

31 July 2009

Mr Rod Smith
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Our Ref > WH2009/01598
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Dear Rod

RE: Duty of Care

Thank you for your correspondence concerning the duty of care under the *Workplace Health and Safety Act* (the Act). In it you raise issues about the separation of the duty of care between construction contractors, the Department of Education and teachers.

It should be clearly understood that the statutory duty for the health and safety of workers and others is the joint responsibility of the owner and primary contractor, not NT WorkSafe. The *Workplace Health and Safety Act* is very clear on this.

This responsibility is defined in section 56 of the Act, which clearly states an employer has a duty to ensure as far as reasonably practicable that workers and others are not exposed to risks to health and safety. In the case of construction work at a school this responsibility extends to students, teachers and any other person who may be affected by the work.

Further guidance about the various responsibilities of owners, contractors and others can be found in the National Standard for Construction Work. The Act calls up the National Standard through regulation 133B of the *Workplace Health and Safety Regulations*. This information is available from the Safe Work Australia web site.

NT WorkSafe has an interest in the steps taken by the duty holder to control these risks, in light of any hazards identified. Accordingly NT WorkSafe would be pleased to receive details of specific risks to the health and safety of workers and others during construction activities at schools in the Northern Territory.

Yours sincerely



Brian Malacari
Director Operations

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