

# BSBWHS418

## Assist with Managing WHS Compliance of Contractors

### Learner Guide Instructions

Who is this document for?

The learner.

What is in this document?

- Course training content (this matches the PowerPoint Presentation).
- Review questions.

What do you need to do before you use it for the first time?

1. Rebrand the document.
2. Review the document as part of your validation process.

**See the 'Read Me First' document for a complete set of instructions on how to use these resources.**



# LEARNER GUIDE

# BSBWHS418 Assist with Managing WHS Compliance of Contractors

Learner Name:	
Learner ID:	
Learner Contact Number:	
Learner Email Address:	
Date Training Commenced:	

## This Book Contains:

- Course Information.
- Review Questions.

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# 1.1 Introduction

This training course is based on the unit of competency **BSBWHS418 Assist with Managing WHS Compliance of Contractors**.

This course applies to people who work in a broad range of WHS roles across all industries.

This unit describes the performance outcomes, skills and knowledge required to assist with the work health and safety (WHS) management of contractors.

The WHS management of contractors has a strong focus on compliance with WHS organisational and legislative requirements.

NOTE: The terms Occupational Health and Safety (OHS) and Work Health and Safety (WHS) are equivalent and generally either can be used in the workplace. The term WHS will be used throughout this training course.



# 1.2 Prepare for Contractor WHS Induction



Contractors and the business they are providing services to have obligations under Work Health and Safety (WHS) legislation.

When employing a contractor, a company has a duty of care to ensure the contractors are familiar with any WHS policies and procedures they are expected to follow. This will also assist with cohesion on the work site as everyone will be following the same WHS policies and procedures.

To ensure compliance with WHS responsibilities it is standard practice to have contractors have an on-site WHS induction before they begin work.

## 1.2.1 How to Identify a Contractor

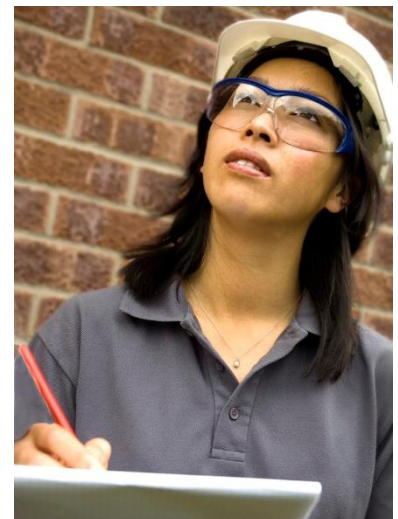
Understanding the difference between a contractor and an employee is essential as their status determines their compensation, superannuation entitlements, and tax requirements.

Usually, the easiest way to determine if a worker on site is a contractor or an employee is to remember that a contractor runs their own business and provides goods or services to others. In contrast, an employee works for someone else's business.

A contractor may also be called an independent contractor or sub-contractor.

Courts use a legal test to determine whether an individual is an employee or a contractor. It considers the nature of the relationship between the individual and the company and the amount of freedom they had in deciding how to complete the work tasks.

Business.gov.au has some good reference material for distinguishing an employee from a contractor and the associated difference in responsibilities and entitlements.



### 1.2.1.1 Services Supplied by Contractors



A single contractor or a small team will usually be sufficient to complete smaller tasks. In contrast, large tasks will utilise a general contractor who will hire subcontractors to perform specialised jobs needed to complete the work.

A subcontractor is anyone who provides labour or expertise to a project that has been hired by someone other than personnel with ownership over the project.

Commonly encountered subcontractors include tradespersons such as electricians, plumbers, concreters or HVAC specialists.

The general contractor coordinates any subcontractors required to complete the job. This will include scheduling, pay and ensuring any needed training or licences are up to date. They also act as a central line of communication from all subcontractors they employ and the personnel who own/manage the project they are working on.

The types of services provided by contractors include:

- ◆ Continuing outsourced work or functions, such as cleaning, catering and security.
- ◆ Continuing work performed by labour hire workers, such as contract or 'temp' work.
- ◆ Major contract work, such as in the construction industry.
- ◆ Occasional or intermittent work, such as maintenance, repairs, installation or alterations undertaken by independent contractors or subcontractors.
- ◆ A combination of some of the above.

Contractors usually work in industries with highly flexible or short term work including construction, IT, logistics and creative arts.



### 1.2.2 Locate and Review WHS Information



Contractors and the businesses they work for have WHS obligations. Before starting work the contractors must be provided with an induction to ensure they know how to meet these obligations and work safely. In preparation for the contractor's induction relevant WHS information should be identified and reviewed. This will help you to ensure the information being provided at the induction is relevant and up to date.

To understand WHS obligations of contractors you may source the following types of information:

- ◆ **Internal** – Information sourced from and controlled by the business.
- ◆ **External** – Information sourced from and managed by external bodies such as industry groups or the government.



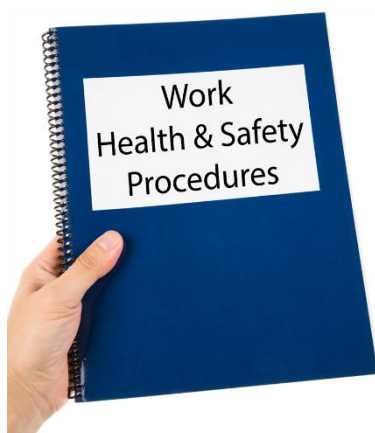
Some examples of internal and external information are detailed below:

Internal Information Sources	
◆ Hazard and incident reports.	◆ Training information and data.
◆ WHS policies and procedures.	◆ Injury and near-miss reports.
◆ WHS performance indicators.	◆ Consultation and participation records.
◆ Safety handbooks.	

External Information Sources	
◆ Australian/International standards.	◆ Codes of practice.
◆ Manufacturer's manuals.	◆ Unions.
◆ Legislation.	◆ Industry bodies.
	◆ Regulations

Each piece of WHS information will be located either physically in the workplace, digitally on the internet or intranet, and sometimes a combination of both.



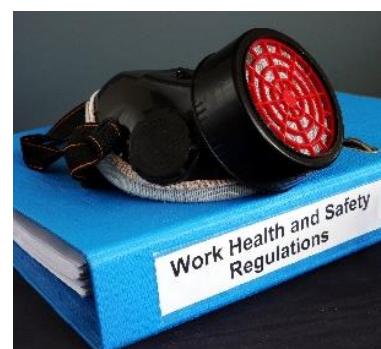
Where to locate certain pieces of information may be detailed in workplace procedures. If you cannot find the location in your work procedures, then your manager or HSR will be able to guide you to the best place to find the information you are looking for.

Make sure the information is up to date. For physical documents, they will usually have a date printed somewhere to indicate how recently the information was published. Online materials from a trustworthy source will usually have a date attached to them. It is essential when reviewing online information to ensure it comes from a reliable source. This means it comes from either the group who have developed the document (e.g. a government website detailing a piece of legislation) or someone with expertise or authority on the topic (e.g. an industry spokesperson). This is because anyone can publish online information, so it is not always accurate. Although, it can be more up-to-date as it is easier to update information on a website than a published book.

If the information is in a large document, check if it has a table of contents. You can use the table of contents to guide you to the WHS information relevant to contractors.

It can also be helpful to 'scan' through the document before reading it in detail. 'Scanning' a document involves reading quickly through the information to gain a general understanding of what is detailed in the document. Focus only on the basic details of the document by looking at the headings, summaries, and visual materials such as images or flow charts. Doing this will give you an understanding of the nature of the document and help you locate the most important information to read in detail.

While reviewing the WHS information, make notes on how the information applies specifically to the contractors being inducted into the workplace. This will help you to make the information as useful as possible to the contractors by ensuring they understand how the information may impact the way they complete their work.



If you have trouble understanding some of the information, slow down your reading speed or re-read it to see if that helps. If difficult words are used that you do not understand, then look up what they mean using a dictionary. If the information is still not clear, then check with your supervisor or Health and Safety Representative (HSR) and they can help you to understand.

## 1.2.3 Types of WHS Information

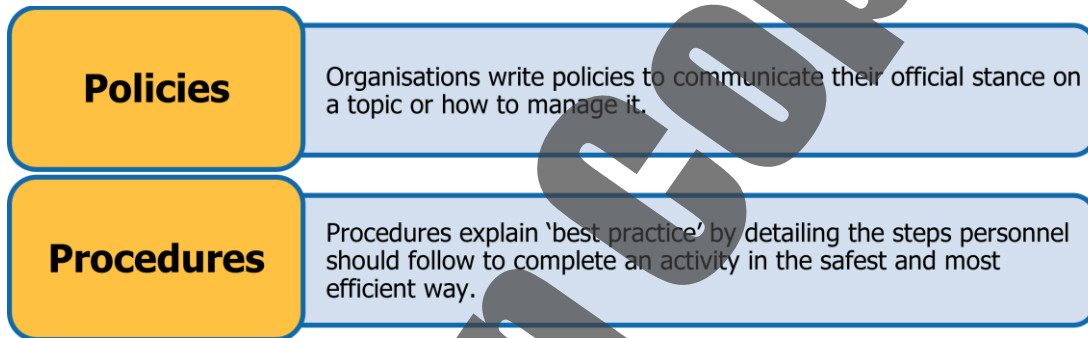


You should review a few critical pieces of WHS information before assisting with the contractor induction. Contractors and other relevant personnel must meet specific compliance requirements detailed in these documents. Non-compliance with the information described in the documents could lead to legal disputes or internal disciplinary action from the workplace. These documents are essential because they ensure work is completed safely, so non-compliance is taken very seriously as it could lead to injury, damage to equipment, or even death.

### 1.2.3.1 Workplace Policies and Procedures

Workplace policies and procedures are needed to ensure that work is conducted safely, efficiently and systematically. Their aim is to enable quality requirements and timeframes to be met, and to assist in preventing injuries to workers and damage to goods or equipment. Policies and procedures may exist on their own, or they may accompany and support one another.

The key purpose of policies and procedures is detailed below:



Policies and procedures are important because they highlight what a workplace is doing to meet their legal WHS obligations as well as which parties are involved, and in what capacity. The specific types of WHS policies and procedures a company has will change depending on the industry and the nature of the work. Common WHS policies and procedures include:

- ◆ WHS Policy.
- ◆ Drug and alcohol policy.
- ◆ Workplace bullying and harassment policy.
- ◆ Smoke-free workplace policy.
- ◆ Communication and consultation procedure.
- ◆ Hazard ID procedure.
- ◆ Risk assessment and control procedure.
- ◆ Incident reporting procedure.



Always check to confirm that procedures are written in a way that represents the work conditions, this will ensure they are relevant and accurately address WHS concerns associated with the type of work being completed.

### 1.2.3.2 The Work Health and Safety Act

The Work Health and Safety Act 2011 (WHS Act) outlines the responsibility a company (or PCBU) has to ensure, so far as is reasonably practicable, the health and safety of workers and others who may be affected by the carrying out of work.

To determine whether a WHS measure is reasonably practicable, a company may consider the following:

- ◆ What do they have control over?
- ◆ Is it possible?
- ◆ Is it reasonable?



Under WHS legislation, contractors and sub-contractors are included in the definition of a worker and therefore need to be incorporated in the WHS arrangements for workers in the workplace.

This means that they need to comply with the WHS requirements for:

- ◆ Actual procedures, processes and activities that occur in the workplace (i.e. what actually happens).
- ◆ Policies, procedures and systems relating to WHS management of the contractor.

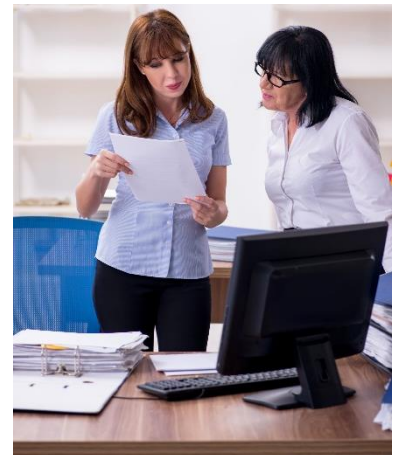
Under the legislation, contractors and sub-contractors are also considered under the definition of Person(s) Conducting a Business or Undertaking (PCBU).

This means that they have the same obligations as a PCBU in regards to their own business and any workers whom they employ.

However, a sole trader who is a PCBU but performs work for another PCBU becomes a worker for the 2nd PCBU.

A company must consult and collaborate with contractors they engage to ensure their activities do not introduce further hazards to those working on site.

Ultimately the amount of responsibility a party has for the safety of personnel on site is determined by the amount of control they have for the on site operations. It is considered unreasonable to expect a company or PCBU to manage risks and hazards for which they have no control over.





The WHS Act is a law which is supported by several other documents including regulations, standards and codes of practice which aim to assist companies in meeting their WHS responsibilities. The purpose of these documents is detailed below:

<b>Laws</b>	Laws (or Acts) are broad rules made by governments and courts which apply to everyone. There are consequences for not following the law because they help to keep everyone safe.
<b>Regulations</b>	Regulations support laws by providing more detailed information on the duties different people must follow to comply with the law.
<b>Standards</b>	Standards detail technical specifications or procedures to establish minimum requirements for how work is to be completed.
<b>Codes of Practice</b>	Codes of practice guide individuals on how to meet their 'duty of care' responsibilities.

Not all of these documents are legally binding but may be referred to in court proceedings as examples of best practice.

### 1.2.3.3 Duty of Care

Duty of care is a legal obligation to adhere to a standard of reasonable care when performing acts that have the potential to harm others.

Everyone at work has a legal responsibility under duty of care to do everything reasonably practicable to protect others from harm by complying with safe work practices.



Employers (PCBUs) have a duty of care to protect workers and visitors from physical hazards (e.g. slippery floors or heavy loads) and social and behavioural hazards (e.g. bullying or violence). They must also ensure that everyone has received adequate training, information, or supervision to complete their work. This includes providing sufficient information, training, instruction and supervision to workers.

Workers have a duty of care to complete their tasks safely by following all WHS policies and procedures and reporting hazards to the relevant personnel. Intentionally or recklessly interfering with or misusing any WHS equipment an employer provides is a breach of duty of care. In addition, to ensure they meet their duty of care responsibilities, all workers must cooperate with the health and safety policies and procedures set by an employer.

### 1.2.3.4 Contracts

Contracts are important documents as they outline the requirements, rights and responsibilities of the contractor and the business they are supplying the service to. This includes details about insurance, the provision and availability of equipment as well as any task-specific WHS arrangements.



The contract and its related documents may include:

- ◆ Contract to supply services.
- ◆ Other documents referred to in the contract or produced after the contract.
- ◆ Undocumented understandings and agreements.

The information provided in the contract may include:

- ◆ Results to be achieved and services to be performed.
- ◆ Insurance and professional indemnity responsibilities.
- ◆ Dispute resolution processes.
- ◆ Intellectual property rights.
- ◆ Termination of contract.
- ◆ Timing and payment.
- ◆ Reporting arrangements.
- ◆ Confidentiality obligations.
- ◆ Provision of tools and equipment required to complete work.



As you read through the contract you will need to check that the WHS arrangements comply with any applicable WHS laws and regulations.



Consider each WHS responsibility outlined in the contract and compare it to the following legal obligations:

- ◆ Are WHS duties and roles and responsibilities specified?
- ◆ Are the proposed work systems safe and without risk to the workers?
- ◆ Have workers been trained to perform the tasks safely and competently?
- ◆ Does consultation need to occur?
- ◆ Are there provisions for workplace investigation of accidents, enforcement of legal requirements and for inspectors to visit workplaces?

It is important to ensure that all contracts, workplace policies, procedures, processes, systems, practices and activities comply with all legal and regulatory requirements.

### 1.2.3.5 Work Method Statements

Under the national WHS regulations a work method statement (WMS) is necessary for any project involving high risk construction work.

This is a document that identifies on-site activities which have a high level of risk and may jeopardise the health and safety of people on site. A WMS identifies control measures to be implemented to manage identified risks and how they are to be implemented, monitored and reviewed.

The purpose of a WMS is to assist PCBUs and other relevant stakeholders in managing risks in the context of high risk construction projects.

More information on the requirements of a WMS can be found in the **Code of Practice: Construction Work**.



Workers and if applicable, WHS representatives must be consulted when preparing a WMS and when the document is reviewed.

A PCBU is responsible for preparing a WMS, or for making sure one has been prepared before construction work starts.

Many contractors will supply their own Work Method Statement (WMS). In some states and workplaces this is referred to as a Job Safety Analysis (JSA).

If your contractor has not supplied a SWMS, you are within your rights to request one.

### 1.2.4 Determine WHS Duties, Rights and Obligations

Having identified the WHS compliance requirements for your workplace, you need to assist in identifying and confirming which personnel have responsibilities relating to the information you reviewed.

The following people may have specific WHS duties, rights and obligations:

- ◆ Duty holders as specified in WHS Acts, such as:
  - ◆ PCBUs or their officers.
  - ◆ Self-employed persons.
  - ◆ Persons in control of workplaces.
  - ◆ Workers.
  - ◆ Other persons at a workplace.
- ◆ WHS representatives, inspectors, regulators, committees.
- ◆ Contractors and subcontractors.
- ◆ Customers.
- ◆ Suppliers.
- ◆ Unions.
- ◆ Manufacturers, importers and suppliers of substances.
- ◆ WHS entry permit holders.



Everyone in a workplace has legislative WHS duties and responsibilities and these cannot be transferred from one individual to another. More than one person can share the same duty, for example fire wardens or first aid providers.

Any individual with WHS responsibilities who has a responsibility under WHS legislation may be referred to as a 'duty holder'.

As a guideline, the following table shows some general responsibilities for duty holders in a workplace setting.

Stakeholder	WHS Responsibilities
<b>Company (PCBU)</b>	A <b>PCBU</b> has a primary duty of care to maintain a safe working environment for workers and to ensure work activities do not pose a risk or hazard to others. Amongst other things, the PCBU is required to consult and communicate with workers on matters of WHS.
<b>Managers &amp; Supervisors</b>	Managers and supervisors are required to implement and monitor the effectiveness of required WHS policies and processes within their work area. They must also provide adequate safety information and training to all staff reporting to them.
<b>Workers</b>	Workers must cooperate with WHS process and procedures and take reasonable care to ensure their actions do not impact the health and safety of others in the workplace. A worker should report any potential risks or hazards to their PCBU or HSR as soon as possible and work with them to resolve WHS issues including participating in consultative processes.
<b>Health and Safety Representative (HSR)</b>	Workers may request the election of a HSR to represent them on matters of WHS. A HSR can streamline the consultation process by having a single official advocate on behalf of workers to the PCBU. The HSR may undertake targeted WHS and consultation training to optimise their performance. Having an elected HSR may be of benefit to those working in large organisations where there would otherwise be many stakeholders to engage with when making WHS decisions.

If you are unsure of what WHS duties a contractor has then you should seek clarification by speaking to your manager, supervisor or health and safety representative (HSR).

## Review Questions

<b>1.</b>	What two (2) things does a court consider when determining if an individual is working as an employee or a contractor for a company?	<input type="checkbox"/>
1.		
2.		



**2.**

Who is responsible for coordinating subcontractors required to complete a job?

**3.**

What are three (3) examples of external information sources?

1.

2.

3.

**4.**

What should you check for when confirming if information is coming from a reliable source?

**5.**

When reviewing WHS information in preparation for a contractor WHS induction, why should you make notes on how the information applies specifically to contractors?

**6.**

What is the difference between workplace 'policies' and 'procedures'?

**7.**

What are four (4) examples of common WHS policies or procedures?

1.

2.

3.

4.

**8.**

Why do contractors and sub-contractors need to be incorporated into WHS arrangements for workers in a workplace?

**9.**

What information is detailed in regulations?

**10.**

What is duty of care?

**11.**

What information is outlined in a contractors contract with a company?

**12.**

Who must be consulted when preparing or reviewing a Work Method Statement (WMS)?



**13.**

Who may be referred to as a 'duty holder'?



### 1.3 Assist with Contractor WHS Induction

Many companies require staff members and independent contractors to undergo a safety briefing and induction before beginning work. This is part of a company's due diligence as an employer and aligns with their duty of care obligations.

