MEMBER BRIEFING NOTE
WHS ADVICE IN RESPONSE TO COVID-19
DATE: APRIL 2020

CONSULT AUSTRALIA

PURPOSE

This briefing note provides a summary of the new national safe workplace principles in response to COVID-19, and related work health and safety (WHS) guidance material shared by Safe Work Australia and equivalent state and territory agencies.

INTRODUCTION

The spread of COVID-19 (a strain of coronavirus) was confirmed as a global pandemic by the World Health Organization in mid-March 2020.

The Australian and state/territory governments have iteratively implemented a range of measures to slow the spread within the country. This includes a range non-essential services closures, travel restrictions, self-isolation requirements, restrictions on certain types of mass gatherings, and instructions and/or advice to the public and employers on how they can minimise risks. As a result, there has been a significant impact on businesses, people, and local and national economies.

These impacts from COVID-19 have resulted in a number of new challenges and risks relating to how workplaces can safely operate. These include new requirements to exercise physical distancing, the uptake of alternate working arrangements such as at home, and of course the potential of the virus spreading. As a result, COVID-19 has created the need for all workplaces and employers to consider the appropriateness of WHS policies and processes, making amendments where required, and this has been informed by the constant update of advice and guidance by WHS agencies as the crisis evolves.

NATIONAL SAFE WORKPLACE PRINCIPLES

On 24 April 2020, the National Cabinet (the Prime Minister and state/territory leaders) agreed to new safe workplace principles to help inform the nationwide recovery from COVID-19 and the eventual return to normal working environments.

These principles acknowledge that the pandemic is a public health emergency, and that all actions in respect of COVID-19 should be based on expert health advice. As such, the principles are to inform all WHS measures in workplaces, and to underpin related advice from all Australian governments and WHS agencies. They are outlined below.

1. All workers, regardless of their occupation or how they are engaged, have the right to a healthy and safe working environment.

2. COVID-19 requires a uniquely focused approach to WHS as it applies to businesses, workers and others in the workplace.

3. To keep our workplaces healthy and safe, businesses must, in consultation with workers, and their representatives, assess the way they work to identify, understand and quantify risks and to implement and review control measures to address those risks.

4. As COVID-19 restrictions are gradually relaxed, businesses, workers and other duty holders must work together to adapt and promote safe work practices, consistent with advice from health authorities, to ensure their workplaces are ready for the social distancing and exemplary hygiene measures that will be an important part of the transition.

5. Businesses and workers must actively control against the transmission of COVID-19 while at work, consistent with the latest advice from the Australian Health Protection Principal Committee (AHPPC), which includes considering the application of a hierarchy of appropriate controls where relevant.

6. Businesses and workers must prepare for the possibility that there will be cases of COVID-19 in the workplace and be ready to respond immediately, appropriately, effectively and efficiently, and consistent with advice from health authorities.

7. Existing state and territory jurisdiction of WHS compliance and enforcement remains critical. While acknowledging individual variations across WHS laws mean approaches in different parts of the country may vary, to ensure business and worker confidence, a commitment to a consistent national approach is key, including a commitment to communicating what constitutes best practice in prevention, mitigation and response to the risks presented by COVID-19.

8. Safe Work Australia, through its tripartite membership, will provide a central hub of WHS guidance and tools that Australian workplaces can use to successfully form the basis of their management of health and safety risks posed by COVID-19.

9. States and territories ultimately have the role of providing advice, education, compliance and enforcement of WHS and will leverage the use of the Safe Work Australia central hub in fulfilling their statutory functions.

10. The work of the National COVID-19 Coordination Commission will complement the work of Safe Work Australia, jurisdictions and health authorities to support industries more broadly to respond to the COVID-19 pandemic appropriately, effectively and safely.

DUTIES UNDER WHS LAW

Safe Work Australia has released guidance on how model WHS laws require employers to take care of the health, safety and welfare of employees and other individuals at their workplace. This guidance is here, which should be read in conjunction with any state-specific guidance (particularly in Victoria and WA where arrangements differ).

Employers have a duty to workers to do what they can to ensure their health and safety, which includes eliminating the risk of exposure to COVID-19 if reasonably practicable. If unable to eliminate this risk of exposure to COVID-19, an employer must minimise this risk as far as is reasonably practicable. Examples of how employers can eliminate or minimise this risk include:

- Implementing working from home arrangements;

- Requiring workers to practice physical distancing;

- Requiring good hygiene practices in the workplace; and

- Cleaning the workplace regularly and thoroughly.

Employers must ensure the work of their business does not put the health and safety of others at risk of contracting COVID-19. The above examples also highlight how employers can eliminate or minimise their risks on others such as customers, clients and visitors.

There is also a duty on employers to maintain the workplace and facilities to ensure the environment does not put workers at others at risk of contracting COVID-19. This could include restricting the layout of the workplace to allow for physical distancing and limiting the number of people in the workplace at any given time. Workers must also have regular access to facilities, which includes:

- Washrooms with adequate supplies;

- Hand sanitiser where it is not possible to wash hands; and

- Staff rooms that are regularly cleaned and allow for physical distancing.

Employers must provide workers with any information or training that is necessary to protect them from the risk of exposure to COVID-19 arising from their work. This may include training on how to fit and use necessary personal protective equipment, to exercise adequate cleaning practices, or to set up a safe home workplace.

Lastly, employers have a duty to consult with workers on health and safety matters relating to COVID-19. This includes giving workers the opportunity to express their views and raise WHS concerns. These views and concerns must be taken into account and workers must be advised of the outcome of consultations. Workers should be consulted when:

- Conducting a risk assessment;

- Making decisions on control measures to manage the risk of exposure to COVID-19;

- Making decisions about the adequacy of workplace facilities to allow for control measures;

- Changing any procedures that have an impact on the WHS of workers.

WORKING FROM HOME

Given the significant uptake of alternate working arrangements in response to COVID-19 where possible, Safe Work Australia has also released guidance on working from home. This guidance is here.

The guidance notes that WHS laws still apply if a worker is working somewhere other than their usual workplace, such as at home. Therefore, employers still have an obligations to remove or minimise risks where reasonably practicable, and these risks may be different to what they are in the usual workplace. If they can, employers should:

- Provide guidance on a safe home office environment, such as what a good work station looks like and how to keep physically active;

- Require workers to familiarise themselves and comply with good ergonomic practices;

- Maintain daily communication with workers;

- Provided continued access to an employee assistance program where relevant; and

- Appoint a contact person in the business that workers can talk to about concerns.

Employers should also consider how existing policies and procedures apply when working from home, such as the notification of incidents and hazards, and the consultations on WHS processes.

Safe Work Australia's guidance also highlights possible new risks from working from home. These include physical risks from poor work environments such as lighting and electrical safety, and psychosocial risks such as isolation and reduced social support. Employers will need to do what they reasonably can to manage these risks to a worker who is working from home.

CLEANING TO PREVENT THE SPREAD

Safe Work Australia have released guidance for workplaces on cleaning to present the spread of COVID-19, which is available here.

This guidance notes the below points.

- Workplaces being utilised have surfaces cleaned at least daily. Special attention should be given to frequently touched surfaces (e.g. light switches, desks, toilets, and shared spaces). Ideally, once clean, surfaces should also be disinfected regularly (or at the same time as cleaning).

- Those cleaning should wear gloves that are discarded after each use (and clean their hands immediately after). They should also clean from the cleanest surfaces to the dirtiest surfaces. Any disinfectant used should remain on the surface for the period of time required to kill the virus (contact time) as specified by the manufacturer – 10 minutes if no time is specified.

- If a person who has been at a workplace is suspected or confirmed to have COVID-19, you must thoroughly clean and disinfect all areas of suspected contamination. Those cleaning will need to be equipped with appropriate personal protective equipment. The cleaning and disinfection must occur before any workers return to affected areas.

OTHER RESOURCES

- Safe Work Australia, COVID-19 resource kit (the new central hub of resources will also be launched on this website soon, which will include sector-specific information)

- SafeWork NSW, COVID-19 guide

- WorkCover Queensland, Keeping your workplace safe, clean and healthy during COVID-19

- WorkSafe Victoria, COVID-19 critical information

- WorkSafe ACT, WHS and COVID-19

- SafeWork SA, COVID-19 workplace information

- NT WorkSafe, Advice on COVID-19

- WorkSafe WA, COVID-19 and your workplace

- WorkSafe Tasmania, COVID-19 information

CONTACT US

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