What is a PCBU?

Workplace health and safety is everybody's business, and we all have a role to play in keeping WA's workplaces healthy and safe.

Today's modern workplaces reflect many different kinds of working relationships, which is why in the WHS Act, the primary duty of care for workplace health and safety lies with the person conducting a business or undertaking, or PCBU for short.

So, what is a PCBU?

A PCBU is a person conducting a business or an undertaking, whether alone or with others, for profit or not for profit. It doesn't matter whether a business or undertaking occurs at one location, or multiple locations.

PCBU is catch-all term designed to capture a large variety of workplaces, such as self-employed persons, companies, business partnerships, unincorporated associations, government departments and public corporations, to name a few.

There are some exceptions to this. For example, a local government member acting in this capacity does not conduct a business or undertaking, and therefore, is not a PCBU.

Volunteer associations that do not employ anyone to conduct work are also not PCBUs. They only become a PCBU if the association employs at least one person to conduct work on their behalf.

So, if you are a person who conducts a business or undertaking, you have a duty of care, to ensure, so far as is reasonably practicable, the health and safety of those involved in the business or undertaking.

For the purposes of WHS, a "business" is an enterprise conducted with the aim making a profit that has a degree of organisation, system and continuity.

Simply put, businesses are for-profit enterprises, such as sole traders, corporations, partnerships, subcontracting companies, businesses operating under unit trusts, and so on.

Regardless of the enterprise's structure, if it is conducted for profit, it's considered to be a business.

Undertakings have similar elements of organisation, systems and possible continuity to businesses, but are usually not profit-making or commercial in nature. Examples include not-for-profit charities and organisations, school and education services, and local councils.

A person conducting a business or undertaking has a primary duty of care to, so far as is reasonably practicable, ensure the health and safety of workers and the general public.

They also have additional duties, such as notifying the regulator of any notifiable incidents that occur in the workplace and consulting and communicating with workers, elected health and safety representatives and other PCBUs when they co-share work, duties or workplaces.

In summary, a PCBU is a person that conducts a business or undertaking, whether it is for profit or not for profit, alone or with other PCBUs, at a single site or in multiple locations.

This definition is designed to cover working relationships whether they are a traditional employee-employer relationship, an employer-contractor relationship, a contractor-subcontractor relationship, a volunteer-worker relationship or so on.

The WHS Act does not specifically define "work", so it is assumed that "work" carries its natural meaning.

Examples of work include activities involving the application of skills that require mental or physical effort, for the benefit of another person, or for themselves, whether it be for profit or not for profit. Other examples include activities for which someone would ordinarily be paid, activities that are part of an ongoing process or project if some or all of the activities are for the purposes of remuneration, or activities where control is exercised over a person by another person carrying out the activity.

An activity may be work even though one or more of these criteria are absent or minor.

Domestic activities, recreational activities or social activities might also be work, however they aren't likely to be considered as work under the WHS Act if they are performed as part of a person's everyday life, such as running a household.

Under the WHS Act, there is a specifically defined 'officer' role.

Officers, in a broad sense, are people who make, or participate in making decisions that affect the whole, or a substantial part of an organisation's activities. Because they have the power to make decisions that affect an organisation's activities, officers have influence over a workplace's health and safety.

Examples of officers of a PCBU include chief executive officers, chief financial officers, corporate directors and corporate executives.

These executives might not own the company, but because of their positions within the corporate structure, they have the power to make significant decisions that affect business activities.

Therefore, due to the influence they have over the company, they become an officer of a PCBU under the WHS Act, and must perform due diligence to ensure that the PCBU complies with its health and safety duties.

Due diligence includes taking reasonable steps to acquire and keep up to date with knowledge of current WHS matters, understand the nature and operations of the work and the associated hazards and risk factors, ensure the PCBU has and implements appropriate resources and processes for complying with its WHS duties and obligations, and to verify the provision and use of the PCBU's WHS processes and resources.

So, in summary, a PCBU is a person conducting a business or an undertaking, whether alone or with others, for profit or not, or whether or not that business or undertaking occurs in one location, or multiple locations.

Officers are individuals in executive or senior management positions with significant control or influence over a workplace and its decision-making.

PCBUs have duties under the WHS Act, to, so far as is reasonably practicable, ensure the health and safety of workers and others in the workplace.

They must consult with the workforce and other PCBUs, and notify the regulator of incidents.

Officers of a PCBU have a duty to exercise due diligence, to ensure that the PCBU is compliant with its WHS obligations.

Visit the DMIRS website, at [www.dmirs.wa.gov.au/whs](http://www.dmirs.wa.gov.au/whs). You can also find us by searching for WorkSafeWA on Twitter, Facebook and LinkedIn.

Work health and safety is everybody's business, and we all have a role to play in keeping our workplaces healthy and safe.