuted under HSWA for failing to meet it.

DUTIES OF VOLUNTEER WORKERS

Volunteer workers have the same duties as other workers.

These are to:

- > take reasonable care of their own health and safety
- > take reasonable care that their acts or omissions do not adversely affect the health and safety of others
- > comply, so far as they are reasonably able, with any reasonable instruction that is given to them by the PCBU to allow the PCBU to comply with HSWA and related regulations
- > cooperate with any reasonable policy or procedure of the PCBU relating to health or safety at the workplace that has been notified to workers.

DUTIES OF OTHER VOLUNTEERS

Volunteers who are not volunteer workers have the same duties that all other persons have at a workplace.

These are to:

- > take reasonable care for their own health and safety
- > take reasonable care that their acts or omissions do not adversely affected the health and safety of others
- > comply, so far as they are reasonably able, with any reasonable instruction that is given to them by the PCBU to allow the PCBU to comply with HSWA and related regulations.

FURTHER INFORMATION

For information about volunteer officers, see the fact sheet *Information for officers who are volunteers*.

For information about volunteers, see the fact sheet *Information for volunteers*.

PUBLISHED: MARCH 2016. CURRENT UNTIL REVIEW IN 2018.