



Labour hire PCBUs: Duties of persons conducting a business or undertaking who supply workers to other businesses

This checklist provides information for persons conducting a business or undertaking who supply workers to other businesses (labour hire PCBUs) on complying with their health and safety duties under work health and safety laws.

Labour hire arrangements in WA are covered by the *Work Health and Safety Act 2020* (WHS Act) and associated regulations.

The primary duty of care under the WHS Act is owed by a PCBU to a ‘worker’, which includes a labour hire worker. All labour hire PCBUs and PCBUs who use labour hire workers (host PCBUs) have a primary duty of care to ensure, so far as is reasonably practicable, the health and safety of labour hire workers engaged by, or caused to be engaged by them, or whose activities are influenced or directed by the PCBU.

The WHS Act provides that more than one duty holder may have the same duty. Labour hire arrangements can be complex. In some circumstances, there may be more than one labour hire or host PCBU.

If more than one person or business has a duty for the same matter, each person must meet their duty to the extent to which they have the capacity to influence and control the matter. A labour hire PCBU or host PCBU may exercise influence and control over a relevant matter through, for example, the terms of a contract or directing workers in a practical sense. However, duty holders cannot contract out of or transfer their WHS obligations to another person.

Consultation between PCBUs

All duty holders in a labour hire arrangement must consult, so far as is reasonably practicable, cooperate and coordinate with each other.

Each duty holder should share information to find out who is doing what and work together in a cooperative and coordinated way to ensure compliance with WHS laws. For example, host PCBUs and labour hire PCBUs must discuss consultation arrangements, the hazards and risks associated with the work, what precautions will be taken to ensure the health and safety of the labour hire worker and the respective roles of the organisations in responding to an incident. Some labour hire PCBUs may have substantial knowledge of WHS issues and risk management practices in their industry that may assist in assessing the practices of a host PCBU and ensuring compliance with WHS laws.

Duty holders should not assume that someone else is taking care of a health and safety matter. Find out who is doing what and work together with other duty holders so risks are eliminated or minimised as far as is reasonably practicable. What is reasonably practicable will depend on the circumstances.

Relevant issues for duty holders to discuss will depend on the circumstances. These may include:

- hazards and risks that may arise, taking into account things like the physical environment where work will occur
- control measures to eliminate or minimise risks and the suitability of those measures
- compliance with minimum requirements set by legislation, such as the WHS laws
- how work will be carried out (including safe work methods and processes that are already in place or need to be in place)
- the people involved in the work (including supervision arrangements)
- competency and training requirements, including arrangements for the provision of additional training required for the particular work
- arrangements for facilitating assessments of the individual worker's needs and/or competencies, as appropriate
- arrangements for health monitoring and relevant vaccinations
- the respective roles of the organisations in responding to an incident, as well as relevant policies and procedures
- any other factors which may impact the work environment and how work is carried out.

Like all PCBUs, labour hire PCBUs and host PCBUs are required to be proactive in managing hazards and risks. The duties in the WHS Act are ongoing and must be complied with throughout the labour hire arrangement.

Be aware that circumstances can change over time and this may result in a change in the hazards and risks or in the ways they may be eliminated or minimised. Changes that may necessitate a review of hazards, risks and control measures may include:

- change in a work process
- change in the physical environment
- different people undertaking the work, with different skills or means of coordinating activities
- new hazards are identified, and
- new ways to eliminate or minimise risks are identified or invented.

If a labour hire worker has a reasonable concern that to carry out the work would expose them to a serious health or safety risk, they may cease, or refuse to carry out work. A labour hire PCBU and host PCBU must not discriminate against a worker for exercising this or any other right under the WHS Act.

Duties of a labour hire PCBU

As a labour hire PCBU under the WHS Act, it is your duty to ensure, so far as is reasonably practicable, the health and safety of workers during their placement with the host PCBUs. It is your duty to eliminate or, if that is not reasonably practicable, minimise risks to health and safety a labour hire worker may encounter. In some circumstances, this means not placing workers in, or removing workers from, a workplace where you believe there is a risk to their health and safety or where risks have not been adequately controlled.

Before placing labour hire workers

Before you place labour hire workers, you should consider:

- reviewing the host PCBU's safety record to satisfy yourself that they provide a safe workplace
- gathering information about the work and the workplaces, including the work environments, accommodation arrangements, organisational arrangements, health and safety risks associated with the work and any skills and knowledge the worker will require to safely undertake the work. This might include information about facilities, work schedules and environmental factors, such as whether work will be conducted outdoors
- providing workers with suitable, adequate and readily understandable WHS induction and training. Include any risks you have identified and consultation methods you have established with workers and the host PCBU
- verifying and working with the host PCBU to ensure site-specific and task-specific induction, training and personal protective equipment (PPE) is provided to labour hire workers in a way that is fit for purpose, adequate and readily understandable to them
- assessing the workplaces for any risks to health and safety, as appropriate. Work with the host PCBU to gather enough information to make an assessment and conduct a workplace visit. Where risks are identified, consult with the host to ensure they are eliminated, or if that is not reasonably practicable, minimised
- ensuring that workers have the necessary qualifications, licences, skills and training to safely carry out the work. In some circumstances you may be required to verify the workers are medically fit to carry out the work (for example in mining, commercial vehicle driving, lead work and diving industries)
- consulting with the host PCBU and workers to ensure you and the workers understand and are confident in the understanding of the WHS policies, procedures and practices of the host PCBU
- discussing with the host PCBU arrangements for health monitoring and vaccinations
- establishing communication methods workers can use to contact you if they consider there is any risk to their health or safety
- discussing consultation arrangements with the host PCBU
- ensuring workers have the means to identify and take action in an unsafe situation at the host workplace, such as stopping work or bringing it to the attention of the host PCBU, a health and safety committee representative or a health and safety representative
- ensuring workers have the means to raise safety issues with you if they are unsatisfied with the host PCBU's response
- establishing, in consultation with the host PCBU, a review process for ensuring the ongoing WHS of workers
- any other practicable measures you can take, to ensure the health and safety of the labour hire worker.

During a labour hire worker's placement

While your workers are placed with the host PCBU, you should consider:

- consulting with the host PCBU and labour hire workers on any changes which may affect their health and safety. For example, this may include consultation about the use of plant and equipment not envisaged prior to placement
- working with the host PCBU to undertake workplace safety assessments in accordance with agreed arrangements

- where WHS advice or workplace assessments are required, working with the host PCBU to ensure the persons engaged to conduct those assessments are suitably qualified
- monitoring the workplace for new risks to health and safety and consulting with the host PCBU about how they might be addressed. This might include regular visits to the host's workplace
- encouraging workers to maintain contact with you and to provide feedback on health and safety matters in the host's workplace
- taking effective action when the worker or host PCBU identifies risks or raises concerns about health and safety. This might include removing the worker from the workplace
- in the event of an incident, working with the host PCBU to respond effectively.

Further information

To find out more, contact WorkSafe WA at www.dmirs.wa.gov.au or by calling 1300 307 877. Where your business arrangements span multiple jurisdictions, you may need to contact more than one WHS regulator. Contact details for Australian regulators are available at <https://www.safeworkaustralia.gov.au/law-and-regulation/whs-regulators-and-workers-compensation-authorities-contact-information>

In most jurisdictions the labour hire PCBU (not the host PCBU) is responsible for providing workers' compensation to the worker, however there are exceptions to this. Labour hire and host PCBUs should work together to coordinate return to work arrangements and support workers through the return to work process. It is important to contact [WorkCover WA](#) for information on understanding and complying with your workers' compensation obligations as penalties can apply.

Some jurisdictions have implemented a labour hire licensing scheme. It is your responsibility to identify whether these requirements apply to you.

Labour hire PCBU self-assessment WHS checklist

Information, instruction, training and supervision

- Have you ensured the host workplace gives labour hire workers information, instruction and training relating to hazards they are exposed to?

- Have you ensured labour hire workers receive adequate supervision at the host workplace?

- Have you checked that labour hire workers hold the relevant high risk work licence if required to do high risk work?

- Have you matched labour hire workers to the job, to ensure they are competent to do the job in such a way that they are not exposed to hazards?

Hazard identification, risk assessment and risk control

- Have you identified hazards your workers are exposed to and assessed the risk of injury or harm to your workers?

- Have you visited the host workplace and identified hazards your workers are exposed to and assessed the risk of injury or harm to your workers? Have you and the host PCBU discussed the results of the risk assessment, and considered and implemented practicable control measures?

Reporting of injuries and investigation of injuries and reported hazards

Do you and the host PCBU have a system in place to report notifiable injuries of labour hire workers to WorkSafe? Who will report such injuries, and how will the other party be informed?

Have you and the host PCBU, within a reasonable time, adequately investigated any hazards or injuries reported by workers, determined action (if any) and notified the worker of the outcome?

Consultation with labour hire workers and with the host PCBU

Do you consult with labour hire workers regarding WHS, including changes to tasks or location and reporting of hazards/injuries?

Do you consult with the host PCBU regarding WHS, including changes to tasks or location and reporting of hazards/injuries?

Personal protective clothing and equipment (PPE)

Have you ensured that where it is not practicable to avoid the presence of hazards workers are provided with adequate PPE, including safety footwear, without any cost to the workers?
