

# ARE YOUR HOME WORKERS SAFE?

Over three-quarters of a million Australian workers are now working from home at least two days each week and this number is continuing to grow. New legislative requirements mean you need to make sure, more than ever.

BY MARNIE DOUGLAS

**T**he pursuit of a better lifestyle through flexibility in work/life balance is driving the change to traditional work practices. There are a number of factors underpinning this change and these have combined to highlight the responsibility employers have towards their home workers.

These include new legislative requirements and a 2011 court decision.

New national harmonized Work Health and Safety (WHS) laws, which deliver the same work health and safety protections to all Australians, were introduced in January this year. Currently New South Wales, Queensland and the ACT have enacted these laws with the remaining states and territories at varying stages of implementation. Under these laws the term 'employers' is replaced by 'persons conducting a business or undertaking' (PCBU) and 'workers' replaces 'employees'. The WHS laws highlight the PCBU, as having the primary duty of care for workplace health and safety.

In the instance of home workers, the new WHS laws should be considered in association with: the 2010 National Employment Standards (NES) that allow parents or carers of a child under school age or with a disability, to request a change in working arrangements to assist with the child's care; and Australia's anti discrimination laws which require PCBU to provide for the flexible working needs of employees with family care responsibilities.

## TELSTRA COURT CASE

A high profile litigation case in 2011 saw a Telstra home worker successfully sue her employer for injuries that occurred when she was working from home. This recent case has further highlighted to PCBU the importance of ensuring the appropriate measures are in place to protect their workers.

Australia's small and medium sized enterprises (SMEs) number almost 2 million, employ over 5 million workers and constitute approximately 95 percent of all businesses in Australia according to the SME Association of Australia. This represents a substantial component of the country's workforce. Within this sector 60 percent allow their staff to work from home.

Statistics compiled by Ergoworks, a provider of ergonomic solutions across Australia, cast a WHS cloud over the significant percentage of home workers in the Australian workforce. These statistics, collated over the past five years, revealed that 90 percent of such workers were working in unsafe environments. These statistics were based on home workplace assessments undertaken for businesses Australia wide.

## EMPLOYER'S OBLIGATIONS

PCBUs have obligations to provide a safe working environment for their workers, whether they are working from home or in an office. Unfortunately, they are generally oblivious to the working conditions their workers have established in their own premises. It is not uncommon for these workers to adopt unhealthy work practices in unsafe environments. These may involve working from lounge chairs, bedside tables or bench tops in cluttered environments.

As a direct result of poor workplace practices and unsatisfactory environments, home workers are increasingly suffering neck and back injuries. These subsequently impact on their productivity and eventually lead

to an unsatisfactory end result for the PCBU with higher rates of absenteeism and diminished work output. The central issue is that many home workers are not setting up their work stations safely. This deficiency is the responsibility of PCBU to address and has the potential to become a litigation nightmare given the substantial penalties related to the enforcement of breaches of WHS responsibilities in the new WHS laws.

Very few PCBUs have the appropriate training to determine whether a home worker's environment is safe. However, a number of proactive measures can be implemented to address this situation. These include ensuring a well documented home working policy, establishment of home offices with the same working

posture alignment as well as rest and stretch breaks.

## TWO SMEs WHO ARE MAKING IT WORK

While the NES and anti discrimination legislation may well coerce some PCBU into adopting the home worker concept, others have actively embraced it for some time.

Two such companies are specialist removalists Crown Relocations and the Teachers Health Fund (THF), an Australian private health insurer. Currently both have seven workers in this category.

Each company had strong grounds for implementing the practice of home-based workers. The adoption of this practice by THF resulted from development of its worker engagement practices over time. Three

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requirements as the main office environment and engaging qualified WHS consultants to undertake risk assessments.

Such assessments target a number of important elements in the audit of home workstations. These include all equipment used by the employee – chair, desk, keyboard, mouse, phone etc; the configuration of this equipment including its positioning; and the adequacy of lighting. The location of smoke alarms, fire exits and first aid kits are also scrutinised in addition to fire extinguisher access. Trip hazards are examined while exit routes are given consideration. Advice is also provided on

contributing factors included: technological changes in work process and practice with a complementary consequence being the capability for workers to work remotely; Worker Satisfaction Surveys highlighting the importance of “flexibility in work/life balance”; and an ongoing management practices review consistently indicating that highly engaged workers are more productive.

Crown Relocations subscribed to the belief that effective management and embracing a diverse workforce required flexibility to allow people to manage their working and home lives. The company



also acknowledged that implementation of working from home practices allowed it to retain highly valued workers and contributed substantially to the enhancement of business/worker relationships. Crown Relocations contend that support for home-based workers allows it to actively nurture its human capital.

Each company took steps to minimise the risk of injury to employees working at home. All Crown Relocations' home workers in Australia had home office assessments carried out. The professionals carrying out these assisted the worker to make workstation adjustments to ensure it was ergonomically appropriate for the individual and the work performed. They also assessed and made recommendations about the surrounding work area.

As a follow-up, the company carried out ongoing check-ins with these employees to ensure the assessment recommendations were implemented. Ongoing education helped ensure home workers' consistency in their use of approved workstations.

“ The number of home-based workers is rapidly increasing, particularly within the SME sector ”

### REVIEW AND ASSESS

THF conducted initial assessments on both WHS and ergonomic elements of workers' home workstations. The company required that home working staff members attend the main office on a regular basis. The formal agreement with staff working from home is reviewed with the staff member every six months to ensure all matters are constantly evaluated and any matter not dealt with is acted upon.

THF uses a software system called Ergo Assess, which is rolled out to all workers every 12 months to ensure vigilance of the work environment is ongoing and potential issues addressed. This product allows for reinforcement and self-assessment of potential ergonomic and/or WHS hazards.

The implementation of the harmonised WHS laws resulted in both companies reviewing existing programs and policies with particular attention being paid to those relating to home based workers.

In conclusion, the number of home based workers is rapidly increasing, particularly within the SME sector. A number of legislative requirements and a recent court outcome have highlighted the need for PCBUs to take appropriate steps to help ensure the health and safety of all of their workers, particularly those who work from home, given their unique circumstances. In order to achieve this, PCBUs are strongly advised to ensure documentation and implementation of compliant WHS programs and policies. Further to this, documentation should be informed by workplace/station assessments and advice from qualified industry professionals, as well as being subject to ongoing review. **DB**

—Marnie Douglas is the founder of Ergoworks, one of Australia's most respected providers of ergonomic advice to SMEs and corporate organisations.

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