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A Tragedy Highlights the PCBU's Responsibility to Manage WHS Risks

A tragic incident in the northern suburbs last Friday has highlighted a PCBU's WHS responsibility for managing work health and safety risks. A grandmother was fatally hit by a garbage truck in a suburban street while she was pushing her grandson in a pram. Fortunately the child was not injured. The driver of the garbage truck was charged by NSW Police with dangerous driving occasioning death, and negligent driving.

Any PCBU connected to this incident has a WHS responsibility to manage WHS risks, (section 17 WHS Act). If SafeWork NSW does visit any PCBU involved in this incident then they will be looking for proof that the PCBU did everything "reasonably practicable" to manage the risks of the garbage truck driver's work activities.

The rest of this article contains basic excerpts from Safe Work Australia's, *Fact Sheet: Managing Risks to Health and Safety at the Workplace* that would be relevant to the above incident. Even though you do not run a garbage collection service you may find it useful to scan through the excerpts as they do apply to all workplaces.

PCBUs' responsibility for managing work health and safety risks

"Sometimes several PCBUs may share responsibility with other business operators who are involved in the same activities or who share the same workplace. These PCBUs must consult, cooperate and coordinate activities with all other persons who have a work health or safety duty in relation to the same matter, so far as is reasonably practicable."

"Tasks to manage risks may be delegated, but ultimately each relevant PCBU holds this responsibility under the law. Each PCBU must ensure that relevant workers and their health and safety representatives are involved in the risk management process."

"PCBUs should also ensure that whoever carries out any step in the risk management process has the necessary skills and experience to do so and understands when specialist help might be needed."

Consultation and managing risks

"Consultation with workers and their health and safety representatives is required at each step in managing risks to health and safety at the workplace. By drawing on the experience, knowledge and ideas of workers, PCBUs are more likely to identify all hazards and choose effective control measures."

“Workers should be encouraged to report any hazards and health and safety problems immediately so that risks can be managed before an incident occurs. If there is a health and safety committee for the workplace, it should also be engaged in managing health and safety risks at the workplace.”

“Risks must be managed to ensure the health and safety of workers and other people affected by the conduct of the business or undertaking including visitors and customers at a workplace. PCBUs should also think about other people such as members of the public and groups of people who share the workplace.”

Deciding 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:

- 1. the likelihood of the hazard or the risk occurring*
- 2. the degree of harm that might result from the hazard or the risk*
- 3. knowledge about the hazard or risk*
- 4. ways of eliminating or minimising the risk, and*
- 5. the availability and suitability of ways to eliminate or minimise the risk.*

It is only after assessing the extent of the risk and the available ways of eliminating or minimising the risk, that consideration may be given to the cost associated with available ways of eliminating or minimising the risk. A relevant factor at this point is whether the cost is grossly disproportionate to the risk.”

Keeping records

“It is good practice to keep records of risk management activities while they remain relevant. Keeping records of the risk management process demonstrates compliance and may help when undertaking subsequent risk assessments.”

Note:

More information and guidance on consultation and managing risks is available in the Code of Practice: *Work Health and Safety Consultation, Cooperation and Coordination* and the Code of Practice *How to Manage Work Health and Safety Risks*