

Work health and safety incident response standard

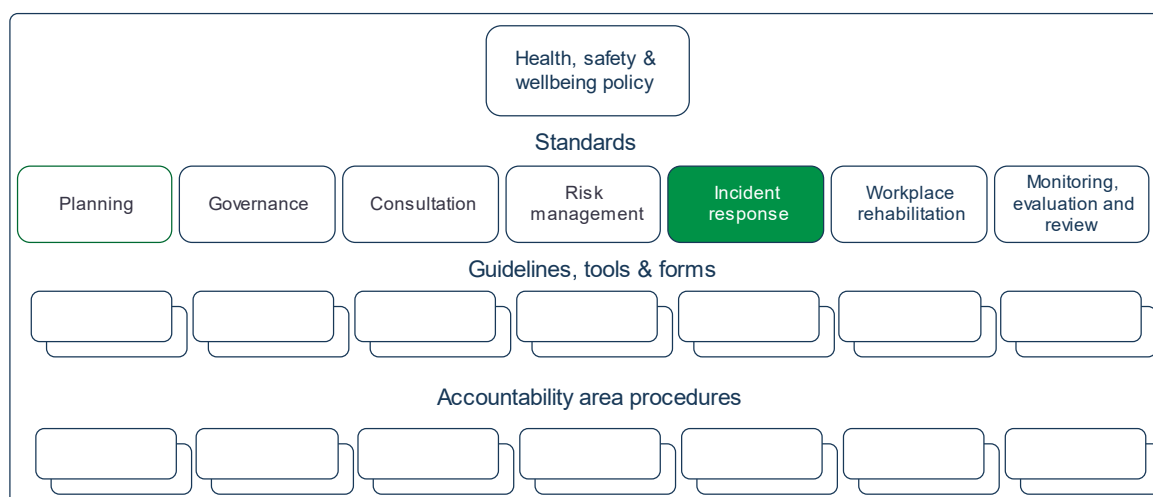
Human Resources Standard (QH-IMP-401-7)

1 Statement

Queensland Health is committed to ensuring and improving the work health, safety and wellbeing of its **workers**.

This Standard establishes requirements for responding to work health and safety (WHS) incidents and enforcement action. This standard requires accountability areas to comply with legal obligations for WHS incident response, in accordance with the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002*.

This standard is one of seven standards detailing the requirements of the Health, safety and wellbeing management system, as authorised by the *Health, safety and wellbeing policy*.



1.1 Summary of requirements of this Standard

- Local process for immediate response to, and reporting of, all WHS incidents, including external notification of notifiable incidents, in accordance with safety legislation.
- Local process for immediate response to, and reporting of, WHS enforcement action, including compliance with enforcement notices, in accordance with safety legislation.
- Local process for internal briefing of accountability area Executive (plus Boards and the Director-General, where relevant) on WHS notifiable incidents and enforcement notices, which also captures notification to the Department of Health at the time of regulatory interaction, with additional notification required for enforcement notices, via WHS exception reporting, in accordance with the WHS governance framework.
- Local process for notifying Health and Safety Representatives of WHS notifiable incidents and enforcement notices affecting the HSR's work group.
- Local process for HHS Patient safety unit to notify HHS WHS Manager of a death or permanent harm classified as a SAC1 clinical incident, where it is deemed there may be a connection between the patient death or permanent harm and workplace health and safety factors, such as work environment and equipment.
- Local processes for determining and managing legal professional privilege in relation to certain notifiable incident investigations, where legal advice has been sought.
- Local process for responding to WHS Inspector and other entry permit holder visits.
- Local incident investigation procedure, inclusive of an appropriate formal investigation methodology for notifiable incidents, with personnel who lead incident investigations appropriately trained/competent in the local investigation methodology.

2 Application

This Standard applies to all **accountability areas** of Queensland Health, meaning the **Department of Health** (the department) and **hospital and health services** (HHSs) and all workers in each accountability area.

In the event that more than one accountability area is involved in a WHS incident response, each accountability area is required to apply this standard independently, unless there is a sufficient common interest identified by the accountability area **Legal Counsel** or the Legal Branch, Department of Health.

3 Acknowledgement

A decision maker has an obligation under the *Human Rights Act 2019* to act and make decisions in a way that is compatible with human rights. When making a decision under this standard, the delegate is to give proper consideration to human rights.

Queensland Health is committed to supporting a reframed relationship with Aboriginal peoples and Torres Strait Islander peoples in accordance with chapter 1 part 3 of the *Public Sector Act 2022*.

Aboriginal and Torres Strait Islander workers have the right to a culturally safe workplace, free of racism and inequity, ensuring they are valued, respected and empowered in the delivery of world-class health services, each working to the top of their scope of practice.

The purpose of these principles will be achieved by ensuring active steps are taken to -

- recognise the importance to Aboriginal peoples and Torres Strait Islander peoples of the right to self-determination and promote the perspectives of Aboriginal and Torres Strait islander peoples; and
- foster a culturally capable workforce and a culturally safe workplace by developing cultural capability at all levels, to every day embed cultural practices across the health system in Queensland.

All delegates and employees have a responsibility to apply these principles when implementing the **Health, safety and wellbeing management system framework**.

4 Roles and responsibilities

Accountability areas have mandatory duties in relation to incident management, notifiable incident site preservation and reporting of notifiable incidents to the relevant regulatory body, in accordance with the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002*.

The **Executive Leader** of the accountability area is responsible for ensuring the implementation of this standard within their accountability area. The accountability area must develop, implement and maintain a process for the response and management of incidents and enforcement action to ensure compliance with **safety legislation**.

All WHS incidents must be recorded in RiskMan™ and all individual workers, managers and supervisors and executive are responsible for reporting work-related incidents that they are involved in. No WHS incident reported in RiskMan should be deleted, unless it is identified as a duplicate entry or has been recorded in error.

5 All WHS incidents

Incident response requirements

The accountability area must develop, implement and maintain a local procedure for responding to and managing all incidents and near misses, inclusive of reporting, investigating and taking corrective action.

Figure 1: Summary of immediate WHS incident response and management

Step 01	5.1 First response <ul style="list-style-type: none"> • Before responding at incident scene, consider the presence of danger, including the presence of electrical, chemical, atmospheric hazards. • Support affected people, with first aid, medical assistance (physical or psychological) or infection control, as required.
Step 02	5.2 Secure and make the incident scene safe <ul style="list-style-type: none"> • After attending to immediate medical needs of injured persons, the scene needs to be 'made safe' to minimise the risk of further injury/incidents. • It is a legal requirement, following a notifiable incident, to preserve and not disturb the incident site, equipment and associated evidence, except for a prescribed reason (section 6 of this Standard outlines further detail).
Step 03	5.3 Report incident to line manager and escalate further as required <ul style="list-style-type: none"> • Report incident/near miss to the line manager and in RiskMan • Line Manager to escalate as required, including activating local processes for notifiable incident reporting (sections 6.1 – 6.5) where relevant.
Step 04	5.4 Investigate incident/near miss and address findings <ul style="list-style-type: none"> • All work incidents and near misses are to be investigated on some level. The extent of the incident investigation and who investigates the incident will depend on the incident type and level of harm or potential harm. • Record the WHS review/investigation findings in RiskMan. • Consult with affected workers and HSRs for the work group, on any proposed corrective actions, and assign responsibility for implementation of corrective actions.
Step 05	5.5 Incident close out <ul style="list-style-type: none"> • Record implementation of corrective actions in RiskMan and close out. • Monitor and review effectiveness of corrective actions.

The accountability area's local procedure for responding to and managing all incidents, near misses and any enforcement action, must address:

- for all incidents, the steps outlined in section 5, including how:
 - the WHS incident is to be immediately responded to, including reference to emergency and evacuation plans, first aid and accessing medical treatment (physical or psychological assistance) and site preservation requirements
 - the WHS incident is to be reported in RiskMan, by person/s involved
 - the WHS incident is to be investigated, including who is responsible for leading or managing non-notifiable and notifiable WHS incident investigations

- any corrective actions arising out of WHS incident investigations will be implemented and reviewed, to prevent or minimise the risk of incident recurrence
- the incident data is captured in the accountability area's WHS reporting, as outlined in the *Health safety and wellbeing monitoring evaluation and performance review standard*
- for **notifiable incidents**, the steps outlined in section 6 - notifiable incidents
- for WHS incidents where legal advice has been sought, the local process for determining and managing legal professional privilege in relation to incident investigation
- for **enforcement action**, the steps outlined in section 7 – enforcement action
- how WHS records will be managed and stored in line with legislative requirements.

Each accountability area must also develop, implement and maintain local processes for managing incidents where more than one person has the same duty concurrently.

- Local processes must address the minimum requirements for consulting, cooperating and coordinating with the **shared duty holder/s**, including contractors performing work on site, regarding WHS incident response.
- The exchange of relevant information between shared duty holders shall enable efficient and effective incident response, in order to allow all duty holders to work together to respond to any WHS incidents that impact the workers, work environment or operations of more than one **person conducting a business or undertaking** (PCBU).
- In the event of a notifiable incident, the accountability area should also identify any other relevant accountability areas and/or shared duty holders requiring notification of the notifiable incident and determine whether there is sufficient common interest identified by the accountability area legal counsel, to conduct a joint incident investigation. A referral to legal counsel to seek that advice needs to occur prior to any investigation commencing.

6 Notifiable incidents

Notifiable incidents are incidents requiring immediate reporting to external regulatory bodies.

A notifiable incident, as defined in the *Work Health and Safety Act 2011* and the *Electrical Safety Act 2002* and at section 11 of this standard, means —

- the death of a person; or
- a **serious injury or illness of a person**; or
- a **dangerous incident**; or
- a **serious electrical incident**; or
- a **dangerous electrical event**.

Immediate notifiable incident response

After attending to the immediate medical needs of injured persons, the scene needs to be 'made safe' to minimise the risk of further injury/incidents, if safe to do so.

The accountability area must not disturb the site, by preserving and securing the incident site so far as is reasonably practicable, until a Workplace Health and Safety Queensland/Electrical Safety Office inspector and/or other external bodies such as the police arrive and release the site or provide authorisation to release by way of a direction, (whichever is earlier), noting authorisation to release can be provided remotely and the release must be documented by the WHS Regulator).

- This is to preserve evidence that may help determine the cause of the incident.
 - Reference to the site where the incident occurred includes any plant, substance, structure or thing associated with the notifiable incident.
- The notifiable incident site can be disturbed for a prescribed reason, including action:
 - to assist an injured person
 - to remove a deceased person
 - that is essential to make the site safe or to minimise the risk of a further notifiable incident
 - that is associated with a police investigation
 - for which an inspector or the regulator has given permission.

Thereafter, the following reporting requirements must be met.

Notifiable incident response reporting requirements

Figure 2: Summary of notifiable incident reporting requirements

<div>Step 01</div>	6.1 Immediate internal notification <ul style="list-style-type: none"> • Notify WHS manager (Executive on call, outside of normal business hours) • WHS manager follows local process to instigate the required internal notification within their accountability area • HHS Patient safety unit notifies WHS Manager of a death or permanent harm classified as a SAC1 clinical incident, where it is deemed there may be a connection between the patient death or permanent harm and work health and safety factors, such as work environment and equipment.
<div>Step 02</div>	6.2 Immediate external notification <ul style="list-style-type: none"> • WHS Manager, or Executive on call outside of normal business hours, is required to manage the notification to the WHS Regulator • A copy of all external notification information submitted to the WHS Regulator must also be provided to the Department of Health.
<div>Step 03</div>	6.3 Internal communications <ul style="list-style-type: none"> • The WHS Manager must brief accountability area executive within 24 hours after becoming aware of the notifiable incident • Director-General of Queensland Health must also be notified immediately of SAC1 fatality of workers and other persons to whom a health and safety duty is owed • HSR of affected work group must also be notified by accountability area.

Step
04

6.4 WHS Regulator external investigation

- Each accountability area must have a process for responding to WHS Regulator visits
- If investigative action is initiated by the WHS Regulator, the nature of the investigation (including any associated requirements to produce documentation) is to be communicated to the Department of Health.

Step
05

6.5 Internal investigation

- Notifiable incidents are investigated using an appropriate formal investigation methodology and personnel required to lead formal incident investigations are appropriately trained/competent
- A multi-disciplinary team representing relevant functional areas is considered for formal investigations, where appropriate/where required
- A draft investigation report must be completed in alignment with local governance expectations for investigations and reporting, but not exceeding 90 calendar days from the incident being reported.

6.1 Step 1 – Immediate internal notification

Following a notifiable incident, the **WHS Manager** (or delegate) must be notified immediately by those involved. For notifiable incidents which occur outside of normal business hours, the Executive Director on-call must be notified immediately. The accountability area must develop a process for how this is to occur.

The WHS Manager or Executive Director on-call must then follow local process and instigate the required internal notification within their accountability area for example, to:

- HHS Chief Executive and relevant Executive leaders (for incidents in a HHS – notification of relevant Executive in the HHS where the incident has occurred)
- HHS Board members (for incidents in a HHS – notification of the Board controlling the HHS where the incident has occurred)
- Deputy Directors-General (for incidents in Department of Health **workplaces**)
- Legal counsel (where applicable to local processes)
 - Local processes for determining whether the WHS incident is to be investigated under legal professional privilege are to be followed. This may involve the WHS Manager or other authorised delegate seeking advice from the accountability area's Legal Counsel, where applicable, regarding whether the WHS notifiable incident should be investigated for the dominant purpose of obtaining legal advice or in relation to current or anticipated litigation, under legal professional privilege.
 - Legal advice should be considered following a fatality of a worker or other person. Further information regarding investigating WHS incidents under legal professional privilege is available in the *Work health and safety incident response guideline*.
 - SAC1 clinical incidents follow established patient safety clinical incident review processes, with existing legislated privilege for Root Cause Analysis

investigations and clinical reviews commissioned under Part 6 of the *Hospital and Health Boards Act 2011* (where these methods are used).

- any other relevant accountability areas and/or shared duty holders requiring notification of the notifiable incident, including to determine whether there is sufficient common interest identified by the accountability area Legal Counsel, to conduct a joint incident investigation

For a SAC1 clinical incident which is notifiable to the WHS Regulator because:

- it has arisen out of the conduct of the Hospital and Health Service (HHS); and
- there is a possible connection between the death or permanent harm and workplace health and safety factors, such as work environment and equipment

the HHS's Patient Safety unit is to immediately notify the HHS's WHS Manager (or delegate) after becoming aware of a confirmed SAC1 clinical incident with possible WHS contributory factor/s.

- The WHS Manager/delegate is to review the recorded incident and communicate with the Patient Safety unit to determine if there is a requirement for WHS subject matter expertise on the clinical incident management team. This is to be considered in those instances where WHS contributory factor/s may exist, due to a connection between the death or permanent harm of the patient and the accountability area workplace health and safety factors, such as work environment and equipment.
- Where it is determined that WHS representation is required, the Patient Safety unit will continue to lead the clinical incident management and follow established processes, as set out in the *Hospital and Health Boards Act 2011* and Patient Safety Health Service Directive.
- In instances where a SAC1 clinical incident management process has taken place without WHS representation being identified as required, but subsequent findings determine there are potential WHS contributory factors, the HHS's Patient Safety unit is to immediately notify the HHS's WHS manager/delegate for consideration as to whether the incident is notifiable to the WHS Regulator.

6.2 Step 2 – Immediate external notification

6.2.1 Work Health and Safety/Electrical Safety Regulator (WHS Regulator)

The WHS Manager (or delegate) is the preferred single point of contact for all WHS Regulator engagement on behalf of the relevant accountability area.

The accountability area must ensure that the WHS Regulator is notified immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred.

Immediately upon becoming informed of a notifiable incident, the WHS Manager, or Executive on call outside of normal business hours or other authorised delegate, is required to manage the notification to the WHS Regulator.

In the case of an incident involving a fatality or a possible criminal offence, the Queensland Police Service must also be notified.

In instances where WHS contributory factor/s are connected to a SAC1 clinical incident, the WHS Manager, or delegate, is to undertake external notification of the incident to the WHS Regulator.

- In parallel with existing clinical incident management processes established in Queensland Health following a SAC1 clinical incident, the WHS Regulator may also decide to investigate the incident under WHS legislation, to inform any decision by the WHS Prosecutor to prosecute in connection with the death of an individual at a workplace.

A copy of all external notification information submitted to the WHS Regulator must also be provided to the Department of Health via email to whs@health.qld.gov.au, with additional information provided upon request.

6.2.2 Other regulatory bodies

The relevant HHS Patient Safety unit is the preferred single point of contact for any required engagement with the Office of the Health Ombudsman, Police or Coroner (if required) following a SAC1 clinical incident.

6.2.3 Insurance

In the event a worker sustains an injury for which compensation may be payable, the accountability area must report the incident to WorkCover Queensland in the approved form and within 8 business days of becoming aware of the injury, in accordance with the *Workers' Compensation and Rehabilitation Act 2003*.

6.2.4 Media

The WHS Manager is required to follow the accountability area's own processes to ensure communication with the accountability area Crisis Manager and Media and Communications team to enable, where necessary, the management of media statements and enquiries.

6.3 Step 3 – Internal communications

6.3.1 Executive Leader notification

The WHS Manager must brief their accountability area executive, attaching (or covering the content of) the associated *WHS incident response form*, within 24 hours after becoming aware of the notifiable incident, or as soon as possible thereafter.

If the incident is being investigated under legal professional privilege, this must occur in consultation with the accountability area Legal Counsel, who will also determine whether the Department of Health's Legal Branch needs to be notified.

The internal notifiable incident briefing must also be sent by the accountability area to the Director-General of Queensland Health at DG_Correspondence@health.qld.gov.au (also providing a copy to Department of Health at whs@health.qld.gov.au) in any of the following circumstances:

- A notifiable incident that has resulted in fatality of a worker or other person.
- A notifiable incident that has disrupted operational service delivery and/or represents significant risk to the organisation, such that local Executive leaders have determined to notify the Director-General via Hot Issues briefing or other internal communications mechanism.

6.3.2 Health and Safety Representative notification

The accountability area is required to proactively notify HSRs about relevant WHS matters impacting the HSR's work group, including:

- giving the HSR a copy of the written notice of a notifiable incident that relates to the HSR's work group, as reported to the WHS Regulator, or giving the HSR a copy of information on a notifiable incident received from the WHS Regulator as soon as practicable after it is received
- giving the HSR a copy of relevant enforcement notices issued by the WHS Regulator relating to the HSR's work group
- giving the HSR a copy receipt of notices of entry by WHS entry permit holders relating to their work group; also when a WHS entry permit holder or an inspector enters a workplace relevant to their work group, to notify the HSR and allow the HSR to accompany the WHS entry permit holder or inspector.

6.4 Step 4 – WHS Regulator investigation

Inspectors may enter a workplace at any time, without notice and without requiring permission.

Each accountability area is to establish a process for responding to WHS Regulator visits, including:

- ensuring that inspectors will always be escorted whilst on site
- ensuring that relevant HSR/s for the affected work group are advised that an inspector is entering the workplace and permitting the HSR/s to accompany the inspector
- ensuring that the accountability area Legal Counsel or appropriate delegate authorises the disclosure of information and the provision of documents to the WHS Regulator
- ensuring duty holders, including workers, are aware of their rights and obligations with respect to engaging with the WHS Regulator, including:
 - where an inspector exercises specific powers on entry to require production of documents and answers to questions (under section 171 of the *Work Health and Safety Act 2011*), persons may choose to request to answer questions by audio or audio-visual link, rather than attending in person before the inspector, noting the inspector must agree with the request if it is reasonable
 - where an inspector exercises specific powers on entry to require production of documents and answers to questions (under section 171 of the *Work Health and Safety Act 2011*), persons may choose to request to attend in person before the inspector to answer questions, if they have been required to attend by audio or audio-visual link, noting the inspector must agree with the request if it is reasonable
 - abrogation of privilege against self-incrimination, in accordance with section 172 of the *Work Health and Safety Act 2011*.

The WHS Regulator may instigate an external investigation, in parallel to, or after completion of, any other regulatory body investigations that may also occur.

If investigative action is initiated by the WHS Regulator, the nature of the investigation (including any associated requests for information/documentation) is to be communicated

to the Department of Health as per mechanisms for enforcement action outlined at section 7 of this Standard.

6.5 Step 5 – Internal Investigation

The investigation into a WHS incident must establish the facts and determine the causal and contributing factors to the incident.

Accountability areas shall train/instruct relevant roles on how to conduct investigations for both non-notifiable incidents and notifiable incidents.

Investigations must take a **trauma-informed approach** to investigating incidents, particularly incidents arising from psychosocial hazards, in accordance with the requirements of the *Managing the risk of psychosocial hazards at work Code of Practice 2022*.

Further information on the principles to be applied when responding to, and investigating, incidents or reports of psychosocial hazards, is outlined at Section 4.3.3.1 of the *Work health and safety incident response guideline*. The minimum requirements for psychosocial risk management when investigating and responding to incidents, is outlined in the *Managing the risk of psychosocial hazards at work Code of Practice 2022*. Further information on psychosocial risk management is also outlined in the *Health, safety and wellbeing psychosocial risk management guideline*.

Legal counsel issued investigations

In situations where the dominant purpose of the investigation is to enable legal advice to be obtained or to aid in anticipated litigation (i.e. subject to legal professional privilege) the investigation should not commence until the accountability area Legal Counsel has issued a request for an investigation to occur in order to enact legal professional privilege.

If the accountability area Legal Counsel is unavailable to assist, an external legal adviser may be contacted to establish the investigation.

Patient safety investigations

For notifiable incidents involving the health and safety of a patient, the WHS Manager is required to consult with their HHS's Patient Safety unit who will coordinate and lead the clinical incident management process.

While the HHS Patient Safety unit will lead any investigation of a notifiable incident that has arisen out of clinical care for a patient, WHS representation on the clinical incident management team is to be considered for incidents where there is a connection between the death or likely permanent harm of a patient and the workplace health and safety factors, such as work environment and equipment.

The HHS Patient Safety unit will follow established clinical incident management processes and timeframes for completion.

6.5.1 WHS convened investigations of notifiable incidents

Sections 6.5.1 - 6.5.4 do not apply to clinical incident management of SAC1 clinical incidents.

WHS incidents that are notifiable to the WHS Regulator, and are not clinical incidents, require a formal investigation led by the local WHS team in collaboration with other stakeholders, which may include the affected worker's line manager, other work team members and the Health and Safety Representative of the affected work group, where

applicable. A multi-disciplinary team representing relevant functional areas is also to be considered for formal investigations, where appropriate/where required.

Notifiable incidents must be investigated using an appropriate formal investigation methodology.

Accountability areas are to ensure that personnel who are required to lead formal incident investigations are appropriately trained/competent.

The WHS Manager or their delegate is to convene the investigation and appoint a lead investigator within 5 calendar days of the notifiable incident.

Lead investigator

The lead investigator must not be associated with the notifiable incident and must be appropriately trained/competent and understand legal professional privilege, when applicable. The lead investigator must update the WHS Manager during the investigation.

Terms of reference/ scope of investigation

A scope or terms of reference must be prepared by the lead investigator within 5 calendar days of the appointment of the lead investigator. If legal professional privilege applies to the investigation, no experts or other third parties external to the accountability area may be engaged by anyone other than the accountability area Legal Counsel.

Investigation timeframe

All notifiable incidents must be investigated in a timely manner.

A draft investigation report must be completed within 90 calendar days of the notifiable incident (or earlier, where possible), unless there has been an agreed extension approved by the WHS Manager (and for incidents under privilege, also by the accountability area Legal Counsel).

6.5.2 WHS convened notifiable incident investigation report

At the conclusion of an investigation, a report must be produced. This report must be kept confidential and stored securely.

When preparing the report, the lead investigator is required to:

- include (the content of) Queensland Health's *WHS incident investigation report* template
- ensure content is factual without speculation or opinion
- include only causal and contributing factors which can be substantiated based on the available evidence
- include recommendations that address the recorded causal and contributing factors. The report should not be used as a means of addressing concerns that do not pertain to the notifiable incident under investigation
- not reach any legal conclusions regarding any breach of safety legislation
- ensure that where the notifiable incident pertains to an alleged breach of safety legislation, recommendations address the causal and contributing factors that gave rise to the alleged breach and not to correct the alleged breach

If legal professional privilege applies, the following additional requirements must be followed:

- the report must be addressed to the accountability area Legal Counsel for advice, with a copy to the WHS Manager
- the report must be marked “Draft: Privileged and confidential, subject to legal professional privilege”

Where legal professional privilege is established, the accountability area Legal Counsel will provide legal advice on the draft report and notifiable incident.

If the Queensland Health Common Interest Protocol operates to enable the sharing of privileged information in relation to the notifiable incident and this has been separately recorded in writing, the report will also be provided to the Legal Branch, Department of Health.

6.5.3 Executive Leader endorsement of WHS convened notifiable incident investigations

The WHS Manager is required to have the notifiable incident investigation report endorsed by the accountability area personnel with the relevant delegation (e.g. Chief Executive, senior management of accountability area) prior to finalising the report.

If the investigation was conducted under legal professional privilege, the final, endorsed version of the report is to be held by accountability area legal counsel.

6.5.4 Communication of findings and outcomes of WHS convened incident investigations

The report is not to be distributed by the WHS Manager, members of the investigation team or others. Permission must be sought from the relevant delegate (e.g. endorsing executive, legal counsel) before sharing the report with other stakeholders.

The WHS Manager is to communicate with those responsible for implementing corrective actions and verifying their completion. Where legal professional privilege has been established, advice from the accountability area legal counsel should be sought as to how this can be achieved while preserving legal professional privilege.

The WHS Manager or delegate is also to communicate with those responsible for implementing the corrective actions, to ensure corrective actions are monitored and reviewed for effectiveness in the prevention of incident recurrence.

Following the completion of the investigation, it may be appropriate for findings to be communicated to Queensland Health staff, unions and other stakeholders. If the investigation has been conducted under legal professional privilege, the communication must be approved by the accountability area legal counsel and the WHS Manager.

If requested, the notifiable incident investigation outcome, including confirmation of finalisation and the completed (or planned) implementation of corrective actions, may also need to be communicated to the Department of Health, via email at whs@health.qld.gov.au, with additional information provided upon request.

7 Enforcement action

In the event that the WHS Regulator instigates enforcement action the accountability area must ensure that the following requirements are met.

7.1 Step 1 – Immediate internal notification

Following enforcement action, the WHS Manager (or delegate) must be notified immediately by the accountability area. For enforcement action which occurs outside of hours, the Executive Director on call must be notified immediately. The accountability area must develop a process for how this is to occur.

The accountability area is responsible for the following:

- Immediate notification of enforcement action to the WHS Manager/delegate (during work hours) or Executive Director on call (outside of work hours).
- The WHS Manager/delegate or Executive Director must advise the below personnel of the enforcement action:
 - Legal counsel used by the accountability area for any enforcement action representing a **significant legislative breach**
 - Relevant accountability area executive leaders, through a pre-agreed mechanism.
 - Where a notice has been issued to an individual, to the individual in question.
 - Department of Health via email to whs@health.qld.gov.au, ensuring the documentation submitted to the Department of Health includes any notice issued by a regulatory body, or a person with powers under a relevant Act/Regulation, which mandates compliance.
 - Any other accountability area and/or shared duty holder to whom the notice applies.

7.2 Step 2 – Internal communications

The WHS Manager must internally brief their accountability area executive, using (or covering the content of) the associated *WHS incident response form*, within 24 hours after becoming aware of the enforcement action.

- For any enforcement action representing a significant legislative breach, the briefing must also be sent by the accountability area to the Director-General of Queensland Health at DG_Correspondence@health.qld.gov.au.
- Copies of all enforcement action briefing documentation, including notices issued, are also to be sent to the Department of Health at whs@health.qld.gov.au.
- The accountability area's legal counsel, if involved, will determine whether the Department of Health's Legal Branch also needs to be notified.

Subject to any legislative process, the WHS Manager is required to take appropriate action in response to enforcement action in consultation with relevant stakeholders (including legal counsel, where applicable, in instances where legal professional privilege is applied).

The WHS Manager is to provide updates to the Department of Health on the progress of a response to enforcement action, in accordance with quarterly WHS performance exception reporting requirements, as detailed in the *Health, safety and wellbeing governance standard*.

Once enforcement action has ceased/closed (e.g. notice satisfied) the WHS Manager is required to notify the Department of Health and provide additional information if requested.

8 Record retention

Records generated through the application of this Standard and associated documentation are to be retained in accordance with the General Retention and Disposal Schedule (GRDS), Queensland Government and Queensland Health Information Management policies.

Additionally accountability areas must keep a record of each notifiable incident for at least five years, in accordance with safety legislation.

9 Legislation

- Anti-Discrimination Act 1991
- Building Fire Safety Regulation 2008
- Electrical Safety Act 2002
- Electrical Safety Regulation 2013
- Fire and Emergency Services Act 1990
- Hospital and Health Boards Act 2011
- Human Rights Act 2019
- Industrial Relations Act 2016
- Public Sector Act 2022
- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- WHS Codes of practice including the electrical safety codes of practice
- Workers' Compensation and Rehabilitation Act 2003
- Workers' Compensation and Rehabilitation Regulation 2014

10 Supporting documents

- Department of Health Corporate Records Management Policy (QH-POL-467)
- eHealth Queensland Information security Policy (QH-POL-468)
- General Retention and Disposal Schedule (Administrative Records)
- Health safety and wellbeing governance standard (QH-IMP-401-6)
- Health safety and wellbeing monitoring evaluation and performance review standard (QH-IMP-401-4)
- Health, safety and wellbeing planning standard (QH-IMP-401-1)
- Health, safety and wellbeing, psychosocial risk management guideline (QH-GDL-401-3-2)
- Health, safety and wellbeing risk management standard (QH-IMP-401-3)
- Patient Safety Health Service Directive (QH-HSD-032:2014)
- Queensland Health Common Interest Privilege Protocol (QH-IMP-401-7-Att3)
- Queensland Government Information security policy
- Queensland Government Records governance policy
- Queensland Health Safety Alert Broadcast System
- Queensland Health Occupational violence incident response kits
- Work health and safety incident response guideline (QH-GDL-401-7)

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- WHS incident investigation report template (QH-FRM-401-7-2)
- WHS incident response form (QH-FRM-401-7-1)
- Workplace rehabilitation standard (QH-IMP-401-5)

Definitions

Term	Definition
Accountability area	Department of Health and each hospital and health service (HHS) are accountability areas within Queensland Health.
Boards	<p>Queensland Health has Boards of Management which function under the authority of the Director-General and provide governance oversight of certain strategies and divisions of the Department of Health, as well as Hospital and health boards controlling each Hospital and health service.</p> <p>Refer to Hospital and health board in this Definitions table, for the definition of a Hospital and Health Service Board, appointed for a Service under section 23 of the <i>Hospital and Health Boards Act 2011</i>.</p>
Dangerous electrical event	<p>Section 12, <i>Electrical Safety Act 2002</i> – Meaning of dangerous electrical event</p> <p>A dangerous electrical event is any of the following—</p> <ul style="list-style-type: none"> (a) the coming into existence of circumstances in which a person is not electrically safe, if— <ul style="list-style-type: none"> (i) the circumstances involve high voltage electrical equipment; and (ii) despite the coming into existence of the circumstances, the person does not receive a shock or injury; (b) the coming into existence of both of the following circumstances— <ul style="list-style-type: none"> (i) if a person had been at a particular place at a particular time, the person would not have been electrically safe; (ii) the person would not have been electrically safe because of circumstances involving high voltage electrical equipment; (c) an event that involves electrical equipment and in which significant property damage is caused directly by electricity or originates from electricity; (d) the performance of electrical work by a person not authorised under an electrical work licence to perform the work; (e) the performance of electrical work by a person if, as a result of the performance of the work, a person or property is not electrically safe; <p>the discovery by a licensed electrical worker of electrical equipment that has not been marked as required under this Act.</p>

Term	Definition
Dangerous incident	<p>Section 37, <i>Work Health and Safety Act 2011</i> – definition of a dangerous incident</p> <p>A dangerous incident means an incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person's health or safety emanating from an immediate or imminent exposure to—</p> <ul style="list-style-type: none"> (a) an uncontrolled escape, spillage or leakage of a substance; or (b) an uncontrolled implosion, explosion or fire; or (c) an uncontrolled escape of gas or steam; or (d) an uncontrolled escape of a pressurised substance; or (e) electric shock; or (f) the fall or release from a height of any plant, substance or thing; or (g) the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be authorised for use under a regulation; or (h) the collapse or partial collapse of a structure; or (i) the collapse or failure of an excavation or of any shoring supporting an excavation; or (j) the inrush of water, mud or gas in workings, in an underground excavation or tunnel; or (k) the interruption of the main system of ventilation in an underground excavation or tunnel; or (l) any other event prescribed under a regulation; <p>but does not include an incident of a prescribed kind.</p>
Department of Health	<p>Department of Health divisions (the department) is the health system manager. The Department of Health's systematic role involves oversight and monitoring and does not descend to operational matters.</p>
Duty holder	<p>Refers to any person who holds a health and safety duty under the <i>Work Health and Safety Act 2011</i>. PCBUS, officers and workers are all duty holders for work health and safety.</p> <p>A person can also have more than one duty by virtue of being in more than one class of duty holder.</p> <p>More than one person can concurrently have the same duty and where more than one person has a duty for the same matter, each duty holder must comply with that duty to the standard required by the <i>Work Health and Safety Act 2011</i>, even if another duty holder has the same duty.</p>

Term	Definition
Enforcement action	<p>Enforcement action, for the purposes of this document, includes the issuing of a notice by a Regulatory body, or a person with powers under a relevant Act/Regulation, which mandates compliance. Examples include:</p> <ul style="list-style-type: none"> • Improvement notice • Prohibition notice • Non-disturbance notice • Enforceable undertaking • Revocation, suspension or cancellation of an authorisation or licence • Infringement notice • Prosecution • Requirement to produce information/documentation (e.g. s155 or s171 of the Act) • Provisional Improvement Notice (PIN) • HSR-issued Cease work notice.
Executive Leader	Is the most senior person of each accountability area and can include persons reporting to that position.
Executive Leadership Team (ELT)	<p>The Executive Leadership Team (ELT) supports the Executive leader of the accountability area to provide leadership and oversight of the functions of the business to ensure its effective operation.</p> <p>In the Department of Health, the Department of Health ELT supports the Director-General to provide leadership, direction and guidance to the Department of Health and oversee its strategic function, capabilities and effective operation.</p>
Hospital and health board	<p>A Hospital and health board appointed for a Service under section 23 of the <i>Hospital and Health Boards Act 2011</i>, which consists of five or more members appointed by the Governor in Council and which controls the Service for which it is established, with regard to –</p> <ul style="list-style-type: none"> (a) the need to ensure resources of the public sector health system are used effectively and efficiently; and (b) the best interests of patients and other users of public sector health services throughout the State.
Hospital and health service (HHS)	A statutory body established under the <i>Hospital and Health Boards Act 2011</i> responsible for the provision of public sector health services for a geographical area, which includes one or more health facilities.
Incident	An unplanned event or work-related incident that has either resulted in or had the potential to result in adverse outcomes such as harm, loss, damage, disruption or delay.
Legal Counsel	A member of the legal team at the relevant accountability area, in the Legal Branch of the Department of Health or an external legal adviser.

Term	Definition
Legal professional privilege	Legal professional privilege protects confidential communications and confidential documents between a lawyer and a client made for the dominant purpose of the lawyer providing legal advice or professional legal services to the client, or for use in current or anticipated litigation. Legal counsel in each accountability area must be referred to in relation to decisions regarding legal professional privilege.
Notifiable incident	<p>A notifiable incident under electrical safety and work health safety legislation.</p> <p>A notifiable incident under electrical safety and work health safety legislation.</p> <p>Notifiable incident is fully defined in safety legislation and means —</p> <ul style="list-style-type: none"> • the death of a person; or • a serious injury or illness of a person; or • a dangerous incident; or • a serious electrical incident: or • a dangerous electrical event. <p>See separate definitions for serious injury or illness, dangerous incident, serious electrical incident and dangerous electrical event.</p>
Others	<p>Other persons as referenced in the <i>Work Health and Safety Act 2011</i>.</p> <p>Others are people who are not workers but whose health and safety may be impacted by one or more accountability areas.</p> <p>Patients and visitors are examples of others.</p>
Person Conducting a Business or Undertaking (PCBU)	<p>Means a person conducting a business or undertaking. A PCBU can be a sole trader, a partnership, company, unincorporated association or government department of public authority. The PCBU holds a primary duty of care under the <i>Work Health and Safety Act 2011</i>.</p> <p>The Department of Health and each of the HHSs are considered to be PCBUs. A HHS is a statutory body and its legal status is that of a body corporate (refer section 18 of the <i>Hospital and Health Boards Act 2011</i>). HHSs engage in a business or undertaking, being the principal providers of public health services, and are direct employers of certain workers.</p>
Queensland Health	<p>Means the Department of Health (the department) and all hospital and health services responsible for the provision of public sector health services.</p> <p>Queensland Health operates as a federated, networked system, with the Department of Health and each HHS being legally recognised as a PCBU in accordance with the <i>Work Health and Safety Act 2011</i>, under shared duties arrangements.</p>

Term	Definition
<p>SAC1 clinical incident with WHS contribution</p> <p>SAC1 is a Severity Assessment Code in clinical incident management, representing death or likely permanent harm which is not reasonably expected as an outcome of healthcare</p> <p>(SAC1 is also used in Queensland Health for non-clinical incidents to describe worker fatality)</p>	<p>For the purposes of this Standard, SAC 1 clinical incidents with WHS contribution, are –</p> <p>Notifiable incidents:</p> <ul style="list-style-type: none"> • involving the death or likely permanent harm of other persons, including patients and residents, which is not reasonably expected as an outcome of health care provided by a Queensland Health facility; and • is notifiable to the WHS Regulator because it has arisen out of the conduct of the accountability area, with a connection between the death or permanent harm and the accountability area workplace health and safety factors, such as work environment and equipment.
Safety legislation	<p>The <i>Work Health and Safety Act 2011</i>, and the <i>Electrical Safety Act 2002</i>, the <i>Building Fire Safety Regulation 2008</i>, the <i>Workers' Compensation and Rehabilitation Act 2003</i>, the <i>Hospital and Health Boards Act 2011</i> and any associated regulations or WHS codes of practice, as amended from time to time.</p>
Serious electrical incident	<p>Section 11, <i>Electrical Safety Act 2002</i> – Meaning of serious electrical incident</p> <p>A serious electrical incident is an incident involving electrical equipment if, in the incident—</p> <ul style="list-style-type: none"> (a) a person is killed by electricity; or (b) a person receives a shock or injury from electricity, and is treated for the shock or injury by or under the supervision of a doctor; or (c) a person receives a shock or injury from electricity at high voltage, <p>whether or not the person is treated for the shock or injury by or under the supervision of a doctor.</p>

Term	Definition
Serious injury or illness	<p>Section 36, <i>Work Health and Safety Act 2011</i> – definition of a serious injury or illness</p> <p>In this part, serious injury or illness of a person means an injury or illness requiring the person to have—</p> <ul style="list-style-type: none"> (a) immediate treatment as an in-patient in a hospital; or (b) immediate treatment for— <ul style="list-style-type: none"> (i) the amputation of any part of his or her body; or (ii) a serious head injury; or (iii) a serious eye injury; or (iv) a serious burn; or (v) the separation of his or her skin from an underlying tissue (for example, degloving or scalping); or (vi) a spinal injury; or (vii) the loss of a bodily function; or (viii) serious lacerations; or (c) medical treatment within 48 hours of exposure to a substance; <p>and includes any other injury or illness prescribed under a regulation but does not include an illness or injury of a prescribed kind.</p>
Shared duty holders	<p>Persons who have a duty under the <i>Work Health and Safety Act 2011</i> in relation to the same matter as another person. as referenced at section 16 and section 46 of the Act. Each person with the duty must, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter. Examples include owners, occupiers, secondary occupiers and concurrent duty holders. Examples of concurrent duty holders in Queensland Health include the Department of Health and a HHS, for example, where the Department of Health has workers located at the HHS.</p>
Significant legislative breach	<p>An actual legislative breach, resulting in sanctions issued and proceedings commenced or a penalty for non-compliance issued by the WHS Regulator and/or Electrical Safety Regulator, by way of:</p> <ul style="list-style-type: none"> • Infringement Notice that is used for an individual and/or an accountability area (PCBU), for contravening WHS and/or Electrical Safety legislation • Enforceable Undertaking has been entered into by an accountability area of Queensland Health with the Regulator, for an alleged contravention of WHS or Electrical Safety legislation • Prosecution, or intention to prosecute an individual and/or an accountability area (PCBU), by the WHS Prosecutor.

Term	Definition
Trauma-informed approach	<p>Definition as per page 37 of the <i>Managing the risk of psychosocial hazards at work Code of Practice 2022</i>, that is:</p> <p>The concept of a trauma-informed approach means that workplace systems recognise and acknowledge that workplace responses or investigations of reports about psychosocial hazards can escalate or de-escalate distress in those with a history of trauma.</p> <p>Trauma-informed approaches seek to avoid re-traumatising and work to empower individuals in decision making, creating safety and trust, equity and respect, choice and collaboration, and rebuilding a sense of control, hope and empowerment.</p>
WHS Manager	The Workplace Health and Safety Manager or equivalent functional lead at the relevant accountability area, or their delegate.
WHS Regulator	Workplace Health and Safety Queensland, or the Electrical Safety Office, as applicable.
Worker	<p>Definition as per section 7 of the <i>Work Health and Safety Act 2011</i>, that is: A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as—</p> <ul style="list-style-type: none"> (a) an employee; or (b) a contractor or subcontractor; or (c) an employee of a contractor or subcontractor; or (d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or (e) an outworker; or (f) an apprentice or trainee; or (g) a student gaining work experience; or (h) a volunteer; or (i) a person of a prescribed class. <p>The person conducting the business or undertaking is also a worker if the person is an individual who carries out work in that business or undertaking.</p> <p>As per section 11(1) of the <i>Workers' Compensation and Rehabilitation Act 2003</i> (as amended 2013), a person who works under a contract, and in relation to the work, is an employee for the purpose of assessment for PAYG withholding under the <i>Taxation Administration Act 1953 (Cwlth)</i>; who has sustained a work-related personal injury or illness. (Note – this definition is used by WorkCover Queensland when determining liability/eligibility for workers' compensation entitlements).</p>

Term	Definition
Workplace	<p>Definition adapted from the <i>Work, health and safety consultation, cooperation and coordination code of practice 2021</i>, that is:</p> <p>Any place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. In a Queensland Health context, this may include hospital and health facilities, offices, warehouses, construction sites, vehicles, aircraft or other mobile structures, staff accommodation.</p>

11 History

Date	Change
20 March 2025	<p>Standard review prompted by legislative and other amendments:</p> <ul style="list-style-type: none"> • amendment of Work Health and Safety Act 2011, as outlined in Work Health and Safety and Other Legislation Amendment Act 2024 • amendment of Work Health and Safety Regulation 2011, as outlined in Work Health and Safety and Other Legislation Amendment Regulation 2024 • amendment of Work Health and Safety Act 2011, as outlined in Electrical Safety and Other Legislation Amendment Act 2024 • amendment of Work Health and Safety Regulation 2011, as outlined in Work Health and Safety (Psychosocial risks) Amendment Regulation 2022 • introduction of Managing the risk of psychosocial hazards at work Code of Practice 2022 • alignment to AS / NZS ISO 45001 criteria • standard reformatted as part of the HR Policy review • amended to update references and naming conventions
21 July 2021	<p>Version 1.1</p> <p>Standard updated to reflect operational requirements for internal notifications of notifiable incidents and enforcement action</p> <p>Enforcement action definition scope broadened</p>
15 June 2020	Version 1.0 – new standard