



**Government
of South Australia**

SafeWork SA

PROSECUTIONS PUBLISHING POLICY

Date: 01 January 2013 (Revised 1 July 2017)

1. Scope

SafeWork SA administers the *Work Health and Safety Act 2012 (SA)* and supporting regulations in South Australia

This includes initiating prosecution of entities and individuals for contraventions of work health and safety laws.

This policy details SafeWork SA's approach to publishing outcomes of prosecutions arising from work health and safety contraventions.

This policy should be read in conjunction with SafeWork SA's Compliance and Enforcement Policy.

2. Purpose of publishing information

Publishing prosecution outcomes and related details encourages compliance with work health and safety regulatory requirements by:

- Educating duty holders and the community regarding work health and safety hazards, risk and consequences to workers
- Raising awareness as to whom will be regarded as a person conducting a business or undertaking (PCBU) under the legislation
- Making duty holders aware of dangerous work practices in particular industries and in workplaces generally
- Demonstrating the need for real, sustained improvements in workplace safety practices
- Illustrating methods by which workers and the community can be better protected from work related death injury and illness
- Guidance to the standard of care that will be regarded as reasonably practicable by the Courts
- Enhancing deterrence by ensuring duty holders are aware of the consequences of non-compliance.

3. General publishing principles

SafeWork SA will publish all prosecutions which result in a finding of guilt or conviction on its website www.safework.sa.gov.au and may also list these in its Annual Report. SafeWork SA may also release media statements that contain information about prosecution outcomes.

SafeWork SA will endeavour to ensure that all information published is accurate, impartial, balanced and encourages compliance with work health and safety laws.

4. Approach to publishing Prosecution Outcomes

What information is published?

Charges proven: Upon a finding of guilt or conviction by the court, SafeWork SA may publish identifying information in relation to the defendant(s) (cases against individuals under the age of 18 will not include identifying information). SafeWork SA may also publish information in relation to the offence including: an incident summary, charges laid, penalty imposed by the court and other related information (i.e. general comments about relevant systemic or industry issues such as the prevalence of a risk or hazard, methods for its control or the prevalence of a particular industrial practice).

What information is not published?

Charges not proven: Where the defendant(s) is found not guilty by the court or the charges are dismissed, struck out or withdrawn, SafeWork SA will generally not publish any information however if, as a result of the prosecution process, information is already in the public domain, it may be appropriate for SafeWork SA to comment.

To protect the privacy of people (non-defendants) involved in work health and safety prosecutions, no personal identifying information (in relation to the injured person and any witnesses) will be published, unless that information is already in the public domain.

Where a finding is under appeal: The words “under appeal” will be highlighted in the information posted to the SafeWork SA website as soon as it receives official written notification of the appeal having been lodged.

Where a conviction is overturned on appeal: All information on the case will be withdrawn from the SafeWork SA website as soon as official written notification of the judgment quashing the conviction is received. A clarifying statement about the matter may be made if SafeWork SA considers it is in the public interest or it is otherwise necessary.

Where a sentence is overturned on appeal: Any change to the sentence as a result of an appeal will be indicated in the information posted to the SafeWork SA website as soon as official written confirmation of the change is received.

How long will information be published?

Prosecution information will appear on SafeWork SA’s website for a period of three years (commencing from 1 January in the year following the conviction) and will then be removed and archived.

Further Information

SafeWork SA Help Centre: Telephone 1300 365 255

SafeWork SA: GPO Box 465, ADELAIDE SA 5001

Country offices: Berri, Mount Gambier, Port Lincoln, Port Pirie and Whyalla