



# Labour hire host PCBUs: Duties of persons conducting a business or undertaking who use labour hire workers

**This checklist provides information for persons conducting a business or undertaking who use labour hire workers (host 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 PCBUs who supply workers to other businesses (labour hire PCBUs) and 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, so far as is reasonably practicable, consult, 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
- 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 host PCBU

As a host PCBU under the WHS Act, you have the same health and safety duties to labour hire workers as you do to other types of workers. It is your duty to ensure, so far as is reasonably practicable, the health and safety of all workers while at work. This duty requires you to eliminate or, if that is not reasonably practicable, to minimise risks to their health and safety. To identify what is reasonably practicable to do, you must take into account all the relevant matters and work with the labour hire PCBU/s to provide the highest level of protection that is both possible and reasonable in the circumstances.

As a host PCBU, you must also consult, cooperate and coordinate activities with the labour hire PCBU to ensure you meet your obligations. The WHS Act specifically provides that you cannot contract out of or transfer your WHS obligations to another party, including labour hire or other host PCBUs.

### **Before engaging labour hire workers**

Before you engage labour hire workers to carry out work, you should consider:

- providing the labour hire PCBU with detailed information about the nature of work to be carried out including details of, and where possible supporting material, relating to:
  - the work environments
  - tasks to be performed
  - accommodation arrangements, where applicable
  - any known hazards or risks
  - any plant or equipment to be used
  - organisational and WHS arrangements, including supervision arrangements and any other organisations responsible for the worker during the arrangement
  - health and safety risks associated with the work
  - any skills, knowledge, licenses and qualifications required to safely undertake the work.
- verifying, in consultation with the labour hire PCBU, that the selected workers have any necessary qualifications, licences, skills and training to carry out the work safely. 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)
- discussing with the labour hire PCBU arrangements for health monitoring and vaccinations
- consulting with the labour hire PCBU on WHS matters including in relation to who will provide any necessary equipment such as personal protective equipment (PPE), and relevant points of contact for health and safety between the organisations
- ensuring that general health and safety information about the work, workplace and work environment has been provided to the workers. Check that you have provided this information in a way that is suitable, adequate and readily understandable for the workers
- eliminating or, if that is not reasonably practicable, minimising risks in the workplace
- establishing, in consultation with the labour hire PCBU, a review process for ensuring the ongoing WHS of workers
- any more you can do to ensure the health and safety of all your workers.

### **During a labour hire worker's placement**

While labour hire workers are carrying out work, you should consider:

- providing the worker(s) with a site specific safety induction outlining WHS duties, policies, procedures and practices in the workplace including consultation methods
- where WHS advice or workplace assessments are required, ensuring the persons engaged to conduct those assessments are suitably qualified
- treating labour hire workers as you would employees and other workers with respect to health and safety and the provision of a safe working environment and PPE (if PPE is not provided by the labour hire PCBU)
- providing adequate supervision of the worker(s) at all times to ensure that work is being performed safely

- consulting with the labour hire PCBU and workers regarding any changes which may affect WHS. Ensure you do not transfer workers to new tasks or change the nature of their work tasks, work environment or work location until you have consulted with the workers and obtained the approval of the labour hire PCBUs
- encouraging labour hire workers to participate in the identification of hazards and risks specific to their work
- supporting and encouraging labour hire workers to participate in workplace safety consultative arrangements
- working with the labour hire PCBU to facilitate appropriate WHS arrangements. For example, allow the labour hire PCBU access to workers, the workplace and relevant documents for the purpose of workplace safety assessments and to fulfil their WHS duties as a PCBU
- facilitating any assessments conducted by the labour hire PCBUs, for example, WHS management assessments or work site assessments
- providing any further training, instruction or information prior to transferring a labour hire worker to new tasks, in a way that is suitable, adequate and readily understandable to the worker.
- encouraging labour hire workers to maintain contact with the labour hire PCBU throughout their placement
- in the event of an incident, notifying the labour hire PCBU as soon as practicable and working with them to implement agreed arrangements. For example, allowing the labour hire PCBU access to the workplace and to relevant documents to fulfil their WHS duties as a PCBU.

## Further information

To find out more, contact WorkSafe WA at [www.dmirs.wa.gov.au](http://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.

## Host PCBU self-assessment checklist

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### Information, instruction, training and supervision

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- Do you give labour hire workers information, instruction and training relating to risks to health and safety arising from work?
  - Are labour hire workers adequately supervised?
  - Do labour hire workers who are directed to do high risk work hold the applicable high risk work licence?
  - Are labour hire workers competent to do the job in such a way that they are not exposed to hazards? Do you provide detail about the job to the labour hire agent so skills/experience are matched to the job?
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### Hazard identification, risk assessment and risk control

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- Have you identified hazards labour hire workers are exposed to, assessed the risk of injury and has considered control measures?
  - Has the labour hire PCBU visited the workplace and identified hazards their workers are exposed to and assessed the risk of injury or harm to their workers? Have you discussed the risk assessment with the labour hire PCBU, and considered and implemented practicable control measures?
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### Reporting of injuries and investigation of injuries and reported hazards

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- Do you and the labour hire PCBU have a system in place to report notifiable injuries of labour hire workers to WorkSafe? Who will notify such injuries, and how will the other party be informed?
  - Have you, within a reasonable time, adequately investigated any hazards or injuries reported by workers, determined action (if any) and notified the worker of the outcome?
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### Consultation with labour hire workers and with labour hire agent

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- 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 labour hire PCBU regarding WHS, including changes to tasks or location and reporting of hazards/injuries?
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### Personal protective clothing and equipment (PPE)

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- Have you ensured that, where it is not practicable to avoid the presence of hazards, that labour hire workers are provided with adequate PPE, including safety footwear, without any cost to the workers?
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## Labour hire worker induction checklist

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### Explain work tasks

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- Have you provided the labour hire worker with information about the job they will be doing, including any health and safety risks?
  - Has the labour hire worker been shown how to do the job by a skilled or knowledgeable person?
  - Have you provided the labour hire worker with personal protective equipment and clothing, and shown how to use and maintain them?
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### Tour of workplace

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- Has the labour hire worker been introduced to key people including supervisor, first aid officer, health and safety staff (if any) and health and safety representative (if any)?
  - Has the labour hire worker been shown where to store their personal property?
  - Has the labour hire worker been shown first aid facilities, bathroom and toilet facilities, kitchen and break areas?
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### Policies, procedures

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- Has the labour hire worker been inducted in the work health and safety, issue resolution, bullying and injury/ incident reporting policies and procedures?
  - Has the labour hire worker been shown what to do in an emergency, including the evacuation alarm and evacuation assembly point?
  - Has the labour hire worker been informed that all physical and psychosocial WHS hazards and incidents are to be reported, and advised how to report?
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### Supervision

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- Does the labour hire worker's supervisor conduct regular checks to ensure safety instructions are followed?
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