

WORK HEALTH AND SAFETY ACT 2011

Incident Notification- Fact Sheet

Has a death, injury, illness or dangerous incident occurred at your beach or surf club? If so, you may be legally required to notify WorkCover NSW.

In accordance with the new Work Health and Safety Act 2011 (section 8 (2)), the beach and surf club are both areas which are recognised as the 'workplace' for our surf lifesaving volunteers. There are now certain incidents which need to be notified to WorkCover NSW.

What Incidents do you need to tell WorkCover about?

According to the Work Health and Safety Act 2011, a notifiable incident is a serious incident or injury that arises out of the conduct (actions) of surf lifesaving (business or undertaking) during the course of a surf lifesaving or Surf Sports activity.

It involves:

- The death of a person
- The serious injury or illness of a person, or
- A dangerous incident.

Examples of this could include:

- A swimmer in the surf is injured after being struck by an IRB which is being used to rescue a member of the public;
- A competitor in a surf sports carnival (State/Branch/Club) suffers a suspected serious spinal injury in an IRB or board race.
- A volunteer falls down the stairs of a surf club and suffers a serious suspected head injury.

This means that if a member of the public drowns in the surf of a patrolled beach (workplace) it is **not** a notifiable incident. Nor is any other serious injury relating to a member of the public at the beach unless the conduct of surf lifesaving contributed to the incident.

The WHS Act states that a *serious injury or illness* of a person means an injury or illness requiring the person to have:

- Medical treatment within 48 hours of exposure to a substance
- Immediate treatment as an in-patient in a hospital,
- Immediate treatment for a serious injury or illness such as a serious head injury, serious burn or a serious spinal injury.

It does not matter whether a person actually received the treatment referred to in the definition, just that the injury or illness could reasonably be considered to need the treatment. Common sense should prevail when reasonably determining the nature and extent of an injury and whether it is notifiable.

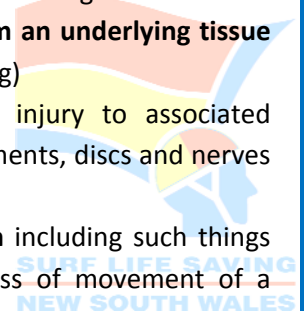
If a notifiable incident occurs it is the responsibility of the person in control at the time to ensure, **as far as is reasonably practicable**, that the site is not disturbed until WorkCover either advises otherwise or an inspector arrives

Irrespective of whether an incident is notifiable to WorkCover NSW, all incidents should be captured and recorded by the club.

When is an Injury or Illness Serious?

As defined under section 36 of the WHS Act a **serious** injury or illness of a person is an injury or illness which may include such things as:

- **Immediate treatment** (without delay) as an inpatient in a hospital
- **Immediate treatment for:**
 - The **amputation of any part of the body** including such things as amputation of a limb (such as arm or leg), body part (such as hand, foot or the tip of a finger or toe)
 - A **serious head injury** such as a fractured skull, loss of consciousness, blood clot or bleeding in the brain, damage to the skull to the extent that it is likely to affect organ/face function.
 - A **serious eye injury** that results in, or is likely to result in, the loss of the eye or total or partial loss of vision; an injury that involves an object penetrating the eye, exposure of the eye to a substance which poses a risk of serious eye damage.
 - A **serious burn** that requires intensive care and/or compression garment and/or a skin graft.
 - **The separation of skin from an underlying tissue** (such as de-gloving or scalping)
 - A **spinal injury** including injury to associated tissues such as muscles, ligaments, discs and nerves (including the spinal cord)
 - The **loss of bodily function** including such things as loss of consciousness, loss of movement of a



limb or loss of the sense of smell, taste, sight or hearing, or loss of function of an internal organ.

- **Serious lacerations** that cause muscle, tendon, nerve or blood vessel damage, deep and/or other treatment to prevent loss of bodily function and/or infection.

- **Infection to which carrying out a lifesaving duty is a significant contributing factor** and the infection can be reliably attributable to carrying out duties which involve providing treatment or care of a person and contact with human blood or body substances.
- **Medical treatment within 48 hours** of exposure to a substance

In the case of a **serious** injury or illness it does not matter whether a person actually receives treatment, just that the injury or illness could reasonably be considered to warrant such treatment.

What is a Dangerous Incident?

Section 37 of the WHS Act defines a dangerous incident as one that exposes a person to a **serious risk to their health or safety**. For example:

- an uncontrolled implosion, explosion or fire, or
- electric shock or
- The collapse or partial collapse of a structure

For example, if there was a function being held and a large fire was to break out in the kitchen causing the building to be evacuated this would be considered a dangerous incident. Even if no one was injured this incident is classified as a “near miss”.

A ‘near miss’ needs to be reported to WorkCover but only if it relates to the dangerous incident criteria as detailed in Section 37 of the WHS Act including the incidents as listed above. All other ‘near misses’ should still be captured internally within the club but not reported to WorkCover.

How do you Notify an Incident?

Section 38 of the WHS Act requires a PCBU to ensure notification is made to WorkCover **immediately** after becoming aware that a notifiable incident has occurred. Notification must be by the fastest possible means, by phoning **13 10 50**.

The surf club member in control at the time of a notifiable incident must ensure **as far as reasonably practicable** that the incident site is not disturbed.

WorkCover NSW may impose penalties if a club fails to notify an incident or preserve a site.

Do you Need to notify Incidents that Relate to Contractors, Employees and Others?

Yes. Part 3 of the WHS Act makes it very clear that notifiable incidents relate to any person-workers or otherwise.

Do you still have 24 hours to notify WorkCover of incidents other than a death?

No. The WHS Act requires a PCBU to ensure notification immediately after becoming aware that a notifiable incident has occurred.

How do you Determine if an Incident is Notifiable or Not?

The most effective way to determine whether an incident is notifiable is by using the Incident Decision Notification Flowchart below.

Incident Notification Decision Flowchart

