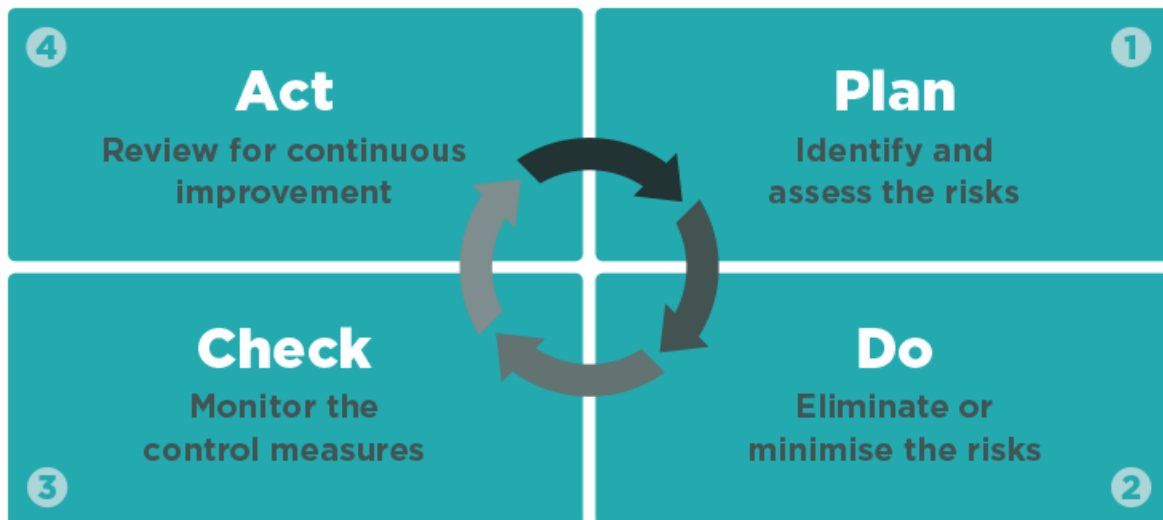


The Health and Safety at Work Act 2015 (HSWA) is New Zealand’s workplace health and safety law.

What the Health and Safety at Work Act means for Otago Waterpolo (OWP)

- Ensures everyone at **OWP** has a role to play.
- Focuses on managing our risk.
- Requires those who create the risk to manage the risk.
- Requires **OWP** to engage with all relevant parties and enable them to actively participate in health and safety
- Allows flexibility in managing health and safety risks.



The meaning of ‘so far as is reasonably practicable’

Many duties under HSWA apply ‘so far as is reasonably practicable’. It’s an important concept that involves doing what is reasonably able to be done to ensure people’s health and safety under the given circumstances.

- Something is 'practicable' if it is possible or capable of being done. 'Reasonably' doesn't mean doing everything humanly possible to manage a risk. It means doing what other organisations would reasonably do in the same situation.

What Otago Waterpolo needs to understand is

- What its work-related health and safety risks are – particularly those that have the potential to cause members and others serious injury or illness.
- The likelihood of those risks occurring
- The degree of harm that could result from those risks.
- The options to eliminate the risks.
- The options to minimise the risks (where they can't be eliminated)
- The associated costs.

Consideration of cost should only take precedence over safety when it is grossly disproportionate to the risk.

Business responsibilities

What is a PCBU?

- A PCBU is a 'Person Conducting a Business or Undertaking'.
- The difference between a business and undertaking is:
 - A business is an enterprise usually conducted with a view to making a profit.
 - An undertaking is usually not profit making or commercial in nature.
 - **OWP** is a PCBU and more specifically an undertaking

Otago Waterpolo's primary duty of care

- **OWP's** has a 'primary duty of care' – that is the primary responsibility for people's health and safety whilst involved

with **OWP**. We must ensure, so far as is reasonably practicable, the health and safety of:

- All our members
 - Any other person we influence or direct.
-
- **OWP** must look after other people who could be put at risk by what we do, for example, contractors, sub contractors, visitors, volunteers or the general public.
 - The primary duty of care is a broad, overarching duty. It includes, so far as is reasonably practicable, **OWP** having effective practices in place for:
 - **Providing and maintaining**
 - An environment that is without risk to health and safety.
 - Safe systems of work.
 - Adequate facilities for the welfare of members.
 - The provision of information, training, instruction or supervision that is necessary to protect people from risks to health and safety arising from what we do.
 - That the health of members and the conditions at the workplace are monitored to prevent illness or injury to members arising from the work carried out.

Officer responsibilities

Who is an officer?

- A person is an officer if they have a position that allows them to exercise significant influence over the management of a business. Typically, an officer is the director, chief executive. A business can have more than one officer. *If you are on the OWP committee you are an officer*

- A person who merely advises or makes recommendations to a person in a senior position in a business is **not** considered an officer *The officer holds the responsibility for the issue until it is rectified (not the person/subcontractor the officer informs to fix the issue.)*
- The role of an officer is to exercise due diligence to ensure that the business meets its health and safety obligations under HSWA.
- The difference between a business's primary duty of care and an officer's duty is that officers do not have to ensure the health and safety of workers. **Make sure we implement the overarching policy**

What is due diligence

Due diligence includes taking reasonable steps to:

- Acquire and keep up-to-date knowledge of work health and safety matters.
- Gain an understanding of the nature of the operations of **OW** and generally of the hazards and risks associated with those operations.
- Ensure that **OWP** has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety.
- Ensure **OWP** has appropriate processes for receiving, considering and responding in a timely way to information regarding incidents, hazards and risks. i.e notify **OWP's** Health and Safety appointed officer (Max Holt) report the matter in google doc, then in a timely manner eliminate risk as much as possible.
- Ensure **OWP** has and implements processes for complying with its duties under HSWA.
- verify the provision and use of resources and processes.

The extent of an officer's due diligence duty will depend on the nature of the business' operations and the nature of the officer's role and responsibilities. **Don't implement things we can't control**

Working with other businesses

Ensuring businesses work together for everyone's health and safety is a fundamental part of HSWA's design.

The meaning of overlapping duties

- When two or more businesses operate together, for example at the same location or in a contracting arrangement, they must work together to fulfil their primary duties of care. i.e Moana Pool
- Where work overlaps, businesses need to communicate, consult, cooperate and coordinate activities to meet their health and safety responsibilities to workers and others, so far as is reasonably practicable.
- **OWP** cannot contract out its duties. However, reasonable arrangements can be made with Moana Pool and other businesses or undertakings to fulfil its duty, taking into account the level of influence or control each has over the overlapping work.

Workers and others

The meaning of workers

A **worker** is an individual who carries out work in any capacity for a business or undertaking, including:

- employees, contractors or sub-contractors
- employees of contractors or sub-contractors
- employees of labour hire companies
- apprentices or trainees
- people doing work experience or work trial
- outworkers (including home workers)
- volunteer workers.

The meaning of others

Others in a workplace include:

- visitors to a workplace
- customers
- members of the public who come into contact with OWP's work activities.
- casual volunteers.

Workers' and others' responsibilities

Workers and others in a workplace **must**

- take reasonable care of their own health and safety and reasonable care that others are not harmed by something they do or don't do
- follow any reasonable health and safety instructions given to them by OWP, as far as they are reasonably able to.

And workers **must**

- cooperate with any reasonable business policy or procedure relating to the workplace's health and safety that they have been told about.

Note: Workers have the right to stop work if they believe it is unhealthy or unsafe.

Worker engagement, participation and representation

What is worker engagement and participation?

- Under HSWA OWP **must** have member engagement and participation practices, regardless of size, level of risk or the type of work carried out.

- Under HSWA, **OWP must**
 - ensure members views on matters that could affect their health and safety are asked for and taken into account (engagement)
 - have clear, effective and ongoing ways for workers to raise concerns or suggest improvements on a day-to-day basis (participation).
- Workplaces have better health and safety outcomes when workers have a say about health and safety. Workers are the eyes and ears of the business and know where the health and safety pressure points are. Workers/members
 - are directly affected by any risks created by the work **OWP** does.
 - are in the best position to know how a job is done and how it affects them.
 - can provide practical solutions for improving work health and safety.
- How **OWP** decides to engage with workers and ensure their participation in health and safety will depend on the views and needs of workers/members, the size of the business, the nature of the risks, and how, when and where work is carried out.
- The focus needs to be on effective practices rather than whether any particular system or processes are in place.

Notifications

Notifiable events

Under HSWA **OWP must** notify WorkSafe when certain work-related events occur, including:

- a death
- a notifiable injury or illness
- a notifiable incident.

Under HSWA, OWP is required to:

- notify us as soon as possible, when a notifiable event occurs
- preserve the site of the incident until a WorkSafe inspector arrives, or you are otherwise directed by the regulator or the Police.
- keep records of all notifiable events.

Notifications must be done by phone or in writing, and must be given by the fastest means possible in the circumstances.

Phone: 0800 030 040 (24/7)

Online forms: <https://worksafe.govt.nz/notify-worksafe/>

What is a notifiable injury or illness?

A notifiable injury or illness includes:

- Any of the following injuries or illnesses that requires a person to have immediate treatment (other than first aid):
 - the amputation of any part of the body
 - a serious head injury (Follow NZ Waterpolo policy in relation to concussions)
 - a serious eye injury
 - a serious burn
 - the separation of skin from underlying tissue (such as degloving or scalping)
 - a spinal injury
 - the loss of a bodily function
 - serious lacerations.
- An injury or illness that requires (or would usually require) a person to be admitted to a hospital for immediate treatment.
- An injury or illness that requires (or would usually require) a person to receive medical treatment within 48 hours of exposure to a substance.

- A person contracts a serious infection (including occupational zoonoses) to which the carrying out of work is a significant contributing factor, including any attributable to:
 - working with micro-organisms
 - providing treatment or care to a person
 - contact with human blood or bodily substances
 - handling or contact with animals, their hides, skins, wool or hair, animal carcasses or waste products
 - handling or contact with fish or marine mammals.
- Any other injury or illness declared by regulations to be a notifiable injury.

What is a notifiable incident?

A notifiable incident is an unplanned or uncontrolled incident in a workplace that exposes a worker, or any other person, to a serious health or safety risk arising from an immediate or imminent exposure to one of the following categories of events:

- a substance escaping, spilling or leaking
- an implosion, explosion or fire
- escape of gas or steam
- escape of a pressurised substance
- electric shock (from anything that could cause a lethal shock)
- the fall or release from height of any plant, substance, or thing
- collapse, overturning, failing or malfunction of, or damage to, any plant that is required to be authorised for use under regulations
- the collapse or partial collapse of a structure
- the collapse or failure of an excavation or any shoring supporting an excavation
- the interruption of the main system of ventilation in an underground excavation or tunnel
- a collision between two vessels, a vessel capsize, or the inrush of water into a vessel*
- any other incident declared in the regulations to be a notifiable incident.

Notifiable incidents do not include controlled activities that form part of the business or undertaking (eg the controlled release of water from a dam).

Author Max Holt

OWP would like to acknowledge the use of guidelines as stipulate on the [worksafe.govt.nz](https://www.worksafe.govt.nz) web site in the helping formulate OWP'S policy. In addition acknowledge PCBU Dunedin for their guidance and assistance.