



Government
of South Australia

SafeWork SA

Application for proposed **ENFORCEABLE UNDERTAKING**

The commitments in this undertaking are offered to the Regulator by

DEPARTMENT OF HUMAN SERVICES

ABN 11 525 031 744

GENERAL INFORMATION:

The information provided in this document is for the purpose of applying for an enforceable undertaking (EU) under Part 11 of the *Work Health and Safety Act 2012* (SA) (**the Act**) in lieu of potential prosecution.

The information will be managed in accordance with the confidentiality provisions of the Act and the SafeWork SA Confidentiality of Information Policy.

If an EU is accepted by the Regulator, both the EU agreement and the Reasons for Decision Notice will be published on the SafeWork SA website within 28 days. EUs and the Reasons for Decision Notice will remain on the SafeWork SA website and will only be removed at the discretion of the Regulator.

Refer to the 'Enforceable Undertaking Application Guidelines' for further guidance on completing this application.

COMMENCEMENT OF UNDERTAKING

The EU will take effect when the Regulator accepts the EU Application. The date of acceptance is the date the Regulator (or their delegate) signs the EU application.

The EU agreement will not exceed 18 months in duration unless permission has been given by the Regulator to extend the duration to 24 months.

The Undertaking will conclude on written advice from the Regulator to the applicant when all requirements of the undertaking have been satisfactorily completed.

SECTION 1: GENERAL INFORMATION

1.1 Details of the applicant proposing the undertaking

Nominated person: (Point of contact for SafeWork SA communications)	Sandy Pitcher, Chief Executive, Department of Human Services
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Email address:	enquiries@dhs.sa.gov.au
Legal structure:	State Government
Type of business:	Public Services
Date business registered:	N/A
No of Workers: Full time:	2165
Part time:	563
Casual:	623
Products and services:	Human Services
Comments:	<p>The Department of Human Services (DHS) brings together a range of services, funding, and policy responsibilities which together support fairness, opportunity, and choice for all South Australians.</p> <p>DHS has lead responsibility on behalf of the South Australian government in the areas of early intervention to support children's wellbeing, disability, domestic violence, safety and wellbeing of children, screening services, and youth justice. The Department also provides a wide range of grants to community organisations, and concessions.</p> <p>DHS Disability Services (formerly DHS Accommodation Services) is a division of DHS.</p>

1.2 Details of the characterised or alleged contravention

SafeWork SA has alleged that on 28 April 2022 the Department of Human Services (**the Department**) (as the responsible agency for the Crown) has committed a Category 2 offence under the *Work Health and Safety Act 2012* (SA) (**the Act**). The alleged contravention is contrary to sections 19 and 32 of the Act and is a minor indictable offence.

The particulars of the alleged contravention, as alleged by SafeWork SA are as follows:

1. The Department had a health and safety duty as a body corporate conducting a health and services facility at [REDACTED] Felixstow SA (**the workplace**).
2. The health and safety duty prescribed by s 19(2) of the Act required the Department to ensure, so far as was reasonably practicable, that the health and safety duty of other persons (including clients) was not put at risk from work carried out as part of the conduct of the business.
3. The Department failed to comply with the s 19(2) duty because:
 - 3.1 The Department failed to ensure, so far as was reasonably practicable, the provision and maintenance of a work environment without risks to health and safety
 - 3.2 The Department had agreed to provide a level of care in accordance with client care plans, including a Personal Support Plan, a Mobility Care Plan, and a Manual Handling Plan ("**the Care Plans**").
4. On 28 April 2022, the Department failed to comply with the s 19(2) duty because:
 - 4.1 The Department failed to provide the level of care to the client, required in the Care Plans.
 - 4.2 The Department failed to ensure, so far as was reasonably practicable, the safe use of plant.
 - 4.3 The Department failed to ensure, so far as was reasonably practicable, the provision of information, training, instruction, and supervision that was necessary to protect a client from risks to safety arising from work carried out as part of the conduct of the business.
5. The Department's failure to comply with the s 19(2) duty exposed a client to a risk of death or serious injury, which materialised on 28 April 2022 when the client suffered fatal injuries.

The offering of this undertaking by the Department does not constitute an admission of a breach of the Act by the Department in relation to the alleged contravention to which the undertaking relates, or the particulars alleged by SafeWork SA.

1.3 Detail the events surrounding the characterised or alleged contravention

On 28 April 2022 at a health and services facility in Felixstow, an incident occurred which resulted in the death of a client who was a NDIS participant (**the client**) residing at the facility and receiving disability support from the Department (**the incident**).

The client required 1:1 line-of-sight supervision at all times but was not provided with 1:1 supervision for a period of time. During the period when the client did not receive 1:1 supervision, the alleged contravention is that when the client was left unsupervised, the client slipped down in her wheelchair and the lap belt of the wheelchair compressed the client's neck causing fatal injuries.

1.4 Details of any enforcement notices issued that relate to the characterised or alleged contravention

Tick if there were no notices issued by SafeWork SA in relation to the contravention.

Date issued	Notice type	Notice number	Contravention or prohibited activity	Notice Directions	Action taken in response to notice

1.5 Detail the injury or illness suffered by worker/s or other/s as a consequence of the characterised or alleged contravention detailed above

The alleged contravention caused neck compression which led to the fatality.

1.6 Detail the employment, workers' compensation and insurance status regarding the person who sustained injury or suffered illness as detailed in 1.5

The injured person is:

an employee of the entity

a self-employed person

- other - Please provide details
- not applicable – an NDIS participant living in their home in the community where the Department was providing services to the participant.

Status: N/A

(This should reflect the status of any claims and level of recovery/return to work that is applicable)

1.7 Detail the support provided or proposed by the applicant to the injured person and/or or other/s

Date	Description of support	Comments and costs
Day of incident	<p>Immediate first aid was provided to the deceased.</p> <p>Immediate notification to the South Australian Ambulance Service (SAAS) upon locating the deceased.</p> <p>NDIS Quality and Safeguards Commission notified, Coroner notified, South Australia Police (SAPOL) notified.</p>	<p>As the deceased was a participant of the NDIS and not a worker within the meaning of section 7 of the Work Health and Safety Act 2012 (SA), SafeWork SA was not immediately notified on the day of the incident as the NDIS Quality and Safeguards Commission is responsible for the oversight of deaths of NDIS participants and the Department's view was that client deaths were not regulated by SafeWork SA.</p>
Day of incident and following days	<p>Contact with family, sent flowers to family, offered counselling and to make a contribution to the funeral.</p>	<p>Offers of counselling and contributions toward the funeral were not accepted by the family.</p>
Day of incident and following days and ongoing	<p>Critical incident support was provided to workers involved in the incident.</p> <p>Daily debriefs with leadership and executives in attendance, group Employee Assistance Program (EAP) and single EAP sessions.</p> <p>The Department continues to offer EAP and support to team members who were involved in the incident on the day.</p>	

1.8 Detail the work, health and safety systems implemented at the workplace pre incident

The Department is committed to minimising risks and protecting the safety and wellbeing of all workers and others in the workplace including through the development, implementation, and continuous improvement of the Wellbeing and Safety (**WS**) Safety Management System (**SMS**).

The SMS ensures a consistent, effective approach to safety and compliance with Work Health and Safety (**WHS**) legislation, codes of practice, and relevant standards, while aligning with the Department's operational goals.

The SMS is built on four key pillars: Safety Leadership; Wellbeing and Engagement; Risk Management; and Performance Measurement.

Given the diverse nature of the Department's operations, the SMS includes both Department-wide requirements and those that target specific high-risk activities.

Whole of DHS training and induction

All Department employees are required to complete online induction training and refresher training every 1-3 years.

The DHS Induction program is intended to complement new employees' local induction. It is intended provide to new DHS employees with a broad understanding of the Department and what it means to work within the South Australian Public Sector.

Department WHS training

The Department also offers WHS e-learning modules, including *Introduction to the WHS Legislation for Workers and Managers*, *WHS Responsibilities and Due Diligence for Officers*, *Introduction to Psychological Wellbeing and Safety in the Workplace*, and *Identifying and Managing Vicarious Trauma* (new in 2024).

Disability specific training and induction

In addition to the above whole of Department induction and refresher training, front-line Disability Support Officers are also provided with a two-week face to face induction program delivered by the Disability Services Training Unit. The two week induction program covers a number of topics including:

- a. **Disability Services Induction** – this training includes an overview of Disability Services, DHS and the NDIS, employees' mandatory training requirements, and use of electronic systems (including incident management and rostering).
- b. **Disability Awareness and Inclusion** – this training aims to increase awareness of client-centred service delivery, human rights, NDIS practice standards, the role of the NDIS Quality and Safeguards Commission, and the DHS 'Zero Tolerance of Abuse and Neglect of People with Disability' Strategy.

- c. **Record Keeping and Support Planning** – this training provides clear instructions on how to record information in the Client Record Management System and information on the support planning workflow and roles and responsibilities of support staff.
- d. **Incident management** – this training outlines the framework, policy, and procedures for incident management and client feedback specific to Disability Services. This includes information on what is an incident, appropriate escalation measures, and immediate actions required to make the environment safe and meet reportable incident requirements for NDIS and Aged Care residents.
- e. **Client Asset Management** – this training aims to increase awareness of fraud and corruption and details obligations for appropriate management of client funds and asset management.
- f. **DHS and Disability Services intranet induction** – this training outlines how to use the Disability Services Document Hub to locate policies and procedures, how to use MyHub for online training, individualised training plans and professional development, as well as the use of Performance Development Plans and Client Records Management System.
- g. **Mealtime Management, Dysphagia Management and Communication** – this training aims to increase awareness of mealtime management guidelines and expectations, duty of care, and mealtime planning. The training details normal and disordered swallowing, the required supervision and assistance for modified foods and fluids, causes of communication difficulties, and information on supporting someone with communication difficulties and providing alternative communication and visual support.
- h. **Advance Manual Tasks and Travel Safe** – this is a competency-based training program to assist workers to safely assist clients to transfer, sit, stand, enter and exit bath, chairs, beds, enter and exit vehicles, hoists and portable lifters.
- i. **Safety Intervention** – this includes eight modules covering all aspects of safety intervention including: The Crisis Development Model, Integrated Experience, Communication Skills, Responding to Defensive Behaviours, Safety Interventions, Disengagement Skills, Decision Making, Post-Crisis – Coping Model & Case Study, Competency Assessment.
- j. **Personal Care Practice** – this training provides guidance regarding the legal framework and requirements for personal care, understanding of the integumentary body system, personal care in practice, toileting and continence, showering and bathing, oral care, grooming and hair care, dressing and undressing, and the use of aids and equipment.
- k. **Medication Management** – this training details requirements for the administration of medication and recording of medication. This module includes a practical assessment of medication administration.

- I. **Housekeeping Guidelines** – this training provides guidance on infection control, maintaining client dignity and respect, and housekeeping requirements for floors and dusting, laundry, bathrooms, kitchen and clothing.

In addition to the two week face-to-face induction, DHS Disability Support Officers also receive a further two-week mentoring program immediately after their induction training, before they are counted in the numbers on the roster at a house. The mentor program ensures that a new employee (mentee) is paired with a mentor (experienced employee) who is responsible for the administration of duties, including the site induction and mentor report. Mentees are required to complete a number of practical competency assessments learnt during induction training. Mentees are not permitted to operate without supervision until all competencies have been completed and assessed by their mentor.

For new staff or agency staff, site orientation must be undertaken and relevant forms completed if they have not worked on site or with a client in the past 12 months. The site orientation includes orientation of clients' needs and support plans, the site, equipment, and emergency procedures. In addition to this, all staff are required to read a client's documented support plans before providing support to ensure they are kept up to date with their changing needs.

Every three years, all disability support workers receive ongoing supervision and face to face refresher training for:

- **Disability Services Compliance training** which includes updates of practice issues, updated policies and procedures, Medication management, Mealtime management, and Client Asset management.
1. **Safety intervention training** which covers the Crisis Development Model, Integrated Experience, Communication Skills, Responding to Defensive Behaviours, Safety Interventions, Disengagement Skills, Decision Making, Post-Crisis – Coping Model & Case Study, Competency Assessment and Conclusion.
- **Advance Manual Tasks and Travel Safe training** which is a competency-based training program for workers so they can safely assist clients to transfer, sit, stand, enter and exit bath, chairs, and beds, enter and exit vehicles, hoists and portable lifters.
 - **Provider First Aid training**, delivered by Red Cross covers an online assessment and practical assessment for providing basic emergency life support and provide cardiopulmonary resuscitation (CPR). Seizure management is also covered in the refresher training.

Bespoke training, supervision and monitoring provided to workers supporting the client

Workers supporting the client involved in the incident also received the following on the job training, supervision, instruction, and monitoring:

- a. On-site training from Huntington's Association (due to the nature of the client's disability and support needs);
- b. Ad hoc on the job training, supervision, and instruction provided by external providers and equipment providers (including Occupational Therapists (OT), Physiotherapists and equipment providers) chosen by the client under their NDIS plan. This included:
 - i. On-site training and instruction by the client's OT for workers on safe work practices and safe use of equipment for the client, specific to the client and risks.
 - ii. On-site training and instruction by equipment providers on the safe use and risks of equipment specific to the client.
 - iii. On-site training and instruction by the client's physiotherapist and other care providers on safe working practices, specific to the client, and risks.
 - iv. Documentary advice/instruction via email from external providers, which was shared with workers via email.

1.9 Detail the level and frequency of internal and external auditing undertaken on the work, health and safety systems referred to in term 1.8

The Department's SMS is subject to both internal and external audit programs.

Internal Auditing

Since July 2021 internal audit reviews of the DHS SMS are performed by the Internal Audit and Risk function, based on an 'SMS Internal Audit Plan' developed in conjunction with Wellbeing and Safety team management and executive.

The current 'SMS Internal Audit Plan' covers the period 2024-2026, with planned audit reviews being aligned to relevant elements and practice areas detailed within the 'ISO 45001:2018 Occupational Health and Safety Management Systems' standard.

Completed audit reports are provided internally to Wellbeing and Safety and People and Culture senior management and executives, in addition to the DHS Risk Management and Audit Committee, and other relevant executive governance committees under the department's Executive Leadership Team.

External Auditing

The Audit and Verification System (**AVS**) provides an independent, external review of WHS systems to assure Chief Executives and ReturnToWorkSA that effective safety management systems are in place, actively managing risks, and continuously improving safety practices and outcomes across the public sector.

Managed by the Office for the Commissioner of Public Sector Employment (**OCPSE**), the AVS program involves engaging external auditors to conduct assessments. The primary goal of the AVS is to verify independently that each self-insured public sector agency has developed, is implementing, and is maintaining robust and effective policies, procedures, and systems aimed at achieving continual improvement in WHS performance.

The AVS program consists of key components, including Risk-Based Reviews (**RBR**) and Verified Self-Assessments (**VSA**). Both components provide assurance to the participating agencies and the wider sector, while enhancing agencies' understanding and management of safety risks. The VSA offers an independently verified assessment of a Department's SMS, including its implementation across selected worksites.

Recent WHS audits

Safety Gap Analysis - 2020

In February 2020, an external provider was engaged to conduct a Safety Gap Analysis for Disability Services. The purpose of the gap analysis was to evaluate the effectiveness of Disability Services' existing health and safety programs, identify strengths and gaps in their SMS, seek out areas requiring immediate attention, and recommend opportunities for health and safety improvements and initiatives.

The report provided a high-level overview of observations which were mapped to the identified primary root cause.

Verified Safety Assessment - 2021

In March 2021, the Department participated in the Verified Safety Assessment (VSA), which was conducted by Deloitte. The VSA was an online self-assessment with a series of questions aligned to the Public Sector's Building Safety Excellence Strategy. It focused on four key WHS performance domains: Safety Leadership, Wellbeing and Engagement, Risk Management, and Performance Management. Each domain included several dimensions or sub-elements, which reflect focus areas for ongoing WHS improvement. Disability Services was one of the four participating business units in the VSA within the Department.

The findings of the VSA were:

- The Department's commitment to safety is evident through the development, implementation, and ongoing maintenance of an enhanced WHS SMS. The Department is nearing completion of an SMS overhaul, with significant efforts dedicated to this project since early 2020.

- Given the diverse nature of the Department's operations, the SMS includes both broad requirements applicable across the Department and specific provisions targeting high-risk activities.
- Hazard management practices are evident at the task level within business units in the Department, but with differences in terms of how each business unit implemented practices where the work differed in line with breadth and diversity of work undertaken by the Department.
- Wellbeing and employee engagement are clear strengths, though there are system-level recommendations aimed at enhancing training and competency development.
- WHS hazard management, while informed by client-focused assessments, currently limits the ability to develop comprehensive risk profiles for core operations, which would contribute to a more strategic risk profile.
- Contractor management and emergency management are areas requiring further development.
- Performance data is accessible through an effective platform, but a formalised reporting structure is needed for greater consistency and oversight.
- The monitoring of performance would benefit from the establishment of a robust assurance program to support the continuous improvement framework.

Key Recommendations:

- **Development and implementation of identified documents and frameworks:** Five key recommendations involved the creation and rollout of documents and frameworks. These are already in progress as part of the SMS review.

Response: On 19 August 2021, the Executive Leadership Team approved release of the revised Wellbeing and Safety – Safety Management System, which included nine guides/frameworks which were all subsequently released in October 2021.

- **Establish an internal audit program:** Implementing a formal internal audit process to ensure ongoing compliance and performance evaluation.

Response: In July 2021, the Department implemented its SMS Internal Audit Plan. This plan outlines a structured, risk-based approach for conducting independent assurance and compliance assessments related to the SMS, covering the period from July 2021 to December 2023. A new internal audit plan has also been established for the period from January 2024 to December 2026. The SMS Internal Audit Plan was developed by the DHS Internal Audit and Risk team and informed by the Wellbeing and Safety risks documented in the DHS Risk Register.

- **Develop risk assessment templates and WHS risk registers:** Create standardised risk assessment templates for common hazards and develop and maintain WHS risk registers for core operational activities.

Response: The WHS Risk Registers for core operational activities were released in June 2023. While the Department has always used a standardised risk assessment template, this template was reviewed and updated following the release of the WHS Risk Registers, with the revised version being released in October 2023. The WHS Risk Registers are now uploaded to the DHS RiskConsole system, which allows for regular attestation by executives to confirm the currency and assessment of WHS risks relevant to their operations, as part of the established 'Quarterly Declaration' process.

Risk Based Audit - 2022

In April 2022, an internal Risk Based Audit (**RBA**) was carried out within Disability Services to address risks related to workplace incidents and injuries, ensure compliance with legal requirements, and identify key concerns. The audit focused on physical manual handling (**MH**) risks and worker exposure to psychosocial hazards, particularly from clients displaying extreme Behaviours of Concern (**BOC**).

The goal of the RBA was to assess the effectiveness of existing WS programs, identify strengths and weaknesses in the local safety management system, highlight areas requiring immediate attention, and propose opportunities for improvement and new WS initiatives.

The RBA produced key observations intended to improve WS practices across Disability Services. These findings laid the groundwork for focused improvements to create a safer and more effective work environment.

Risk Based Review (post-incident) - 2024

The Department continues to review and audit its SMS. In October 2024, the Department participated in a Risk Based Review (RBR) conducted by Ashurst Risk Advisory. The objectives of the review were to assess the Department's processes for managing WHS risk responsibilities, including:

- The establishment, implementation, and maintenance of effective processes for WHS hazard identification.
- The creation, implementation, and maintenance of processes for assessing WHS risks and developing effective controls.
- The effectiveness of WHS controls through monitoring, measuring, analysing, and evaluating WHS risks and performance.
- The evaluation of risk within the context of the Department's broader enterprise risk management approach.

The RBR is ongoing and the outcome of is not yet known.

1.10 Details of any consultation undertaken with respect to this application – this may include consultation with injured person(s), workers, industry members or with the community

Consultation with workers

The Department is committed to consulting and communicating further with Departmental employees about the initiatives proposed in this undertaking as set out in this document.

Consultation within Department and Government

The Minister for Human Services has been advised that the Department is seeking to enter into an Enforceable Undertaking.

The Chief Executive, Deputy Chief Executive, Interim Executive Director People and Culture, and Executive Director Disability have been consulted at various stages throughout the process of developing this undertaking.

Relevant members of the executive and other senior managers within the Department, and within Disability Services specifically, have been consulted in relation to matters specific to their area of responsibility and expertise where required. This has included undertaking research and developing recommendations for meaningful proposals for best practice workplace safety initiatives and activities in the disability sector.

The broader Disability Services staff and Health and Safety Representatives (**HSRs**) will be consulted at the HSR meetings on a quarterly basis about the implementation of and progress of this undertaking for the duration of the Enforceable Undertaking.

Consultation with other industry participants

There has been no consultation on the development of this EU with industry. Following agreement with SafeWork SA, engagement will occur, as appropriate, with the sector.

1.11 Detail the rectifications to the workplace or work practices made as a result of the characterised or alleged contravention and the enforcement notices issued

The post-incident investigations and reviews undertaken by the Department identified ways to further reduce safety risks in Disability Services for high-risk clients (i.e. those requiring 1:1 supervision). The Department has implemented a range of changes and initiatives as well as specific safety systems and measures which have been developed exclusively for Disability Services, and which are detailed further below. The Department has also sought further clarity on its obligations to the NDIS Quality and Safeguards Commission in the context of client/participant-related incidents or injuries.

The rectifications and initiatives detailed in this undertaking provide benefits and improved health and safety outcomes across the entire Department's portfolio and not just Disability Services.

Key changes implemented in response to the incident:

1.11.1 Safety Lanyard System

The Department is implementing a simple and highly effective Safety Lanyard System which involves the use of red lanyards worn by all workers providing 1:1 support to clients as a safety handover tool.

The new Safety Lanyard System (**SLS**) requires all Disability Services workers who are providing 1:1 support to clients to wear a red lanyard which identifies them as the worker responsible for 1:1 line-of-sight supervision. The worker is required to wear the red lanyard and maintain 1:1 line-of-sight supervision at all times while wearing the lanyard and can only take a break or leave the client if they physically swap the lanyard with another worker who then wears the lanyard and maintains 1:1 line-of-sight supervision. This process is to be documented in client notes (i.e. identifying any periods of transfer of responsibility and to whom) and will be the responsibility of the relevant Team Leader to ensure oversight that this is occurring consistently at each site and can be audited after the fact.

All workers were engaged on the new SLS and required to undertake training about handover of the lanyard at break times and at the end of shifts. The training provided to workers on the SLS included:

- Discussion about the introduction of the process at 'Ask Joe' information sessions.
- Detailed communications via weekly newsletter and news articles.
- Instructions on the SLS included in the updated Worker Guidelines, section 6.20.1.
- Included as part of the site induction where relevant clients reside.
- Specific discussions with the teams providing support and overseeing clients who require 1:1 line-of-site supervision.

The SLS improves compliance with the Department's 1:1 supervision requirement and reduces the risk of inadvertent failures to maintain direct 1:1 supervision of clients during worker breaks, at shift change, or in times of crisis. The SLS further reduces the risks for high-risk clients, requiring 1:1 supervision by:

- Clarifying roles and responsibilities of workers in the workplace and providing a visible reminder to workers providing 1:1 supervision of the critical nature of their role and the risks involved with failing to provide this, even momentarily.

- Promoting compliance by requiring all workers to participate in training on the SLS as a part of their refresher training and ensuring that it is documented in each client's support plan.
- Enhancing supervision in the workplace by ensuring that workers providing 1:1 supervision are easily identifiable to supervisors and other workers.
- Facilitating a simple and effective process for handovers from one worker to the next during worker breaks and at shift changeovers, which have been identified as the highest risk periods for inadvertent or momentary non-compliance.
- The SLS will be monitored by the Department to ensure the system is being applied as designed by:
 - Unannounced visits will occur to locations where the SLS has been implemented and any intervention to address lack of compliance will be addressed via staff education and if required performance management strategies.
 - There will be a target / KPI expectation to have completed a required number of checks within a set time period.

The cost of implementing the Safety Lanyard system will be approximately \$50,000. This includes the cost of lanyards, staff time developing and implementing policies, and the time spent updating client Support Plans.

1.11.2 Digital Support Plans

The Department has also implemented integrated Digital Support Plans (including Positive Behaviour Support Plans) in Disability Services which are accessible via a new client records management system. The Digital Support Plan Planning Project commenced in 2023 and was completed in January 2024. The digital system reminds workers starting their shift to review the client's online support plans prior to commencing work and providing the client with any form of support.

The introduction of Digital Support Plans (**DSP**), policies and procedures requiring workers to engage with client support plans on a more regular basis, offers the following benefits for Disability Services:

- Improved accuracy of client support plans by virtue of the DSP enabling real time updates to be uploaded to support plans as client needs evolve and in response to new and evolving risks and issues.
- Enhanced worker engagement on individual client needs and the level of care prescribed in a support plan, by virtue of the system prompt which requires workers arriving on shift to read the client's DSP and engage with any amended/updated information before providing any disability support services.

- Improved access to support plans by workers and other stakeholders and industry participants, which in turn provides greater oversight of the effectiveness of care plans and any evolving risks or health and safety issues identified.

The system also includes a prompt requiring workers to check for any new notifications before providing any support services to clients.

The new system offers improved incident management for high risk clients, by requiring that control measures for high risk clients are regularly reviewed as client changes occur, or at least annually, measured to see the level of incidents, and test whether different control measures are required. High risk clients are also overseen by the Disability Services High Risk Client Committee to monitor changes and trends that may need further oversight and management.

The Department has invested \$3.5 million in the introduction of DSPs through implementing the Department's new Customer Relationship Management (CRM) System. 75% of the \$3.5m system investment of CRM implementation costs can be apportioned to work directly attributed to improve the client management and disability support plans and client incident management.

1.11.3 Client Incident Management System

In 2022, the South Australian Public Sector introduced a new hazard, incident, and injury reporting system called Gov SAfety. This system was implemented by the Department to streamline and improve the process of reporting incidents and injuries, both for workers and clients.

During implementation the following Quick Reference Guides, to support staff understanding and use of the client incident management system, were introduced. These guides were developed by Disability Services, as other areas of the Department do not use the client incident management module of Gov SAfety:

- **Quick Reference Guide – Logging and Managing Client Incidents in Gov SAfety**
This document guides users how to use Gov SAfety to record, assess, investigate and review client incidents.
- **Gov SAfety Sub-Type Selection Quick Reference Guide**
This guide had been developed to assist with data integrity for selection of Event Sub-types, and to ensure consistency across the service.
- **Gov SAfety Client Incident Severity Rating Quick Reference Guide**
This document provides additional guidance on assigning the correct classification and severity rating for client incidents in Gov SAfety.
- **Gov SAfety Client Incident Hints and Tips**
Step by step instructions on how to log a client incident into Gov SAfety.
- **Gov SAfety SUPERVISOR Quick Reference Guide**

To be completed by the person assigned as the 'SUPERVISOR' on Gov SAfety in relation to an incident report. This document provides guidance for the Supervisor to complete the Preliminary Assessment and any investigation that is required.

- **Client Incident Assessment Quick Reference Guide**
To provide step-by-step guidance for staff to follow to complete a client incident assessment.
- **Gov SAfety REVIEWER Quick Reference Guide**
To be completed by the person assigned as the 'REVIEWER' on Gov SAfety in relation to an incident report. This document provides guidance for the Reviewer to review the investigation and close the record when it is completed.
- **Reportable Incidents 24 Hour Reports Quick Reference Guide**
Provides information on completing 24 hour reports for Reportable Incidents.

To improve reporting and provide better oversight of client incidents, the Department is developing a new digital client incident management system that will replace Gov SAfety for client incident reporting. The new system will be a standalone from Gov SAfety and will enhance the monitoring of client incidents by encouraging more detailed reporting of incidents, trends, and risks. Given the extensive work involved in this transition, the system is currently in the final stages of testing and will be implemented in 2025. This includes:

- The bespoke design of the new system, which identifies types of client incidents (as opposed to worker incidents) and the development and implementation of a Client Incident Management Framework that provides a robust structure around how the Department responds to incidents, reports, follows up and works to prevent incidents in the future.
- The Client Incident Management Policy that documents Disability Services' requirements in the identification and management of client incidents and the Client Incident Management Procedure which details the requirements for managing client incidents.

The costs associated with the Client Relationship Management system (**CRM**) outlined above (3.5m) include the costs of implementing the new client incident management system.

The Department continues to investigate improvements and enhancements to the Client Incident Management System, including upgrades that would streamline alerts and risks appearing at the front and centre of the client's online profile.

1.11.4 Governance initiatives

Following the incident, the Department implemented the following measures to strengthen governance, enhance available resources, and bolster existing expertise to support and increase the focus on quality and safety. This has been achieved by:

- The recruitment to the new executive role of Interim Chief Operating Officer, Disability Services, with an incumbent having a background in workplace relations and safety.
- Implementing the new executive role of Director, Quality and Clinical Services, which has independent oversight of governance, risk and reporting.
- The establishment of a divisional Wellbeing and Safety committee in Disability Services to support meeting wellbeing and safety governance responsibilities, as well as recruiting additional trained Health and Safety Representatives in the workplace.

The cost of these additional initiatives is \$300,000 per annum.

1.11.5 Risk reviews and audits

Since the incident, the Department has undertaken a number of measures to improve risk management within the Department, including in Disability Services.

The Department performed an audit of 'Incident Management & Reporting (Disability Services)' which commenced in December 2022. A planned Safety Management System audit of 'Incident Reporting, Management & Investigation' was also undertaken in early 2023, as part of the 'SMS Internal Audit Plan' (detailed below).

In response, the Department has:

- Reported data to the Department's Quality and Safeguarding Committee on client and worker risks, and trends for monitoring and review.
- Established a high-risk client committee within Disability Services, comprising of the Directors and Assistant Directors from across the client service delivery teams. Committee members have expertise on the particular workplace risks for high risk clients and the committee's terms of reference include the consideration of risks and whether bespoke procedures and actions are required.
- Established a new Disability Services WS committee with representatives from all different client groups to assess client and worker risks, manage identified gaps and issues, and consult with workers on the ground.
- Increased audits of high risks services to ensure effective audit processes across the Department. The Internal Audit and Risk team provides audit services in accordance with the International Professional Practice Framework (the Global Standards) of the Institute of Internal Auditors (IIA – the global auditing professional body). Further, the head of the Internal Audit and Risk Team is a Professional Fellow of the Institute of Internal Auditor (PFIIA) and holds multiple professional audit and risk qualifications. The Department's Wellbeing and Safety Internal Audit Plan (the Plan) includes:
 - A three (3)-year audit program of the SMS.

- A schedule of pre-planned audit activities, which assess the adequacy and effectiveness of the Department's WHS management systems and practices against the requirements of the ISO45001 Safety Management System Standard.

The anticipated cost of new roles in compliance and the high-risk committee is \$1.7 million per year. Details of the expenditure has been provided to the Regulator.

Other audit and risk management measures and activities include:

Risk Register

In 2023, the Department transitioned its risk register into a unified departmental risk repository, which has significantly enhanced our ability to review the documented control environment. This transition has enabled more effective updates to existing controls, ensuring they remain current and relevant. It has also improved the frequency with which control effectiveness is assessed, helping to identify any gaps in the suite of identified WHS risks and controls. This process is ongoing and iterative, with continuous improvements being made.

RiskConsole

The Department has adopted the RiskConsole system as its risk register and repository. This is the platform where WHS risks are recorded and managed. Using the RiskConsole system as the WHS risk register provides efficient and logical alignment to the ongoing program of audit reviews as outlined in the SMS Internal Audit Plan. Consequently, updated control assessments and control improvement opportunities (treatments) arising from SMS audits can be applied directly into RiskConsole as part of the end-to-end audit process.

External audits

The Department operates under the NDIS Practice Standards, where the NDIS Quality and Safeguarding Commission regulates the environment in which providers provide safe and quality services to NDIS participants.

The NDIS Practice Standards create an important benchmark for providers to assess their performance, and to demonstrate how they provide high quality and safe supports and services to NDIS participants. Together with the NDIS Code of Conduct, the NDIS Practice Standards will assist NDIS participants to be aware of what quality service provision they should expect from NDIS providers, including the Department. The outcomes of the NDIS Practice Standards are included within the National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018. The National Disability Insurance Scheme (Quality Indicators) Guidelines 2018 list the outcomes of the NDIS Practice Standards and also the associated quality indicators NDIS providers can use to demonstrate conformity with the outcomes. The NDIS Practice Standards consist of a core module and several supplementary modules that apply according to the types of supports and services NDIS providers deliver.

The Department has been a registered NDIS provider since inception, and has undertaken one NDIS verification external audit each three year period and a mid-term audit to ensure compliance with requirements of NDIS Quality and Safeguards Commission, against the NDIS Practice Standards. The audit requires all registered providers delivering supports and services to NDIS participants to meet the NDIS Practice Standards. The core modules of the NDIS practice standards include rights and responsibility for participants, provider governance and operational management, provision of supports, and provision of support environments.

Within the core module - *Provider Governance And Operational Management* - DHS Disability Services is required to demonstrate that each participant's support is overseen by robust governance and operational management systems. This includes robust governance and operational management, risk management, quality management, information management, feedback and complaints management, incident management, human resource management, continuity of supports, emergency and disaster management to meet all legislative requirements, including WHS.

The cost of these external audits is approximately \$33,000.

SMS Review

As part of the WS Review and Continuous Improvement Framework an annual review of the Department's SMS is undertaken with key stakeholders to ensure its continued suitability, adequacy, and effectiveness, and to identify areas for improvement.

The most recent review was undertaken in February 2024. The purpose of this review was to:

- assess the suitability and effectiveness of the SMS to operations, including examination of notifiable incidents and breaches of the system,
- consider recommendations arising from external and internal audits, safety investigations, corrective and safety action tracking, culture surveys, observed hazard trends, and regulatory notices,
- identify any deficiencies or opportunities in the SMS and developing a plan to address the gaps,
- consider WS data intelligence / data analytics,
- consider WS initiatives and programs to address risk, and
- assess feedback on how SMS should be improved.

As a result of this review, the Department implemented a number of additional changes and improvements.

Central to this was the introduction of a WS Management Plan 2023-2026 that has defined key performance indicators and clearly aligns to the HR W&S Strategic Plan, with the Department closing out its WS audit program 2021-2023 and releasing its WS audit program 2024-2026.

A WS Consultative Committee has been established in Disability Services and there was a review and election of Health and Safety Representatives, followed by specific training for them. To further embed the importance of WS in the Department, a new WS category in the annual DHS Awards was introduced to recognise and reward safety champions or workplace safety programs and initiatives.

Additional staff training has been provided, including WS workshops in 2023, training for executive and senior leaders on WHS and Due Diligence for Officers, and the introduction of a Psychological WS in the Workplace eLearning module.

Other ways to improve staff understanding of WS has been through a DHS Leadership Forum called *'Building a Safe and Inclusive Workplace'* and a specific Health and Safety Representative (HSR) Forum entitled *'Influencing safety in your workplace.'* Disability Services staff have also participated in Department-wide training for people working in high risk settings on vicarious trauma and dealing with clients in distress. Additional support for Allied Health professionals in Disability Services was also offered through the SAHMRI BeWell Program.

1.11.6 Training and engagement initiatives

Despite the rigorous SMS in place at the time, the post-incident investigations and review of safety procedures identified that there was scope within Disability Services to strengthen worker and supervisor engagement and understanding of unforeseen (and in some cases unprecedented) safety risks in the workplace. In particular, it was identified that there was a need to address the unique competing safety risks which might arise when there are staffing limitations as well as issues with client equipment and other factors and circumstances which may be outside of the worker and the Department's control. This can include situations where other providers or other stakeholders are delivering services, equipment or funding to Disability Services clients.

The Department identified that there was scope to improve worker awareness of these potential unforeseen and evolving risks in the workplace and that this risk could be addressed by providing greater clarity to workers and supervisors on how to respond to competing safety risks created by worker incident (e.g. staff shortages), plant and equipment incidents through defects or other issues, and client incidents (e.g. change to client needs).

Disability Services has implemented a number of worker training and engagement initiatives and measures detailed below, aimed at:

- Embedding knowledge about risks and existing safety procedures and practices,
- Promoting awareness of high risk scenarios and how to respond to them, and
- Clarifying roles and responsibilities for workers and supervisors in the context of high risk clients, high risk scenarios, and the challenges presented by multiple providers and stakeholders being involved in providing plant and support services.

These initiatives and measures implemented have included:

- The following additional online induction training for Disability Services employees:

- a. **New Worker NDIS Induction Module**

This module is made up of eight online modules that give new workers the specific information they need to start working in the disability sector including: disability awareness, privacy and confidentiality, safe workplace, NDIS Code of Conduct and dignity of risk, incident management, know the person, risk identification and management, managing challenging situations.
 - b. **NDIS Worker Orientation Module – Quality Safety and You**

This module explains the obligations of NDIS workers under the NDIS Code of Conduct, from the perspective of NDIS participants. The module aims to help employees understand what the NDIS is and why we need it, the role of the NDIS Quality and Safeguards Commission, and employees' responsibilities under the NDIS Code of Conduct and their role in achieving the vision of the NDIS.
 - c. **NDIS Supporting Effective Communication**

The module instructs on how NDIS workers can best support effective communication, outlines what effective communication looks like, and how it supports choice and control. It outlines the different ways in which we communicate and scenarios when effective communication is very important.
 - d. **NDIS Supporting Safe and Enjoyable Meals**

This module is an introduction to mealtime support. It includes information on mealtime assistance and mealtime planning, identifying, preventing, and responding to swallowing difficulties, planning food and food texture modifications, mealtime positioning and assistive technology, how to reduce the health and safety risks associated with mealtimes and provide a safe and enjoyable environment for people with disability.
 - e. **Introduction to Lumary**

This provides a guide to the usage of the Client Management Records System and will encompass the new client incident management reporting system.
 - f. **Restrictive Practices in Disability Services**

This provides an overview of what are restrictive practices and associated reporting obligations, including details of how to record the usage of restrictive practices in Lumary.
 - g. **Introduction to GovSAfety**

This module provides an overview of the GovSAfety work health and safety hazard, incident and injury reporting system.
- 1:1 support training was added to the New Induction Module and the 3-year compliance training for all Disability Support Officers. The Worker Guideline was updated to reflect these updates and was communicated to all staff via the Compliance Bulletin and 'Ask Joe' sessions.

- **Review of Support Plans** – An internal review of all client support plans (over 1,500) for all clients was undertaken, including those requiring 1:1 supervision, and plans were amended where necessary to clarify the requirements of line-of-sight supervision, with particular reference to what this means and why it is necessary for each particular client. The review and updating of a client's suite of support plans involves the input of Disability Services staff, health professionals or allied health practitioners, registered Behaviour Support Practitioners, and Support Coordinators, in consultation with the client and their families/guardians. By the end of the review each client in Disability Services had a new Personal Support Plan, a Health Support Plan and Behaviour Support Plan, as required.
- **Training** - A review of training programs and implementation of increased training programs focused on safety and wellbeing, including:
 - a) Department-wide leadership forum on Building a Safe and Inclusive Workplace. This session was held in October 2023 and facilitated by Jane Wundersitz, Wunder Training, and Luke Holland, Sparke Helmore, at the Adelaide Convention Centre at a cost of approximately \$10,000.
 - b) Department-wide leadership forum on vicarious trauma in the workplace, including the link between psychosocial hazard management and vicarious trauma prevention. This session was held in March 2024 with an investment of approximately \$10,000.
 - c) New learning program commenced in November 2024 focused on Identifying and Managing Vicarious Trauma. All staff were invited to attend a scheduled session. Disability Services scheduled an additional session at Mawson Lakes on 27 November 2024, at a cost of \$1,075 plus the cost of staff attendances.
 - d) Capability building initiative aimed to significantly enhance Wellbeing and Safety Representatives' knowledge and skills across the disability services workforce and to provide workers with additional training and information about WHS risks associated with their roles as well as to assist them to identify WHS risks and mitigate or control them.
 - e) Mandatory e-Learning module – Introduction to the Work Health and Safety Legislation for Workers and Managers.
 - f) General risk assessment education to promote skills in identifying and managing workplace risks by partnerships between the Wellbeing and Safety Business Partners and operational leadership.
 - g) Other relevant topics specific to Disability Services' operations. e.g., manual handling and managing behaviours of concern.

1.11.7 Knowledge and Compliance

The Department has implemented a number of other measures to improve worker knowledge and understanding of WHS risks in Disability Services and to share knowledge by enhancing access to policies, procedures, information and other colleagues.

Specifically, the Department has:

- Employed a dedicated **Policy Officer** to review, create, and monitor the policy, procedures, and documents for Disability Services. The Policy Officer has reviewed and updated all policies and workplace practices to ensure the safe delivery of services for clients and staff and continues to ensure there is a focus on continuous improvement and the Department continues to meet its ongoing compliance requirements.
- Launched a **new disability online documents hub** with enhanced search functions which enables workers to easily identify, access, and search for relevant policies and procedures in the one repository.
- Established **weekly online information sharing and question sessions** which are available to any staff member across all worksites to attend. The forum provides an opportunity for staff to anonymously ask questions on key topics including safety, wellbeing, abuse and neglect, and incident reporting. This data is then reviewed to identify any knowledge gaps or ambiguities. Importantly, the information and insights gleaned through this process is subsequently cascaded out to the whole staff group.
- Established a **staff reference group** between the Executive and frontline workers where frontline staff are able to give feedback and report issues. This group was created to amplify staff voices and bring attention to issues that are important to them. Once a month, the group meets with the executive to discuss a range of topics including what is generally working well and what is not, and informing any changes that are actioned as a result. The group helps promote staff and client safety, celebrates Disability Services' broad diversity, and devises business improvement initiatives.
- Revised the **Worker Guidelines** to provide greater clarity on what 1:1 support means and the priorities and responsibilities if staff shortages occur for a shift.
- Recruited a **Business Analyst and data specialist** to extract data from systems and provide meaningful data and reports to manage operational and client risks. These insights were previously not able to be reviewed and synthesised in an easy way to enable managers to easily oversee and manage operational risk. (\$240k p.a.)
- Implemented a **digital rostering system** which enables improved visibility of patterns of behaviour amongst workers and the client impacts of rostering changes. The digital rostering system has established 'rules' which are specific for client needs, for example if a client needs workers with specific training, shifts cannot be offered or picked up via

the “app” if the worker does not have the appropriate training or credentials. Over \$1million has been invested (\$730,000 in FY23, \$290,000 FY24) and over \$750,000 ongoing costs for annual licence (\$300,000 pa) and roster team (\$480,000 pa) for the Product Owner and Rostering officers.

- Increased regular **communication** through intranet articles, ‘Ask Joe’ communication forums, and communication at the time of roster changes to reinforce messaging to workers about what to do when client needs required workers to continue working across paid meal breaks.
- Developed a dedicated Disability Services WS **intranet page** containing information and resources to create safe and healthy workplaces within Disability. The page includes information on incident reporting, critical and traumatic events, injury support and recovery, wellbeing programs, first aid, emergency response, online training, safety committees and consultation, managing health and safety risk, and WS policies and procedures.

The cost of these initiatives is at least \$1.02m in once off expenditure and \$1.02m per annum in recurrent expenditure.

1.11.8 Initiatives to improve WHS awareness and oversight across management

Post incident investigations and reviews by the Department also identified increased scope for managerial oversight and monitoring of health and safety risks. The Department has implemented the *WHS Due Diligence Training for Officers and Senior Leaders* which is available as an e-learning module, with face-to-face training sessions offered every two years (the next session is due in 2025). This training covers key topics such as understanding and applying due diligence in the workplace, familiarising participants with essential safety legislation (including risk management, consultation, and incident notification), identifying psychosocial hazards, and developing relevant due diligence activities specific to their work environment. Additionally, the program emphasises the importance of positive safety performance indicators, provides insights into the role of WHS regulators and the inspector visitation process, and explains the difference in penalty categories for corporations and individuals. It also underscores the significance of leadership responsibility in promoting and influencing a strong safety culture.

1.11.9 Initiatives to address risks arising from multi-service provider and stakeholder environment

In response to the unique and challenging risks facing workers in Disability Services operating under the NDIS, where services are being provided in tandem with other providers, funders and stakeholders, the Department has developed specific initiatives to improve collaboration and reduce knowledge gaps. Central to this is ensuring effective and appropriate management of clients’ equipment and assistive technology, and allied health needs.

Prior to the incident, the Department's **Equipment Program** provided equipment and home modifications to eligible state funded clients living in South Australia who were unable to access funding through alternative sources, such as the NDIS or My Aged Care.

Post incident, the scope of the Equipment Program broadened to assist clients residing in Supported Independent Living (SIL) accommodation sites, and the associated workforce, with an effective means for the removal of excess equipment no longer required by the client, for assessment towards ongoing refurbishment of assistive technology, and the transfer of ownership (through donation), or disposal of unneeded items. The team includes an Assistant Director (with Physiotherapist training), administration support (ASO5 and ASO2 contracted roles), and an Equipment Liaison Officer, Equipment Cleaner, Equipment Returns Officer and a Repairs and Maintenance Technician.

As part of this initiative, the Equipment Program has facilitated liaison with the broader Disability Services teams to offer, where available, support to access new and/or refurbished items for NDIS clients, particularly in situations where items are delayed due to an absence or insufficient funds in a participant's NDIS plan. The provision of equipment is dependent upon the completion of an assessment and prescription by an approved prescriber (occupational therapist and/or physiotherapist) who completes a pre and post delivery review. Training for clients and staff on use of equipment is provided by the Approved Prescriber (OT/PT) on delivery. Broader workforce training on equipment and assistive technology is regularly updated by Disability Services both during induction and then ongoing through training programs.

The Equipment Program prompts staff to connect with appropriate service providers when safety concerns are identified during discussions around equipment.

The cost of the **DHS Equipment Program** is approximately \$400,000 per annum.

Disability Services has also employed of an **in-house Physiotherapist and Occupational Therapist**, to ensure Disability Services can respond to and assess evolving health and safety risks without delay (i.e. without waiting for third party providers to be available or to receive funding). As these providers have been engaged directly by Disability Services they can be deployed immediately, in response to the identification of new health and safety risks or evolving client care needs. This initiative seeks to address time delays and funding challenges facing the industry and to enable Disability Services to be more responsive to immediate risks and provide support to workers in how to best manage health and safety risks, whilst meeting client care needs and providing dignity of care.

The cost of an **in-house OT and physiotherapist** is \$270,000 per annum .

The total amount spent on rectifications post incident relating to the multi-provider operating environment is approximately \$670,000 per annum.

Total Cost of rectifications to the workplace or work practices made as a result of the alleged contravention

Once off expenditure of \$3.75m and ongoing annual expenditure \$3.69m per annum.

SECTION 2: GENERAL TERMS

The applicant acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the Regulator characterised or alleged that a contravention occurred as detailed in term 1.2

It is acknowledged that SafeWork SA has alleged a contravention of sections 19(2) and 32 of the Act.

2.2 Statement of regret that the characterised or alleged contravention occurred and the reasons the applicant considers this undertaking is a more appropriate response than a prosecution

The Department sincerely regrets the incident that occurred on 28 April 2022.

The Department expresses its compassion to the deceased client's family and friends, as well as the workers, supervisors and managers engaged in supporting the client and who were present on the day of the incident.

The undertaking is a progressive response to the alleged contravention and outlines the steps the Department has taken, and will continue to take, to ensure that such an incident or a similar incident does not occur in the future. In responding to the incident and identifying and developing the initiatives in this undertaking, the Department has considered the unique risks and challenges facing the industry and how it can implement meaningful and important change which will benefit clients, workers and the sector as a whole.

The Department considers that this undertaking provides an important opportunity to direct much needed energy and resources into systemic improvements and unique safety initiatives for the entire sector. These improvements will benefit not only workers and clients at the Department's sites, but the entire industry and the wider community. For this reason, the Department considers that this undertaking offers a more appropriate and effective response to the alleged contravention than a court-imposed sanction. These health and safety outcomes will benefit greatly a challenged sector that is high risk for both workers and clients.

2.3 Acknowledgment of the guidelines published by the Regulator for the acceptance of an undertaking

I have read and understood the **Guidelines for the acceptance of an enforceable undertaking**

Version: 3

Dated: September 2024

2.4 Acknowledgement that this undertaking is a matter of public record and will be published on acceptance

2.4.1 The Department acknowledges that the undertaking will be published on the SafeWork SA website (in accordance with Section 217(2) of the Act) and referenced in SafeWork SA material.

2.4.2 The Department acknowledges that the undertaking may be publicised in newspapers, media releases, and general marketing publications.

2.5 Statement of the applicant's ability to comply with the terms of this undertaking and meet the projected costs of the activities

The Department has the financial ability to comply with the terms of this undertaking and on request by the Regulator, can provide evidence to support this declaration.

2.6 Statement regarding applicant's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donation, sponsorship or scholarship or other recipient of financial benefit contained in this undertaking

The Department does not have any existing relationships or funding agreements to commission work proposed in this Enforceable Undertaking. However, if it is accepted by the regulator, The Department will undertake a procurement process to commission work with others, which would benefit the industry and community.

2.7 Statement regarding Intellectual Property Licence

The Chief Executive of the Department grants SafeWork SA a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this undertaking, subject to appropriate confidentiality arrangements to maintain confidentiality of client records.

2.8 The applicant acknowledges Annexure A must be completed and submitted to the Regulator when making an EU application.

The Department acknowledges Annexure A must be completed and submitted to the Regulator when making an EU application.

2.9 Statement of commitment from the applicant to participate constructively in all compliance monitoring activities for this undertaking

- 2.9.1 It is acknowledged that the Regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.
- 2.9.2 Cooperation will be given to allow the Regulator's officers to assess compliance including giving access to relevant material (evidence of compliance).
- 2.9.3 It is acknowledged that the applicant is responsible for demonstrating compliance with this undertaking and evidence of compliance must be provided by the agreed due date.
- 2.9.4 An update, in relation to the compliance status with each of the enforceable terms of this undertaking will be provided to the Regulator at three monthly intervals during the undertaking.
- 2.9.5 It is acknowledged that any proposed variations to a term must be submitted to the Regulator no later than 14 days prior to the terms agreed completion date.

2.10 Where possible, the applicant commits to linking the benefits of the activities to the risks that led to this undertaking

The Department is committed to discharging its obligation under The Act and this commitment is reinforced by the undertakings made in this document.

2.11 If charges have been laid against the applicant and withdrawn as a result of the Regulator accepting an EU agreement, The Department agrees to not seek any costs from the Regulator.

The Department agrees that if the charges are withdrawn as a result of the Regulator accepting this EU agreement, the Department agrees to not seek any costs from the Regulator and each party bears their own costs.

SECTION 3: ENFORCEABLE TERMS

The applicant acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and a minimum cost for each activity.

The applicant commits to performing the activities below diligently, competently and by the respective completion date.

3.1 A commitment to disseminate information about this undertaking to workers, and other relevant parties, and in the annual report (if applicable)

(This may include dissemination to work health and safety representatives and in the annual report, if applicable)

Within 21 days of the Enforceable Undertaking being entered into, dissemination of information about the safety initiatives in this undertaking will be achieved by doing the following:

- Briefing staff about the undertaking through the Disability Services newsletter and at an online 'Ask Joe' sessions.
- Discussion of the undertaking at the next WS Committee Meeting that falls after the EU is entered into (noting they occur bi-monthly so may not occur within 21 days).
- Making available a copy of the undertaking to all staff via access on the intranet website.

During the life of the EU, quarterly updates on progress will be provided verbally at 'Ask Joe' on the progress of any work pertaining to matters in the EU, as well as an intranet update quarterly and at the HSR meetings quarterly.

The following evidence will be provided to the Regulator to demonstrate completion of this:

- WS Committee meeting agendas/minutes.
- Copies of emails, newsletter or intranet articles.
- Links or transcripts to relevant sections of 'Ask Joe'.

3.2 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for workers/others

Activities	Minimum cost	Timeframe
<p>3.2.1</p> <p>The Department will investigate IT solutions to enhance the existing rostering system which will facilitate the rostering of workers breaks at specific sites with reference to the number of clients and their specific needs relative to the number of workers present at any given time. If IT solutions can be found, the digital rostering system is proposed to include system alerts to management and supervisors if the number of workers falls below required levels as a result of breaks or shift changes.</p> <p>The department will ensure that a minimum of 90% of staff receive training on the upgrades to the rostering system within the timeframe assigned to this activity.</p> <p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. Copy of the procurement, invoicing and payment records for developing the system, 2. Details of the changes made to enhance the existing rostering system and what date the changes were implemented. 3. Evidence of consultation and training provided to staff regarding the changes to the rostering system associated with this activity 	<p>\$250,000</p>	<p>18 months from acceptance (6 month extension if needed)</p>
<p>3.2.2</p> <p>Disability Services will develop a bespoke safety instructional video about how to manage 1:1 direct line of sight supervision for high risk clients, including the use of the Lanyard Safety System.</p> <p>The Department will ensure that a minimum of 90% of staff responsible for 1:1 direct line of</p>	<p>\$10,000</p>	<p>12 months from acceptance</p>

sight supervision for high-risk clients, including the use of the Lanyard Safety System will watch the instructional video within the timeframe assigned to this activity.

The Department will provide the Regulator with the following (evidence) to demonstrate compliance:

1. A link to view the safety video when it has been recorded,
2. Training records of workers who have used the video as a part of their training on the Lanyard Safety System.
3. Copy of the procurement, invoicing and payment records for the development of the instructional video. Internal costs will be demonstrated by providing the hours of work, times the pay rate, of all staff involved in implementing this activity.
4. Evidence the instructional video has been promoted in the workplace, for example but not limited to emails, newsletters, meeting minutes

3.2.3	<p>The Department will commission and complete a study either with an appropriately qualified third party or the Department will recruit an additional FTE who has the required skills and expertise to undertake the study on the appropriate span of control and supervision for isolated support work within budget limitations and a regulatory environment that allows for appropriate safety and supervision, which can be used in other intergenerational similar support environments. Span of control relates to the supervision ratios for staff to ensure adequate support and supervision. The scope of the study is to determine the appropriate span of control for isolated support workers, working in vulnerable work environments and the best practice supervision ratios of support and supervision to ensure staff and client safety.</p> <p>The study will provide results which are anticipated to inform supervision of workers, in isolated environments across Australia. The study fundings will be utilised to consider the appropriateness of the structure and level of supervision for workers within DHS and to share information with the Commonwealth if there are concerns with the ability to safely support clients within the funding envelope.</p> <p>The delivery will be an</p> <ul style="list-style-type: none"> • Overview of the existing research globally summarised for Australian context. • Analysis of gaps from existing research and report on recommendations for span of control for Australian context. <p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. Quarterly updates on the progress of the study. 	\$150,000	18 months from acceptance
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	<ol style="list-style-type: none"> 2. Copy of the procurement, invoicing and payment records associated with implementing this activity. 3. Results of the study when finalised. 4. Evidence the study findings have been disseminated to workers, for example but not limited to emails, newsletters, meeting minutes. 5. Evidence that workers have been consulted RE: findings, action plan/s to respond to the study findings. 		
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3.2.4	<p>Disability Services will develop a bespoke AI Chat-Bot to provide guidance to workers on novel safety risks or issues arising in a worker and client setting. This would be achieved by the Chat-Bot assessing all internal policies, procedures and other guiding documents to identify appropriate responses to novel safety risks having regard to the relevant safety policies and procedures.</p> <p>The AI Chat-Bot would benefit all workers and clients across Disability Services because it would:</p> <ul style="list-style-type: none"> • Be designed to for use for worker and client incidents and joint worker/client incidents and risks (particularly when novel risks and issues arise). • Enable front line client-facing workers to quickly access relevant guidance and identify the policy position from existing policies and procedures, without having to undertake cumbersome or time consuming searches and in different languages (noting the CALD workforce). • Facilitate the provision of prompt safety advice and instructions to workers when risks and hazards are identified. • Promote knowledge of and compliance with the Department’s Safety Management System. <p>The department will ensure that a minimum of 90% of staff receive training in the new technology within the timeframe assigned to this activity.</p> <p>If the proposed AI software and systems are effective when implemented across Disability Services portfolio it is anticipated that there would be scope to share the technology more broadly across the industry and the public sector generally.</p>	\$350,000	18 months from acceptance
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<p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none">1. Documentary evidence of its engagement with AI software and technology developers during the investigation and development phase.2. Once the AI Software and technology has been developed the Department will provide evidence of the software's functions and capability3. Documentary evidence of the policies and procedures developed to support its use.4. Evidence that workers have been informed about the new technology, for example but not limited to emails, newsletters, meeting minutes.5. Training records for those staff who have completed the training in the new technology.6. Copy of the procurement, invoicing and payment records associated with implementing this activity.		
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3.2.5	<p>Disability Services will partner with a provider to develop a series of workplace events, at least two per year, including seminars and interactive workshops aimed at the manager and executive level which will enable discussion of and promote awareness of hazards and risks in the workplace, and how these may impact workers in disability services. These events will include the Sector Reference Group (who is a group of senior members of disability organisations in the non-government sector who operate within South Australia) and person conducting a business or undertaking (PCBU) within the sector and would be used to inform and educate workers on how to identify both these risks and early preventative measures to mitigate impacts on themselves, other workers, and clients.</p> <p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. Documentary evidence of the schedule for the events, seminars and workshops when the timetable, speakers, and subject matter of each event is formalised. 2. Attendance records (by way of the calendar invite and acceptances), 3. Copy of invoices and payment records associated with implementing this activity 4. Details of the staff time (hours) which went into this activity. 	\$30,000	18 months from acceptance
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3.2.6	<p>Disability Services will recruit two (2) new Safety, Wellbeing and Injury Management Advisor roles, within Disability Services, (ASO6 level), whose role is to focus on preventative and responsive safety and wellbeing matters across service. The position description for these roles, requires the Safety Wellbeing and Injury Management Advisors to:</p> <ul style="list-style-type: none"> • lead WHS cultural improvement and WS projects across Disability Services. • provide ongoing advice and support to managers and employees to achieve safety and wellbeing goals efficiently and effectively through the application of the Department's SMS, workplace rehabilitation, workers compensation, and organisational wellbeing legislation and policies. • provide advice and support across a range of safety, wellbeing and injury management areas including planning and development, workplace assessment and inspection, risk management incident and injury management and prevention, education and awareness, employee support and wellbeing, and performance reporting. • contribute to the effective implementation of the Department's Wellbeing and Safety Management Plan and SMS in Disability Services. <p>In preparation of this EU application, DHS has taken the following steps in relation to this activity:</p> <ul style="list-style-type: none"> • developed and classified a role description; • advertised the positions; • shortlisted candidates; and • appointments have been made. 	\$340,000	6 months from acceptance
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	<p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. Copy of the position description 2. Evidence the positions have been advertised – link to or copy of the position advertisement 3. Evidence to confirm the positions have been successfully filled. 		
3.2.7			
Total minimum cost of benefits for workers/others		Total	= \$1.13m

The costs reflected above are costed as per the 18 months of the life of the EU.

3.3 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for industry

The Department acknowledges that all registered providers operating in the disability services industry operate in a complex regulatory environment which is undergoing rapid change and facing increasing resource and funding challenges. Industry participants are often reportedly operating at a loss and workers, who are lowly paid, are required to operate in challenging and high-risk environments with high-risk clients facing their own funding and equipment limitations. Furthermore, there are currently no minimum industry required training or skills for workers in the sector. With this in mind, the Department will undertake the below activities to benefit the industry more broadly.

Activities	Minimum cost	Timeframe
<p>3.3.1 The Department will share knowledge about the Lanyard Safety System with other industry participants providing disability services and to donate lanyards to other participants wishing to adopt the Lanyard Safety System.</p> <p>In addition to donating lanyards, the Department will offer training by way of access to its safety instructional video on how to implement the lanyard system for workers providing 1:1 supervision to clients.</p>	\$20,000	12 months from acceptance

	<p>It is anticipated that the activity will reach other stakeholders participating in the sector.</p> <p>This proposal will be shared as a part of the SA State Sector Reference Group, after which other stakeholders and industry participants can request it from the Department.</p> <p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. Documentary evidence of industry participants invited to the session where it is discussed. (by way of the calendar invite and acceptances) 2. Evidence of how many lanyards were donated and taken up by the NGO sector. 3. Copy of invoice and payment records associated with implementing this activity. 4. Recordings and minutes of the Sector Reference Group (providing participants consent to be recorded), 5. Access to the safety instructional video on how to implement the lanyard system for workers providing 1:1 supervision to clients. 		
3.3.2	<p>The Department will establish a “Safety in the Sector” four topic series based on topics suggested by the sector following the EU, which will involve inviting all disability services providers who are members of the SA Sector Reference Group in the industry to attend a series of in-person (minimum of 4 over the duration of the EU agreement) sessions on safety, wellbeing, quality and safeguarding, and balancing the dignity and human rights of clients v safety risk to workers.</p> <p>The series will require coordination of industry and academic resources and knowledge and will involve inviting professional guest speakers to attend each session. It is anticipated to reach all major disability providers across the industry in SA who attend the SA Sector Reference Group</p>	\$30,000 for professionals	18 months from acceptance

<p>and to further embed knowledge by promoting discussion amongst industry experts.</p> <p>The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol style="list-style-type: none"> 1. documentary evidence of the program of events, speakers and attendees invited (evidenced by the calendar invite and acceptance). 2. Copy of invoices and payment records associated with implementing the activity, 3. Details of staff time (hours) attributed to implementing this activity. 		
<p>Total minimum cost of benefits for industry</p>	<p>Total</p>	<p>= \$50,000</p>

3.4 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for community

Activities	Minimum cost	Timeframe
<p data-bbox="341 409 890 674">The Department will commission a safeguarding campaign to promote the engagement with community, government agencies, and providers about the reporting of incidents and issues, including guardianship, impacting people living with disability and those ageing.</p> <p data-bbox="341 712 911 1167">The engagement will provide awareness and resources to enable clarity matters such as guardianship options and where to report issues that affect the safety and wellbeing of people living with disability and ageing in South Australia. This will include (minimum of 4 over the duration of the EU agreement) face to face forums across South Australia and include the Adult Safeguarding Unit, Disability Services and others. The Department is considering which entities can assist with this.</p> <p data-bbox="236 1189 300 1227">3.4.1</p> <p data-bbox="341 1211 895 1317">The Department will provide the Regulator with the following (evidence) to demonstrate compliance:</p> <ol data-bbox="341 1352 874 1973" style="list-style-type: none"> <li data-bbox="341 1352 874 1429">1. Details of the entities and scope of their engagement. <li data-bbox="341 1464 703 1496">2. Program of events/forums. <li data-bbox="341 1532 847 1637">3. Evidence to confirm the forums and campaign materials/resources are being promoted. <li data-bbox="341 1673 863 1823">4. Details of the speakers and attendees invited to the face-to-face forums (for example, evidence by calendar invite and responses). <li data-bbox="341 1859 874 1973">5. Evidence of procurement, invoicing and payment records associated with implementing this activity. 	<p data-bbox="951 1189 1070 1227">\$200,000</p>	<p data-bbox="1169 1173 1318 1279">18 months from acceptance</p>

Total minimum cost of benefits for the community	Total = \$200,000
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3.5 Agreement to pay the Regulator's costs

The Department agrees to paying the Regulator's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the Regulator's invoice:

Recoverable costs	Amount
Investigation, legal & administrative costs associated with the alleged contravention & proposed undertaking	\$ 1,200
Compliance monitoring costs	\$ 4,945
Publication costs	\$ 0
Total Amount	\$ 6,145

3.6 Minimum spend

3.6.1 The Chief Executive of the Department acknowledges the minimum spend for this undertaking will comprise of the:

(The amounts below should correspond with total amounts from terms 3.2–3.5 above)

Total value of	Minimum spend
Benefits to workers/others	\$ 1,130,000
Benefits to industry	\$ 50,000
Benefits to community	\$ 200,000
Regulator costs	\$ 6,145
Total minimum spend for the undertaking	\$ 1,386,145

3.6.2 The Chief Executive of the Department agrees to spend any residual amount arising from the total minimum spend value not being met. Guidance on how to spend this residual may be sought from the Regulator.

3.6.3 This minimum spend is in addition to the \$8m+ already incurred by the Department in our response to this incident and in related improvements, as detailed in section 1 of this document

3.7 A commitment to develop and implement safe systems of work (or maintain safe systems of work if already implemented) to ensure the applicant is compliant with the *Work Health and Safety Act 2012 (SA)*

- Tick if the applicant has already implemented safe systems of work at the workplace.

The Chief Executive of the Department commits to maintaining the safe systems of work implemented at the workplace.

3.8 A commitment to ensure the safe systems of work are audited by third party auditors


- 3.8.1 The Chief Executive of the Department commits to ensuring the safe systems of work will be audited by an independent third party WHS auditor.
- 3.8.2 The Chief Executive of the Department acknowledges that details of the auditor's qualifications will be provided to the Regulator (pre audit).

3.9 A commitment to provide a copy of each finalised system audit report to the Regulator

- 3.9.1 The Chief Executive of the Department acknowledges that audit reports received from the auditor will be sent to the Regulator within 30 days of the audit.
- 3.9.2 The Chief Executive of the Department acknowledges that within 30 days of receipt of the auditor's written report, the Regulator will be advised of the intended action in addressing each of the report's recommendations.

SECTION 4: OFFER OF UNDERTAKING

I offer this undertaking and commit to the terms herein.

Signed: 
[Person]

Sandra Pitcher
[Print name]

Chief Executive, Department of Human Services
[Position]

Dated at ADELAIDE this 21 day of FEBRUARY 2025

SECTION 5: ACCEPTANCE OF UNDERTAKING

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2012* (SA).


Signed: 
[Person]

Glenn Farrell
[Print name]

Executive Director
[Position]

Dated at KESWICK this 25th day of February 2025

 1300 365 255

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