

Insights and guidance on psychosocial risk management and compliance in university workplaces

SOUL
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Overview

Today we will cover:

- The legislative framework, duties, compliance requirements and regulatory enforcement
- The role of executives and other university 'officers'
- Practical guidance on psychosocial risk management system development and implementation
- The role of university lawyers
- Questions

Legislative Framework

Legislation		Codes of Practice	Regulatory Guidance
WHS Acts and OHS Act	WHS Regulations	How to manage work health and safety risks	Hazard specific resources
<ul style="list-style-type: none">• Imposes health and safety duties, including the following:• Primary duty of care• Duty to consult with workers• Duty to consult, cooperate and coordinate with other duty holders	<ul style="list-style-type: none">• Sets requirements for how to manage risks• For example, psychosocial hazards	<ul style="list-style-type: none">• Work health and safety consultation, cooperation and coordination• Managing psychosocial hazards at work• Sexual and gender-based harassment• Workplace behaviour	<ul style="list-style-type: none">• People at Work survey tool• Designing Work to Manage Psychosocial Risks (NSW)• Consulting your workers about psychosocial hazards and risks (NSW)• Psychosocial risk assessment tool (QLD)

The primary duty of care

- **Duty:** Universities must ensure, *so far as is reasonably practicable*, the health and safety of workers and other persons in the workplace.
- **Compliance requirements:** To provide and maintain:
 - a safe work environment
 - safe systems of work
 - safe plant and structures
 - training, instruction and supervision for workers
 - health monitoring of workplace conditions.
- **Standard of care:** ‘so far as is reasonably practicable’



Overlapping positive duties to eliminate unlawful sex discrimination

- Universities must take **reasonable and proportionate measures** to eliminate:
 - sex discrimination
 - sexual harassment
 - victimisation
 - hostile working environments.
- Requires both **preventative action**, and responsive action to these unlawful behaviours
- Compliance measures **are the same** as those required by the WHS & OHS legislation

Duties to consult

Consultation with workers

Universities must, so far as is reasonably practicable, consult with workers in relation to the following matters:

- when identifying hazards and assessing risks to health and safety arising from the work carried out by the university;
- when making decisions about ways to eliminate or minimise those risks;
- when making decisions about the adequacy of facilities for the welfare of workers;
- when proposing changes that may affect health or safety;
- when making decisions about WHS procedures.

Consultation with shared duty holders (s 46)

If more than one person has a duty in relation to the same matter under the WHS Act, each person with the duty must, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter.

What does 'reasonably practicable' mean?

Definition

'*Reasonably practicable*', means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters.

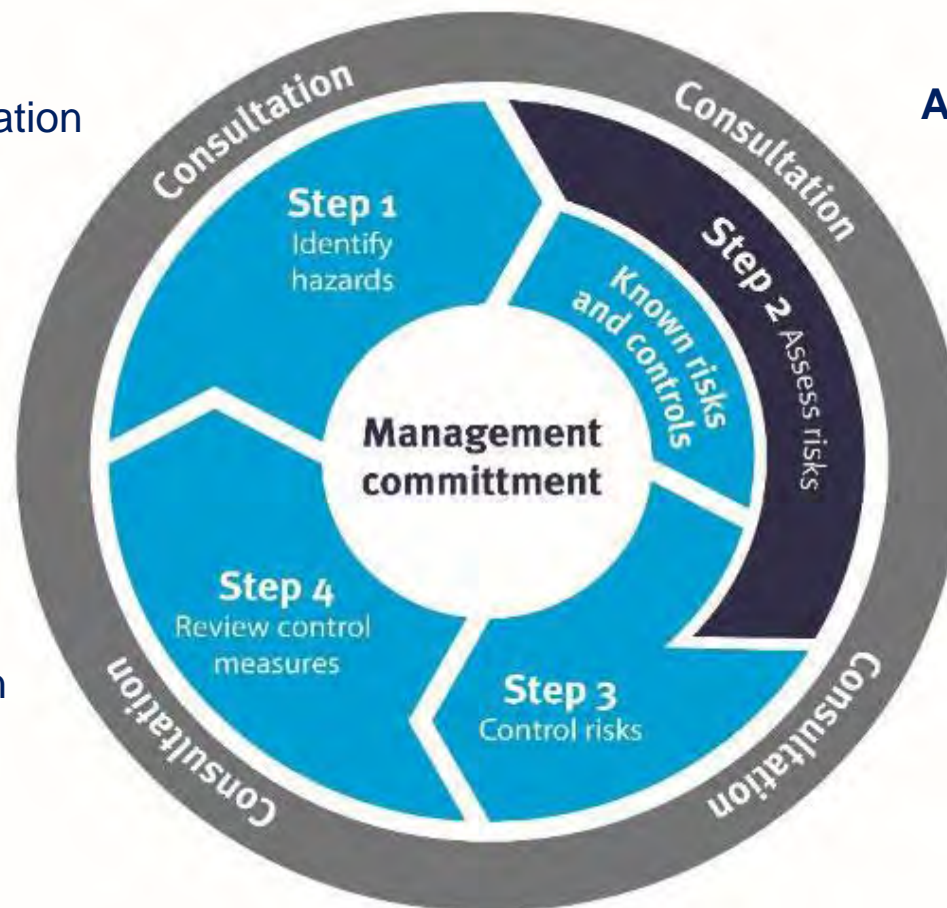
Relevant matters

- The likelihood of the hazard or risk occurring
- The degree of harm that might result if it occurred
- What the university knows, or ought reasonably to know, about:
 - the hazard or risk; and
 - ways of eliminating or minimising the risk
- The availability and suitability of ways to eliminate or minimise the risk
- The associated costs

Risk management

Identify the hazards, in consultation with your workers

Assess the risks, in consultation with your workers

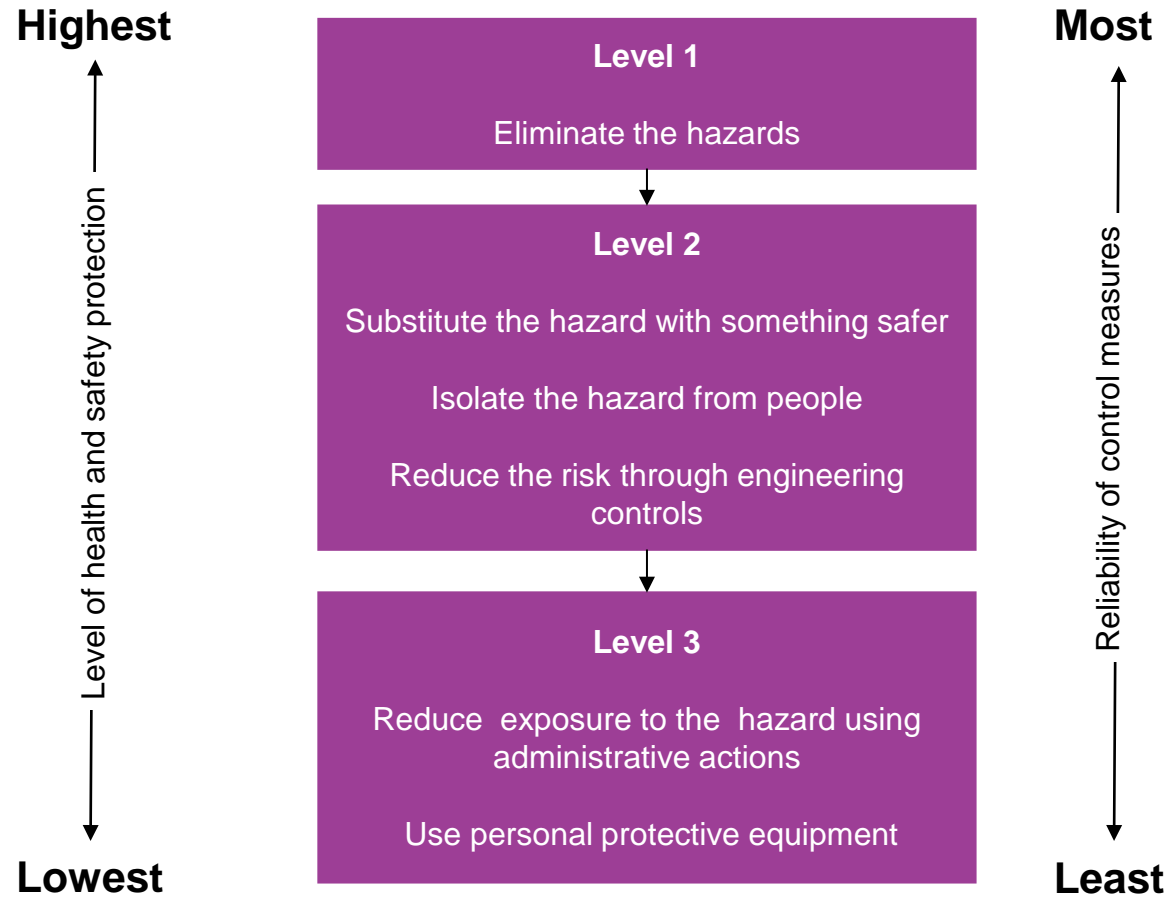


Review controls, in consultation with your workers

Control the risks, in consultation with your workers

It's not a control unless it works!

Hierarchy of controls



Due diligence – a personal duty of university officers

- The duty of a university ‘officer’ is a positive duty to take all ‘reasonable steps’ to exercise ‘due diligence’ to ensure the university complies with its duties under the WHS legislation.
- Universities ‘officers’ are:
 - directors, company secretaries and executives
 - decision-makers with capacity to significantly affect the university’s financial standing
 - persons who make or participate in decision-making affecting the whole or a substantial part of the university.



Officer due diligence – What does it require?

Education	<p>An understanding of the nature of the operations of the university and the hazards and risks associated with those operations</p>	<p>Up to date knowledge of the WHS laws and compliance requirements</p>
Reporting	<p>Ensuring appropriate resources and processes to enable the identification and elimination or control of hazards and risks</p>	<p>A process for receiving, considering and ensuring a timely response to information regarding incidents, identified hazards and risks</p>
Verifying	<p>Verification that hazards and risks are effectively controlled, and the university's duties are complied with</p>	

Key questions for officers to ask

1. What are our main psychosocial **hazards and risks**?
2. What do we do to **control** them?
3. How **effective** are these controls (considering complaints, incidents, injuries and other evidence)?
4. Are we applying the right **resources**? Can and should we do more?
5. What steps are we taking to **verify** all of this is compliant and effective?



Psychosocial hazards

What is a psychosocial hazard?

A **psychosocial hazard** is a hazard that:

- arises from, or relates to:
 - the design or management of work;
 - the work environment;
 - plant at a workplace; or
 - workplace interactions or behaviours; and
- may cause psychological harm (whether or not it may also cause physical harm).

What is a university's duty of care?

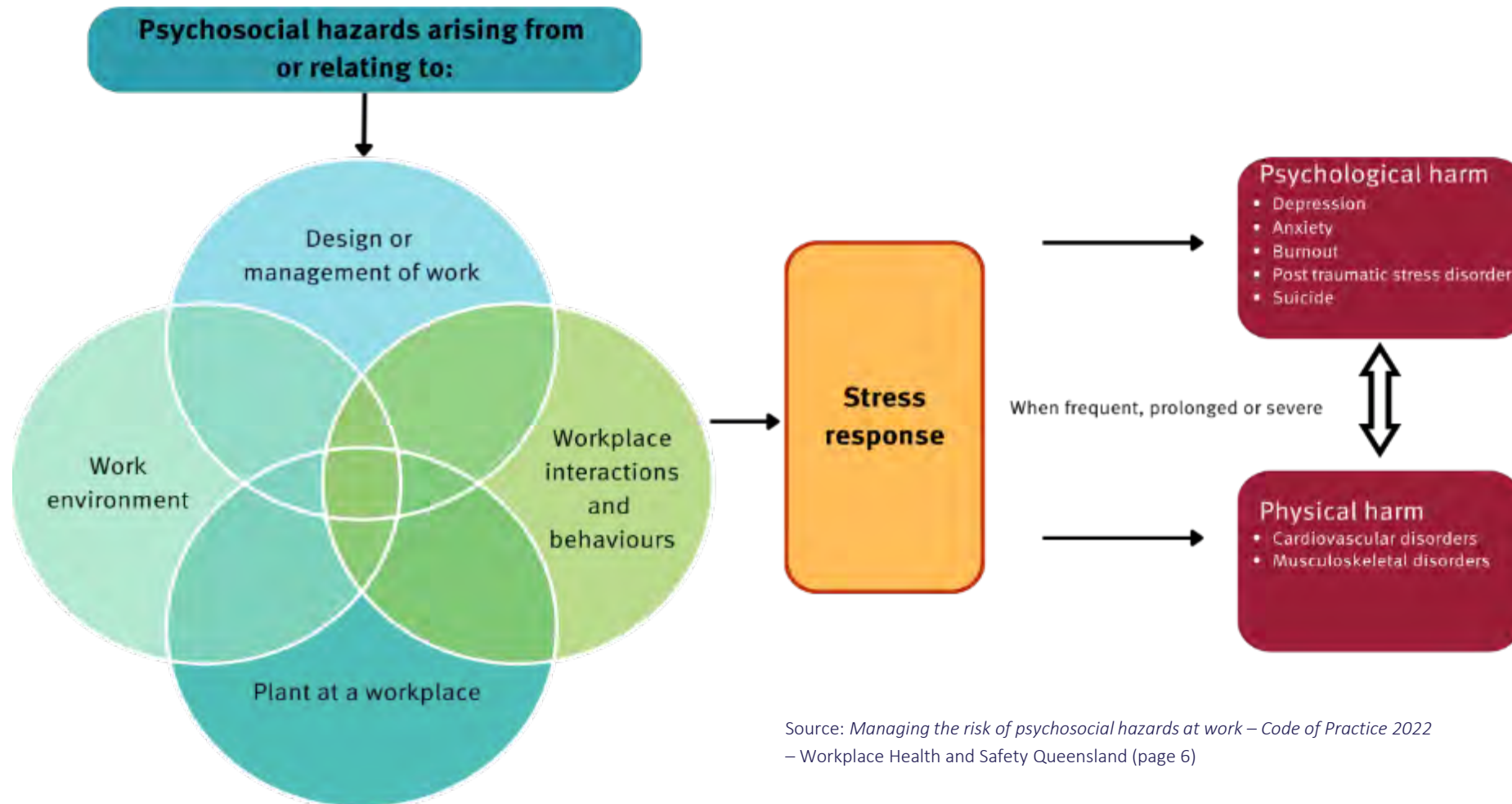
To **manage psychosocial risks so far as is reasonably practicable**, in consultation with workers and concurrent duty holders, **by**:

- identifying all reasonably foreseeable psychosocial hazards;
- assessing the psychosocial risks associated with those hazards;
- controlling the risks in accordance with the hierarchy of controls, by:
 - eliminating the risks; or
 - if it is not reasonably practicable to eliminate the psychosocial risks – minimising the risks; and
- reviewing the controls to ensure effectiveness and continuous improvements where required.

Psychosocial Hazards



Psychosocial hazards and risks – How they impact people



Source: *Managing the risk of psychosocial hazards at work – Code of Practice 2022*
– Workplace Health and Safety Queensland (page 6)

Relevant matters when determining risk control measures for psychosocial hazards

In determining the control measures to implement, the person **must have regard to all relevant matters**, including:

- duration, frequency and severity of the exposure to the psychosocial hazards
- design of work (eg, job demands and tasks)
- systems of work (including how work is managed, organised and supported)
- workplace conditions (eg, design, layout and environmental conditions)
- workplace interactions or behaviours (eg, bullying, harassment, discrimination and victimisation)
- information, training, instruction and supervision provided to workers.

Why is this important for a university and its officers?

Adverse consequences when duties not complied with and psychosocial risks not effectively managed

- Reduced worker performance and productivity
- Limitation on business performance and outcomes
- Regulatory enforcement action
- Legal proceedings, costs and fines
- Adverse publicity and reputational damage

Benefits of doing it properly and getting it right

- Return on investment
- Risks managed, and injuries & illnesses prevented
- Improved worker performance and productivity
- Improved business performance and outcomes
- Improved reputation as employer and educational institution

Project team for system development and implementation



Project management to develop a university psychosocial risk management system



The role of university lawyers

- ✓ **Education for officers** – Educating university officers about the legal duties and compliance requirements, and this opportunity to improve business performance and outcomes
- ✓ **Project team** – Being a curious, informed and engaged member of the university's project team
- ✓ **Reporting to officers** – Helping to ensure the university's officers are receiving all relevant information needed for them to exercise due diligence, engage in the process and demonstrate safety leadership
- ✓ **Seek specialist advice and support** – This is a new and challenging area of risk management, so consider getting expert advice and support with educating officers and the project team, identifying deficiencies, addressing challenges and making required improvements

Questions?