

The Association of Superannuation Funds of Australia Ltd (ASFA)

Occupational Health and Safety Policy

ASFA acknowledges its obligations to provide a healthy and safe working environment for its employees, its students, and visitors to ASFA offices. These responsibilities rest not only with ASFA's Board of Directors, and the Chief Executive, but are a prime function of all levels of management and supervision.

An important aspect in preventing injuries and work related ill health is our own attitude to safety. Through planning, we hope to prevent injuries and work related ill health. This involves constantly improving our procedures, facilities and working environment.

In discharge of its responsibilities and in compliance with the requirements of the Occupational Health and Safety Act 2000 and other associated legislation, ASFA aims to develop written policies and procedures and to implement these in the workplace.

To achieve policy objectives, resources are directed towards providing for:

- Elimination of hazards/procedures in the workplace which can cause death, injury or occupational disease;
- Appropriate and adequate accident prevention measures and reporting procedures;
- Appropriate and adequate occupational health and safety training and educational programs;
- An accredited rehabilitation program for injured employees;
- Overall safe and healthy working environments and procedures and safe plant and equipment.

Although the prime responsibility for health and safety rests with the employer, it is the responsibility of all employees and students to ensure their own and others' health and safety by observing safe systems of work and reporting potential hazards in their work and study areas.

New South Wales Legislation

The law related to occupational health and safety in New South Wales falls into two major parts:

1. Prevention of occupational injury and illness at workplaces, covered by the *Occupational Health and Safety Act 2000* and associated legislation. This Act makes employers responsible for health and safety at their workplaces.
2. Compensation for work related injury and illness, and rehabilitation. The relevant legislation and documentation include the *Workers' Compensation Act 1987*; *Workplace Injury Management and Workers' Compensation Regulation 2002*;

Occupational Health and Safety Act 2000

The day to day enforcement of the legislation is conducted by WorkCover inspectors located at regional offices. The WorkCover Authority may respond with appropriate enforcement action where employers or employees fail to voluntarily comply with health and safety requirements. Failure to comply with health and safety requirements which results in death or physical injury may be punished by law.

Nature of Liability

The nature of the liability under the *Occupational Health and Safety Act 2000* is criminal. Prosecutions are dealt with summarily before a magistrate in the Local Court, an Industrial Magistrate or the Industrial Commission (Section 47). The Act does not confer a civil right of action for breaches or omissions ie. a plaintiff can not rely upon a breach of the Act to seek damages in a civil suit.

Enforcement of Legislation

The WorkCover Authority has developed a hierarchy of enforcement action. This provides inspectors with a range of options for responding to unsafe situations in workplaces. Enforcement action ranges from the provision of oral advice, prohibition and improvement notices, and infringement notices (on-the-spot fines) to prosecution in the Magistrate's Court or Industrial Commission.

Enforcement Strategies

- Oral advice is provided to employers, employees, occupational health and safety committees, etc., on ways to correct poor occupational health and safety practices in workplaces
- Improvement Notices direct employers or employees to comply with legislative requirements within a stated period.
- Prohibition Notices direct employers or employees to stop work until a legislative breach has been rectified.
- Infringement Notices provide an on-the-spot penalty for minor infringements of prescribed occupational health and safety regulations. The fine may be contested in a Magistrate's Court. Inspectors, who have the power under the OHS Act, may demand persons to provide information, documentation and evidence about contravention of the OHS Act and associated legislation without visiting their place of work.
- Prosecution is undertaken for serious breaches of occupational health and safety legislation. Serious breaches are prosecuted in the Magistrate's Court before the Chief Industrial Magistrate in regional centres or Industrial Magistrates in other locations.

More serious breaches are prosecuted in the Industrial Commission of New South Wales and cases are heard before a judicial member of the Commission in Sydney.

The above strategies support the New South Wales approach to occupational health and safety by encouraging employers and employees to voluntarily comply with their responsibilities.

Penalties

The penalties in the Act are expressed in penalty units. A penalty unit is an amount of money, at present \$110. The penalty is arrived at by multiplying \$110 by the penalty units for the offence. The maximum penalty for a corporation, not being a previous offender, is 5000 penalty units or \$550,000 and for an individual, not being a previous offender, is 500 penalty units or \$55 000.

Responsibilities of Managers

Management have the responsibility to:

- identify hazards, assess risk and implement control strategies to minimise risk of injury to people and property;
- ensure the relevant Acts and Regulations that apply to working conditions and the work environment are observed and enforced;
- encourage consultation in addressing safety issues;
- design, purchase, install and maintain a safe site and machinery;
- develop and implement safe systems of work;
- provide adequate safety information, training and supervision.
- ensure that the workplace under their control is safe and without risks to health
- ensure that the behaviour of all persons in the workplace is safe and without risks to health;
- attempt to remedy all problems relating to occupational health and safety.

Duties of Employees

All employees have the responsibility to:

- adhere to safe work practices, instructions and rules;
- immediately report any unsafe work condition or equipment to management;
- not misuse, damage, refuse to use, or interfere with anything provided in the interest of occupational health and safety;
- perform all work duties in a manner which ensures individual health and safety and that of all other employees;
- encourage fellow employees to create and maintain a safe and healthy work environment;

- co-operate with all other employees to enable the health and safety responsibilities of all employees be achieved

The Act imposes a liability on both managers and employees, where the Act has been contravened, unless that person can satisfy the court that it was not reasonably practicable for the person to comply with the provision or the commission of the offence was due to causes over which the person has no control and against the happening of which it was impracticable for the person to make provision.

Protection for Employees

The OH&S Act provides protections for employees against unlawful dismissal or other victimization. An employee must not be dismissed, disadvantaged or have his or her position altered as a result of making a complaint about a workplace matter that the employee considers is not safe or as a result of being a member of an OH&S committee

Emergency Procedures

Emergencies in the workplace can take many forms: fire, medical, bomb threat, explosion, robbery, chemical hazards, loss of essential services. The law places a duty on ASFA to ensure that you are familiar with emergency procedures.

If an emergency occurs, you should immediately contact the Office Manager, who will alert the necessary authorities, if necessary, including the Building Security. Building Security's telephone number is (02) 9267-3666.

If safe to do so, remain by the phone, the Office Manager/Security will make all arrangements and will ring back to confirm the action taken.

If you CANNOT reach the Office Manager, or Building Security, dial 000 For External Services - Ambulance, Fire Brigade, Police.

Workers' Compensation and Rehabilitation

This Section outlines the general provisions of the Workers' Compensation legislation and the ASFA Occupational Rehabilitation plan. Occupational Rehabilitation means the restoration to the fullest physical, psychological, social, vocational and economic usefulness of which employees are capable following a work-related injury/illness

ASFA is required to provide insurance cover to all employees and to establish a rehabilitation program. Individual workplaces are required to display:

- the summary of the *Workers' Compensation Act 1987 (NSW)*
- the agreed Occupational Rehabilitation plan and the list of agreed Accredited Rehabilitation Providers.

Workers' compensation is basically a no fault system providing financial benefits and other help to injured employees and their dependants for work related injury or illness which results in death or incapacity for work; medical or hospital treatment, rehabilitation, if required or permanent loss or impairment of a part of the body or a faculty.

Definition of Injury

For the purposes of the Workers Compensation Act 1987 (NSW), injury means 'personal injury arising out of or in the course of employment and includes a disease which is contracted by a worker in the course of employment and to which the employment was a contributing factor, and the aggravation, acceleration, exacerbation or deterioration of any disease, where the employment was a contributing factor to the aggravation, acceleration, exacerbation or deterioration'.

Who Can Claim for Workers' Compensation?

Persons who are employed to work by ASFA are entitled for compensation for benefits if they:

- suffer a work-related injury;
- suffer from an injury or illness and their work has aggravated or deteriorated the condition;
- are injured during a work-related journey;
- are injured during a journey between home and the place of work, provided the journey is not interrupted for a reason unconnected to the workers employment;
- are injured whilst they are temporarily absent from the place of work during any ordinary recess or authorised absence.

Where the employee dies as a result of the work related injury or disease, a person who is totally or partially dependent upon the employee may claim benefits.

Staff members may NOT be entitled to benefits if they:

- deliberately injure themselves;
- are injured as a result of serious and willful misconduct;
- are injured during a journey between their home property and the place of work as a result of serious and willful misconduct;
- employed interstate or overseas and where any award of compensation or judgement for damages has been made or given or entered into under the laws of the State, Territory or Country where the injury occurred;

The Act also provides a benefit to staff members who, in the course of employment, damage clothing, spectacles or artificial aids.

Claim for Compensation

If compensation is claimed, the claim must be made within 6 months after the injury or accident happened, or in the case of death, within 6 months of death. However, the failure to make a claim within 6 months is not to be a bar to the recovery of compensation if the failure was occasioned by ignorance, mistake, absence from the State or other reasonable cause.

A claim for compensation must be made in writing on a form obtainable from the Office Manager and should be supported where appropriate by medical evidence. A claim for weekly compensation payments must be accompanied by a medical certificate in the prescribed form (ie. the WorkCover Medical Certificate). The information on the WorkCover Medical Certificate provides the employer with information of the likely rehabilitation requirements and the need for a gradual return to normal duties.

Employer to Take Claims Action

- ASFA is required under the Workers' Compensation Act 1987 to:
 - forward any claim for compensation or other documentation to the insurer within 7 days of receipt;

- furnish the insurer within 7 days with information requested of it and in ASFA's possession or reasonably obtainable by ASFA;
- pay over any compensation received from the insurer to the person entitled, as soon as practicable.

Commencement of Weekly Payments

Weekly payments of compensation should start as soon as practicable and no later than 21 days after the claim is made. If liability for the claim is disputed, the dispute will be referred to a Conciliation Officer by forwarding claims documentation and a statement of the matters in dispute to the WorkCover Authority.

Disputed claims

A party to any dispute about the payment of compensation may request that the dispute be assigned to a Conciliation Officer for conciliation. In the case of a dispute as to the payment or continuation of payment of weekly compensation, a Conciliation Officer will attempt to effect a conciliation between the parties. If the Conciliation Officer is satisfied that a genuine dispute does not exist, the Conciliation Officer may direct weekly payments to be made or resumed.

Types of Incapacity and Payments Available

Incapacity means physical inability for work resulting in loss of earning capacity owing to a work-related injury or disease. Incapacity may be partial or total.

Total Incapacity

An employee is totally incapacitated if after the injury, the person is unable to perform any work at all. The weekly payment of compensation to an injured worker in respect of any period of total incapacity for work during the first 26 weeks of incapacity shall be the amount of the worker's current weekly wage rate, as defined by section 42 of the Workers Compensation Act 1987. The worker's current weekly wage rate may be influenced by the applicable industrial instrument, if any. After the first 26 weeks of total incapacity, the amount payable to the worker may alter.

Partial Incapacity

An employee is partially incapacitated if they can only do some of the work requirements of their previous position or is able to continue with all the duties at a slower rate, and earning less money.

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In the first 26 week of incapacity the maximum make-up pay applies (ie the difference between the employees pre-injury rate and the current rate of pay). After 26 week, the maximum make-up pay is set at the statutory amount plus additional amount for dependent spouse and children.

Medical, Hospital and Rehabilitation Costs

Injured employees are entitled to recover reasonable costs of any medical, ambulance service, hospital. and rehabilitation treatment. The costs of modification of an injured employees workplace, home or vehicle, necessary because of the incapacity, may also be claimed if deemed necessary by medical advice.

Rehabilitation Program

ASFA's commitments

In accordance with Section 152 of the *Workers' Compensation Act 1987*, ASFA is committed to:

- preventing injury and illness by providing a safe and healthy work environment;
- ensuring that the occupational rehabilitation process is commenced as soon as possible after an injury in a manner consistent with medical judgement;
- ensuring that return to work as soon as possible by an injured employee is a normal practice and expectation;
- providing suitable duties/employment for an injured employee, as an integral part of the rehabilitation process;
- unions representing them to ensure that the rehabilitation programs operate effectively and that any changes to the programs are effected;
- ensuring that participation in a rehabilitation program will not, in itself, prejudice an injured employee;
- ensuring that appropriate levels of confidentiality are maintained, consistent with the guidelines of the WorkCover Authority.

Employee Commitments

Participation in a Rehabilitation Program is voluntary. However, members of staff should be aware that if they do not take part in an appropriate rehabilitation program their weekly benefits may be reduced. A staff member deciding not to undertake rehabilitation should consult with their treating doctor, Rehabilitation Co-ordinator and the union to which they belong.

Staff members must:

- co-operate with ASFA to enable rehabilitation obligations imposed on ASFA to be met. The employee shall be required to give consent to ASFA to exchange information on their medical condition that is relevant to their employment;
- co-operate in reasonable workplace changes designed to assist rehabilitation of fellow employees; and
- tell ASFA of any injury as soon as possible.

Suitable duties will be provided after consultation with ASFA and, where appropriate, the relevant union(s) in accordance with the instructions of the treating doctor or the rehabilitation provider and within the scope and abilities of the employee until that employee can resume pre-injury duties.

The rehabilitation progress will be monitored by the Rehabilitation Coordinator. The injured employee and the immediate supervisor will have the opportunity to comment of the rehabilitation program in order to ensure satisfactory progress.

Staff members who are permanently unable to resume their pre injury duties will, if practicable, be given vocational training by ASFA, or be referred to an appropriate outside agency for such training.

Guideline for Suitable Duties

When suitable duties have been agreed upon, the employee, and the relevant supervisor shall be notified in writing and this notification shall include:

- specifications of duties and any restrictions;
- hours to be worked;
- date of commencement;
- method of upgrading hours of work and duties; and
- review dates or length of program.

When offering alternative duties the following issues should be considered:

- duties must be selected to suit the employee's capabilities and periodically reviewed;
- duties should be regarded initially as temporary;
- duties must be in accordance with the instructions of the treating doctor;
- duties must be useful for the staff member's rehabilitation;
- the employee on alternative duties should be regarded as an 'extra' member of staff with realistic (ie. limited) production expectations; and
- any appropriate training must be given for alternative duties if new to the employee.

ASFA, to accommodate the limitations of the injured employee, is committed to:

- modification to work organisation (including work stations);
- upgrading of skills in work related to ASFA's business or retraining pursuant to Section 153 of the *Workers' Compensation Act*.

Suitable duties offered must be free from staffing budget restrictions and productivity assessments.

Where the treating doctor or the rehabilitation provider considers that the employee will be unable to return to earlier duties, union coverage should remain the same as before the injury.

When it is medically established that the employee will be unable to return to his/her former position or the employee has offered and agreed to accept an alternative position it will be agreed that the employee will then be allowed to become a member of the appropriate union.

Agreed changes in duties shall have a minimum impact on the workload of other staff and not result in the diminution of other jobs.

Any work restrictions, changes to work procedures or work stations should be fully understood by the employee, the supervisor and other staff members.

Procedures

Reporting of Accidents/Incidents

All incidents must be reported as soon as possible after they occur so that the 'Register of Injuries, Treatment, Hazards and Dangerous Occurrences' may be completed.

ASFA is required to keep the Register:

- for legal notifications of fatalities and of an injury/illness which incapacitates an employee (or any other person in case of injury) for seven (7) days;
- for legal notification of dangerous occurrences.
- to verify Workers' Compensation claims for lost time and/or medical expenses;
- where the employee has no lost time off work but the injury may require rehabilitation; and
- for workplace collection of information on hazards, dangerous occurrences not listed above and injuries (ie. not leading to lost time) to identify problem areas on campus.

Notice of Injury

Notice of the injury should be given to the employer as soon as practicable after the injury happened and before the worker has voluntarily left the employment in which the worker was at the time of the injury.

The notice may be given orally, or in writing, to the person's supervisor and/or the Office Manager.

The notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and date on which the injury happened.

If notice in writing is given, it may be served by delivering it or sending it by post to the ASFA office in the State in which the person works.

Notice of injury must be in writing if it is a loss or further loss of hearing and must be made in accordance with special requirements prescribed by the Regulations under the Act.

ASFA keeps a Register of Injuries with the Office Manager in Sydney. All injuries will be registered in this by the Office Manager, in consultation with the injured person and the relevant supervisor. The Office Manager is responsible to the Company Secretary in this matter.

Investigation of Injuries and Dangerous Occurrences

Investigations are carried out to find out what happened and why, so that steps can be taken to prevent a similar event in the future. Any event which gives rise to injury, causes property damage and any potential hazard should be investigated.

Investigations will vary in scope depending on the severity or potential severity of the consequences of the particular event. The general approach to investigation described here can be used for different types of occurrences but how much information is collected will depend on whether the incident is minor or more serious.

The supervisor responsible for the particular work will be required to undertake the investigation.

Analysis and Conclusions

Once investigators know what happened and how it happened, the next step will be to consider why the event happened. All possible answers to this question should be found. Consider especially how the management factors may have contributed, eg. had safe systems of work been established? A step by step account should be prepared describing what happened, how it occurred and the investigators' conclusions about why it occurred, listing all possible causes.

Conclusions should be checked to ensure that they are supported by the evidence, noting if the evidence is direct (physical evidence), eye witness accounts or is based on assumption. If relevant supervisors and safety officers have not been involved in the investigation, they should have the opportunity to consider and comment on the conclusions.

Recommendations

The most important and final step is to make well considered recommendations for the prevention of a recurrence or similar incident in the future. Relevant supervisors and safety officers should have the opportunity to comment on the recommendations. Recommendations should be realistic and should indicate the specific action required.

Report

A written report should be prepared as a record of the investigation, for consideration by relevant management, the Office Manager and others who need to know.

This report should include the draft of the sequence of events leading up to the accident. The report should include all relevant information, enough to show to those not involved in the investigation what happened. The source of evidence should be identified and the reasons for conclusions should be stated.