I don't know what to do about Occupational Health and Safety

A guide to understanding the OHS changes due in September 2003
Occupational Health and Safety

Are you ready for the OHS changes in September?

ABOUT THIS BOOKLET

This booklet has been designed to assist committees, owners, parents, managers and staff of early childhood services to clarify the implementation of the Occupational Health and Safety Act 2000 and the associated Regulations 2001.

This briefing document tries to summarise these issues.
The Legislation

The Occupational Health and Safety Act 2000 aims to protect the health, safety and welfare of people at work.

A transitional period of twelve months was provided for all businesses to implement any new requirements. Small employees such as early childhood services were given two years to implement the risk management requirements of the new Act.

What does this mean for our early childhood service?
This means that from 1 September 2003, all early childhood services must be prepared to implement the changes necessary for their service to meet the requirements of the OHS Regulation 2001.

What are the new regulations about?
Early childhood services are regularly required to implement workplace safety practices. Services are currently required by law to implement safe work practices under:

- the Children and Young Persons Act 1998 the Children’s Services Regulations;
- the Occupational Health and Safety Act 2000, Occupational Health and Safety Regulations 2001; and
- National Standards (Accreditation), a Quality Assurance System for Australian Children’s Services.

All of these Acts and National Standards require services to meet standards of health and safety in the workplace.

The OHS Regulation 2001 supports the new OHS Act 2000 and sets out requirements for workplaces for putting into place a range of systems to:

- Identify;
- Assess;
- Control;
- And/or eliminate health or safety risks.
What are the main changes to the OHS Act 2000 for early childhood services?

The main change resulting from the **OHS Act 2000** is a new duty for employers to:

- Consult with employees on matters affecting their health and safety.

**Does this duty apply to all services?**

The duty to consult applies to all employers regardless of the number of employees in the workplace.

The **OHS Act 2000** establishes the duty to consult (section 13) and establishes when and how consultation is to be undertaken (sections 14-18). The **OHS Regulation 2001** sets further provisions relating to the setting up of consultation arrangements and training of OHS committee members and OHS representatives.

What are the main changes to the OHS Regulation 2001 for early childhood services?

The main changes resulting from the **OHS Regulation 2001** are a requirement for employers to:

- undertake hazard identification;
- undertake risk assessment; and
- implement risk control measures.

While this was previously required for some hazards, e.g. for hazardous substances and manual handling, it is now a uniform requirement for all hazards in all workplaces.

What OHS areas does our service need to comply with to meet the new OHS Regulations?

The Regulations provide broad coverage for all workplaces (including early childhood services) along with specified control measures for particular hazards and particular industry activities. These include:

- Identification of all workplace hazards;
- Assessment of risks arising from those hazards;
- Implementation of measures to control those risks;
- Provision of training, instruction and supervision;
- Workplace consultation between employers and employees. (Work Cover has produced a **Code of Practice for OHS Consultation** for this purpose);
- The control of specific high risk hazards such as plant, hazardous substances and hazardous processes.
Who is responsible in an early childhood service for ensuring compliance with the OHS Act 2000 and OHS Regulations 2001?

The Occupational Health and Safety Act, 2000, (Section 8) states:

\[
\text{an employer must ensure the health, safety and welfare at work of all the employees of the employer.}
\]

In early childhood services, an employer is:

- Committee of Management;
- Owner;
- Local Government;
- Board of Directors;
- Non Government Organisation, such as Church Group, Community organisation; etc.

\[
\text{an employer must ensure that people (other than employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer’s undertaking while they are at the employer’s place of work.}
\]

In early childhood services people other than employees are:

- Parents;
- Visitors (including delivery people, other professionals, relatives of children, travelling shows such as Children’s Farms, etc.);
- People undertaking works on the premises (such as handyman, pest control, etc.)

Is an employee in an early childhood service responsible for ensuring compliance with the OHS Act 2000 and OHS Regulations 2001?

The Occupational Health and Safety Act, 2000, (Section 9) states:

\[\text{An employee also has a duty of care (section 20) to take responsible care for the health and safety of people who are at the place of work and may be affected by the employee’s acts or omissions.}\]

In early childhood services people who are at the place of work are:

- Co-workers;
- Children;
- Parents;
- Visitors (as above);
- Contracted work force (as above).
An employee must also cooperate with his or her employer or other person to enable compliance with the Act and Regulation.

In early childhood services, other person is a:

- Manager, co-ordinator, director, supervisor, authorised person in charge, parents, co worker, visitor or self employed person.

Does a self-employed person (book keeper, repairman, gardener, etc) have a responsibility for ensuring compliance with the OHS Act 2000 and OHS Regulations 2001?

The Occupational Health and Safety Act, 2000, (Section 9) provides for a self-employed person’s ‘duty of care’ not to expose others to health and safety risks arising from the conduct of their work.
What is the intent of the Occupational Health and Safety Regulations 2001?

Basically, the Occupational Health and Safety Act requires employers to demonstrate **pro-active** and **preventative** measures undertaken in the workplace to address hazards. This means that services need to **plan in advance** to reduce the risk of injury/accidents from occurring in the workplace.

> As noted above, due to Children’s Services Regulations and National standards, services implement sound reporting mechanisms in the areas of accident reporting, recording of medications, reporting of illness, etc. However, these mechanisms have in general been **reactive** to an event, rather than **pro-active** or to **prevent** an incident.

Many OHS questions do not have a clear-cut answer or regulation to cover them. However, in general, the issues are covered by the principle, which underlies Section 8 and 9 of the **OHS Act 2000** as noted above. **Section 8** outlines the employer’s general **duty of care** to ensure the health, safety and welfare at work of all the employees. **Section 9** provides for an employee or a self-employed person’s **duty of care** not to expose others to health and safety risks arising from the conduct of their work.

**How will I know if a particular health and safety issue falls under duty of care?**

The main indication to whether an issue falls under duty of care is:

> The employer is responsible for ensuring a safe and healthy workplace, **any issue which may place people in the workplace at risk should be considered as a duty of care issue.**

This can include issues not typically seen as OHS matters such as:

- bullying;
- workplace harassment;
- personal safety (eg, aggression from clients, working alone at night).

Any matter that can affect the health, safety and welfare of people at work can be a duty of care issue.
What can an early childhood service do to ensure they are meeting their duty of care under the Occupational Health and Safety Regulations 2001?

A basic six-step approach has been devised by WorkCover to assist with the implementation of regulation.

The six steps are:

- develop appropriate OHS policies and programs;
- set up a mechanism to consult about OHS matters with employees;
- establish a training strategy;
- establish a hazard identification and workplace assessment process;
- develop and implement risk control strategies; and
- promote, maintain and improve these strategies.

These steps are not in any particular order, as each workplace will develop their own plan on an individual service basis.
Step 1 – Develop appropriate OHS policies and programs

What to include

- Your health and safety policy is a statement of a principle that your organisation upholds.
- It should state your belief and intent, give a clear direction from management and include the entire organisation.
- It will also be the basis for any occupational health and safety decisions and action.
- The policy forms the basis for an OHS program.

Who is responsible for developing the policy?

- The employer has overall responsibility for ensuring that the OHS policy is developed in consultation with employees and users of the service.

Are there examples of good OHS policy available for children’s services?

Sample policies and how to develop policy are available from:

- The Workplace Safety Kit 2001 and the Workplace Safety Kit – Tools 2001, available to download on web, in hard copy or disc, and is available from NSW WorkCover.  
  Phone: Publication Information Line: 1300 799 703.  
- Managing OHS in Children’s Services, Lady Gowrie Child Centre, Sydney, available in hard copy and disc from Lady Gowrie, Phone: (02) 9517 2755.

How to develop an OHS program

- Once the organisation has developed a policy, it needs to develop programs to meet the objectives and commitments of the OHS policy.
- Developing an OHS program is not complicated and not expensive, and it should be developed to meet the specific health and safety needs of the organisation.

Who is responsible for developing the program?

- The employer is responsible for the overall development of the program. However, all people in the workplace affected by a program should be consulted about its development so that the program adequately addresses all issues and has the support of the people involved.

What should be included in the program?

Make sure that the program details the ways, if appropriate,

- to perform tasks;
• includes information and training given to managers, supervisors, and employees, for example, training such as manual handling training, stress management.
• details any resources provided;
• sets out the roles and responsibilities of employers, managers, and staff; and
• a timetable for implementation and a list of those responsible for this.

An OHS program is ongoing, so be sure to evaluate and review each program and make any necessary changes.

Are there examples of good OHS program documents available for children’s services?

Sample program documents and step-by-step process on how to develop program documents are available from:

• The *Workplace Safety Kit 2001* and the *Workplace Safety Kit – Tools 2001*, available to download on web, in hard copy or disc, and is available from NSW WorkCover. Phone: Publication Information Line: 1300 799 703.
  
• *Managing OHS in Children’s Services*, Lady Gowrie Child Centre, Sydney, available in hard copy and disc from Lady Gowrie, Phone: (02) 9517 2755.
Step 2 – Set up a mechanism to consult about OHS matters with employees

Under Section 13 of the OHS Act 2000, an employer has a ‘duty to consult with employees’ about health, safety and welfare matters that affect them at work.

What does consultation mean for a service?
- the sharing of relevant information about OHS and welfare with employees;
- giving employees the opportunity to express their views and to contribute to the resolution of OHS and welfare issues; and
- valuing the views of employees and taking them into account.

Who is responsible for ensuring consultation happens in a workplace?
- The employer in an early childhood service is responsible for ensuring consultation occurs.

How can an employer consult with people in the workplace under the new Regulations?
- An employer must consult with employees about the method of consultation to be used.
- An OHS committee must be established if the employer has twenty (20) or more employees and the majority of employees make such a request.
- An OHS representative must be elected if at least one employee makes such a request.

Does a service have to hold a monthly OHS meeting?
Not necessarily, consultation may take place through any one or more of the following means:
- Staff meetings, committee meetings, workshops, forums, suggestion boxes, surveys, etc.


Managing OHS in Children’s Services provides a section on Sample Procedures for Workplace Consultation.
Step 3 – Establish a training strategy

- Occupational health and safety should be part of your overall early childhood service training program rather than being an add-on after the event.
- Information, instruction and supervision are essential for an effective training strategy and the fulfilment of our ‘duty of care’ requirements.

Who should receive training under the new Regulations?
- Everyone in an organisation has an OHS responsibility and therefore requires training. This includes owners and committee members.
- All employees, from senior management level through to casual staff, should receive training in ‘duty of care’.

How can we offer training to all our staff?

Training can be offered through many opportunities in the workplace. Offering OHS training to staff does not mean sending all your staff out on expensive courses. The intent of the Regulation is for staff to undergo training in the workplace as part of their day-to-day learning and activities.

However, health and safety training should be included in:
- any induction training undertaken at the service;
- supervisor and management training on an ongoing basis;
- on-the-job training facilitated by co-workers, supervisors, managers or employers;
- specific hazard training;
- work procedures and skills training (such as manual handling practices);
- emergency procedure training;
- first aid training for safety officers.

An effective training program can be developed through:
- analysing work tasks and assessing the knowledge or skill level;
- planning and conducting appropriate training and skill development;
- planning and conducting training in these safe systems of work;
- including OHS principles in employee induction programs;
- planning and conducting training in emergency procedures;
- evaluating your training program to monitor its effectiveness;
- on-the-job training of employees.

Remember to record all training undertaken in the workplace on staff employment records. This includes training delivered by co-workers, managers, etc.
Step 4 – Establish a hazard identification and workplace assessment process

A major feature of an OHS program will involve identification and assessment of workplace hazards.

Developing a program for each component of OHS includes defining who is responsible for the activities and how the information is processed and analysed.

**What is a hazard?**

- A hazard is anything with the potential to harm life, health or property.

**What is a risk?**

- Risk is the significance of the hazard in terms of likelihood and severity of a possible injury or illness.

Hazards arise from the workplace environment and include:
- the use of equipment and chemicals in the workplace;
- poor work design;
- inappropriate management systems and procedures; and
- human behaviour.

**How do we identify a hazard under the new Regulations?**

Under the new Regulations, a set of procedures must be developed in your workplace to enable workplace hazards to be identified. The following procedures are those required to meet your obligations.

**a. OHS Risk Audit**

- This is a systematic and periodic inspection of the workplace to evaluate the effectiveness of the organisation’s health and safety system.
- The Audit will identify all hazards, assess the level of risk and determine how to control the hazard.
- A safety consultant or workplace OHS professionals such as safety officers, may conduct the audit. An audit usually contains a written report for management.

**b. Workplace inspections**

- These are regular inspections of the workplace by managers, supervisors and safety committee members to determine by observation what hazards exist in the workplace.
- Inspections involve consultation with supervisors and employees and a report to management and/or the safety committee.
c. Accident investigations
   - As noted throughout this document, early childhood services have a set of procedures for investigating and reporting on accidents (and near hits) to identify the hazards that contributed to the incident.
   - Many accidents that involve ‘lost time’ should be reported to the WorkCover Authority.
   - Details of reporting requirements are on the Accident Report form, which is available from all WorkCover offices.

d. Consultation
   - Employees are often more aware of hazards and the possible ways of controlling them, than management.
   - Consulting employees improves the assessment process as well as improving cooperation with control measures eventually put in place, as employees feel a sense of ownership with the procedure.

e. Injury and illness records
   - Early childhood workplaces are required to keep records of injuries and illness.
   - These are legal requirements under the Children’s Services Regulations and OHS Regulations 2001.

f. Health and environmental monitoring
   - Monitoring of both indoor and outdoor environments should be carried out on a day-to-day basis by staff at the service.
   - Diligent monitoring may show that a procedure, such as setting up a particular piece of outdoor play equipment on a day-to-day basis, creates a hazard.
   - As with the OHS audits, monitoring may need to be done by OHS consultant or safety officers to provide technical advice beyond the services skills and knowledge about suspected problems.

g. Complaints
   - Many workplace hazards are brought to the attention of a supervisor or manager through a complaint being made by an employee.
   - Complaints must be taken seriously and passed to the appropriate person for prompt action.
   - Procedures for handling complaints must be addressed through a recorded process.

h. Observation
   - A supervisor, manager, employee, or OHS committee member as part of his or her normal duties, may observe and report a workplace hazard.
Workplace Assessment Process

How do we assess a hazard under the new Regulations 2001?

- Once hazards have been identified, you can then assess their significance.

For each hazard think about:

- How severely it could hurt someone?
- How likely is it to hurt someone

Some examples are:

**Allergies:** some workers experience allergic reactions when exposed to certain chemicals, (such as bleach) or airborne particles.

**Performance standards:** a changing workforce can significantly affect the assessment of risk in workplace hazards. New employees unfamiliar with workplace safety practices in the field of early childhood increase the level of risk for the service overall.

**Work out priorities**

- The purpose of workplace hazard assessment is to determine priorities in hazard control.
- Effective hazard control involves a commitment of human, financial and physical resources. As these are limited, your organisation has to allocate them on its assessment of priorities.
- Any hazard assessment process should determine priorities based on the frequency and severity of injury or illness posed by the hazard.

Remember, Sample Program documents and step-by-step processes on how to undertake hazard identification and risk assessment are available from:

- The *Workplace Safety Kit 2001* and the *Workplace Safety Kit – Tools 2001*, available to download on web, in hard copy or disc, and is available from NSW WorkCover. Phone: Publication Information Line: 1300 799 703.
  

- *Managing OHS in Children’s Services*, Lady Gowrie Child Centre, Sydney, available in hard copy and disc from Lady Gowrie, Phone: (02) 9517 2755.

Step 5 – Develop and implement risk control strategies

Now that the hazards have been identified and assessed, you need to implement a strategy to eliminate or reduce the exposure to the risk.

PLAN TO ELIMINATE

Try to ensure that hazards are ‘PLANNED OUT’ when new materials, equipment and work systems are being planned for the workplace. For example, ‘plan out’ older style beds for each room and replace with appropriate bedding which will comply with Children’s Services Regulations and meet OHS standards for back care with staff attending to resting children.

REMOVE THE HAZARD

Remove or substitute less hazardous materials, equipment or substances in the service. For example, using organic substances wherever possible for bleaching and cleaning.

ADOPT A SAFER PROCESS

Look at safer ways to undertake tasks or activities in the service, for example, setting up and packing up the outdoor play area.

ENCLOSE OR ISOLATE THE HAZARD

For example, heating units which have been identified as a hazard, could be enclosed through the use of guards to reduce the level of risk for children and staff.

PROVIDE EFFECTIVE VENTILATION

Through local or general exhaust ventilation systems.

ADMINISTRATIVE CONTROLS

ESTABLISH appropriate ADMINISTRATIVE PROCEDURES such as:

- Job rotation to reduce exposure or boredom;
- Routine maintenance and housekeeping procedures;
- Training on hazards and correct work procedures.

PERSONAL PROTECTIVE EQUIPMENT

PROVIDE suitable and properly maintained PERSONAL PROTECTIVE EQUIPMENT and training in its use.

Note that PPE does not address the hazard.
Once you have decided on a control strategy or a combination strategy – for example, replace toxic chemicals with less hazardous chemicals and implement safer work procedures and PPE to minimise exposure to risk – ensure that all employees are informed and consulted.

Sample Program documents and step-by-step processes on how to undertake hazard control are available from:

- The *Workplace Safety Kit 2001 and the Workplace Safety Kit – Tools 2001*;
- *Managing OHS in Children’s Services*, Lady Gowrie Child Centre.
Step 6 – Promote, maintain and improve strategies

- It’s important to promote, maintain and keep improving your OHS programs and procedures.
- Review your programs regularly.
- Promotion and evaluation of programs is essential for ongoing effectiveness of your OHS policy and programs.
- Program review should include everyone at the service.

Strategies for maintaining your OHS program could include:
- communicating with people in the workplace about OHS activities including the success of control strategies;
- making sure that OHS is integrated into all management procedures, eg. planning, budgeting, performance objectives;
- evaluating the success of the control strategies, such as an injury review, accidents and ‘near miss’ reports and records;
- evaluating and reviewing your education and training programs;
- seek advice from employees to check whether they feel the control strategies are working and whether there are any problems with the OHS programs, eg. check whether the control strategies have created new problems of their own;
- strong commitment to OHS from management.

‘Risk management is a cyclical process, your OHS management system must be regularly reviewed, revised and improved via workplace inspections and procedural audits. With each new cycle, the level of OHS risk management, awareness and compliance in your service will be progressively strengthened.’

Managing OHS in Children’s Services – Sue Tarrant, Lady Gowrie Child Centre, Sydney
Documentation of Occupational Health and Safety programs and procedures

What documents or records will our service have to keep?

Minimum standards have been set by WorkCover as a basic standard of provision of documented evidence. Documentation must include evidence of the following:

- all policies, procedures and instruction on best practice;
- provision of appropriate training;
- provision of first aid material;
- provision of personal protective equipment (where necessary);
- workplace consultation;
- appropriate record keeping;
- procedures for injury management, and a return to work program for injured workers;
- clear and concise documentation determining the roles and responsibilities of all persons involved in the management and operation of your service;
- a systematic approach to identifying, assessing and controlling hazards in the workplace;
- evidence that OHS risk audits, workplace inspections and observations are being carried out on a regular basis;
- evidence of recorded accidents, incident, hazards and near misses and the strategies undertaken by the service to eliminate or reduce hazards or risks.

How do we undertake this documentation?

As noted throughout the booklet, both WorkCover, Lady Gowrie and Community Child Care have produced excellent publications offering step by step guides to document management and document control.

- The Workplace Safety Kit 2001 and the Workplace Safety Kit – Tools 2001, available to download on web, in hard copy or disc, and is available from NSW WorkCover.  
  Phone: Publication Information Line: 1300 799 703.
- Managing OHS in Children’s Services, Lady Gowrie Child Centre, Sydney, available in hard copy and disc from Lady Gowrie, Phone: (02) 9517 2755.
- Employers Guide – OHS, Community Child Care Co-operative Ltd (NSW).
Bibliography


WorkCover NSW, 2001, *Summary of the OHS Regulations 2001*, WorkCover Authority, NSW.