
What are your OH&S responsibilities to contractors?



Most employers understand their responsibilities to their employees under Occupational Health and Safety Acts in their State, however, many are un-aware that these obligations extend to contractors as well.

In this short overview, we explore the obligations of companies who control sites or buildings, in relation to contractors – for example in Hotels, manufacturing plants, or sporting clubs. Many of these obligations also extend to tenants who control entire buildings, or single tenancies.

What are my OHS responsibilities ?

Section 8(1) of the *Occupational Health and Safety Act 2000 (OHS Act 2000)* states that as an employer you 'must ensure the health, safety and welfare at work of all the employees'.

To meet your responsibilities under the *OHS Act 2000*, you must provide:

- safe premises
- safe machinery and substances
- safe systems of work
- information, instruction, training and supervision
- a suitable working environment and facilities.

The Act also states that you are responsible for the health and safety of people other than your workers, who may be present at the workplace.

(Workcover NSW – www.workcover.nsw.gov.au)

While work such as cleaning and maintenance can be contracted out, responsibility for health and safety cannot! This means that the property owner or manager must take all reasonable steps, including training and testing, to ensure that any contractors retained to provide services at the workplace understand their obligations under the *Occupational Health and Safety Act 2000*, and comply with them. (See WorkCover NSW *DueDiligence*,1997)



The table below summarises the responsibilities of key stakeholders.

(from NSW WorkCover, Guide for Property Owners and Managers).

| | Responsibilities | Notes / Comments |
|--|---|--|
| Property owner | <ul style="list-style-type: none">• Providing and maintaining premises, access, egress, plant and substances that are safe and without risks to health• Risk management• Ensuring that contractors are not exposed to risks to their health and safety arising from the conduct of the employer's undertaking while they are at the employer's place of work. | A person who has only limited control over plant or equipment is responsible only for that over which they have control. |
| Property / Facilities Manager | <ul style="list-style-type: none">• Providing and maintaining premises, access, egress, plant and substances that are safe and without risks to health• Risk management• Ensuring that contractors are not exposed to risks to their health and safety arising from the conduct of the employer's undertaking while they are at the employer's place of work. | A person who has only limited control over plant or equipment is responsible only for that over which they have control. |
| Contractor (eg, Contract Cleaner or Maintenance Firm) | <ul style="list-style-type: none">• Ensuring the health, safety and welfare at work of all their employees• Risk management• Ensuring that contractors are not exposed For further information see the to risks to their health and safety arising companion guide, Guide 2, <i>Health and Safety for Cleaning Contractors</i> undertaking while they are at the <i>in NSW – A Guide for Cleaning</i> employer's place of work. | |

The Act and its interpretation is very clear – a company in control of a property, such as a hotel, office building or shopping centre – has a responsibility to their contractors that is similar in scope to that of their employees.

Employers have a general duty of care for their employees and must ensure the health, safety and welfare of their employees while at work.

Section 8(1) states that employers must:

- Ensure that places of work under their control are maintained in a safe condition, including entrances and exits.
- Make arrangements for ensuring the safe use, handling, storage and transport of plant and substances
- Provide and maintain systems of work, and working environments, that are safe and without risks to health
- Provide the information, instruction, training and supervision necessary to ensure the health and safety of employees
- Provide adequate facilities for the welfare of employees.

Chapter 2 of the NSW OHS Regulation places a duty on employers to undertake the risk management process, and can assist employers to understand and undertake this process.

Chapter 3 of the NSW OHS Regulation requires employers to consult with their employees about OHS matters, so that employees can contribute to decisions affecting their health, safety and welfare.



Contractors and their employees must be treated in regard to OHS as if they were the same as your own employees.

When making a judgment following the injury of contractor, the magistrate stated.

'The Employer must realise it is under an obligation to eliminate safety hazards from its undertakings and to communicate and enforce safety regulations to every person who enters a work situation.

In particular, formal risk and hazard investigations on all operations should be carried out with all contractors involved, both prior to the grant of the contracts and during its term.....

[The employer] should require that prospective contractors provide indication of induction procedures, operating procedures, OHS systems, safety meetings systems, 'tool box' meeting systems, and safety systems in place for the contractor's operation.'

NSW Workcover Web-site

Engaging contractors

When a property owner or manager is an employer, they have an obligation to ensure the health and safety of their own employees as well as other workers (i.e. cleaning contractors) and persons generally. The OHS Act states that:

'An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.' (OHS Act s 8(2))

A property owner/manager who retains contractors to provide services at the workplace remains primarily liable for ensuring that the contractor's employees are not exposed to risks to their health or safety while they are at his/her place of work.

General Practice

In most large buildings, there are a large number of individual contractors and contractor companies that must be managed. Current data from Valorem's Praxeo system shows that over 110 contractors access an average site per month. Generally, there are in excess of 15 contract companies on each site as well.

How to most efficiently manage these contractors, meet your obligations, and enhance the safety of your site – these are the key questions and answers will depend on your specific site. However, best practice across a large number of sites includes:

- Start at the beginning – understand the risks and hazards on your site, and clearly communicate them to you contractors prior to tenders or contracts being let. The more information you can share with your contractors, the safer the workplace will be.
- Evaluation of the contractors OHS Management system – either by yourself or using a third party independent audit as a basis of determining compliance.
- Obtain site specific risk assessments / safe work methods statements from the contractors for the work they will undertake.
- Obtain copies of certificates of insurance currency from the contractor.
- Provide a site specific induction to your contractors (each individual), so they are aware of their responsibilities, and ensuring they understand the key risks and hazards on the site. Monitor compliance and ensure only inducted contractors work on the site.
- Provide site specific information to contractors on a regular basis.
- Collect information from contractors – such as what safe work method statements are being used for each job undertaken on the site.

Automation

Praxeo is the unique, patented solution from **Valorem Systems Australia** that automates these processes, and can ensure you meet your responsibilities 24/7. Praxeo's web-connected kiosks manage your contractors, inductions, insurances, and the information flow to and from your contractors. Praxeo will enforce and strengthen your existing processes, and meet the unique requirements of your site. Valorem also works with a number of specialist OHS consultants who can provide detailed reviews, recommendations and improvement programs if required.

Contact Valorem on 1300 665 818 (or +61 2 9418 1465) for more information.

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Important Note and Disclaimer

The information in this short article is general in nature. The material references NSW Workcover materials which you may wish to access and read in full in relation to your specific circumstances. The regulations may be different in material ways in other states – contact your relevant state regulatory OHS body for more information. Finally, the information in this article is general in nature, and you should consider the relevant legislation, guidelines and your business and environment when considering implementing any OHS solution or system.

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