

VicSport Update: WorkSafe Incident Notification

Implications of Incident Notification Requirements on Sport & Recreation

Events and Activities

All sport and recreation organisation employing staff will – hopefully - be fully aware of their obligations to hold appropriate WorkCover for employees, and to maintain compliance by notifying the Victorian WorkCover Authority of fatalities, serious injuries or other incidents which expose persons to risks to their health or safety. Many groups however, may not be aware of the recent changes to the Occupational Health and Safety Act 2004, (which came into effect in July 2005), that has made reporting of such incidents mandatory.

While the new Act is not a radical departure from the old – in essence the responsibilities are the same – one of the key changes affecting all organisations, is the incorporation of incident notification and site preservation requirements into the actual Act. These requirements were formerly part of the industry standards, however their recent incorporation under legislation means they are now legally binding and failure to comply is a prosecutable offence.

Unfortunately, as the incident notification legislation was developed for, and largely pertains to big industry, there is no clarification around specific requirements for sport and recreation organisations and activities. While the requirement to report incidents in the work place “proper” is nothing new, departmental interpretation of the Victorian Act’s broad defining of the workplace has meant sporting activities and events are currently being considered “workplaces”.

While it is possible to argue the toss over whether or not sport events or activities should be considered workplaces, and there is no doubt the legislation requires some clarification to make it more appropriate for the sport and recreation sector, discussions with WorkSafe staff have indicated sport and recreation events are considered to be workplaces. As such, under this interpretation, sport and recreation groups running events or activities are legally bound to report notifiable incidents to WorkSafe Victoria, (the organisation responsible for the notification requirements of the Act), and breach of this requirement is a prosecutable offence. It is also important to note the legislation makes it very clear incident notification requirements apply not only to staff, but to members of the public as well as volunteers.

So what does it all mean? According to the OHS Act 2004, incidents requiring notification are those which result in death or serious injury. Serious injuries include, but are not necessarily limited to, those which require medical treatment as an in patient in hospital, amputation,

serious head injuries, serious eye injuries, electric shock, spinal injury, loss of bodily function, separation of skin from underlying tissue, for example de-gloving or scalping, and serious lacerations.

The Act requires WorkSafe is immediately notified by phone as soon as a notifiable incident occurs. In addition, a written incident notification report, completed on the approved Incident Notification Form, must be sent, faxed or delivered to WorkSafe within 48 hours of the incident occurring. Copies of this form can be found at www.workcover.vic.gov.au, or can be obtained from the Incident Notification Unit by calling 132 360.

Along with the requirement for notification of incidents, the OHS Act also stipulates the site where a notifiable incident has occurred is to remain undisturbed until either an inspector arrives at the site, or such other time as directed by an inspector when WorkSafe is notified of the incident. The site of an incident may only be disturbed before an inspector arrives or before a direction is issued to protect the health and safety of a person, to provide aid to an injured person, or to take essential action to make the site safe to prevent a further incident.

It is difficult to envisage how this particular requirement would be applicable in the context of a sport or recreation event, and quite obviously the situation of a person being injured when taking part in a contact sport for example, was not considered when these site preservation requirements were written. Site preservation is however a requirement of the legislation and as such must be kept in mind.

While the exact implications of the OHS incident notification and site preservation requirements for sport and recreation are not crystal clear, WorkSafe representatives have indicated, sport and recreation events and activities are considered “workplaces”. If your organisation runs sport or recreation events or activities, chances are you will be required to adhere to these legislated requirements and you must be fully aware of your legal obligations. Whilst the information here provides only a broad overview of the legislation, further details regarding the impact on your specific organisation can be obtained by contacting the WorkSafe Advisory Service on 1800 136 089 or the Incident Notification Unit on 132 360.

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