



## Uniting Church SA – Human Resources Resource/Information

### WHS OFFICERS

#### BACKGROUND TO NEW WHS NEW MODEL LAW

On 1<sup>st</sup> January 2013, the State Government introduced Work Health and Safety (WHS) model legislation based on the harmonised legislation being introduced into all States. There are a number of significant changes from the previous legislation. This report concentrates on the fact that the previous notion of one Responsible Officer has been replaced by a far broader application of the 'Responsible Officer' position previously held by me through the extended use of the role of 'Officers' of a PCBU (Persons Conducting Business or Undertaking). Officers are under an obligation to exercise 'due diligence' to ensure compliance with WHS laws.

#### 'OFFICER' AND THE NEW LEGISLATION

The new legislation defines 'Officer' in substantially the same terms as the Corporations Act 2001 (Cth) (**Corps Act**) (section 9) but excludes partners in partnership. I focus on that part of the definition of 'officer' in section 9 of the Corps Act that deals with officers of associations. It is relevantly in these terms:

*'officer' of an entity that is neither an individual nor a corporation means:*

*(a) [partners in partnership]; or*

*(b) An office holder of the unincorporated association if the entity is an unincorporated association; or*

*(c) A person:*

- i. Who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the entity; or*
- ii. Who has the capacity to affect significantly the entity's financial standing.*

The church as a whole and each of the individual councils of the church are unincorporated associations and therefore we have concentrated on applying part (b) of the above definition. However a case may be made that groups of people such as a Church Council or Standing Committee members may have the capacity set out in (c) above.

## STANDING COMMITTEE DECISION

Based on the legal advice received by Uniting Church SA; it was agreed that the Standing Committee (SC 13.132) at the 12<sup>th</sup> April 2013 meeting, designate the following positions as 'Officers' under the Work Health Safety Act 2012.

**Table 1: PRESBYTERY & SYNOD APPOINTMENTS**

<b>Officer Title</b>	<b>Rationale</b>
<b>Moderator, General Secretary, Property Officer (and the roles they perform as Presbytery Office bearers including Presbytery Treasurer)</b>	Representing the decision making processes of the Standing Committee and the Presbytery and Synod meetings
<b>Chairperson and Executive Officer, Resources Board</b>	Representing the decision making processes of the Resources Board
<b>Executive Officers (where not already listed above)</b>	Day to day decision makers
<b>Manager Property and Insurance and Manager Human Resources</b>	Symbolising the importance of their respective roles in resourcing congregations in WHS matters
<b>General Manager Uniting Venues</b>	Representing the importance of this role in determining the management of WHS issues for a substantial business of the Presbytery and Synod
<b>Chairperson and Administrator of UAICC Regional Committee</b>	Representing the decision making processes of the UAICC Regional Committee and the impact of these decisions on individual ministry centres

**Table 2: CONGREGATIONAL APPOINTMENTS**

<b>Officer Title</b>	<b>Rationale</b>
<b>Minister and pastor</b>	Representing their role in decision making processes of the congregation
<b>Chairperson and Secretary of Church Council</b>	Representing the consensus decision making processes of the Church Council
<b>Church Treasurer (where they are a member of Church Council)</b>	Representing the importance of the budget process to WHS resource allocation decisions

However, in relation to the congregational recommendation above, it should be noted that although not carrying the formal title of "Officer", all other members of a church or parish mission council will have the responsibility to do all that is 'reasonably practicable' as defined by the WHS legislation to ensure the council on which they serve exercises an appropriate level of 'due diligence' in the way they use their decision-making powers in relation to the scope of the WHS legislation".