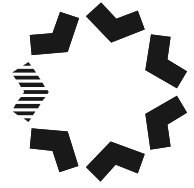


NATIONAL
COMPETITION
COUNCIL



Work Health and Safety Policy

National Competition Council Policy
Document



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1 Introduction

- 1.1 The National Competition Council (the Council) is a small Australian Government funded agency within the Treasury portfolio. It has 8 staff co-located in a single leased office and shares a floor and other common facilities with the Australian Government Solicitor which holds the head license agreement for the tenancy.
- 1.2 The Council's Work Health and Safety Policy provides a framework of principles and responsibilities for maintaining a safe and healthy working environment in accordance with the new *Commonwealth Work Health and Safety Act 2011* (the Act).
- 1.3 The Council is committed to fulfilling its obligations in a consultative and practical manner. Given the single location, office based work environment and small size of the Council, work health and safety matters are considered at Council staff meetings, which are generally held once a week. Health and safety will be a standing agenda item at these meetings and at meetings of the Council.
- 1.4 The National Competition Council's Risk Management Plan (Appendix C – Risk nos. 3, 4, 19 and 20) also identifies risks and approaches to risk management associated with the safety and health of staff and visitors. The risk management plan is reviewed annually by the Audit and Risk Management Committee.
- 1.5 The Council's Work Health and Safety Policy has been adopted through a consultative process involving all Council staff.

2 The key changes under the Act

- 2.1 The principal duty holder is a person conducting a business or undertaking (PCBU) replacing the 'employer' while the term 'employee' is replaced with a broadly defined term of 'worker'. That is the duties of care are not defined by the nature of employment relationship.
- 2.2 The term 'worker' includes employees, volunteers, contractors, sub-contractors, apprentices, work experience students and outworkers.
- 2.3 The term 'workplace' in most jurisdictions has been broadened to include any place where a worker goes or is likely to go while at work.
- 2.4 There are positive duties for 'officers' to exercise 'due diligence' to ensure the person conducting a business or undertaking complies with its duty of care.
- 2.5 The Council is an agency under the Financial Management and Accountability Act (FMA Act). The Commonwealth is the PCBU that conducts the Council's undertaking to advise on third party access regulation. Any prosecution under the Act arising from the conduct of the Council's undertaking would commence against the Council as the responsible agency, but the Commonwealth is the legal entity that is liable.

3 The Council will provide and maintain a safe working environment

- 3.1 The Council recognises the importance of providing and maintaining a safe workplace and healthy environment for employees and all persons within the workplace and is committed to monitoring ongoing performance in work health and safety.
- 3.2 The Council is committed to:
- ensuring through a consultative approach, the promotion and development of measures to ensure a safe and healthy working environment for employees, contractors and visitors
 - preventing workplace injury, disease and illness
 - encouraging and promoting safe and healthy work practices
 - actively promoting and encouraging responsibility at all levels for occupational health and safety
 - monitoring, evaluating and continually improving its health and safety performance.
- 3.3 The Council's Executive Director is the officer (for the purposes of the Act a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of a business or undertaking of the Commonwealth) with primary duty of care in relation to work health and safety. The Executive Director must exercise due diligence to ensure that the Council complies with its obligations on work health and safety.
- 3.4 The Executive Director has responsibility for:
- developing (in consultation with staff), implementing, monitoring and reviewing measures aimed at protecting the health and safety of staff
 - facilitating co-operation with staff
 - reviewing statistics, reports and recommendations regarding accidents, injuries, diseases, dangerous occurrences and any other health and safety related matters
 - disseminating information about health and safety issues to staff
 - considering the health and safety aspects of all new processes, substances, installations and equipment at the planning stage, if practicable, but at least before their introduction to the workplace
 - notifying Comcare of incidents involving death of a person, serious injury or illness of a person and dangerous incidents as soon as the incidents are identified (refer Council policy on Comcare)
 - reporting to the Council on work health and safety matters affecting the Council secretariat.

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- 3.5 At each meeting the Council will consider a report on work health and safety to be provided by the Executive Director.
 - 3.6 Staff may elect a health and safety representative who will be trained appropriately (see 9 below).
 - 3.7 Nothing in this arrangement abrogates the common law right of staff to withdraw their labour where they genuinely believe there is an immediate threat to their health and safety.

4 Health and safety measures available to Council staff

- 4.1 The Council agrees to fund the annual provision of the following items to all staff:
 - screen based eyesight testing
 - influenza vaccinations
 - ergonomic review of work stations and any equipment recommended by the ergonomist
 - confidential health appraisal, whereby staff are offered health assessments, including medical reports and information on the benefits of good health
 - confidential counselling through the Employee Assistance Program.
- 4.2 The Council agrees to consider other requests for the provision of relevant, office based, health and safety items.

5 Responsibilities for cooperatively promoting and developing measures to ensure health and safety at work

- 5.1 The Council recognises the importance of developing and maintaining a safe and healthy workplace and the necessity of keeping the health and safety standards in the workplace under review. The Council accepts that legislative standards and regulations on work health and safety provide the minimum acceptable level.
- 5.2 The Council achieves safe working environment by:
 - identifying and controlling risks in the workplace
 - organising activities such as training, health promotion and the provision of appropriate expert assistance for staff
 - ensuring that Council staff have access to health and safety professionals in relation to work-based matters funded by the Council
 - maintaining adequate records relating to health and safety matters
 - having health and safety as a standing agenda item at staff meetings

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- informing and training its staff on safe working practices
 - monitoring staff health and safety and maintaining relevant records
 - ensuring that Council staff have access to data relating to work health and safety issues in the Council (with the exception of personal medical information and other documentation as specified in the Act)
 - ensuring that any staff Health and Safety representative is adequately trained to identify and deal with health and safety matters
 - providing sufficient resources to provide a healthy and safe work environment.

5.3 The Council's policy was developed in consultation with staff. The Executive Director undertakes to consult with staff before making changes to work practices or conditions, which might have work health and safety implications.

5.4 The Executive Director recognises the legal responsibility of individual staff members to take immediate action to avoid an unacceptable level of danger to themselves, other workers and/or visitors to the workplace.

5.5 Staff have a responsibility to work in a safe and healthy manner, both for themselves and others, and are expected to co-operate with management, as necessary, to enable the Council to fulfil its health and safety obligations. Staff are also responsible for bringing to the attention of the Executive Director any matters of concern regarding work health and safety.

6 Information on the Work Health and Safety Policy

6.1 A copy of the Council's Work Health and Safety Policy is available on the intranet.

7 Variations to the Work Health and Safety Policy

7.1 Staff may request a change in the Work Health and Safety Policy at any time. Such requests would normally occur at a staff meeting but can be made at any time.

8 Health and Safety concerns

8.1 If a staff member has a concern regarding health and safety then the staff member(s) may raise the matter with the Executive Director.

8.2 The Executive Director will discuss the matter with the affected staff member(s) and any other party as necessary and will determine an appropriate course of action.

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- 8.3 The Executive Director will be supportive of the complainant and adhere to the *Privacy Act 1988*. In order to maintain fairness, all parties (where relevant) will be given every opportunity to present their case.
 - 8.4 If the matter cannot be resolved in this manner the staff member or the Executive Director may request the Council's Employee Assistance Provider to provide a mediation service to help resolve the situation.
 - 8.5 Where a matter cannot be resolved after all reasonable efforts have been made, there is provision under the Act to refer the issue to the regulator to arrange for an inspector to attend the workplace to assist in resolving the issue.
 - 8.6 A person making a complaint about a health and safety matter may seek the support and assistance of another staff member at any time.

9 Staff health and safety representative

- 9.1 As all Council staff work in one office, for the purposes of work health and safety, it is agreed that the Council will operate as a single work group.
- 9.2 Any member of staff of the Council may request the Executive Director to facilitate the election of one or more staff health and safety representatives.
- 9.3 All members of staff are eligible to nominate for election to be a staff health and safety representative.
- 9.4 If a staff member is so elected the term of office shall be three years. The elected representative will undertake an appropriate training course paid for by the Council that has been approved by Comcare Australia. Council management is committed to providing adequate resources for use by the health and safety representative, including paid time for meetings and organising of health and safety activities and the use of the filing and computer systems.
- 9.5 Where there is a request for the election of a staff representative, it is agreed that the election process will be as follows.
 - Nominations for the position(s) of staff health and safety representative will be called at a staff meeting.
 - If there is only one nomination for the position, that person will become the staff health and safety representative.
 - Where there is more than one nomination then a secret ballot will be conducted by a person appointed by agreement by all staff.
- 9.6 As soon as practicable after the staff health and safety representative has been elected the Council Staff listing will be updated to reflect the name of the elected person.
- 9.7 The elected representative will be provided with paid time to attend an accredited training course, or other relevant training, within three months of being elected.

Consideration will be given to the availability of accredited courses and operational requirements of the Council in determining the time of training.

Termination of appointments

- 9.8 The staff health and safety representative will cease to hold the position:
- if they cease to be an employee of the Council
 - if they seek voluntarily to step down
 - at the expiry of their normal term or
 - if they have been disqualified.
- 9.9 If Council staff consider that the performance of the staff health and safety representative is unsatisfactory they may ask the Executive Director to mediate in the matter.
- 9.10 Under certain circumstances, as set out in s65 of the Act, upon application to the designated court or tribunal, the staff health and safety representative may be disqualified. The disqualification may remain in place indefinitely or for a specified period.
- 9.11 The staff health and safety representative is not exempt from the normal codes of conduct and disciplinary action applicable to all APS staff. This clause does not negate the powers of health and safety representatives as set out in s68 of the Act.
- 9.12 The staff health and safety representative will inform the Council if they intend to resign before the end of their term prior to the date of effect of the resignation.

Powers and responsibilities of staff health and safety representatives

- 9.13 The Executive Director will inform the staff health and safety representative of any accident, injury, disease or dangerous occurrence which has taken place as early as possible with due regard to personal confidentiality and legal professional privilege. Such information should not allow identification of the medical condition of specific individuals without prior written permission from the person(s) concerned. It is agreed that any such information will not be transmitted to any other person.
- 9.14 The staff health and safety representative will have the powers necessary to inspect the area when there has been a recent accident or dangerous occurrence or where there is an immediate threat of an accident or dangerous occurrence. The representative may also investigate complaints about work health and safety matters made by any employee and may consult directly with a particular person or specific body which has been identified by the representative as acting for, or in the capacity of, the Council.
- 9.15 The staff health and safety representative may participate in any formal committee of inquiry set up by management to look into an accident or dangerous occurrence, which has occurred in the work area. Additionally, with the permission of any employee(s) concerned, the representative may attend an interview between:

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- an employee and an inspector
 - an employee and a representative of the Council, or
 - an employee and a consultant who is currently assisting the health and safety representative.

9.16 Where the staff health and safety representative informs the supervisor of immediate threat to the health and safety of one or more employees and the representative is unable to agree on the suitability of action proposed by the supervisor, the representative may request an inspector or Comcare Australia to carry out an inspection of the work area and may accompany the inspector carrying out the inspection.

9.17 The staff health and safety representative may issue Provisional Improvement Notices (PIN) only in accordance with the provisions of s90 of the Act. In particular the representative must have undertaken an approved work health and safety training course.

9.18 The staff health and safety representative may be assisted by a consultant—provided the Council or Comcare Australia agrees to this. The Council is not liable for any expenses incurred in connection with the consultant’s activities unless agreement has been reached on this matter in advance. However, the Council will consider each case as it arises.

9.19 In addition to the staff health and safety representative initiating emergency stop work procedures, staff will also have the right to cease unsafe work practices

- when there is reasonable cause to believe there is an immediate threat of an accident or serious occupational health and safety risk, and
- when no supervisor can be contacted immediately to cease work as soon as practicable, and inform the supervisor that the action has been taken.

9.20 Where the staff health and safety representative is unable to agree with the supervisor that there is a need to cease the performance of work which is considered to be a threat to health and safety, either party may request Comcare Australia or an inspector to conduct a relevant investigation. The staff health and safety representative may also request Comcare Australia to institute prosecutions for offences against the Act or its regulations.

9.21 The Act does not make the staff health and safety representatives liable under civil proceedings in the exercise of their powers, nor does the Act impose any obligation upon the representative to exercise his/her powers.

10 Work Health and Safety Committee

10.1 The Executive Director will establish a work health and safety committee upon request by the staff health and safety representative or request by staff members. The committee will be established within two months of any such request.

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- 10.2 The Work Health and Safety Committee will include the staff representative. At least half of the members will be nominees of persons other than the Executive Director.
- 10.3 The role of the committee will be to facilitate consultation work health and safety matters and to assist in developing rules and procedures for the Council office in accord with s77 of the Act.
- 10.4 The committee will meet at least every three months or at any reasonable time upon the request of at least half of its members.

11 Review of the Work Health and Safety Policy

- 11.1 The effectiveness of the Work Health and Safety Policy will be considered by the Council on an ongoing basis. Any person employed at the Council may raise any issues of concern at Council staff meetings.