



Franchise Management Manual

Section 11:

Health and Safety

This is a confidential document.

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11.1 About Health and Safety

Overview

Health and safety in the workplace is a paramount importance to all businesses.

In New Zealand the legal framework for a workplace health and safety is provided by The Health and Safety at Work Act 2015 which came into force 4 April 2016. The legislation includes the following features;

- ▶ Imposes a new duty to take “reasonably practicable steps.”
- ▶ Replaces the duties owed by employers and principals with a broader duty owed by “persons conducting a business or undertaking” (PCBU).
- ▶ Includes a new object of “securing workers’ health and safety.”
- ▶ Promotes “continual improvement and good practice”
- ▶ Implements a presumption in favour of the highest level of protecting workers from harm.
- ▶ Imposes a “new due diligence obligation on directors and officers.”
- ▶ Creates “specific obligations for those designing, manufacturing, installing, supplying or importing plant, substances or structures.”

Responsibility

As a ShowerFix franchisee you will likely fill a number of roles in the business. These include some or all of the following;

- ▶ Director
- ▶ Shareholder
- ▶ Manager
- ▶ Worker

Each of these roles whether performed by you or other people carries legal responsibility for health and safety in your business.

The Health and Safety at Work Act 2015 identifies three categories of responsibility;

Director or Officer

“Officers” include individuals who hold positions that allow them to exercise significant influence over the management of the business. Directors and officers are required to exercise due diligence to ensure compliance. This includes;

- ▶ Acquiring and maintain current knowledge of health and safety matters, the organisation’s operations and the hazards and risks arising from those operations.
- ▶ Verify that the organisation has sufficient resources available to manage health and safety risks, and that the organisation is utilising those resources.
- ▶ Ensure the organisation complies with its health and safety duties.

Directors and officers are personally liable if they fail to exercise due diligence.

Person Conducting a Business or Undertaking (PCBU)

PCBU includes employers, principals, self-employed, partnerships etc. They have a primary obligation to take “reasonably practicable” steps to ensure the health and safety of workers. Including;

- ▶ Specific duties on PCBUs that manage or control workplaces or fittings or plant at workplaces, and designers, importers, manufacturers and installers of plant, substances or structures to be used in a workplace.
- ▶ Increased obligations to support worker participation
- ▶ Consultation with workers
- ▶ Training health and safety representatives.

Worker

This includes employees, apprentices, contractors, students, etc. The Act has a focus on the following;

- ▶ Workers and others are subject to the obligation to take reasonable care for their own health and safety and not to affect the health and safety of others.
- ▶ Greater worker participation and consultation with PCBUs
- ▶ A system for workers to request the election of health and safety representatives and to form work groups.

This section of the Franchise Management Manual provides an overview of your responsibilities for health and safety, incident recording, reporting and investigation, and

the management of hazards. The section provides guidelines only and does not replace the need for you to obtain professional advice on your responsibilities under the Health and Safety at Work Act 2015.

Important references

The following publically available websites provide more information about your responsibilities.

Health and Safety at Work Act 2015 | Worksafe

www.business.govt.nz/worksafe/hswa

Worksafe New Zealand


<http://www.business.govt.nz/worksafe/>

Business Risks

<http://www.business.govt.nz/laws-and-regulations/health-safety/health-safety-101#business-risks>

Compliance Matters

<http://www.business.govt.nz/compliancematters/desktop/#/>

	STANDARD
11.1.1	<p>Franchisees under must comply with their responsibilities under The Health and Safety at Work Act 2015 in their roles as Directors, Officers, PCBU's and Workers</p> <p>Must acquire and maintain current knowledge of health and safety matters, the organisation's operations and the hazards and risks arising from those operations.</p> <p>Verify that the organisation has sufficient resources available to manage health and safety risks, and that the organisation is utilising those resources.</p> <p>Ensure the organisation complies with its health and safety duties.</p>
11.1.2	<p>Franchisees are responsible for ensuring all staff (whether employees, apprentices, contractors, students etc.) are actively engaged in workplace safety, have education and training opportunities and are able to raise health and safety concerns with the franchisee.</p>
11.1.3	<p>Franchisees and employees must ensure that all necessary steps and precautions have been taken to ensure the health and safety of themselves and the public at all times.</p>
11.1.4	<p>Franchisees should seek advice from Worksafe New Zealand and take an active ongoing role in ensuring health and safety at work.</p>

11.2 Franchisee and employee responsibilities

Introduction

Your franchise business is an independent business operating under a ShowerFix franchise licence. As franchisee you have the obligation of legal responsibility for creating and maintaining a safe and healthy working environment and securing workers' health and safety. This includes;

- ▶ Active due diligence, identification and management of health and safety risks.
- ▶ Taking all "reasonably practicable steps" to secure workers health and safety.
- ▶ Foster and promote a "culture of continual improvement and good practice"
- ▶ Identifying any "specific obligations related to the activities the franchise engages in"
- ▶ Supporting and "encouraging greater worker participation in health and safety including active consultation" with workers
- ▶ Provide an environment where "workers can request election of health and safety representatives and the formation of work groups"

Franchisee responsibilities overview

- ▶ Know your legal responsibilities and comply with these.
- ▶ Make every effort to provide a safe and healthy place of work and safe equipment and materials.
- ▶ Establish safe work methods and insist that they are practiced at all times.
- ▶ Involve employees in the process to improve health and safety and ensure that they comply with health and safety regulations.
- ▶ Ensure employees and other persons understand and accept their responsibility to promote a safe and healthy place of work.
- ▶ Record and evaluate all incidents or harm, including "near misses" where injury or harm could have occurred. You must then investigate whether the incident was caused by a significant hazard and, if so, control the hazard.
- ▶ Identify, assess and manage hazards and provide the necessary information to employees on existing and potential hazards.
- ▶ Take all practicable steps to minimise an employee's exposure to significant hazards (and where a significant hazard is minimised - i.e. not eliminated or isolated - monitor the employee's exposure to the hazard and, with the employee's permission, their health).
- ▶ Provide suitable information, training and supervision for employees.

- ▶ Recognise and support the rights of all employees to express concerns over safety in the workplace and to expect prompt action on any concerns
- ▶ Provide any necessary protective clothing and equipment and provide information and training in its use, care and storage.
- ▶ Accident/incident reporting, investigating and recording
- ▶ Help employees return to normal work after an injury.
- ▶ Plan to be ready for emergencies.
- ▶ Procedures, e.g. for emergency responses and informing/training staff about health and safety issues

Employee participation

Employers have a duty to provide reasonable opportunities to employees to participate effectively in ongoing processes for improvement of health and safety in their place of work, e.g. hazard management processes.

“Reasonable opportunities” for employee participation are those that are reasonable in the circumstances (e.g. with regard for: number of employees, number of places of work, likely potential sources or cause of harm in the workplace, nature of the work and the way that it is arranged, etc).

Employee responsibilities overview

Employees are expected to willingly co-operate in the objectives of making the company a healthy and safe work place. Their responsibilities for health and safety must be covered during their induction training.

Employees must take all practicable steps to ensure;

- ▶ Their own safety at work, and
- ▶ That no action or inaction by them while at work causes harm to any other person.

Employees must:

- ▶ Observe and practice safe methods of work. This includes not undertaking work which is unsafe, or which involves unsafe practices.
- ▶ Use safety equipment and protective clothing where it is provided and ensure it is used correctly at all times.
- ▶ Ensure that they make an unsafe work situation, or practice, safe if possible.
- ▶ Immediately report any unsafe work conditions or equipment and hazards to their employer.
- ▶ Follow the employer's instructions and co-operate in the monitoring of workplace hazards.
- ▶ Report all occurrences of harm or accidents / incidents to their employer including work related physical injuries and ill health.

★	STANDARD
11.2.1	Franchisees must comply with their responsibilities under The Health and Safety at Work Act 2015
11.2.2	Franchisees are responsible for ensuring all staff (whether employees, apprentices, contractors, students etc.) are actively engaged in workplace safety, have education and training opportunities and are able to raise health and safety concerns with the franchisee.
11.2.3	Franchisees and employees must ensure that all necessary steps and precautions have been taken to ensure the health and safety of themselves and the public at all times.

11.3 Training and supervision

Induction

Induction training is essential for new employees, and some training will need to be repeated if there is a significant change in a workers duties or work environment.

Induction should include;

- ▶ How to carry out the job in a safe and healthy manner
- ▶ Information on hazards and hazardous work practices
- ▶ Reporting of accidents or incidents
- ▶ Information on use and care of protective clothing and equipment
- ▶ Where to obtain occupational health and safety information
- ▶ Emergency procedures
- ▶ Use the health and safety checklist for workers

Adequate training

You must ensure workers are either sufficiently experienced to do their work safely, or are supervised by an experienced worker or the franchisee.

All workers must have sufficient knowledge and experience and be "adequately trained" so that they can safely perform the particular work or tasks they are instructed to carry out. They must be adequately trained in the safe use of;


- ▶ Plant, tools and equipment
- ▶ Stock, components, substances
- ▶ Protective clothing and equipment

That they are, or may be, required to use, handle or wear. This applies to all categories of workers.

Supervision

If employees do not have sufficient knowledge or experience themselves, then they must be supervised by someone who has.

The degree of supervision required is a matter to be decided in each case. Depending on the circumstances, supervision may be direct, or as a group, immediate, or remote, or it may relate only to particular aspects of the work.

	STANDARD
11.3.1	All employees must have sufficient knowledge and experience and be "adequately trained" so that they can safely perform their work.
11.3.2	Provide supervision where an employee or group of employees does not have appropriate knowledge or experience.
11.3.3	Ensure that employees understand all health and safety information that is provided to them and that they have ready access to information.

11.4 Your business and its risks

Health and Safety is part of day to day business

You must treat health and safety as part of your day-to-day business and manage it proportionately to the level of risk at in your business. This means the greater the risks you have, the more vigilant you need to be. Businesses must always consider first whether they can reasonably eliminate risks (or a particular risk). If not, identify and do what is reasonably achievable to minimise risks by taking reasonable practical steps.

What is reasonably practical?

- ▶ determine what kinds of risks are caused by your work
- ▶ consider how likely those risks are
- ▶ take appropriate action that is proportionate to the injury or illness that could occur
- ▶ implement well-known and effective industry practices
- ▶ involve your staff in identifying and controlling risks.

You're expected to do what a reasonable person would do in your situation. It's about taking responsibility for what you can control.

For example:

- ▶ *Vehicles – ensure all vehicles have current registration, current warrant of fitness and are in good state of repair. Ensure all drivers of vehicles are correctly licensed.*
- ▶ *Tools – ensure all tools are in a good state of repair, and that you and your staff are trained in the safe use of all tools, in particular power tools.*
- ▶ *Lifting – ensure all workers are trained in techniques for safe handling of tools, equipment, components and materials in order to minimise the risk of injury.*
- ▶ *Working at heights – ensure all workers are aware of regulation and safe practice when working at height.*
- ▶ *Working at customer premise - ensure all workers are trained to identify and enquire about site specific risks.*

Managing your work health and safety risks

1. Identify Hazards

- ▶ Think about your work activities, identify what could harm your health or endanger the safety of you, your workers and other (e.g. visitors, bystanders, or someone else's workers). This harm could be acute (occur immediately) or chronic (occur slowly over a long period of time).
- ▶ Consider if you have vulnerable workers (e.g. young people).
- ▶ Consider whether your workers general health could reduce their ability to work safely.
- ▶ Identify hazards that could result in reasonably foreseeable risks to people's health and safety.
- ▶ Look at your work processes and the machinery and equipment used at your workplace itself and you're own and your workers behaviour.
- ▶ Identify hazards and engage your workers when identifying hazards as they often know what could lead to harm.

2. Assess Risks

- ▶ To work out which risks to manage. Think about which risks could cause injury, illness or death you, your workers and others, or are most likely to occur.
- ▶ Decide which risks to deal with first.
- ▶ Engage with your workers when identifying risks.

3. Manage Risks

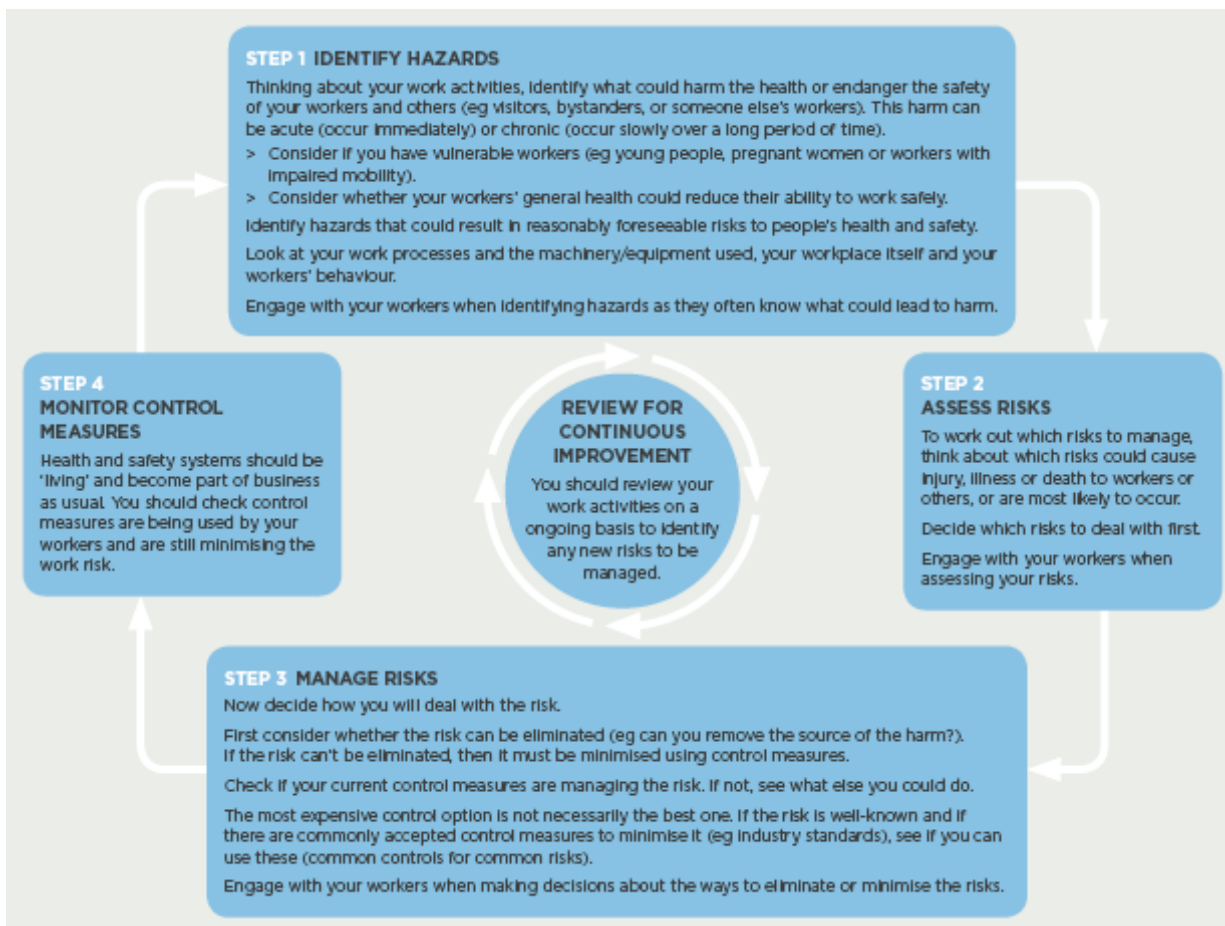
- ▶ Decide how to deal with the risks that you have identified and assessed.
- ▶ Can the risk be eliminated (e.g. Can you remove the source of the harm?).
- ▶ If the risk can't be eliminated then it must be minimised using control measures.
- ▶ Check if your current control measures are managing the risk, if not, see what else you could do.
- ▶ If the risk is common and well known and there are commonly accepted control measures to minimize it (e.g. industry standards), implement these control measures.

4. Monitor the Control Measures

- ▶ Health and safety measures must become a part of your business on a day to day basis (business as usual).
- ▶ Being used as a part of business as usual.
- ▶ Are still relevant and minimizing the risks they were designed for.

5. Ongoing Review and Improvement

- ▶ Review of work activities should be ongoing to identify and manage new and emerging risks
- ▶ Ensure that existing risks are managed in the most appropriate way



Source; <http://www.business.govt.nz/worksafe/hswa/working-smarter/how-to-manage-work-risks>

★	STANDARD
11.4.1	Managing risks and hazards in the work place is everyone's responsibility.
11.4.2	A systematic and deliberate approach to managing risks and hazards through identification, assessment, management, control measures and ongoing review and improvement is vital.
11.3.3	Ensure that employees understand all health and safety information that is provided to them and that they have ready access to information.
11.3.4	If you are unsure of your legal obligations seek advice from Worksafe New Zealand

11.5 Notifiable Events and Records

Introduction

- ▶ You must notify Worksafe New Zealand when certain work-related events (notifiable events) occur.
- ▶ Notify us as soon as possible, when a notifiable event occurs.
- ▶ Preserve the site of the incident until a Work Safe New Zealand Inspector arrives or you are otherwise directed.
- ▶ Keep records of all notifiable events.

What is a notifiable event?


A notifiable event is a death, notifiable illness or injury, or notifiable incident occurring as a result of work. Only serious events are intended to be notified.

What is not a notifiable event?

Deaths, injuries or illnesses that are unrelated to work are not notifiable events.

For example;

- ▶ a diabetic worker slipping into a coma at work
- ▶ a worker being injured driving to work when that driving is not part of their work.
- ▶ a worker fainting from a non-work related cause.

	STANDARD
11.5.1	Managing risks and hazards in the work place is everyone's responsibility.
11.5.2	Ensure Work Safe New Zealand is notified when required
11.5.3	Keep records of notifiable events
11.5.4	If you are unsure of your legal obligations seek advice from Worksafe New Zealand