



Due Diligence Guideline

1. Purpose

This guideline has been developed to support Officers of the WA Country Health Service (WACHS) in meeting their responsibilities and duties under the [Work Health Safety Act 2020](#) (*WHS Act*). It should be used as guidance in conjunction with other Work Health and Safety (WHS) resources.

The intent of the positive duty placed on officers under the *WHS Act* is to ensure engagement and leadership by officers in work health and safety management to prevent injury and illness in the workplace. This supports sustainability and improvement in work health and safety performance and workplace productivity.

2. Guideline

Due diligence is a proactive management tool that is to help to foster the careful and systematic identification and assessment of specific workplace hazards and the establishment of control measures to prevent injuries and illnesses at work.

If you are an identified [officer](#), due diligence requires you to take reasonable steps to address each of the definition elements for due diligence outlined in section 27 of the *WHS Act*. Each of the elements is directed at one or more of the fundamentals of a safety culture and the drivers of safe behaviour.

In demonstrating due diligence, section 27 of the *WHS Act* requires officers to show that they have taken reasonable steps to:

- acquire and maintain current **knowledge** on work health and safety matters
- gain an **understanding** of the nature of the operations of the business and generally of the hazards and risks associated with those operations
- ensure the business has available for use and uses appropriate **resources** and **processes** to eliminate or (where elimination is not reasonably practicable) minimise risks to health and safety
- ensure that the business has appropriate **processes** for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information
- ensure that the business has, and implements, processes for **complying** with any duty or obligation to the person conducting a business or undertaking (PCBU) has under the *WHS Act*
- **verify** the provision and use of the resources and processes.

Please refer to [Appendix A](#) and [Appendix B](#) for a table format of these responsibilities and example guide.

2.1 Safety Culture

Officers are responsible for developing a safety culture and driving improvement in work health and safety performance. A safety culture is that part of the overall culture that reflects the values, beliefs and practices of the organisation as they relate to health and

safety. Officers should be aware of the maturity of the organisation's safety culture and support a continuous cycle of improvement.

Elements of a culture that are to help develop the cultural maturity of an organisation and support Officers in achieving their due diligence responsibilities include:

- an informed culture - one in which those who manage and operate the system have current knowledge about the human, technical, organisational and environmental factors that determine the safety of the system as a whole
- a reporting culture - in which people are willing to report errors and near misses
- a just culture - a culture of 'no blame' where an atmosphere of trust is present, and people are encouraged for providing essential safety-related information; but where there is also a clear line between acceptable and unacceptable behaviour
- a flexible culture - characterised as shifting from the conventional hierarchical mode to a flatter professional structure
- a learning culture - in which there is the willingness and the competence to draw the right conclusions from its safety information system, and the will to implement major reforms when the need is indicated.

2.2 Risk Management

Risk management is an integral part of good management practice and an essential part of good corporate governance. For WHS risk management to be effective, it should be part of an organisation's culture.

WHS risk management should not be seen as a separate activity. Rather, it should be embedded in an organisation's processes and practices. Risk management is an important part of any health and safety prevention program and the success of such programs depends on successful implementation of risk management.

Hazard identification, risk assessment and risk control at workplace level may be defined as the systematic application of management policies, procedures and practices to the four-step process of:

1. Identifying hazards.
2. Assessing and analysing the risks.
3. Controlling the risks.
4. Monitoring and reviewing the risk management process.

Having clear, effective and workable reporting processes will enable the PCBU to meet its obligations, including notifying the regulator according to the requirements of the WHS laws. Officers are to encourage a reporting culture with clear reporting lines and communication options that do not seek to place blame or punish those who report incidents, near misses and hazards. Establishing an open reporting culture within the organisation demonstrates to workers a no blame culture to report a near miss, accident or injury or where there has been a failure to adhere to policy or procedure.

Please refer to [WACHS Hazard / Incident Management Procedure](#) for further information in relation to notification and management of WHS issues that are reported in the workplace.

3. Roles and Responsibilities

Duty of Officers

An 'officer' is defined by reference to the definition of 'officer' in section 9 of the Commonwealth *Corporations Act 2001* (the *Corporations Act*). It also includes officers of a business or undertaking of the Crown (the Commonwealth, a state or territory) and officers of a public corporation.

The *WHS Act* imposes a specific duty on officers to exercise due diligence to ensure that the corporation, the Crown or a public authority meets its work health and safety obligations.

The critical elements of exercising due diligence are:

- the things officers should know regarding work health and safety matters (section 27(5)(a))
- why the business or undertaking conducts specific operations and the risks and hazards associated with these operations (section 27(5)(b))
- how the business or undertaking applies its resources in complying with the WHS legislation (subsections 27(5)(c) & (e))
- what the information received tells the [PCBU](#) about the risks and hazards and how the business or undertaking responds (section 27(5)(d))
- verification that the systems, policies and procedures effectively assist in protecting the health and safety of workers (section 27(5)(f)).

These requirements, while not exhaustive, form a basis for officers, to take action to ensure compliance with work health and safety laws by the organisation.

WACHS has a Due Diligence for Officers online awareness training which forms part of an Officers mandatory learning framework. There is an annual requirement for WACHS Officers to complete training.

Please refer to [Appendix A](#) and [Appendix B](#) for a table format of these responsibilities and example guide.

4. Monitoring and Evaluation

4.1 Monitoring

Monitoring is to be measured by:

- implementation and documentation of the management practices
- findings from management reviews and
- audits of compliance with relevant legislative, policy and procedure requirement.

4.2 Evaluation

Evaluation is to be assessed through feedback and consultation with WACHS Executive and relevant stakeholders.

5. Compliance

Guidelines are designed to provide staff with evidence-based recommendations to support appropriate actions in specific settings and circumstances. As such, WACHS guidelines should be followed in the first instance. In the clinical context, where a patient's management should vary from an endorsed WACHS guideline, this variation and the clinical opinion as to reasons for variation must be documented in accordance with the [Documentation Clinical Practice Standard](#).

WACHS staff are reminded that compliance with all policies and procedures is mandatory.

6. References

[Comcare - Guidance for Officers in Exercising Due Diligence Overview of Western Australia's Work Health and Safety Act 2020 Corporations Act 2001 \(Commonwealth\)](#)
[Worksafe WA Interpretive Guidelines – The Health and Safety Duty of an Officer](#)

7. Definitions

Term	Definition
Person conducting a business or undertaking (PCBU)	A Person Conducting a Business or Undertaking alone or with others (PCBU), whether or not for profit or gain. A PCBU can be a sole trader (for example, a self-employed person), each partner within a partnership, company, unincorporated association, government department or public corporation (including a local or regional government).
Officers	A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the organisation's activities. For example, board directors, the chief executive and officers who report to the chief executive.
Workers	Any person who carries out work for a PCBU, including work as an employee, contractor, subcontractor, self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a 'host employer' and volunteers.
Reasonably practicable	A guiding principle of the <i>WHS Act</i> is that all people are provided the highest level of health and safety protection from hazards arising from work, so far as is reasonably practicable. The term 'reasonably practicable' means what could reasonably be done at a particular time to ensure health and safety measures are in place.
Due diligence	Means taking every precaution that is reasonable in the circumstances to protect the health, safety and welfare of all workers and others who could be put at risk from work carried out as part of the business or undertaking.

Consultation with workers	PCBUs must, so far as is reasonably practicable consult with workers who carry out work for the business or undertaking who are, or are likely to be, directly affected by a matter relating to health and safety. This includes giving workers a reasonable opportunity to express their views or raise issues about work health and safety at the workplace.
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8. Document Summary

Coverage	WACHS-wide
Audience	All staff
Records Management	Non Clinical: Records Management Policy Clinical: Health Record Management Policy
Related Legislation	Work Health Safety Act 2020 (WA) Work Health and Safety (General) Regulations 2022 (WA)
Related Mandatory Policies / Frameworks	Nil
Related WACHS Policy Documents	Documentation Clinical Practice Standard WACHS Hazard / Incident Management Procedure
Other Related Documents	Nil
Related Forms	Nil
Related Training Packages	WHSDD EL1 - Work Health and Safety: Officer Due Diligence
Aboriginal Health Impact Statement Declaration (ISD)	ISD Record ID: 2034
National Safety and Quality Health Service (NSQHS) Standards	1.1
Aged Care Quality Standards	Nil
National Standards for Mental Health Services	Nil

9. Document Control

Version	Published date	Current from	Summary of changes
1.00	16 March 2023	16 March 2023	New Policy
2.00	18 May 2023	18 May 2023	<ul style="list-style-type: none"> References updated with Corporations Act 2001 (Commonwealth) and Worksafe WA Interpretive Guidelines – The Health and Safety Duty of an Officer. Roles and Responsibilities updated.

10. Approval

Policy Owner	Executive Director People Capability Culture
Contact	Director Work Health Safety Wellbeing
Business Unit	Work Health and Safety
EDRMS #	ED-CO-23-75205
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This document can be made available in alternative formats on request.

Appendix A:

6 Elements of Officer Due Diligence (*WHS Act - Section 27(5)*)

Knowledge and Understanding	1. Acquire and keep up to date knowledge on work health and safety matters.
	2. Gain an understanding of the nature of the operations of the business and generally of the hazards and risks associated with those operations.
Management	3. Ensure the business has available for use and uses appropriate resources and processes to eliminate or (where elimination is not reasonably practicable) minimise risks to health and safety.
	4. Ensure that the business has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information.
Assurance	5. Ensure that the business has, and implements, processes for complying with any duty or obligation the PCBU has under the <i>WHS Act</i> .
	6. Verify the provision and use of the resources and processes.

Appendix B - WACHS Executive Work Health and Safety (WHS) Due Diligence Plan (Example):



Government of **Western Australia**
WA Country Health Service

Name [insert]: WACHS Executive Work Health and Safety (WHS) Due Diligence Plan

WA Country Health Service (**WACHS**) Executive members are “officers” of WACHS for purposes of the *Work Health and Safety Act 2020* (WA) (**WHS Act**). Executive members have personal obligations to exercise due diligence which are incapable of delegation. Executive members are to satisfy those obligations through various means, which may include, but is not limited to, consulting with staff and direct reports on WHS matters; attendance at WHS briefings; training and presentations; and undertaking workplace inspections and site visits.

This document outlines the six elements of due diligence which are set out in the *WHS Act* section 27 (5). The purpose of this Due Diligence Plan is to record actions against each of the six elements of due diligence and how those actions are evidenced.

WHS Due Diligence Obligation	Action(s)	Records/evidence of Action(s)
<p>1. Acquire and keep up-to-date knowledge of WHS matters</p> <p><i>This requires you to demonstrate that you understand the core elements of your and WACHS’ legal obligations and information relevant to discharging those obligations.</i></p>	<p>Examples could include:</p> <ul style="list-style-type: none"> • Attendance at WHS training and refresher training. • Membership of WHS groups or committees. • Subscriptions to WHS newsletters and briefings e.g. WorkSafe Newsletter Alerts. • Procuring briefings as required from suitably qualified (external or internal) persons on WHS matters. 	<p>Examples:</p> <ul style="list-style-type: none"> • Email updates from WorkSafe. • WHS training records/certificates of completion. • Mental health first aid training records.

<p>2. Understand the nature of WACHS' operations and the hazards /risks arising from those operations</p> <p><i>This requires you to know and understand the activities being undertaken in the areas of WACHS that you manage and the WHS hazards and risks associated with those activities. That may include undertaking a review of the activities in your area and understanding the process for monitoring activities.</i></p>	<p>Examples could include:</p> <ul style="list-style-type: none"> • Receipt of reports/updates on WHS matters from WACHS staff (including the Director of Work Health Safety and Wellbeing) and your direct reports. • Reviewing OSH@Work on a regular basis. • Undertaking workplace inspections or site visits on a regular basis. • Attendance at WHS meetings. 	<p>Examples:</p> <ul style="list-style-type: none"> • Minutes of WHS Committee Meetings. • Correspondence with direct reports and WACHS staff regarding WHS matters. • Records of site visits/workplace inspections and action items.
<p>3. Ensure WACHS has available for use, and uses, appropriate resources and processes to eliminate or minimize WHS risks</p> <p><i>This requires you to ensure that the area(s) you are responsible for have the appropriate resourcing (budget and staff) available to address WHS risks and the resources are being used appropriately.</i></p>	<p>Examples could include:</p> <ul style="list-style-type: none"> • WHS Policies and Procedures are available to staff and accessible online. • Staff complete training on WHS Policies and Procedures on commencement with WACHS. • Monitoring of KPIs, plans and budgets in respect of WHS matters. • Consulting with staff and direct reports as to awareness of WHS Policies and Procedures. • Regular review of WACHS Policies and Procedures/safety operating procedures. 	<p>Examples:</p> <ul style="list-style-type: none"> • Records of staff WHS training. • Due diligence plans of direct reports. • Reports from WHS representatives. • Records of risk assessments. • WHS KPIs, plans and budgets. • Records of WHS Policy and Procedure reviews. • Records of consulting with staff and direct reports on WHS matters.

<p>4. Ensure WACHS has appropriate processes for receiving and considering information regarding WHS risks and incidents in a timely manner</p> <p><i>This means that you (and your team) need to understand and use OSH@Work effectively, including undertaking risk assessments, site visits, lodging reports and closing out action items.</i></p>	<p>Examples could include demonstrating how you:</p> <ul style="list-style-type: none"> • Ensure WHS actions are closed out. • Receive reports/updates to ensure the OSH@Work reporting process is efficient and effective in identifying and being notified of, and responding, to WHS risks and hazards. 	<p>Examples:</p> <ul style="list-style-type: none"> • Records of risk assessments, control measures and action items. • Records of discussions/briefings with WACHS staff and direct reports on WHS matters.
<p>5. Ensure WACHS has (and implements) processes to ensure that it complies with its duties and obligations under WHS laws</p> <p><i>This requires you to demonstrate that you and your team have a process/understand WACHS' obligations for complying with WACHS' and your WHS duties and obligations, and that you have a system in place to monitor compliance.</i></p>	<p>Examples could include demonstrating how:</p> <ul style="list-style-type: none"> • You and your team comply with WHS training. • Notifiable incidents in your area(s) are identified and managed. • You consult with WACHS staff and your direct reports on WHS matters. 	<p>Examples:</p> <ul style="list-style-type: none"> • Records of training records/compliance with WHS training modules by you and your direct reports. • Records of identifying and taking appropriate action to mitigate WHS risks and hazards. • Records of consulting with WACHS staff and direct reports on WHS matters.
<p>6. Verify the provision and use of the resources and processes in obligations 1 to 5 above</p> <p><i>This means you need to regularly check up on things to make sure they are being actions as they should. This obligation requires you to develop a means of doing this that is effective and workable for you.</i></p>	<p>Examples could include:</p> <ul style="list-style-type: none"> • Undertaking reviews/reporting on key outcomes arising out of WHS audits. • WACHS procuring external advice and review of its WHS systems (where appropriate). 	<p>Examples:</p> <ul style="list-style-type: none"> • Audit reports. • WHS meeting agendas, briefing papers, and meeting minutes. • External advice and reviews.