Government of **Western Australia**
Department of **Health**

Work Health and Safety Operational Framework

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WORK HEALTH AND SAFETY OPERATIONAL FRAMEWORK

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1. INTRODUCTION

1.1 Purpose

The purpose of this Operational Framework (this Framework) is to:

a) support the WA health system to implement effective work health and safety management systems that are consistent with WA work health and safety (WHS) legislation
b) provide information to clarify the duties and responsibilities of officers and managers in contributing to a safe and healthy work environment.

This Framework applies to all Health Service Providers (HSPs) and the WA Department of Health (the Department). Throughout the Framework, these organisations are referred to collectively as "WA health entities".

The Department is responsible for monitoring system-wide WHS management in its role as System Manager under the *Health Services Act 2016*. The Department is also a Person Conducting a Business or Undertaking (PCBU) in its own right and must comply with the requirements placed on all WA health entities in this Operational Framework.

WA health entitles must take a risk-based approach when identifying WHS risks and considering and developing controls to manage WHS risks. Health care is a diverse industry, which can involve the delivery of frontline support and provision of services in high-risk environments (e.g., first responder agencies, frontline hospital staff). Given the nature of these services, and the complex environments in which health care workers operate across the Perth metropolitan area and rural Western Australia, workers may be exposed to a variety of risks, some of which may be unforeseeable.

While each WA health entity must tailor its work, health and safety management systems to the relevant operating environment, this Framework supports a collaborative system-wide approach to shared WHS issues. The health, safety and wellbeing of workers within the WA health system is fundamental to delivering quality healthcare services.

1.2 Key Definitions

WA health entity: Throughout this document the terms "WA health entity" and “WA Health Entities” are used to mean the Department and HSPs established under the *Health Services Act 2016*.

Officers: For the purposes of this document, an "Officer", in relation to the Department and HSPs, means the following:

Department of Health	Chief Executive (i.e. Director General); and
	Any person who is (within the organisational structure) directly responsible to the Director General and makes, or participates in making, decisions that affect the whole, or a substantial part, of the Department.

Health Service Providers	Any person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the HSP. This will include members of the Board (where a Board exists) and the Chief Executives of each HSP.

Note: Regardless of whether you are an Officer, as defined in the WHS Act, it is expected that any person acting in an executive position will conduct themselves in a manner consistent with the duties of an Officer under the WHS Act.

Other persons: Includes any person at a WA health entity's workplace, such as patients, consumers, clients, customers, sales representatives and visitors entering or utilising the WA health entity's workplaces.

Person conducting a business or undertaking (PCBU): Under the WHS Act, WA health entities are PCBUs and have a primary duty of care to ensure workplace health and safety, so far as is reasonably practicable.

Reasonably practicable: In relation to a duty to ensure health and safety, which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters.

Worker: Anyone who carries out work for a WA health entity is given the legal status of "worker". Workers include:

a) employees
b) contractors
c) sub-contractors, including visiting medical practitioners or nurses
d) employees of a WA health entity working at another WA health entity's workplaces (i.e. embedded workers")
e) employees of contractors and sub-contractors
f) employees of a labour hire company
g) apprentices or trainees
h) students on clinical, work experience or other placements
i) volunteers.

1.3 Mandatory requirements

Each WA health entity, through its Officers and managers, must:

a) take all reasonably practicable actions to ensure the health and safety of workers when it:
    i. directs or influences work carried out by a worker
    ii. engages, or causes to engage, a worker to carry out work (including through subcontracting)
    iii. has management or control of a workplace.
b) ensure, so far as is reasonably practicable, the health and safety of other persons when they are visiting the workplace (e.g., patients and hospital visitors)
c) ensure they consult, cooperate and coordinate with all other organisations with which the WA health entity shares a work health and safety duty in relation to the same matter e.g., organisations that lease property on WA health entity's premises and other WA health entities where staff are based at another WA health entity's premises.

1.4 Implementation

Health and safety in the workplace is a key business risk and must be considered in all planning decisions of a WA health entity. Each Chief Executive, Board member, and other Officers, must actively promote WHS through communication structures embedded in the WA health entity's WHS Management System.

2. OVERVIEW

2.1 About this document

The purpose of this document is to provide a framework within which the *Work Health and Safety Act 2020* (**WHS Act**) and *Work Health and Safety (General) Regulations 2022* (**WHS Regulations**) can be implemented across WA health entities.

It has been developed so that Officers (as defined in section 1.3) and managers can understand the scope of their role in contributing to:

a) the development, implementation and monitoring of a Work Health and Safety (**WHS**) management system
b) a safe and healthy workplace.

The document is divided into the following sections:
Section 1 Introduction
Section 2 Overview
Section 3 Legislative Framework
Section 4 Embedding a Safety Culture
Section 5 Overview of a WHS Management System
Section 6 A WHS Management System for the WA health system, including the requirements of duty holders
Section 7 WorkSafe WA and union visits to WA health entities

Information on the responsibilities of Officers and managers is provided at the end of each section.

It also includes three appendices:

1. Overview of the Legislative Framework
2. Terms of Reference for the System-wide WHS Consultative Forum
3. Diagram of the Process for Notifying WorkSafe WA of Incidents

Note: Injury management and recovery at work are important components of any WHS Management System. Each WA health entity must have their own WHS management policies and procedures, which include injury management and recovery at work.

In this document the terms:

a) must and will – indicate a mandatory action required that must be complied with
b) should – indicates a recommended action that should be followed unless there are sound reasons for taking a different course of action.

3. LEGISLATIVE FRAMEWORK

An overview of the legislative framework is provided in Appendix 1.

3.1 Primary duty of care

The primary duty of care is set out in section 19 of the WHS Act. It is summarised below.

WA health entities as PCBUs must ensure, so far as is reasonably practicable, the health and safety of:

a) workers engaged, or caused to be engaged by, the WA health entity
b) workers whose activities in carrying out work are influenced or directed by the WA health entity while the workers are at work in the WA health entity's business or undertaking
c) other persons who may be put at risk from work carried out as part of the conduct of the WA health entity's business or undertaking e.g., patients, visitors, and members of the public.

3.2 Reasonably practicable

The obligation of a PCBU to ensure health and safety is qualified by what is "reasonably practicable". The test of "reasonably practicable" is an element of almost every duty in the WHS Act. It is defined by section 18 of the WHS Act to mean that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters.

In giving effect to the primary duty to ensure health and safety, a WA health entity must, so far as is reasonably practicable:

a) ensure the provision and maintenance of a work environment without risks to health and safety
b) ensure the provision and maintenance of safe plant and structures
c) ensure the provision and maintenance of safe systems of work
d) ensure the safe use, handling and storage of plant, structures and substances
e) ensure the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities e.g., lunch rooms, toilets and first aid facilities
f) ensure the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking
g) ensure that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking
h) where premises owned, controlled, or managed by the PCBU are being used for worker accommodation, the PCBU must maintain the premises so that the workers occupying the premises are not exposed to risks to health and safety.

3.3 Further duties

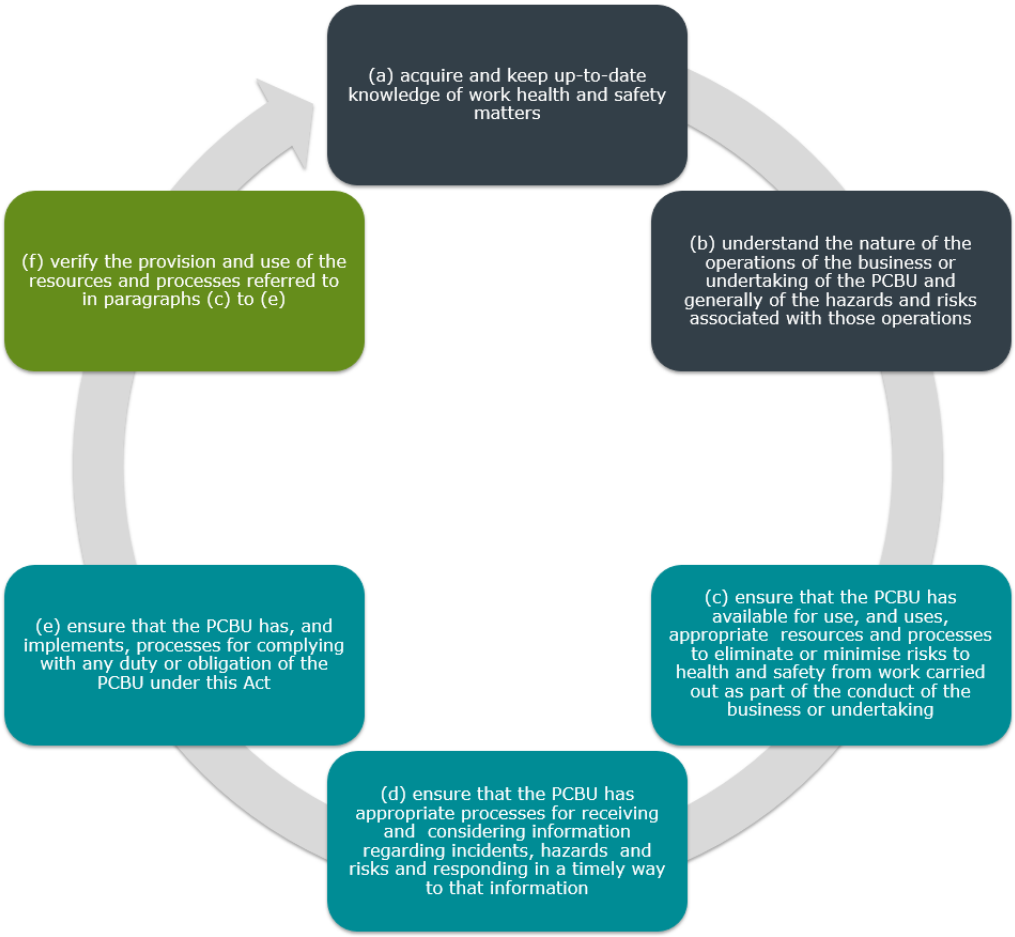
Sections 20 to 26 of the WHS Act impose further duties on PCBUs.

Some of these further duties of potential relevance to WA health entities are set out in the table below.

Duty holder	Duty to ensure health and safety in the workplace
PCBUs who have management or control of workplaces (section 20)	A PCBU with management of control of a workplace must ensure, so far as is reasonably practicable, that the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.
PCBUs with management or control of fixtures, fittings or plant at workplaces (section 21)	A PCBU with management or control of fixtures, fittings or plant at a workplace must ensure, so far as is reasonably practicable, that the fixtures, fittings and plant do not put at risk the health and safety of any person.
	A PCBU that installs, erects or commissions plant or structures must ensure all workplace activity relating to the plant or structure including its decommissioning or dismantling is, so far as is reasonably practicable, without risks to health and safety.
Designers of plant, structures (section 22)	A PCBU who is a designer of a plant or structure that is to be used, or could reasonably be expected to be used, at a workplace must ensure all workplace activity relating to it including its handling or construction, storage, dismantling and disposal is designed, so far as is reasonably practicable, to be without risks to health or safety when used for its intended purpose.
Importers of plant, substances or structures (section 24)	A PCBU who is an importer of any plant, substance or structure which is to be used, or could reasonably be expected to be used, at a workplace must ensure all workplace activity relating to its handling, storage, disposal or dismantling is, so far as is reasonably practicable, without risks to health or safety when used for its intended purpose.
People commissioning plant or structures (section 26)	A PCBU who commissions plant or structures must also ensure, so far as is reasonably practicable, all workplace activity relating to the plant or structure including its decommissioning or dismantling is without risks to health or safety.

3.4 Officer duties

If a PCBU has a duty under the WHS Act, an Officer of that PCBU must exercise due diligence to ensure that the PCBU complies with its duty. "Due diligence" includes taking the following reasonable steps, which are set out in the diagram below.



Officers will note that:

- steps (a) and (b) involve obtaining and testing knowledge
- steps (c), (d) and (e) involve ensuring that the PCBU has appropriate processes and resources for legal compliance and to identify trends from hazard and risk information
- step (f) requires ongoing verification of the use of these processes and resources.

The Officer duty is a standalone, pro-active duty, owed every day. Effective officers have an immeasurable, positive impact on safety outcomes.

While Officers include, but are not limited to, board members and some WA health entity executives, there is an important distinction between the role and purpose of a Board and that of the executive team. The Board's role is to provide strategic direction to the business and to oversee the management of business risks (including those related to WHS). Boards do not manage risk directly, but they must:

- understand the purpose, the operations and the risks of a business
- ensure adequate resources and personnel are made available to managers
- actively seek assurance that risk is being managed appropriately.

For further information, see Safe Work Australia report titled "Measuring and reporting on work health and safety" (March 2017).

The specific duties and obligations set out in this Framework are targeted at officers in operational roles, rather than Board members.

3.4 Duties of workers

While at work, a worker must:

(a) take reasonable care for the worker's own health and safety
(b) take reasonable care that the worker's acts or omissions do not adversely affect the health and safety of other persons
(c) comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the PCBU to allow the person to comply with the WHS Act
(d) cooperate with any reasonable policy or procedure of the PCBU relating to health or safety at the workplace that has been notified to workers.

3.5 Duties of other persons at the workplace

A person at a workplace (whether or not that person has another duty under the WHS legislation) must:

(a) take reasonable care for the person's own health and safety
(b) take reasonable care that the person's acts or omissions do not adversely affect the health and safety of other persons
(c) comply, so far as the person is reasonably able, with any reasonable instruction that is given by the PCBU to allow the PCBU to comply with the WHS legislation.

3.6 Consultation

If more than one person has a duty in relation to the same matter under the WHS Act, all duty holders must, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter e.g., public private partnerships, other businesses on a facility campus such as a florist or café, or employees of other WA health entities.

WA health entities must also consult with their workers to the extent they are, or are likely to be, directly affected by a work health or safety matter.

WorkSafe WA Code of Practice *Work Health and Safety Consultation, Cooperation and Coordination* provides guidance on what may be considered reasonably practicable.

More information on consultation is included in section 6.5.

3.7 Health and Safety Representatives – Powers and functions for a work group under the WHS Act

Health and Safety Representatives (HSRs) may be elected by a work group to represent them on work health and safety matters as part of a consultation arrangement agreed between a WA health entity and its workers, as defined in section 1.2.

HSRs represent workers on WHS matters as part of a consultation arrangement agreed between a WA health entity and its workers

Under section 68 of the WHS Act, HSRs may:

(a) represent the workers in their work group in matters relating to work health and safety
(b) monitor measures taken by the WA health entity or representatives of the WA health entity in compliance with the WHS Act in relation to their work group
(c) investigate complaints from members of their work group relating to work health and safety
(d) inquire into anything that appears to be a risk to the health or safety of their work group arising from the conduct of the WA health entity
(e) inspect the workplace or a part of the workplace where a worker within their work group works under the conditions set out in the WHS Act
(f) accompany an Inspector during an inspection of the workplace
(g) be present at interviews concerning work health and safety with consent of one or more workers
(h) request the establishment of a health and safety committee
(i) receive information concerning the work health and safety of workers in the work group
(j) request the assistance of any person whenever necessary.

Under Division 4 of the WHS Act, WA health entities must establish a WHS committee within two months of receiving a request from a HSR, or five or more workers.

Under Division 7 of the WHS Act, HSRs can, in some circumstances, issue the WA health entity with a Provisional Improvement Notice but only where they have:

(a) completed initial HSR training as set out under the WHS Act
(b) consulted with the alleged contravener or likely contravener before issuing a Provisional Improvement Notice, to allow them to rectify the matter.

A Provisional Improvement Notice requires a WHS matter to be remedied or a potential WHS incident to be prevented.

The WA health entity can seek a WorkSafe WA review of the Provisional Improvement Notice within seven days. A WorkSafe WA Inspector may cancel, confirm, or confirm with modification, the Notice.

Under Division 6 of the WHS Act, HSRs may direct a worker who is in their work group to cease work, after consultation with the manager who is directing the work, where there is a reasonable concern that to carry out the work would expose the worker to serious risk to their health and safety. A HSR may direct a worker to cease work without consultation where the risk is so serious and immediate or imminent that it is not reasonable to consult before giving direction.

PCBUs (such as the WA health entities) have legal obligations to consult, so far as is practicable, with HSRs on health and safety matters. Relevantly, PCBUs are also required to provide any resources, facilities, and assistance to HSRs that are reasonably necessary to enable them to carry out their functions and exercise their powers. Section 70 of the WHS Act sets out the obligations of all PCBUs to HSRs.

3.8 Work Health and Safety Issue Resolution

Under section 81 of the WHS Act, there is a requirement to resolve WHS issues arising at the workplace. Under section 82 of the WHS Act any party to the issue can refer the matter to WorkSafe WA if a matter cannot be resolved.

Regulations 22 and 23 of the WHS Regulations require an agreed procedure for issue resolution at the workplace. Where there is no agreed procedure, the default procedure as outlined in regulation 23 applies.

More detailed information on WHS issue resolution is set out in section 6.5.8.

4. EMBEDDING A SAFETY CULTURE

Understanding what influences a safety culture can make a significant contribution to changing attitudes and behaviours in relation to workplace health and safety. For a safety culture to be successful, it needs to be led by Chief Executives, Officers, and the executive team. This involves leading by example as well as integrating health and safety considerations into decision-making.

The due diligence requirements as outlined in section 27(5) of the WHS Act (refer to section 3 Legislative Framework) are intended to be drivers of active involvement by Officers in work health and safety matters and facilitate leadership of WHS. Safety leadership is a prerequisite of a positive organisational safety culture.

The Chief Executive, Officers, executives and managers (as work health and safety leaders) can influence the culture of their WA health entity by observing the following principles:

a) **Communicating the WA health entity's values:** Communicating behaviours, decisions and attitudes that are expected, supported, and valued.
b) **Demonstrating leadership:** Acting to motivate and inspire others to work towards achieving common goals or outcomes by sending clear and consistent messages about the importance of work health and safety.
c) **Clarifying required and expected behaviour:** Clarifying the specific behaviours required and expected in the workplace.
d) **Personalising safety outcomes:** Making work health and safety more obvious and relevant so that individuals personalise their role in preventing and eliminating risks and hazards.
e) **Developing positive safety attitudes:** Fostering the development of attitudes and beliefs that support safe behaviour.
f) **Engaging and owning safety responsibilities and accountabilities:** Increasing input, actions and involvement in the safety management process by workers using available consultative mechanisms such as WHS Committees and HSRs. Underpinning this is an emphasis on encouraging proactive workplace hazard inspections; timely reporting of hazards, incidents and near misses and effective investigation and response to reporting to effect change.
g) **Increasing hazard/risk awareness and preventive controls:** Reviewing WHS data/ reporting to identify the most common hazards impacting on WA health entity workers;

communicating these to workers for increased awareness of their workplace risk profile, and promoting systems, behaviours and decision making that will minimise the risk associated with these hazards.

h) **Improving understanding and effective implementation of safety management systems**: Communicating all aspects of the WHS processes that contribute to the safety management system, including governance, consultative processes, risk management approach, proactive and reactive hazard identification, and incident investigation.
i) **Monitoring, reviewing and reflecting on personal effectiveness:** Using various sources of information to gain feedback on the effectiveness of culture actions and other safety-related behaviours.

Practical examples of how to embed a safety culture include visible safety leadership, including through modelling behaviours, setting work health and safety specific key performance indicators, commissioning work health and safety audits and overseeing implementation of opportunities to improve.

Further examples are provided throughout this Framework.

5. OVERVIEW OF A WORK HEALTH AND SAFETY MANAGEMENT SYSTEM

5.1 What is a WHS Management System?

A WHS Management System is a systematic and holistic approach that uses risk management principles to identify and manage health and safety risks in the workplace. An effective system considers organisational structure, sets out responsibilities and requirements for each part of the organisation, defines work policies and procedures and implements a range of proactive and responsive methods to minimise and control adverse outcomes (or harm) from workplace operations.

This system must be part of a WA health entity's usual business planning processes and become part of core business. The Chief Executive, Officers, and managers must develop a culture where safety is valued by the leadership and the workforce in a way that is consistent with the principles outlined in section 4 of this Framework.

Each WA health entity must integrate its WHS Management System into its wider management system.

5.2 Components of a WHS Management System

Section 6 of this Framework takes each of the following components and provides guidance on their implementation, particularly as they relate to the responsibilities of Officers and managers:

a) WHS policy and commitment
b) Management responsibility: structures and governance arrangements
c) WHS strategic planning
d) Consultation, cooperation and coordination

e) Risk management processes
f) Information, instruction and training framework
g) Incident recording, investigation, analysis and review
h) Measuring and evaluating WHS performance
i) Reviewing and continuous improvement of the WHS Management System
j) Chief Executive reporting and leadership.

6. WHS MANAGEMENT SYSTEM FOR THE WA HEALTH SYSTEM

6.1 System-wide Health, Safety and Wellbeing Statement

The System-wide Health, Safety and Wellbeing Statement (the Statement), which sits under the MP 0180 *Work, Health and Safety Management Policy*, is a public statement giving effect to the WA health system's commitment to work health and safety. The Statement informs each WA health entity's workers, suppliers, patients, visitors and other persons that WHS management is an integral part of all operations.

Each Chief Executive will be required to endorse the Statement. The Statement will be periodically reviewed and updated, as appropriate.

Any WA health entity's local WHS statement must be consistent with the Statement.

6.2 System-wide Work Health and Safety Consultative Forum

The System-wide WHS Consultative Forum (the Forum) provides a mechanism for the WA health entities to assist them in meeting their obligations to "consult, coordinate and cooperate" in relation to shared duties, as required under the WHS legislation. The Forum will facilitate the identification, prioritisation, and discussion of system wide WHS risks and mitigation strategies. Appendix 2 contains the terms of reference for the Forum.

6.3 Management Responsibility: Structures and Governance Arrangements

For Officers to demonstrate that they have been pro-active in ensuring that a WA health entity has done what is reasonably practicable to ensure work health and safety, the following structures and systems must be in place:

a) a governance structure that cascades and records WHS information, both from the Chief Executive and managers to workers and from the workers to managers and the Board (top/down and bottom/up). The governance structure must make provision for, but not be limited to:
    i. forums where Officers and senior managers are briefed on WHS and discuss WHS issues for the WA health entity (existing executive management meetings could be used to achieve this purpose)
    ii. an escalation process so that urgent WHS issues can be addressed at an appropriately senior level
    iii. WHS briefings/reports for Board meetings
    iv. arrangements for consultation within the WA health entity and with other PCBUs where there are shared WHS duties.

b) regular WHS reports for informing various levels of the organisation on hazards and risks, for example, progress of WHS projects and improvement plans; emerging issues; trends; training undertaken; equipment purchases; notices issued by WorkSafe WA or Provisional Improvement Notices issued by HSRs; actions taken to remedy WHS matters and actions that remain outstanding
c) a communication system for reinforcing safety, sharing WHS innovation and outcomes of WHS projects
d) processes that give managers access to decision makers for urgent issues
e) processes whereby WHS matters that require redress are escalated, in a timely way, to the appropriately delegated manager
f) clear and appropriate delegations for approving WHS related purchases so that WHS matters are promptly addressed
g) documented consideration of WHS issues/implications in planning and decision making. This could be achieved by including a section titled 'WHS implications' in any templates utilised to seek approval for decisions affecting the WA health entity, including purchasing/procurement and capital development/ refurbishment templates. Officers could also consider including WHS professionals within the WA health entity in project and procurement planning to assist in considering WHS implications
h) WHS education and training processes which identify needs and provide training and instruction to address the identified needs, and which target all levels of the WA health entity, commensurate with responsibilities
i) WHS requirements included in statements of duties/job descriptions
j) feedback on WHS compliance being included in formal meetings with staff to discuss performance development (e.g., performance reviews).

What is my role as an Officer?

Officers must:

a) maintain an appropriate level of understanding of their WHS obligations
b) have up-to-date knowledge of WHS matters
c) understand the hazards and risks associated with the WA health entity
d) ensure the WA health entity has and uses appropriate resources and processes to eliminate or minimise safety risks from the work carried out
e) ensure the provision and use of resources and processes are verified
f) ensure the WA health entity has appropriate processes to receive information about incidents, hazards and risks, and responds in a timely manner to that information
g) ensure the WA health entity has and implements processes to comply with any duty or obligation under WHS laws.

What is my role as a manager?

Managers must:

a) maintain an appropriate level of understanding of their WHS obligations
b) have up-to-date knowledge of WHS matters
c) understand the risks and hazards associated with their areas of responsibility
d) ensure WHS implications are considered as part of any decisions they make

e) ensure that WHS is a standing agenda item of staff meetings and individual performance development meetings and that WHS information is shared, as appropriate
f) ensure WHS matters or purchases, requiring the approval of more senior managers, are escalated for consideration in a timely way
g) provide timely information to senior managers on WHS matters e.g., notices issued by WorkSafe WA, or Provisional Improvement Notices issued by HSRs, Incidents notifiable to WorkSafe WA and emerging issues/trends.

Note: Under the WHS Act, managers are classified as workers. As workers they must comply with any reasonable instruction by the WA health entity and cooperate with any reasonable policies and procedures of the WA health entity. They will also have appropriate and reasonable levels of administrative responsibility for implementing WHS processes in the workplaces for which they have responsibility.

6.4 WHS Strategic Planning

6.4.1 WHS and strategic, operational and service delivery planning

WHS considerations should be included in planning at all levels of a WA health entity. Seeking to eliminate risks in the planning phase is often cheaper and more effective than controlling risks and consistent with legal obligations.

The integration of WHS considerations in strategic, operational, and service delivery planning should promote a safety culture.

WHS considerations should be factored into matters such as:
a) strategic, operational and annual business plans
b) service development plans
c) building/refurbishment plans
d) individual unit plans
e) procurement risk assessment
f) strategic and organisational risk and audit schedule
g) strategic, organisational, and service level risk registers.

6.4.2 Incorporating WHS in the planning process

In a practical sense, the involvement of WHS in the planning process can be demonstrated by:
a) including a section on WHS implications on briefing and planning templates
b) having WHS as a standing agenda item for team meetings
c) analysing WHS risks before the commencement of a new project, such as a new ward or clinical service, and documenting the risks and control measures
d) providing access to WHS legal and other documentation updates such as standards and codes of practice
e) considering and addressing WHS implications as part of a health facility design/refurbishment process (noting that failure to consider safety at the

design/building stage may result in costly modifications to meet overlooked WHS requirements after commissioning)
f) including a documented WHS assessment for goods and services
g) including specified WHS obligations and accountabilities in all contracts for services, leases and other such documents with third parties, where practicable.

6.4.3 WHS Planning

In addition to incorporating WHS considerations at all levels of business planning, as described in sections 6.4.1 and 6.4.2, specific WHS planning is also required.

Specific WHS improvement plans may also be developed in consultation with WHS Committees/HSRs or any other consultation arrangements that may apply in the WA health entity. This type of planning is directly related to improving the overall WHS Management System and may be based on audits or reviews that identify areas for improvement.

Sources of information to assist with WHS planning include:
a) reports of hazards, incidents and near misses
b) workers compensation data
c) notices issued by WorkSafe WA or Provisional Improvement Notices issued by HSRs
d) reports arising from workplace inspections especially those identifying emerging hazards
e) results of audits for a facility or service
f) information about near misses or incidents at other WA health entities
g) information about WHS trends and emerging risks across the WA health system or health systems in other jurisdictions
h) outcomes of risk assessments and specific audits such as hazard audits
i) minutes of WHS Committee meetings or from other consultation arrangement meetings such as with HSRs
j) input from workers
k) manufacturers' instructions
l) industry standards
m) safety data sheets
n) WHS research
o) employee absenteeism, as a potential early indicator of poor workplace culture
p) workplace grievances, also as a potential early indicator of poor workplace culture
q) employee turnover and retention
r) clinical incident reporting, which may be relevant in relation to "other persons" under the WHS legislation
s) activation of emergency responses (e.g., Code Black).

WHS priorities should then be determined and reflected in the planning documents. Priorities may be, for example, improving incident reporting or hazard assessment.

A WHS Activities Calendar may also be developed for the year with a focus on a particular hazard each month e.g., January – manual handling, April – housekeeping, July – dangerous goods storage, October – review a safe operating procedure, December – inspect facilities for trip hazards.

Progress towards achieving targets in WHS plans should be regularly reviewed. Targets at risk of not being met should be prioritised following consideration of the risks of not meeting those targets. It is recommended that success in managing WHS risks be recognised and shared. This could include updates at staff briefings and developing lessons learned reports that can be shared with other WA health entities where appropriate.

What is my role as an Officer?

Officers must ensure that:

a) WHS implications are considered, and these considerations documented, when making decisions and undertaking planning activities
b) WHS objectives, targets and performance indicators are identified in planning documents and progress against these monitored
c) adequate resources are provided (so far as is reasonably practicable) so that workplaces are safe for workers, patients, visitors and others who may be impacted by the activities of the WA health entity.

What is my role as a manager?

Managers must:

a) ensure that WHS is considered, and these considerations documented, when plans are developed and workplace decisions made
b) escalate any WHS issues that are outside their authority to remedy
c) respond in a timely way to remedy WHS issues brought to their attention, and within their scope of authority and delegation.

6.5 Consultation, Cooperation and Coordination

6.5.1 Purpose of consultation

Consultation is a key component in keeping a workplace safe. WHS legislation requires that a WA health entity must consult, so far as is reasonably practicable, with workers who are, or are likely to be, directly affected by a health and safety matter.

Workers may have the best knowledge about hazardous work practices and any gaps in work health and safety management, so effective consultation with workers and their representatives is crucial to the success of any WHS management system.

The purpose of consultation is to:

a) develop an understanding of potential hazards and risks
b) share relevant WHS information with workers
c) provide workers with a reasonable opportunity to express their views and have them taken into account. However, consultation is not necessarily consensus or agreement.
d) provide workers with a reasonable opportunity to contribute to the decision-making process relating to a matter.

Following consultation, workers must be advised of any outcomes in a timely manner.

Workers must comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the WA health entity; and cooperate with any reasonable policy or procedure of the person conducting the business or undertaking relating to health or safety at the workplace that has been notified to workers.

6.5.2 When is consultation required?

Consultation must occur when:

a) decisions are to be made about WHS consultation arrangements. Workers must be consulted about the types of consultation arrangements to be put in place in their workplace
b) identifying hazards and assessing risks to health and safety, investigation of reported incidents, hazards and near misses, and making decisions on how to eliminate or minimise those risks
c) decisions are to be made about amenities for the welfare of workers
d) changes are proposed that affect the health and safety of workers. For example, changes to facilities, fixtures, fittings, furniture, equipment, substances or systems of work that may affect the health or safety of workers or other persons. This includes the development of new facilities and refurbishment of existing facilities
e) developing procedures for:
    i. resolving work health or safety issues at the workplace;
    ii. monitoring the health of workers;
    iii. monitoring the conditions at any workplace under the management or control of a WA health entity; and
    iv. providing information and training for workers.

6.5.3 Consultation duties of a WA health entity

Effective consultation is a two-way process which requires the WA health entity to:

a) talk to workers about health and safety matter
b) listen to their concerns and raise concerns with them
c) seek and share views and information
d) consider what workers say before deciding
e) provide feedback on actions and decisions.

As discussed above, all duty holders must also, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter. Where WA health entities have employees of other WA health entities working on their sites, these employees must be treated as workers and included in consultation processes.

HSRs and WHS committees are an important feature in consultation processes required by the WHS legislation.

6.5.4 What is reasonably practicable in relation to the duties to consult with workers and to consult, cooperate and coordinate activities with other duty holders?

The Code of Practice: *Work Health and Safety Consultation, Cooperation and Coordination* (issued by WorkSafe WA) provides guidance on what may be considered reasonably practicable.

In summary, "reasonably practicable" consultation is that which is both possible and reasonable for the circumstances.

What is reasonably practicable in relation to consultation with workers will depend on factors such as the:

a) size and nature of the workplace;
b) nature of the work being carried out e.g., is it a low risk area such as an administrative unit or a higher risk area such as an inpatient clinical area at a mental health facility;
c) nature and severity of the hazard e.g., asbestos removal requiring the advice of a subject matter expert;
d) nature of the decision or action, including the urgency to decide or take action;
e) availability of the relevant workers and any HSRs e.g., when HSRs are on leave;
f) work arrangements, such as shift work and remote work; and
g) demographics of the workforce, including languages spoken and literacy levels.

The aim of consultation is to ensure there is enough information to make well-informed decisions and that the workers who may be affected are given a reasonable opportunity to provide their views and understand the reasons for decisions.

An urgent response to an immediate risk may necessarily limit the extent of consultation in some circumstances.

It may also not be reasonably practicable to consult with workers who are on extended leave. However, it would be appropriate to ensure that these workers are kept informed about any matters that may affect their health and safety when they return to work.

It is not always necessary to consult with every worker in the workplace. The workers consulted with will be those who are, or could be, directly affected by a health and safety matter.

What is reasonably practicable in relation to consulting, cooperating and coordinating activities with other duty holders will depend on the circumstances, including the nature of the work and the extent and duration of the shared duty.

6.5.5 Shared WHS duties

Where a WA health entity shares a work health and safety duty with another WA health entity, company or business (PCBU) in relation to the same matter, they must consult, cooperate and coordinate with each other, so far as is reasonably practicable.

Other PCBU duty holders may include:

a) other WA health entities, including in circumstances where workers from one WA health entity are working in a workplace controlled by another WA health entity
b) labour hire companies that provide "agency staff" in hospitals
c) premises owners
d) contractors
e) public private partnerships
f) other government agencies
g) universities that place students in WA health entities' facilities
h) private hospitals
i) other businesses located on a hospital campus (e.g., a florist, café, gift shop)
j) entities that provide a service to a hospital campus or other type of facility (e.g., Silver Chain or non-government organisations)
k) entities that lease properties from a WA health entity
l) entities that share office space/buildings with a WA health entity
m) St John Ambulance in respect of patient transport.

6.5.6 How to consult – consultation arrangements

Once there has been agreement on procedures for consultation, consultation needs to be in accordance with those procedures. For example, if the workers are represented by an HSR, consultation must involve that representative.

The Safe Work Australia *Worker Representation and Participation Guide* provides information on the representation and participation of workers in health and safety matters at the workplace.

The WorkSafe WA Code of Practice *Work Health and Safety Consultation, Cooperation and Coordination* sets out requirements and advice on the form that agreed consultation arrangements can take, and how they must be supported. The Code of Practice says that the WHS Act does not require agreed procedures for consultation, but that doing so will help make consultation more effective. WA health entities could refer to the Code of Practice when considering whether to implement agreed consultation procedures.

WA health entities can also consult on risks shared with other WA health entities at the WA System-wide WHS Consultative Forum (refer section 6.2).

6.5.7 Record Actions Taken

All consultation should be recorded, including consultation with workers, HSRs/WHS Committees, unions and in-house WHS professionals.

Recording actions that have been taken (even if it is simply referral to higher levels of management or consultation with appropriate staff) creates a record that can assist in demonstrating that reasonably practicable steps were taken.

6.5.8 WHS Issue Resolution

Under Division 5 *Issue Resolution* of the WHS Act, WA health entities must have documented procedures in place for resolving WHS issues. The issue resolution process applies after a work health and safety matter is raised but not resolved to the satisfaction of any party after discussing the matter. All parties involved in the issue must make reasonable efforts to come to an effective, timely and final solution of the matter.

A party to the issue, under section 80 of the WHS Act, not only includes the WA health entity, worker/s and a HSR, but can also include representatives of these persons such as a union representative.

If the WHS issue is not resolved after reasonable efforts have been made to achieve an effective resolution, anyone who is party to the issue may ask WorkSafe WA to appoint an Inspector to attend the workplace to assist in resolving the issue.

WA health entities must have a documented procedure, which can be the default procedure as outlined in regulation 23 of the WHS Regulations or an agreed procedure which, at a minimum, includes the steps set out in regulation 23.

What is my role as an Officer?

Officers must ensure that consultation arrangements:

a) meet legislative requirements
b) link to the governance structure of the WA health entity including a top down/bottom up reporting of significant issues raised within the consultation arrangements
c) are appropriately linked into the WA health entity's planning and decision-making processes
d) are in place where there are shared WHS responsibilities with other organisations.

What is my role as a manager?

Managers must consult, so far as is reasonably practicable:

a) with WHS Committees/work groups to agree on regular meeting times for them to discuss health and safety issues taking into account the type of work, the level of risk, the effectiveness of risk controls, the individual needs of workers, the size and complexity of the work group and the workplace
b) with workers who are, or who are likely to be, directly affected by a work health or safety matter
c) with HSRs for investigation of incident/ hazard/ near miss reports to identify causal factors, analyse risk, and determine required controls to mitigate risk
d) when introducing any changes e.g., to premises, systems, procedures, equipment or substances. Information should be provided as early as reasonably practicable so that workers and their WHS representatives have time to consider matters and provide feedback prior to introduction minimising increased risks/costs. When updated processes or new technology is introduced into the health workplace, new hazards will emerge that must be eliminated or minimised. Ongoing communication with workers

about the risks in their jobs and the risk management strategies to be implemented to prevent exposure to risk must be undertaken.

6.6 Risk Management

6.6.1 What is risk management?

Risk management involves developing systems to identify and analyse hazards with a view to eliminating or minimising the risk of exposure, where elimination is not practicable.

A WA health entity must identify reasonably foreseeable hazards that may arise in the workplace and manage the risk by firstly, seeking to eliminate the risk. Where elimination is not reasonably practicable, the WA health entity must minimise the risk using the hierarchy of control measures provided in regulation 36 of the WHS Regulations.

What is a hazard?
A hazard is anything that has the potential to cause harm to people, equipment, structures and/or the environment. Hazards in the workplace may include violence, hazardous chemicals, electricity, working from heights or moving patients.

What is a risk?
The Code of Practice: *How to manage work health and safety risks* (issued by WorkSafe WA) defines "risk" as the possibility that harm (death, injury or illness) might occur when exposed to a hazard.

Risk is judged or assessed in terms of likelihood (how likely is it that the event will happen?) and consequence or impact (how bad will an event be if it happens?). Risk assesses who could be harmed and what the consequences would be.

The assessment needs to consider foreseeable hazards or risks that may cause harm to an individual or has a latency period e.g., asbestosis following exposure to asbestos.

What is reasonably practicable?
Deciding what is "reasonably practicable" to protect people from harm requires taking into account and weighing up all relevant matters, including:

a) the likelihood of the hazard or risk concerned occurring
b) the degree of harm that might result from the hazard or risk
c) knowledge about the hazard or risk, and ways of eliminating or minimising the risk
d) the availability and suitability of ways to eliminate or minimise the risk
e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

The degree of control a WA health entity has over the hazard/risk will impact on what is considered reasonably practicable.

6.6.2 The risk management process

WA health entities are required to manage WHS risks consistent with *MP 0006/16 Risk Management Policy*, issued by the System Manager under section 26(d) of the *Health Services Act* 2016 as part of the Risk, Compliance and Audit Policy Framework.

Managing work health and safety risk is a proactive and ongoing process.

The risk management process covers the following key stages:

a) establishing the context
b) identifying the hazards
c) assessing/analysing the risks
d) eliminating or controlling the risks, considering the hierarchy of risk controls
e) monitoring and reviewing risks and controls
f) communicating and consulting during each step of the process.

6.6.3 Risk management and consultation

Consultation with HSRs, WHS Committees and any other consultative arrangements within the workplace, such as work groups, is a legal requirement when identifying hazards and assessing risks and when determining risk control strategies. This includes providing all relevant information in controlling the risk or hazard and providing available options.

6.6.4 Risk registers

In accordance with the *MP 0006/16 Risk Management Policy*, it is recommended that all WA health entities have an enterprise-wide risk register that is used to record, rate, monitor and report all risk, including work health and safety risk. WA health entities may also maintain operational risk registers for WHS risks.

6.6.5 Multi-layered control strategies

Due to the nature of work conducted in WA health entities' workplaces, there are a wide range of hazards which need to be identified, and eliminated or controlled e.g., hazardous chemicals, carcinogens, violence from patients and visitors, manual handling, slips trips and falls, radiation, biological hazards, electrical hazards and asbestos.

When considering risk controls a range of contributing internal and external factors will need to be identified, considered and managed in order to eliminate or control the risk.

For example, when seeking to prevent violence in the workplace, controls could include elimination of any concealment points in the facility layout; appropriate staff skills; appropriate provision of security personnel, clinical protocols including patient risk assessment and file flagging to identify patients presenting a risk to health and safety of staff; duress response procedures; clear protocols for police assistance; adequate lighting at night; after hours limited access; staff training in de-escalation and evasive self-defence; and appropriate staff support.

6.6.6 Minor capital works

WHS considerations should be addressed early in planning for minor capital works.

6.6.7 Procurement of goods and equipment

WA health entities should carry out WHS risk assessments prior to purchasing goods and equipment. While WHS matters are considered when choosing providers for inclusion in contracts, it is not possible to consider risks that are specific to the use and the location of those goods or equipment. For example, contracts are available for the purchase of lifters and a risk assessment should be carried out to determine which lifter is most appropriate based on its use, whether it can carry the intended weight and fit through doors, whether it needs to lift items directly from the floor, etc.

WA health entities must ensure that goods and equipment are fit for purpose by taking the following into consideration when undertaking risk assessments prior to purchase:

a) use of the goods/equipment
b) the location and environment in which it will be used
c) the location the goods and equipment will be stored
d) the workers using the goods/equipment.

Where there are adverse incidents arising out of goods or equipment, WA health entities, in addition to local actions, are required to report these details to the System Manager. This will enable the System Manager to share information across WA health entities and liaise with the Department of Finance in relation to any purchases made under common use agreements.

6.6.8 Procurement of services

WA health entities must utilise risk management practices when engaging and managing contractors or consultants and have procedures for managing contracts in place. In particular, there should be an assessment to determine that the work of the contractor/consultant does not create risks for workers and others; there is a safe workplace for the contractor/consultant; and there is a process to ensure that appropriate documentation (e.g., licences) are sighted prior to the contractor/consultant commencing work. For further information see the Procurement Policy Framework issued by the System Manager under section 26(d) of *the Health Services Act 2016*.

6.6.9 Delivering services in the community safely

The delivery of health services in the community, e.g., in homes, introduces specific WHS risks. This can include conducting hazardous manual tasks including patient handling, and personal safety and security issues. These risks must be assessed and eliminated, where reasonably practicable, or otherwise controlled.

While a WA health entity may not have complete control over the working environment in the community, it is still responsible for ensuring a safe system of work and for controlling risks so far as is reasonably practicable.

The risk management process should address issues associated with:

a) infection control procedures, sharps disposal and exposure to blood borne pathogens
b) clinical/cytotoxic waste disposal
c) hazardous manual handling
d) the provision and accessing of appropriate equipment
e) slips, trips and falls
f) spills and waste disposal
g) exposure to smoking
h) violence, particularly mechanisms for summoning assistance e.g., duress alarms and access to an appropriate duress response
i) vehicle selection and vehicle accidents
j) safe egress including the ability to leave quickly and safely if required
k) potential risks relating to animals on the premises
l) maintaining clinical and safety equipment required for the assigned work
m) communications e.g., access to an WA health entity mobile telephone, which is fully charged and contains emergency contact details
n) communications strategy to maintain communication prior to and immediately after the work
o) consideration of whether two workers are required to undertake the work.

WA health entities are required to have procedures in place that apply in the context of managing remote and isolated workers, as applicable. A risk assessment, that takes account of the individual circumstances, should occur prior to a visit to a home or other community setting. Workers must be clear that they are entitled to withdraw from a situation if they feel under threat or unsafe in any way.

6.6.10 Psychosocial risks

The WHS Act expressly refers to the fact that "health" includes psychological health. The following codes of practice issued by WorkSafe WA focus on different areas where psychosocial as well as related physical harms may be experienced in a workplace:

a) *Violence and aggression at work*. The Code of Practice – Violence and Aggression at Work focuses on the general principles which apply to the prevention and management of violence and aggression in the workplace. The intent of this code is to provide practical guidance for workplaces where people may be exposed to various forms of violence and aggression at work, including physical assault, sexual assault, verbal abuse, threats, intimidation and harassment, including sexual harassment.
b) *Workplace behaviour*. The Code of Practice – Workplace Behaviour focuses on the general principles which apply to the prevention and management of inappropriate or unreasonable behaviour in the workplace. The intent of the Workplace behaviour Code of practice is to provide practical guidance for workplaces where people may be exposed to various forms of inappropriate or unreasonable workplace behaviour including bullying, harassment, violence and aggression, discrimination and misconduct.
c) *Psychosocial hazards in the workplace*. The Code of Practice – Psychosocial Hazards in the Workplace focuses on the general principles which apply to the prevention and

management of psychosocial hazards in the workplace. The intent of this code is to provide practical guidance for workplaces where workers may be exposed to psychological and social hazards such as inappropriate behaviours, violence and aggression, and fatigue, stress and trauma, which can be harmful to their health.

The following mandatory policies issued by the System Manager under section 26(d) of the *Health Services Act 2016* are also relevant:

a) MP 0117/19 *Prevention of Workplace Bullying Policy*: The purpose of this policy is to ensure the maintenance of an environment which is free from workplace bullying. Its sets out the minimum requirements and responsibilities of the WA health system and staff members in order to prevent bullying from occurring in the workplace.
b) MP 0159/21 *Workplace Aggression and Violence Policy:* The purpose of this policy is to outline the minimum requirements and responsibilities of WA health entities in providing a safe workplace where staff members are not subjected to aggression and violence.
c) MP 0174/22 *Refusal or Withdrawal of Care for a Patient Exhibiting Aggressive or Violent Behaviour Policy*: The purpose of this policy is to outline the circumstances in which senior registered health professionals may refuse or withdraw care to patients who post a threat to staff members.

When assessing psychosocial risks and potential controls, WA health entities must consider the potential impact of a control to ensure that it does not create a new risk, whether to other workers, patients, or other persons.

6.6.11 Leasing of premises

Before a WA health entity enters into a lease arrangement for a premise, WA health entities must consider WHS issues and must ensure that mechanisms for consulting with landlords are included in lease arrangements, together with the requirement for repairs and maintenance to be undertaken promptly.

Prior to leasing premises, consideration should be given to whether:

a) the building is fit for purpose for which it will be used
b) there is asbestos in the building. Before leasing premises the WA health entity must identify if asbestos is present by reviewing the Asbestos Register, and if possible, find alternative premises. If this is not reasonably practicable, carry out an assessment of the risk of exposure to workers including where refurbishment may be required
c) there is a fire evacuation and emergency plan. This would need to include appropriate procedures so assistance can be provided to staff in the event of an emergency or violent incident, notification to emergency personnel and provision for testing of alarms and fire and emergency drills
d) there is fire safety compliance. This would involve viewing inspection schedules and checking that firefighting equipment is working and correct for the specific risks
e) residual current devices are installed. This is essential premises such as in some kitchens, laboratories, laundries, outpatient clinics, training rooms and administrative offices. There would also need to be consideration of whether there are adequate power points and cabling

f) there are adequate and appropriate amenities available. There would need to be consideration of how often they are cleaned, how waste is segregated, frequency of removal and disposal provision
g) the premises align with the requirements of Australasian Health Facility Guidelines relevant to the proposed use of the location
h) there is appropriate storage space, including adequate room for manual handling aids and secure storage for records and for hazardous chemicals
i) the carpeting and flooring is appropriate, clean and in good condition
j) egress is appropriate and meets requirements for disabled access and egress, and emergency egress, for example due to a fire or to avoid workplace violence and aggression
k) duress alarm systems and CCTV are available, or can be installed where required
l) external lighting is appropriate
m) the building structure is sound with no sign of leaks, damp or mould
n) the lighting is appropriate to the work to be undertaken and doesn't create unlit areas
o) there are traffic management plans.

6.6.12 Specific requirements for high risk activities/high risks

WA health entities should seek advice from appropriate WHS professionals, risk managers, and/or other subject matter experts on managing high risk activities.

The WHS Regulations specify control measures that must be implemented for certain identified high risks/high risk activities such as those that follow. A worker may also cease or refuse to carry out work if they have reasonable concerns of immediate or imminent exposure of the hazard to their health or safety. Links to relevant Safe Work Australia Codes of Practice/WA Codes of Practice that may be useful are included.

a) Remote or isolated work – under regulation 48 of the WHS Regulations where the worker is isolated from the assistance of other persons because of location, time or the nature of the work, they must be provided with a system of work that includes effective communication. Assistance includes rescue, medical assistance and the attendance of emergency service workers, WorkSafe WA Code of Practice: *How to manage work health and safety risks.*
b) Hazardous manual tasks – risks to health and safety relating to a musculoskeletal disorder associated with a hazardous manual task must be managed, WorkSafe WA Code of Practice: *Hazardous manual tasks.*
c) Workplace violence and aggression – WorkSafe WA Code of Practice: Violence and aggression at work.
d) Use of restricted carcinogens, for example, Cyclophosphamide – application to and authorisation by regulator to use handle and store, the use, handling and storage in the workplace, WorkSafe WA Code of Practice: *Managing risks of hazardous chemicals in the workplace.*
e) Working in Confined spaces – risks associated with entering, working in, on or in the vicinity of the confined space (including a risk of a person inadvertently entering the confined space). This requires, for example, confined space entry permits, signage and

constant communication with the person in the confined space, WorkSafe WA Code of Practice: *Confined spaces.*

f) Working at heights – from one level to another or any other place that is reasonably likely to cause injury to a person e.g., stairs, WorkSafe WA Code of Practice: *Managing the risk of falls at workplaces.*
g) Use of Hazardous chemicals – storage and incompatibilities, provision of Safety Data Sheets (SDSs), health monitoring of exposure to hazardous chemicals, creation of Registers and Manifests, WorkSafe WA Code of Practice: *Managing risks of hazardous chemicals in the workplace.*
h) Asbestos – all asbestos or Asbestos Containing Materials at the workplace must be identified by a competent person and asbestos registers and asbestos management plans maintained, WorkSafe WA Code of Practice: *How to manage and control asbestos in the workplace.*
i) Working in environments with high levels of noise – WorkSafe WA Code of Practice: *Managing noise and preventing hearing loss at work.*
j) High risk work – requiring licences, instruction and training
k) Demolition work/construction work – WorkSafe WA Code of Practice: *Construction work.*
l) Electrical work – for energised (live) electrical work, which is permitted in very limited situations, Safe Work Australia Code of Practice: *Managing electrical risks in the workplace.*

6.6.13 Hazardous Chemicals Register

A hazardous chemicals register is required to be prepared and maintained under regulation 346 of the WHS Regulations, so that workers can easily find information about chemicals stored, handled or used at the workplace.

Under regulation 344 of the WHS Regulations, a Safety Data Sheet (SDS) must be available in the workplace no later than when the chemical is first supplied.

The chemical register and SDSs may be retained electronically or in hard copy.

6.6.14 Asbestos Register and Labelling

Asbestos is unlikely to be present in buildings constructed after 31 December 2003 and therefore an Asbestos Register will not be required for such buildings.

A person with management or control of a workplace must ensure asbestos or asbestos containing material at the workplace is identified by a competent person. An asbestos register must be prepared and kept up to date where asbestos has been identified or assumed present by the competent person. The register must:

a) record any asbestos or asbestos containing material (ACM) that has been identified or is likely to be present at the workplace from time to time and includes the date identified and location, type and condition of the asbestos; and
b) state that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is identified or is likely to be present from time to time at the workplace.

Managers must refer to Asbestos Registers prior to approving any repairs, building maintenance or renovations to buildings where asbestos has been identified or assumed to be present. The current register must be made available to anyone undertaking asbestos-related work or carrying out work in an area where asbestos has been identified or assumed present. Work must not commence where there is a risk of disturbing asbestos until an assessment has been undertaken and either the asbestos removed, or controls put in place to avoid disturbing the asbestos.

Asbestos and ACM must be labelled where reasonably practicable. Signs can be an alternative option where it is more appropriate.

A new register is not required where one already exists. If a person with management or control of a workplace plans to relinquish management or control of the workplace, they must, so far as is reasonably practicable, ensure that the register is given to the person, if any, assuming management or control of the workplace.

6.6.15 Asbestos Management Plan

Under regulation 429 of the WHS regulations, a person with management or control of the workplace must ensure that a written Asbestos Management Plan for the workplace is prepared. It must include information on:

a) identification of asbestos or ACM – a reference to the Asbestos Register for the workplace and signage and labelling is acceptable
b) decisions, and reasons for decisions, about the management of asbestos at the workplace – e.g., safe work procedures and control measures
c) procedures for detailing incidents or emergencies involving asbestos or ACM
d) workers carrying out work involving asbestos – including consultation, responsibilities, information and training.

A person with management or control of a workplace must ensure that a copy of the Asbestos Management Plan for the workplace is readily accessible to a:

a) worker who has carried out, carries out or intends to carry out, work at the workplace
b) an HSR who represents a worker referred to in the point above
c) contractor who has carried out, carries out or intends to carry out, work at the workplace
d) managers who require, or intend to require work to be carried out at the workplace
e) WorkSafe WA Inspectors, on request
f) WHS entry permit holders, after required notice is given.

The plan must be updated at least once every five years or when:

a) there is a review of the Asbestos Register or a control measure
b) the asbestos is removed, disturbed, sealed or enclosed at, the workplace
c) the plan is no longer adequate for managing asbestos or ACM
d) a HSR requests a review based on the above three dot points which may have affected a member of the work group the HSR represents, or on the understanding that the management plan is not being adequately reviewed.

6.6.16 Health Surveillance

WHS professionals can provide advice concerning exposures requiring health surveillance.

Health surveillance is the monitoring of individuals to identify changes in health status that may be due to occupational exposure to a hazard.

The exposure must be such that an identifiable disease or other effect on health may be related to the exposure, and there is a reasonable likelihood that the disease or other effect on health may occur under the particular conditions of work.

At the same time, there must be an effective technique available for detecting indications of the disease or other effects on health. The WHS Regulations also list particular substances requiring health monitoring (see Schedule 14).

For further direction regarding health surveillance (also referred to as health monitoring), WA health entities can also refer to WorkSafe WA's Guide *Health monitoring duties for PCBUs*.

What is my role as an Officer?

Officers must ensure that:

a) a WA health entity has in place, and utilises, an appropriate process for identifying, eliminating or minimising risk and monitoring the effectiveness of these processes
b) they monitor compliance with WHS processes
c) reported hazards and incidents are investigated, as appropriate, in consultation with HSRs, to identify and implement required controls, action or escalate required controls, and share learnings
d) a WA health entity directs appropriate resources to risk identification, management and monitoring
e) managers have the skills to identify hazards and assess, manage and monitor risks;
f) risk management forms part of, and is documented for, procurement processes
g) managers have gone through an approval process that considers WHS implications of variations to new buildings and refurbishments
h) appropriate decision making arrangements are in place to allow managers to implement controls or escalate decisions/approvals where the necessary controls fall outside the scope of their decision making.

What is my role as a manager?

Managers must ensure that they:

a) attend WA health entity training to develop an appropriate level of competence in risk assessment and risk management
b) consistently identify hazards and assess risks, in consultation with workers, including when planning or undertaking development/refurbishment of the workplace, when procuring goods and services, and when staff are delivering services in the community;
c) implement controls to eliminate or minimise identified risk
d) monitor the effectiveness of risk controls

e) apply delegations for approving WHS related purchases so that WHS matters are promptly addressed
f) build WHS risk assessments into the delivery of treatment plans e.g., violence, manual handling considerations
g) seek advice from WHS practitioners or other staff as necessary, such as concerning any exposures requiring health surveillance.

6.7 Information, Training, Instruction and Supervision

6.7.1 Duty to provide information, training, instruction or supervision

Each WA health entity has a duty under the WHS Act to ensure, so far as is reasonably practicable, the provision of any information, training, instruction or supervision that is necessary to protect all people from risks to their health and safety from work carried out by the WA health entity.

The extent of information, training, instruction and supervision depends on the nature of the work being carried out, the nature of the associated risks at the time and implemented control measures. The existing skills, knowledge and experience of the workforce must also be considered.

By providing workers with effective training and adequate information, instruction and supervision, they will become aware of safety issues which will enable them to perform their work safely.

6.7.2 Information

Workers must be provided with adequate information to safely do their work, which includes:

a) information on the nature of hazards in their workplace and the range of existing controls available to mitigate these hazards
b) information about safe work practices and methods
c) up to date information for the safe use of equipment
d) sufficient information about the safe use, handling and storage of hazardous chemicals including accessing and interpreting safety data sheets (SDSs)
e) understanding safety signage
f) procedures for emergency evacuation
g) details of the designated first aid officers, first aid procedures and location of first aid rooms
h) correct use of personal protective equipment
i) information on how to report a hazard, incident or near miss.

6.7.3 Training

Training is to be provided to Officers and managers.

Officers must have access to training, as required, to:

a) assist them in ensuring appropriate WA health entity systems and structures are developed and implemented, to fulfil their obligations
b) ensure they are aware of their due diligence duties and responsibilities
c) understand WHS legislation and their obligations
d) understand the hazards and risks arising from the nature of the work undertaken by the WA health entity and how key hazards and risks are controlled.

Managers must have access to training, as required, to:

a) understand their obligations under the WHS Act and WHS Regulations as managers;
b) understand the consultation arrangements in place and utilise them to maintain a safe workplace
c) understand the obligations and role in the support of workers who are injured or have ill health under the workers' compensation, injury management and fitness for work processes
d) be able to complete an investigation of a reported incident, near miss or hazard, to identify causal factors and determine appropriate mitigating controls
e) provide adequate supervision to workers
f) have an appropriate level of competence in undertaking risk management.

Training for workers

Training requirements of workers must be based on the nature of their work and their skills, knowledge and expertise. Generally this may cover:

a) understanding their obligations under the WHS Act and the WHS Regulations as workers
b) how WHS is managed in the workplace
c) how to report a hazard or other safety issues
d) the health and safety procedures in place for tasks (such as safe work procedures);
e) what information is available to help them do their job safely e.g., operator manuals, safety data sheets
f) manual handling
g) processes for working alone or isolated from other workers
h) strategies to manage fatigue
i) violence prevention and management
j) duress response training (when member of a duress team)
k) complaint management processes
l) hand hygiene
m) safe handling of hazardous chemicals such as cytotoxic drugs for workers who handle hazardous chemicals
n) safe use of cleaning and disinfection chemicals
o) working at heights.

Induction training

Induction information must be provided when a worker first starts at the workplace. At a minimum, this must cover information and instruction on:

a) emergency procedures
b) use of duress alarms or procedures for summoning assistance
c) how work health and safety is managed, including consultative arrangements
d) procedures for reporting incidents, injuries and hazards
e) amenity facilities e.g., safe entry and exit to and from the workplace; specific procedures for afterhours work (e.g., able to be escorted to car by security)
f) after-hours access control
g) toilets, drinking water, eating facilities
h) first aid – who provides first aid and location of first aid kits and rooms
i) the health and safety procedures required for relevant tasks such as manuals, SDSs (for chemicals), personal protective equipment, safe work procedures etc.
j) accessing the Employee Assistance Program
k) procedures for maintaining communication when providing services in the community, where relevant.

This training must be available to all workers, as defined in section 1.2.

Other legislated training requirements applicable to WA health entities

In addition, there are specific training requirements under the WHS Regulations for:
a) HSRs (regulation 21); and
b) working in confined spaces e.g., content of confined space entry permit, control measures, personal protective equipment, emergency procedures (regulation 76).

6.7.4 Keeping training records

WA health entities are required to keep training records according to the *State Records Act 2000* (WA).

6.7.5 Instruction and Supervision

Providing day to day instruction and supervision to workers is a fundamental part of the role of managers.

When determining the level of supervision required for workers, the risks associated with the task being completed, the experience of the worker and their level of skill must be considered. Additional support for workers with disability; English as a second language; or poor literacy skills must also be considered and addressed.

Instruction and supervision are especially important when workers are undertaking a new task. In these instances, the provision of step-by-step procedures and coaching will ensure tasks are undertaken safely.

More specific requirements for the supervision of workers who use, handle, generate or store hazardous chemicals are described in the WHS legislation and relevant code of practice.

What is my role as an Officer?

Officers must ensure that:
a) there is a documented system for identifying and addressing training needs; and
b) a WA health entity has a WHS training program that is updated regularly.

What is my role as a manager?

Managers must:
a) attend available workplace training on WHS and risk management;
b) check that staff receive adequate instruction, both on induction and on a continuing basis, particularly in safe systems of work;
c) identify when workers need further training;
d) provide supervision to comply with WHS policies;
e) educate workers about potential hazards and any work practices unique to the workplace; and
f) maintain staff training records and ensure training records have a sign-off date to indicate training was completed.

6.8 Incident Recording, Investigation, Analysis and Review

6.8.1 Investigating, Analysing and Reviewing Incidents and Near Misses

The aim of incident investigation is to determine the underlying cause(s) and identify opportunities for improvement so as to prevent the relevant risk from arising again. The aim of an investigation is not to apportion blame.

The approach to incident investigation must involve:
a) making findings about cause(s) of the incident where possible
b) considering whether the findings have implications for the way in which risks are currently controlled and whether changes to control measures are required e.g., training, procedures
c) a system for communicating relevant findings to relevant Officers
d) communicating appropriate learnings throughout a WA health entity
e) outcomes following an investigation being actioned including by updating applicable systems/procedures, where relevant.

6.8.2 Triggers for investigating incidents

Triggers for conducting a WHS investigation include, but are not limited to:
- the occurrence of incidents or near misses where one or more people are exposed to risk to their health and safety, or could have been so exposed, regardless of whether any person is injured;
- a complaint from a worker or other stakeholder; and
- a recommendation from a safety inspection.

6.8.3 System Manager reporting requirements

WA health entities must report to the System Manager any notifiable incident under the WHS Act, and the receipt of any Improvement or Prohibition Notice issued by WorkSafe WA under the WHS Act. This will enable the System Manager to monitor trends and the nature of risks arising.

A WA health entity receiving either an improvement or prohibition notice, must notify the System Manager within five working days of receipt of the notice by sending a copy of the notice to system-wide.whs@health.wa.gov.au WA health entities must also report to the System Manager when an improvement or prohibition notice is lifted as the required improvements have occurred.

6.8.4 WorkSafe WA reporting requirements

In certain circumstances, an incident, in addition to being managed by the WA health entity, requires a notification to WorkSafe WA. Appendix 2 provides guidance on the nature of these incidents.

When a PCBU lodges a notifiable incident with WorkSafe WA, a PDF version of the notification is emailed to the notifying officer as confirmation of receipt. WA health entities must email this confirmation to system-wide.whs@health.wa.gov.au within five working days of receipt.

6.8.5 Legal professional privilege

Each WA health entity retains the discretion to undertake any investigation into an incident for the dominant purpose of obtaining legal advice. Where this is the case, that investigation will be subject to legal professional privilege.

Depending on the circumstances of the incident, the System Manager may request that such investigation is co-commissioned by the System Manager and the relevant WA health entity.

Alternatively, the System Manager may request that it is kept informed about the investigation process and any learnings of relevance to the WA health system and/or the Director General's role as system manager.

It is for each WA health entity to determine and implement appropriate protocols in relation to maintaining legal professional privilege. These processes may include that:

a) any investigation report and documents comprising that report, including drafts are marked to show "this document is confidential and subject to legal professional privilege";
b) the investigation report and any other associated photographs or documentation must not be distributed or communicated to persons outside those who have commissioned the investigation;
c) the investigation report should not be used for disciplinary purposes;
d) the report is to be addressed and provided to, and held by, the WA health entity's Legal Counsel or external counsel, as relevant; and

e) Legal Counsel will advise on how corrective actions are communicated internally or any other communications in relation to the report.

What is my role as an Officer?

Officers must ensure that:

a) the WA health entity has a system for recording and investigating incidents and near misses and for identifying incidents to WorkSafe WA and the System Manager as required; and
b) relevant information on incidents is reported through the governance structure, including findings from investigations, action taken to implement recommendations and actions that remain outstanding.

What is my role as a manager?

Managers must:

a) ensure staff know of and can access and use reporting systems for hazards and incidents;
b) investigate incidents promptly or cooperate with incident investigations, in accordance with policies/procedures and escalate issues unable to be resolved;
c) provide feedback to staff when reported hazards and incidents are investigated;
d) consult with staff about improving systems following incidents and investigations; and
e) ensure recommendations arising from investigations are implemented, within the scope of their role, to assist in avoiding a recurrence.

6.8.6 Measuring and Evaluating WHS Performance

Audits

Audits are conducted to determine the effectiveness of risk control measures and compliance with defined criteria and to identify the strengths of the system and opportunities for improvement. WA health entities should have procedures in place for undertaking audits of their own WHS management system. This could include having their WHS management system assessed against the Australian Standard ISO 45001 Occupational health and safety management systems.

Work health and safety audits of facilities and services are to be undertaken according to the Risk, Compliance and Audit Policy Framework issued by the System Manager under section 26(d) of the *Health Services Act 2016*.

Compliance checks/audits

Compliance checks/audits can also be done to review operations with specific aspects of legislation or local protocols; for example to ensure that duress alarms and duress response arrangements are functioning effectively; and to ensure that personal protective equipment is being used correctly and for first aid and infection control.

Hazard specific audits

Hazard specific audits can be used to address particular issues e.g., hazardous noise. Officers, where practicable, should also try to undertake periodic inspections of a workplace to see firsthand what controls are in place and how effective they are. This demonstrates/models a proactive WHS culture from the top down.

Remedial action

Urgent remedial action should be taken where there may be non-compliance with legal obligations, adopting a risk-based approach. There should also be a process to include recommendations into current planning processes for continuous improvement.

What is my role as an Officer?

Officers must ensure that:

a) they have regular access to indicators of WHS performance to identify what has happened and what may happen, examples include incident reporting and audit outcomes;
b) they are provided with sufficient information so that they understand the WHS performance indicators;
c) they review, analyse and question the information and take appropriate action to resolve issues or concerns;
d) audits and compliance checks are regularly undertaken, and the WA health entity responds to the outcomes of such activities;
e) as may be reasonably practicable, they undertake periodic inspections of a workplace to see firsthand what controls are in place and how effective they are and then share that information with other offices; and
f) information is provided to Officers, as appropriate, on actions against recommendations arising from audits and compliance checks.

What is my role as a manager?

Managers must:

a) participate in regular compliance checks e.g., emergency evacuation procedures; and
b) undertake regular workplace hazard audits, in consultation with staff, to check that controls are working.

6.8.7 Reviewing the WHS Management System

WA health entities should regularly review their WHS Management System. This will support WHS performance and ensure that the WHS Management System remains effective.

An effective review will consider data such as:

a) the findings of WHS and security audits
b) lessons learned from WHS incidents
c) onsite observations
d) feedback, particularly from workers, WHS professionals, HSRs and Committees.

A review should take account of:

a) the stated WHS objectives, targets and WHS performance indicators
b) changes in health service structure, directions or activities.

It is important that WA health entities build strategies for addressing gaps in their WHS Management Systems, and that these strategies are incorporated in corporate and business plans and include an achievable timetable for implementing improvements.

What is my role as an Officer?

a) the Chief Executive must arrange regular reviews of the WHS management system to ensure that it has been implemented and is effective; and
b) Officers, including the Chief Executive, should consider the outcomes of these reviews and accompanying plans for improvement.

What is my role as a manager?

Managers must:

a) participate in any review of the workplace health and safety management system and maintain those systems, to the extent required by their role; and
b) implement any strategies, consistent with the scope of their role, from WHS management system reviews.

6.9 Chief Executive Reporting and Leadership

Responsibility for safety starts with senior staff in a WA health entity. Developing a safety culture requires consistent and visible leadership shown through a commitment of time and resources.

The Chief Executive, Officers, and managers influence the safety culture. Their actions and attitudes should send a message to managers and workers that a WA health entity is serious about safety. The principles outlined in section 4 (*Embedding Safety Culture*) of this Framework provide a structure for developing and promoting that culture.

As outlined in previous sections, strategies to influence safety culture include:

a) **Communicating the WA health entity's values**: Communicate behaviours, decisions and attitudes that are expected, supported and valued.

b) **Demonstrating leadership**: Act to motivate and inspire others to work towards achieving common goals or outcomes by sending clear and consistent messages about the importance of work health and safety.

c) **Clarifying required and expected behaviour**: Clarify the specific behaviours required and expected in the workplace.

d) **Personalising safety outcomes**: Make work health and safety more obvious and relevant so that individuals personalise their role in preventing and eliminating risks and hazards.

e) **Developing positive safety attitudes**: Foster the development of attitudes and beliefs that support safe behaviour.

f) **Engaging and owning safety responsibilities and accountabilities**: Increase input, actions and involvement in the safety management process by workers using available consultative mechanisms such as WHS Committees and HSRs. Underpinning this is an emphasis on encouraging proactive workplace hazard inspections; timely reporting of hazards, incidents and near misses and effective investigation and response to reporting to effect change.

g) **Increasing hazard/risk awareness and preventive controls:** Regularly review WHS data/ reporting to identify the most common hazards impacting on the WA health entity workers; communicating these to workers for increased awareness of their workplace risk profile, and promoting systems, behaviours and decision making that will minimise the risk associated with these hazards.

h) **Improving understanding and effective implementation of safety management systems**: Communicate all aspects of the WHS processes that contribute to the safety management system, including governance, consultative processes, risk management approach, proactive and reactive hazard identification, and incident investigation.

i) **Monitoring, reviewing and reflecting on personal effectiveness**: Use various sources of information to gain feedback on the effectiveness of culture actions and other safety-related behaviours.

7.0 WORKSAFE WA AND UNION VISITS TO WA HEALTH ENTITIES

7.1 When a WorkSafe WA Inspector Visits

All WorkSafe WA Inspectors must carry an identity card and, on entering a workplace, produce the identity card on request.

The WorkSafe Inspector may be accompanied by a management representative and/or workers' representative (e.g., HSR) around the workplace. The WorkSafe Inspector should be asked to wear appropriate personal protective equipment (PPE) when required, and ensure that they do not impact on the delivery of health care to patients.

Anything that is said to a WorkSafe Inspector may be reported in subsequent legal proceedings, particularly when a death, serious illness or injury, or dangerous incident has occurred.

Managers are required to:

a) identify the Inspector - ask to see the Inspector's identity card
b) ensure that the most senior member of staff on duty has been notified of the Inspector's presence
c) report an Inspector's visit to their WA health entity's WHS Professional as soon as possible. The WHS Professional can assist in liaising with the Inspector and responding to requests from WorkSafe WA
d) comply with a WorkSafe WA Inspector's request and act on their advice.

In metropolitan hospitals, a WHS professional from the WA health entity may wish to be in attendance during the visit. In regional WA, where there may be long distances to travel, managers must inform their local Risk Manager of the visit and, where appropriate and manageable, provide the WHS professional with an opportunity to attend.

WorkSafe WA Inspectors have powers of entry and inspection of a workplace and broad ranging powers of investigation when a breach, or potential breach, of the WHS legislation has occurred.

7.1.1 Role of the WorkSafe WA Inspector

Under section 160 of the WHS Act, WorkSafe WA Inspectors visit workplaces to:

a) provide information and advice about compliance with the WHS Act
b) assist in the resolution of work health and safety issues at workplaces
c) assist in the resolution of issues related to access to a workplace by an assistant to a HSR;
d) review disputed provisional improvement notices
e) require compliance with the WHS Act through the issuing of notices
f) investigate contraventions of the WHS Act and assist in the prosecution of offences
g) carry out investigations.

7.1.2 Powers to Enter a Workplace

An Inspector may enter any premises the Inspector has reason to believe is a place of work without giving notice. The Inspector must notify the occupier of the premises of their entry, and the purpose of their entry, onto the premises, as soon as practicable after entering the premises, unless to do so would interfere with an investigation about a breach of the WHS legislation.

7.1.3 Powers on Entry

Under section 165 of the WHS Act, WorkSafe WA Inspectors have broad powers of investigation. Where there is a breach or potential breach of the legislation, or a notifiable incident has occurred, they can:

a) inspect, examine and make enquiries
b) inspect and examine anything (including a document)
c) bring to the workplace and use any equipment or materials that may be required
d) take measurements, conduct tests and make sketches or recordings (including photographs, films, audio, video, digital or other recordings)
e) take and remove for analysis a sample of any substance or thing without paying for it
f) require a person at the workplace to give the Inspector reasonable help to inspect, examine and make enquiries and to take or remove for analysis a sample of any substance or thing
g) exercise any compliance power or other power so that the workplace complies with the WHS Act.

7.1.4 Powers to obtain information, documents or evidence from a person

Inspectors can require persons to appear before them at a time and place specified in a written notice for the purpose of obtaining information or to produce documents or give evidence. (section 171 of the WHS Act).

7.1.5 Enforcement measures

In certain circumstances, Inspectors have the power to:
a) issue Improvement Notices which require the remedy of unsafe working conditions or hazards within a particular timeframe
b) issue Prohibition Notices to prohibit or immediately stop dangerous work until a hazard is fixed
c) issue Non-Disturbance Notices which requires the person in control of the premises to preserve the site at which a notifiable incident (refer to Appendix 2) has occurred for a specified period (so that an Inspector can investigate the incident), or prevent the disturbance (including operation of plant) at a site
d) issue Penalty Notices for breaches of WHS legislation
e) collect evidence and recommend a prosecution.

7.1.6 Copy of a Notice issued by an Inspector in the workplace must be displayed

A copy of a notice issued by an Inspector must be displayed in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. The notice must not be intentionally removed, destroyed, damaged or defaced while it is in force.

A Notice ceases to have effect and can be removed when a WorkSafe WA Inspector notifies the WA health entity that the circumstances of the situation around the Notice have been addressed.

7.1.7 Processes for responding to notices

WA health entities should implement a process for responding to Notices which may include:
a) notifying a WHS professional of the Notice, as soon as possible;

b) reviewing the Notice to ensure that the WA health entity understands its requirements. If this is not clear, the WA health entity should clarify the requirement with the Inspector. The WA health entity should also consider if there is adequate time to respond to a Notice. If not, the WA health entity may consider requesting an extension of time from the Inspector;
c) where the WA health entity has internal Legal Counsel, they should be informed;
d) any documents collated to provide to WorkSafe must also be kept by the WA health entity;
e) a record of compliance steps taken by the WA health entity should be maintained, together with a copy of the Notice and confirmation from WorkSafe that the Notice has been satisfied; and
f) any learnings/recommendations from Notices should be considered against relevant risk management systems.

7.2 When a Union Representative Visits – WHS Entry Permit Holders

Under the WHS Act, union officials can obtain a WHS entry permit issued under the *Industrial Relations Act 1979* (WA) if they have been issued an authority as an "authorised representative".

If a union official seeks to enter a workplace for WHS reasons, managers must:
a) ask to see the union representative's valid authority and photo identification
b) ensure that the most senior member of staff on duty has been notified of the union's presence
c) notify the Risk Manager or person with WHS responsibility of a union representative's visit
d) allow the union representative with a WHS entry permit to enter the workplace without delay;
e) not hinder or obstruct a union representative's entry and allow them to exercise their rights while they are in the workplace (if they are entitled to enter – see above sections - this is a legal requirement).

Union representatives should be asked to wear appropriate personal protective equipment (PPE) when required and ensure that they do not impact on the delivery of health care to patients.

Where possible the most senior person available on duty in the facility must accompany the union representative when they are investigating a possible breach of the WHS legislation.

The WA health entity's WHS or Risk Managers should be advised of any recommendations provided by the union.

7.2.1 Protocols with unions

It is recommended that each WA health entity considers a protocol with unions concerning inspections and how to arrange access on the day of an inspection.

These protocols would include who unions should notify when advising of an entry permit holder's visit, i.e., who represents the WA health entity.

7.2.2 Powers to Enter a Workplace to investigate WHS breaches

Unions have the power to enter workplaces where their members work any time of the day that work is being carried out or is normally carried out (i.e., working hours). This can be with or without notice.

A union official with an authority may enter to investigate certain breaches, including breaches of the WHS Act and Regulations.

7.2.3 Conditions for Entering a Workplace

Without prior notice

A union official with authority may, without prior notice:

a) during working hours, inspect or view, and take photographs, films and audio, video or other recordings of, any work, material, machinery, or appliance, that is relevant to the suspected breach
b) make copies of any document that is directly relevant to the suspected breach that is kept at the workplace or is accessible from a computer kept at the workplace. Unions cannot request access to medical records if to do so would disclose health information about individual patients.

At least 24 hours' notice

Notice is required where the union wishes to request the production of records and documents kept on the employer's premises related to the suspected breach. If the records or other documents are kept on the employer's premises, at least 24 hours' written notice is required. If the records and documents are kept elsewhere, at least 48 hours' written notice is required.

APPENDIX 1 – LEGISLATIVE FRAMEWORK

WHS Act and WHS Regulations Codes of Practice

While Safe Work Australia and WorkSafe WA codes of practice are not law, it is recommended they be followed unless there is an alternative course of action which achieves the same or better standards. An alternative course of action may be to follow a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the code of practice.

Failure to follow a code of practice (minimum standard) can be used as evidence in legal proceedings concerning a breach of WHS legislation.

Copies of the codes of practice can be found at:

- Safe Work Australia
- WorkSafe WA.

Standards

Australian Standards are developed by Standards Australia, with the input of industry experts.

Standards set minimum levels of quality or specifications for products, equipment and materials used in work health and safety, and for safe systems of work. Adoption of the standard is voluntary. Where regulations incorporate or refer to standards, they become compulsory (legally binding).

Examples of standards incorporated in the WHS Regulations are:

a) S/NZS 1200:2015 (Pressure equipment)
b) AS/NZS 1269.1:2005 (Occupational noise management — Measurement and assessment of noise emission and exposure)
c) AS 2593:2004 (Boilers — Safety management and supervision systems)
d) AS/NZS 3012:2010 (Electrical installations — Construction and demolition sites)

The risk management process in the *Risk, Compliance and Audit Policy Framework* issued by the System Manager under section 26(d) of the *Health Service Act 2016* is based on AS/NZS ISO 31000:2009 Risk management – Principles and Guidelines.

Where there is a disparity between the legislation and a standard, the legislation overrules the standard.

Industry Guidelines

Industry guidelines are produced by industry groups and provide guidance material to assist employers to comply with the law. They do not have the same status as approved industry codes of practice (unless they are called up in legislation).

Guidance Notes

Guidance notes are explanatory documents issued by various organisations such as WorkSafe WA and Safe Work Australia. They provide detailed information to support the various requirements of legislation, codes of practice and standards, for example the Safe Work Australia *Worker Representation and Participation Guide,* which supports the Model Code of Practice *Work Health and Safety Consultation, Cooperation and Coordination*.

APPENDIX 2 – SYSTEM-WIDE WHS CONSULTATIVE FORUM TERMS OF REFERENCE

1. Purpose

The System-wide Work Health and Safety Consultative Forum (the Forum) supports the implementation of the WHS Policy Framework, issued by the Director General of the Department of Health (the Department) as System Manager under section 26 of *the Health Services Act 2016*.

The Forum provides a mechanism for the Department and Health Service Providers (HSPs) to assist them in meeting their obligations to "consult, coordinate and cooperate" in relation to shared duties, as required under the WHS legislation. The Forum will facilitate the identification, prioritisation, and discussion of system wide WHS risks and mitigation strategies.

It will also enable effective collaboration across WA health entities and provide a formal mechanism for HSPs to identify areas where assistance from the System Manager may be required.

The Forum reports to Health Executive Committee (HEC).

2. Functions

Key functions to be performed by the Forum include:

- **Monitoring** the system wide WHS risk profile, including new or emerging risks and changes to the risk level for existing risks
- **Advising** HEC on the prioritisation and mitigation of system wide WHS risks
- **Collaborating** on the development of system-wide controls and risk mitigation activities, including WHS policies or procedures for prioritised system-wide risks
- **Sharing** learnings and good practice in managing WHS risks, with members also providing information on specific WHS incidents or emerging hazards.

From time to time, the Forum may request advice from WorkSafe WA on common or shared issues. The exact approach to requesting advice from WorkSafe WA will be determined by the Forum, however the intention is that the System Manager, or an agreed HSP, will be able to liaise with WorkSafe WA on behalf of the WA health system. This will avoid duplication of effort and ensure consistent approaches are undertaken across the WA health system.

The Forum may also support the development of shared system wide WHS resources, such as procedures and guidelines, which would benefit from consistency but not do require the System Manager to issue mandatory requirements.

3. Membership

3.1. Chair

The Forum will be chaired by the Executive Director of the Department's Governance and System Support Directorate (GSSD).

The role of the Chair is to:

- ensure the organisation and conduct of meetings
- brief members in relation to issues arising in between meetings
- ensure appropriate, coordinated information sharing between all the Department and HSPs
- facilitate the effective contribution of all Forum members.

3.2. Members

Membership comprises:

- Executive Director GSSD, Department of Health (Chair)
- A Tier 2 level officer from each HSP, who reports directly to their Chief Executive (CE), as nominated by the relevant CE
- Director, Corporate Services, Department of Health
- Manager, System-wide Work Health and Safety, GSSD.

3.3. Other Attendees

In addition, other attendees will include:

- The WHS lead in each HSP and the Department's WHS lead
- Secretariat representative/s.

3.4. Invitees

With the Chair's prior approval, other personnel may be invited to attend meetings. Invitees may attend to provide advice or give a presentation for a specific agenda item.

3.5. Use of proxies

Proxy attendance at meetings is permitted under exceptional circumstances but must be communicated to the Chair for approval via the Secretariat.

4. Operational Procedures

4.1. Quorum

As this is an advisory body, a quorum is not required.

4.2. Conflict of Interest

A member who has a conflict of interest with the activities of the Forum must declare it to the Chair as soon as they become aware of the conflict of interest.

4.3. Confidentiality

Members may from time-to-time be in receipt of information that is regarded as confidential. Members acknowledge their responsibility to maintain confidentiality of all information that is not in the public domain.

4.4. Meeting Frequency

The Forum will meet in person or virtually using Microsoft Teams. Meetings will be held every quarter. Additional meetings may be scheduled as required.

4.5. Secretariat

GSSD in the Department will provide the Secretariat. The responsibilities of the Secretariat are outlined below.

5. Agenda Items and Papers

The Secretariat will prepare a draft agenda for the Chair's approval. Members can submit proposed agenda items for the Forum's consideration via the Secretariat who will obtain approval from the Chair for inclusion in the agenda. HEC may also refer items to the Forum for consideration and ad/vice.

Agenda papers are to be submitted to the Secretariat at least five (5) working days prior to the meeting. A standard agenda paper template must be used for all agenda items. The meeting papers will be circulated to members no less than three (3) working days prior to the meeting. Late agenda papers will only be circulated with agreement from the Chair. Agenda papers that require consideration should not be tabled on the day of a meeting, unless in exceptional circumstances and with the approval of the Chair. This could involve a direct request from HEC, or an emerging system-wide risk that needs to be considered urgently.

All meeting papers will be treated as a State record in accordance with applicable WA legislation and policy.

6. Minutes and Actions

The Secretariat will be responsible for taking minutes at each Forum meeting and distributing these, together with the actions, to Forum members for review within five (5) working days of the meeting.

The minutes will be a true and accurate record of the meeting. They will contain clear and concise notes of the main points of discussion, actions arising and additional information discussed at the meeting.

Once feedback has been received from members, the minutes will be included in the meeting papers for the next meeting for Forum endorsement.

Full copies of the minutes including attachments will be available for all members.

7. Working Groups

The Forum may establish time limited working groups to focus on specific WHS risks. Working groups can include a mix of Forum members, other attendees, and staff across the WA health system with relevant subject matter expertise.

8. Recordkeeping

The Secretariat will prepare a record of each meeting, which will include:

- agenda, meeting papers and meeting minutes
- all other correspondence and papers circulated to, or from, Forum members.

9. Review

The Forum will review its Terms of Reference every twelve months from the date of approval. Any proposed changes to the Terms of Reference are to be put to HEC for consideration and approval.

10. Document Control

Version	Published date	Review date	Amendments
1.0	06/09/2023	06/09/2024	Original version.
1.1			

APPENDIX 3 – INCIDENT NOTIFICATION TO WORKSAFE WA

What is a "notifiable incident"
In the WHS Act, notifiable incident means:

a) the death of a person, or
b) a serious injury or illness of a person, or
c) a dangerous incident.

'Notifiable incidents' may relate to any person – employee, contractor, visitor, member of the public or volunteer.

WorkSafe WA must be notified immediately after becoming aware of a notifiable incident that arises out of the conduct of a business or undertaking at a workplace. A flow chart describing the WorkSafe WA notification process is provided on page 53.

Ensure injured persons are attended to and workplace has been made safe noting that the site may need to be preserved.

Keep records of the above notifiable incidents for five years from the date of notification to WorkSafe WA.

To notify WorkSafe WA of a notifiable incident – contact your WHS Manager, Risk Manager and your most senior person on duty at the workplace (e.g., General Manager of a facility) who must phone WorkSafe WA on 1800 678 198.

Serious illness or injury

Serious illness or injury (section 36 (1)(b) of the WHS Act) means that the person requires:

a) immediate treatment as an in-patient in hospital (overnight stay)
b) immediate treatment for:
    i. amputation of any part of a body
    ii. serious head, eye or burn injuries
    iii. separation of skin from an underlying tissue, e.g., degloving or scalping;
    iv. spinal injury
    v. loss of a bodily function
    or
    vi. serious laceration
c) Medical treatment within 48 hours of exposure to a substance.
d) Injury or illness that occurs in a remote location and requires the person to be transferred urgently to a medical facility for treatment.
e) Injury or illness, which in the opinion of a medical practitioner, is likely to prevent the person from being able to do the person's normal work for at least 10 days after the day on which the injury or illness occurs.

Notification is also required for the following serious illnesses:

a) any infection where the work is a significant contributing factor such as carrying out work with micro-organisms and providing treatment or care to a person; or

b) zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste product such as Anthrax and Q fever.

Dangerous incident

A dangerous incident (section 37 of the WHS Act) is an incident in the workplace that exposes a worker or any person to a serious risk to the person's health or safety from an immediate or imminent exposure to:

a) uncontrolled escape, spillage or leakage of a substance
b) uncontrolled implosion, explosion or fire
c) uncontrolled escape of gas or steam
d) uncontrolled escape of a pressurised substance
e) electric shock
f) fall or release from a height of any plant, substance or thing
g) collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use by the Regulations
h) collapse or partial collapse of a structure
i) collapse or failure of an excavation or of any shoring supporting an excavation
j) inrush of water, mud or gas in workings, in an underground excavation or tunnel

or

k) interruption of the main system of ventilation in an underground excavation or tunnel.

Preserve the site

In all of the above notifications the person with management or control of the site must preserve the site so that WorkSafe WA, and sometimes the Police, can investigate.

A site includes any plant, substance, structure or thing associated with the notifiable incident. The incident scene must be preserved until the Inspector arrives at the site or at an earlier time that an Inspector directs/advises (section 39 WHS Act) if the Inspector decides not to attend.

When can the person with management or control allow the site to be disturbed?

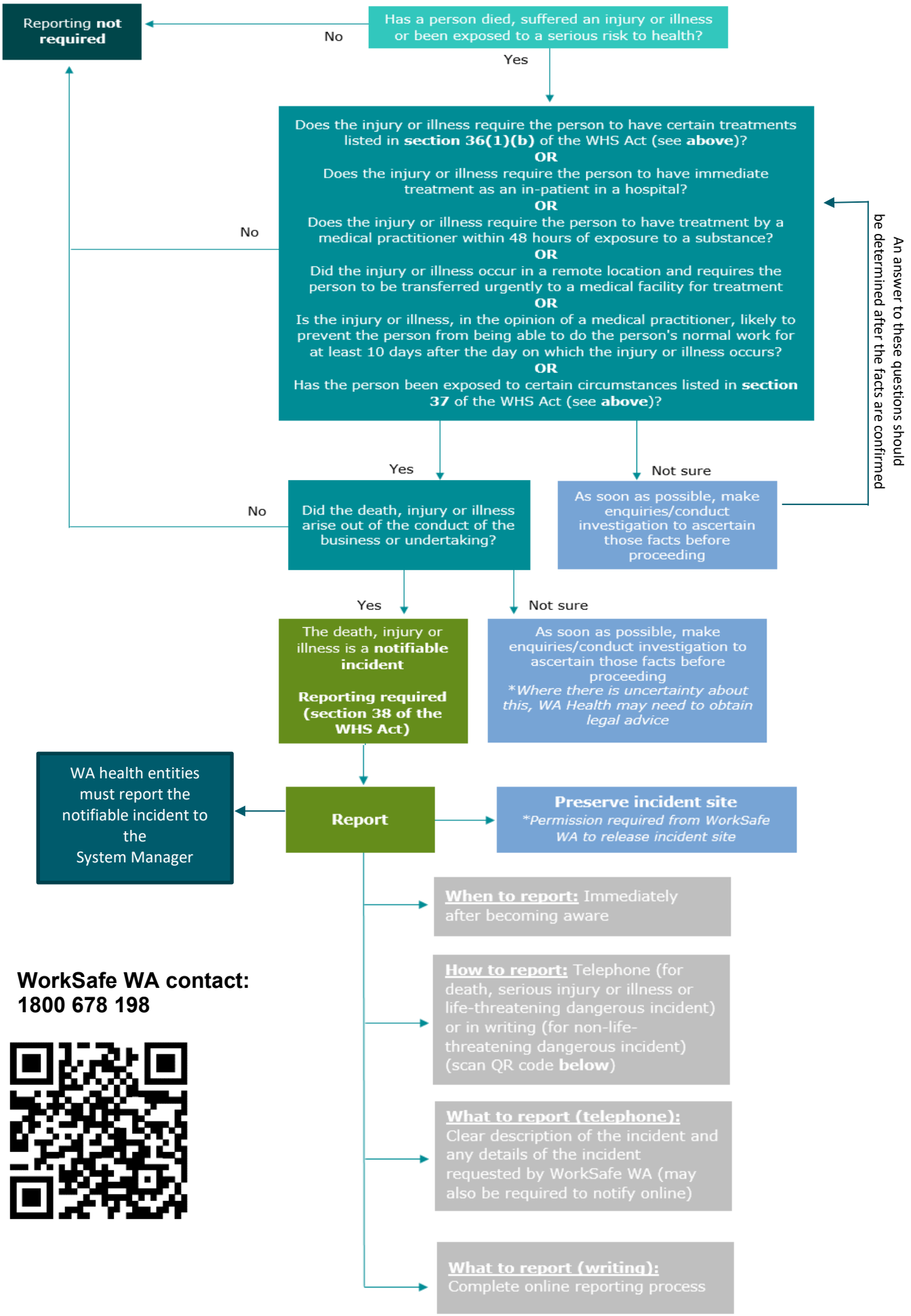
The site can be disturbed when:

a) WorkSafe WA/Inspector has given permission as mentioned above
b) assisting someone that is injured and when emergency services attend
c) to remove a deceased person
d) making the site safe so that further injury does not occur

or

e) disturbance is related to a Police investigation.

WORKSAFE WA INCIDENT NOTIFICATION PROCESS



WorkSafe WA contact:
1800 678 198

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