

# WORKSAFE POSITION ON THE HEALTH AND SAFETY OF VOLUNTEERS AT WORK



## Purpose

This position sets out our approach to the Health and Safety at Work Act 2015 (HSWA) for:

- > **volunteer workers and other volunteers**
- > **volunteer associations**
- > **Persons Conducting a Business or Undertaking (PCBUs) that use volunteers to carry out business functions and activities.**

## Why is a balanced legislative framework for volunteers important?

New Zealand's volunteer sector is important, and provides a valuable service to our country and those living here. The HSWA seeks to provide a balanced framework to keep workers and workplaces healthy and safe. Even so, a fear of legislative hurdles should not deter people from volunteering or PCBUs from accepting volunteered service.

## What is the legislative framework for volunteers?

A PCBU has a primary duty of care, so far as reasonably practicable, to ensure the health and safety of workers who are working for or influenced by the PCBU. That duty of care extends to others (including volunteers) who may be at risk from the work done.

A PCBU must also ensure that nobody's health and safety is put at risk by the work done as part of the PCBU's activities, no matter if a paid worker or volunteer does the work. Some obligations and duties of PCBUs to volunteers are limited.

A volunteer association is not a PCBU and doesn't have the duties of a PCBU. A volunteer association is a group of volunteers working together, for a community purpose and on a voluntary basis. It does not employ people. If an organisation is not a volunteer association it is a PCBU with the same duties as any PCBU. Volunteer officers cannot be prosecuted if they don't meet their duty of due diligence. The appendix to this document summarises our website's guidance about the duties and responsibilities of volunteers and volunteer organisations, and the various types of volunteering.



## What should volunteers and PCBUs using volunteers think about?

A PCBU must take steps to protect its workers and others it interacts with. The steps taken should consider the risks that the business activity creates and the level of influence and control that it has over those risks.

A volunteer has health and safety responsibilities to themselves, their organisations, other workers, and other people they interact with at the workplace. Volunteers who don't meet these responsibilities can be prosecuted under the HSWA. If a PCBU uses good practice they will improve the health and safety systems for all people (including volunteers) who interact with their business. A PCBU should:



identify and monitor health and safety risks to workers, volunteers and others at the PCBU's workplace



co-ordinate with other organisations and people involved in the work on managing health and safety risks

## What is WorkSafe's approach to a volunteer's health and safety?

### PCBU DUTIES

We will be reasonable and proportionate in how we approach our regulatory work to reduce workplace harm, including what we expect of all duty holders. Our planned work will generally focus on high-risk sectors of workplace activity, whether or not volunteers are onsite.

When we visit or we investigate concerns or incidents, we consider what the PCBU is doing to eliminate or minimise the risks arising from the activities of workers. Any person could carry out those activities, including paid workers or volunteers. A PCBU must take steps to protect its workers and others it interacts with. The steps taken should consider the risks that the business activity creates and the level of influence and control that it has over those risks.

Our expectations for what is reasonably practicable are proportionate to the risks involved and the level of influence and control the duty holder has.

### VOLUNTEER DUTIES

A volunteer has health and safety responsibilities to themselves, their organisations, other workers, and other people they interact with at the workplace. Volunteers who don't meet these responsibilities can be prosecuted under the HSWA.

For instance, systems in place for volunteers doing door-to-door collection are very different from the systems needed for volunteers doing mountain guiding. Every person (including a volunteer) at a workplace is equally entitled to protection, but the level of resourcing to provide that protection may differ. For example, a volunteer who attends a 'working bee' one day a year will need a different level of resource from a volunteer worker who is onsite several times a week or who provides a service in a risky environment or situation.



## APPENDIX: Volunteers – summary of duties and responsibilities under the health and safety at work act 2015

This appendix summarises the duties and responsibilities for volunteers. Our website offers further guidance and definitions about:

- > volunteers and volunteering
- > the duties and responsibilities of volunteers under the HSWA

### VOLUNTEER ASSOCIATIONS

An organisation working for a community purpose that has no employees is a volunteer association. It is not a PCBU and has no duty, responsibility or liability under the HSWA, though may still have responsibilities for public safety under other legislation for which WorkSafe is not the regulator. Other organisations that use volunteers are PCBUs with health and safety responsibilities and duties to workers and other persons at the workplace.

### VOLUNTEER WORKERS AND OTHER VOLUNTEERS

All workers (including 'volunteer workers') and other people at a workplace (including 'other volunteers') have duties under the HSWA. These duties include taking reasonable care to make sure their actions do not adversely affect their own or any other person's health and safety. They must also follow the PCBU's reasonable instructions on health and safety matters.

### VOLUNTEER OFFICERS

All officers of a PCBU, including volunteer officers, have a due diligence duty to make sure that the PCBU complies with their obligations under the HSWA.

A volunteer officer cannot be prosecuted for a failure of due diligence. However, a PCBU remains responsible for complying with the HSWA even if an officer failed their due diligence duty relating to health and safety.