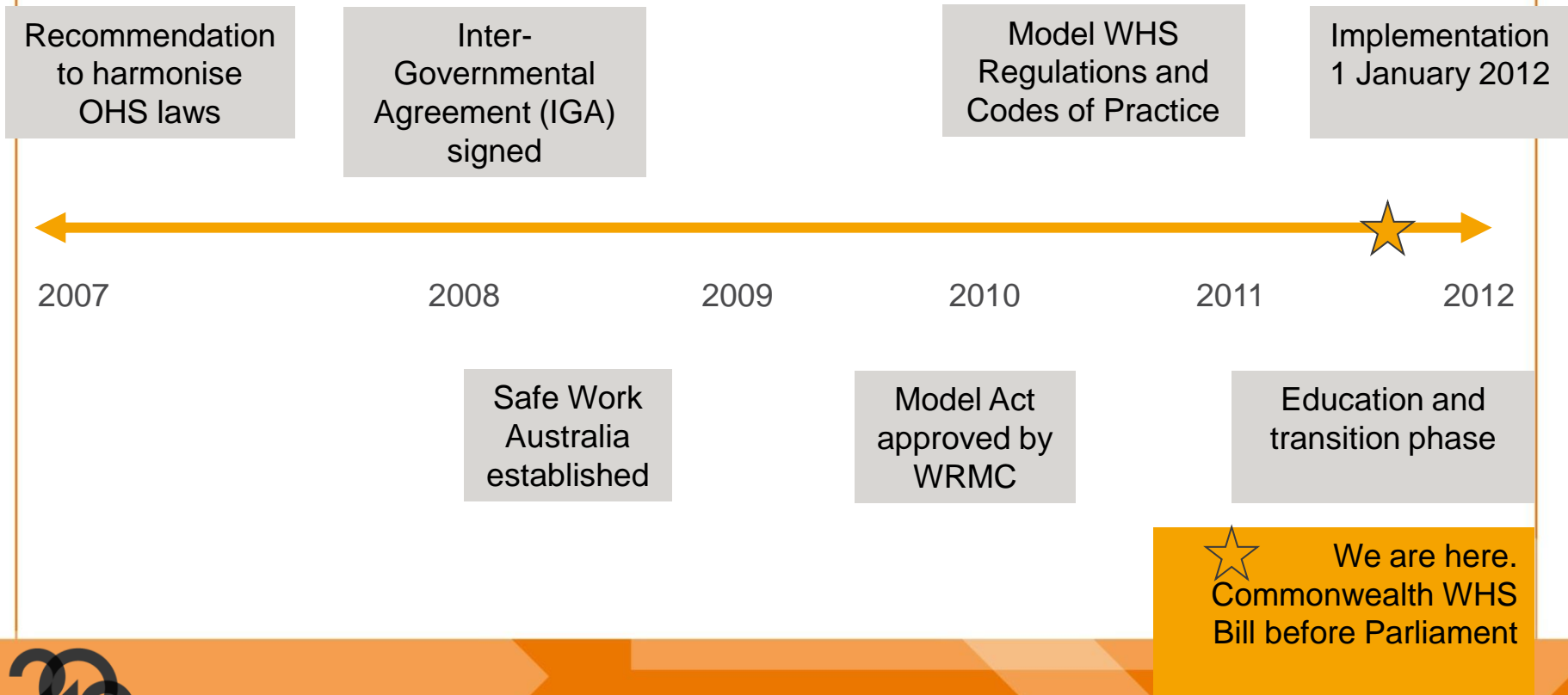


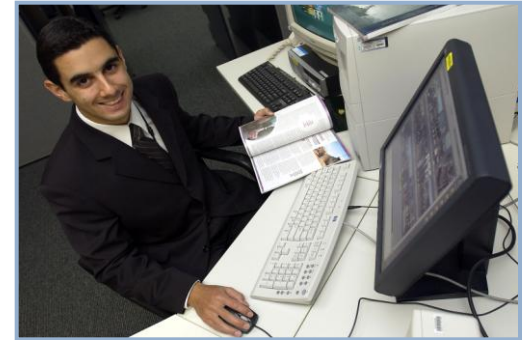


**New Work Health and Safety laws
APSC SES Update
20 October 2011**

Harmonisation timeline



A new approach to work health & safety



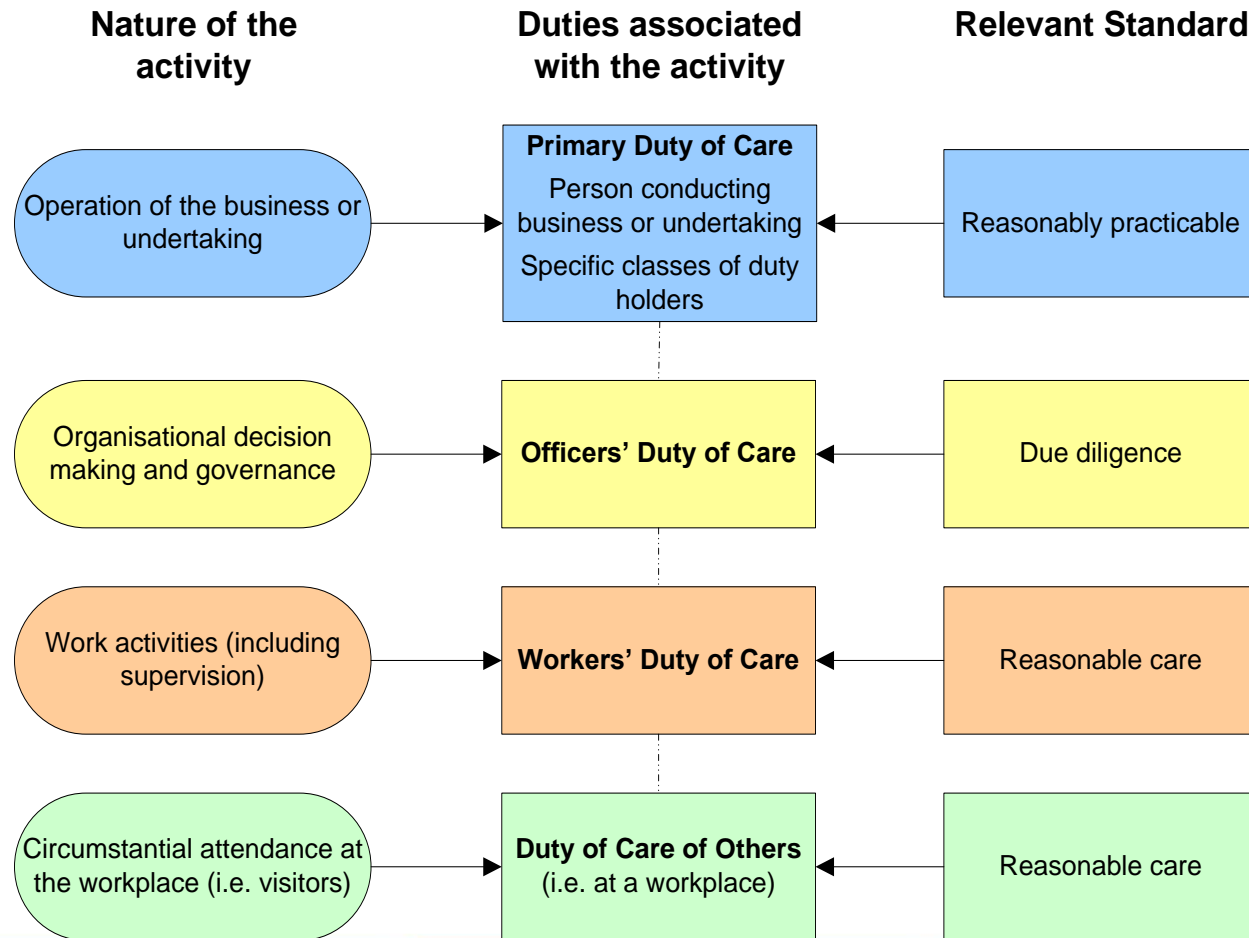
Core safety obligations remain

- Safety of people must underpin all operational decisions
- Appropriate consultation, training & safe systems of work
- Workplaces free from harassment & bullying
- Agencies remain subject to enforcement action for breaches
- APS members can be independently held to account.

Key differences between OHS Act & Cth WHS Bill

OHS Act	Commonwealth WHS Bill
Principal duties cast on employers	<ul style="list-style-type: none">•Principal duties cast on PCBUs•Designers now covered.
Largely civil sanctions	Mainly criminal sanctions
Employee and contractor	Broader focus on 'worker'
<ul style="list-style-type: none">•Criminal penalties within one year•Civil fines up to \$242,000	<ul style="list-style-type: none">•Criminal sanctions within two years•Fines up to \$3 million (bodies corporate)•Up to five years imprisonment.
Investigators: respond to incidents	Inspectors: broad assistance, guidance and advice
No issues resolution	<ul style="list-style-type: none">•Local issues resolution•Merits review at Fair Work Australia
No union right of entry	Unions will have rights of entry

Health and safety duties under WHS Bill



Three types of PCBUs

1. The Commonwealth

- the Crown in the right of the Commonwealth of Australia
- a single entity conducting many businesses and undertakings

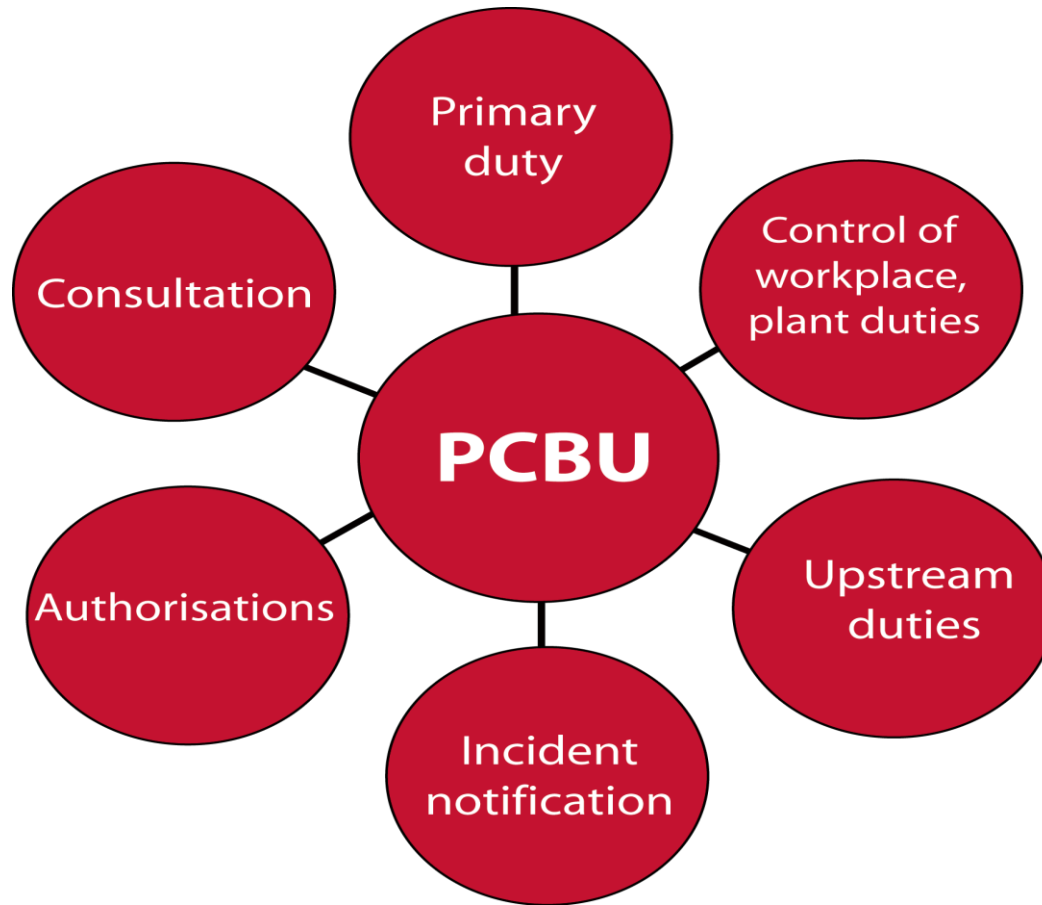
2. Public Authorities – three types

- A body corporate under the *Commonwealth Authorities and Companies Act 1997* (CAC Act)
- A body corporate established for a public purpose under a Cth or territory law
- A body corporate prescribed in the WHS Regulations

3. Non-Commonwealth licensees

- *Corporations Act 2001* corporations licensed under the *Safety Rehabilitation and Compensation Act 1988*

Duties of a PCBU



Defining who is an Officer

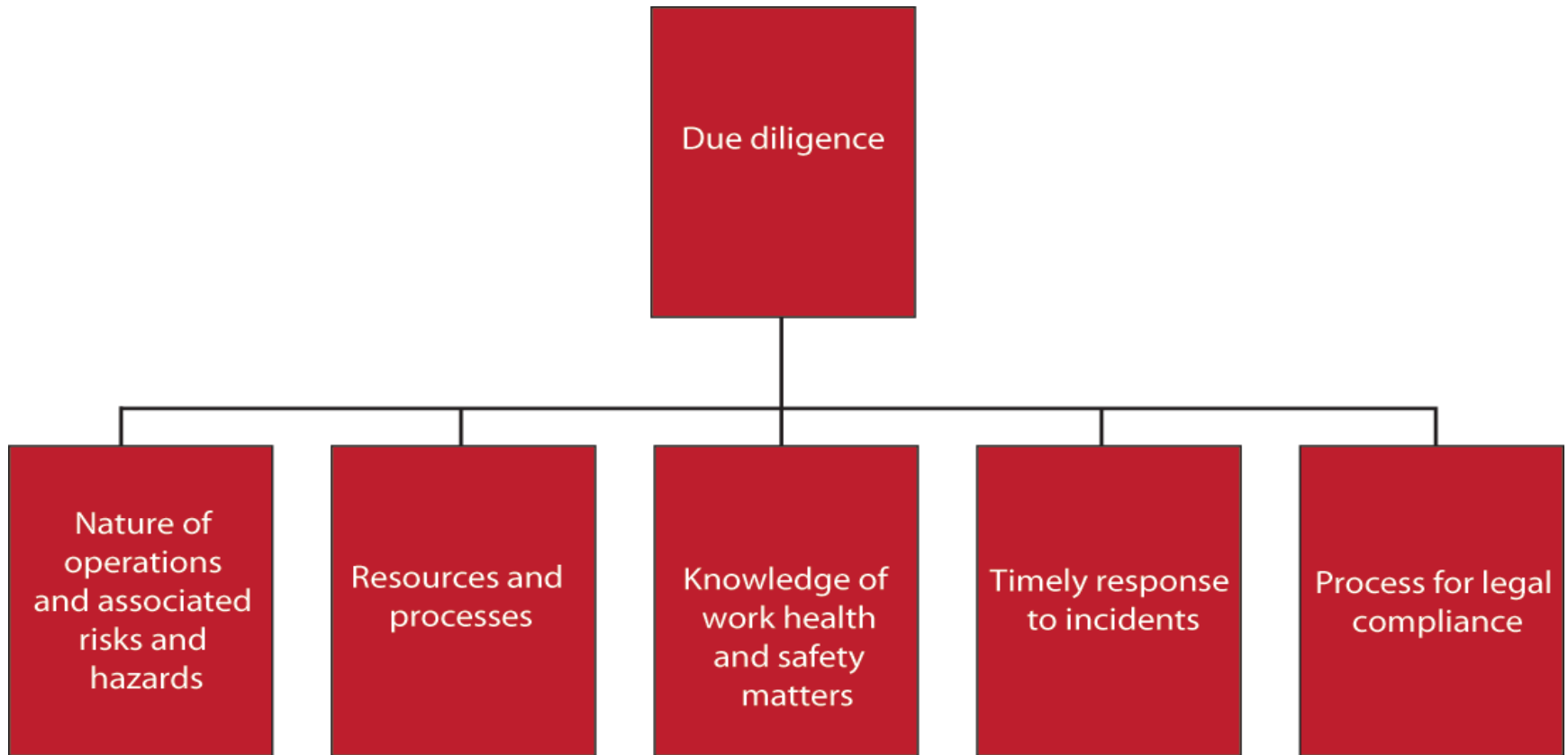


Who do you think is an officer?

“An officer of the Commonwealth is a person who makes, or participates in making decisions that affect the **whole** or a **substantial** part of a business or undertaking of the Commonwealth.”

s247 - Work Health and Safety Bill 2011

Due diligence – where to start, what does it mean?



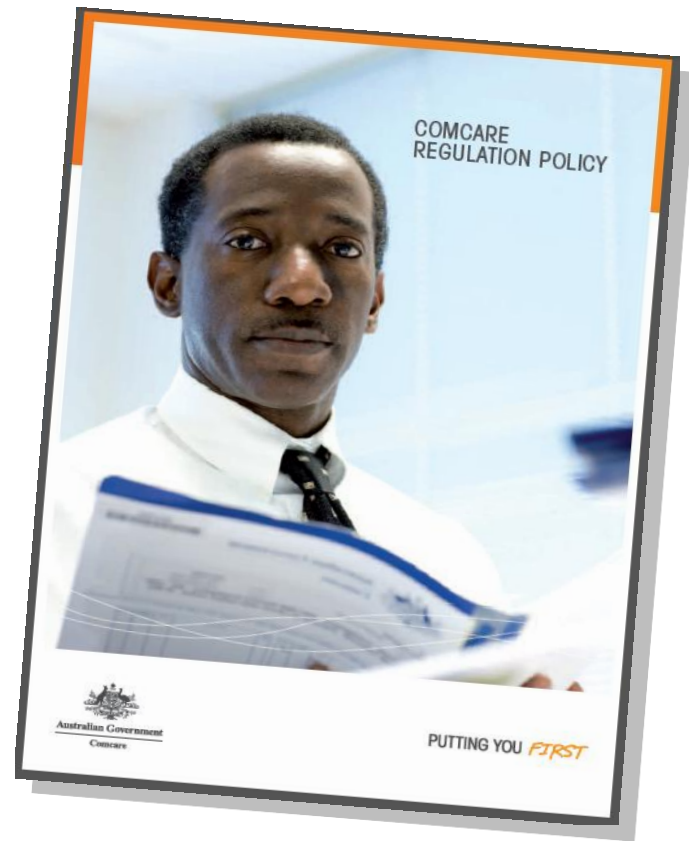
Due diligence checklist



Do you have in place:

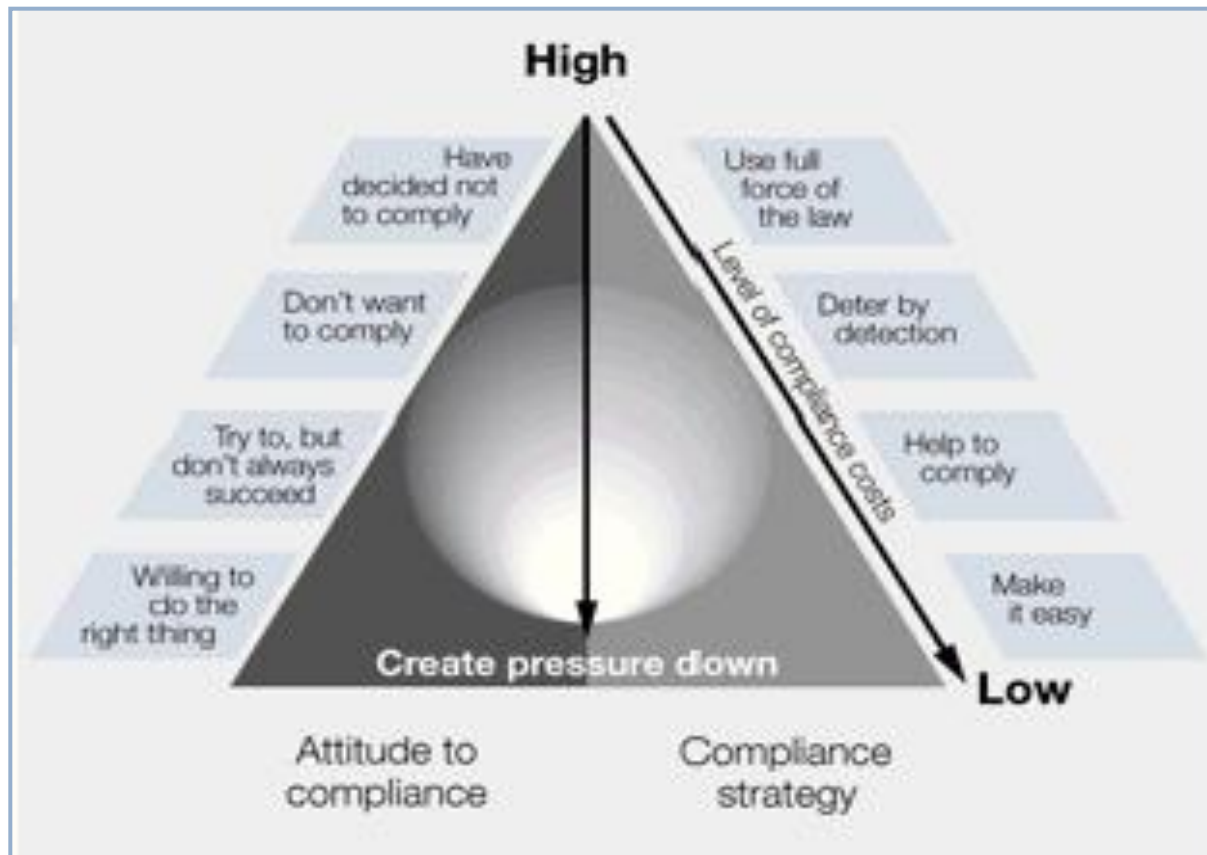
- ✓ An appropriate governance structure, with the right people, authority and accountability
- ✓ Information gathering & reporting processes in place
- ✓ A written register or other record of decisions made affecting the whole or a substantial part of the business or undertaking

Comcare's approach



Approach to regulation

Adopt the behavioural pyramid



Compliance tools

Court-based enforcement
Enforceable undertakings

Infringement Notices
Licence conditions
Statutory notices
Cautions
Verbal directions

Dispute resolution
Guidance
Share best practice

Liaise
Help
Support

What you can do now?

- > Put the spotlight on health and safety in your workplace
- > Understand what the new WHS laws mean – communication and consultation are essential
- > Revisit what you should be doing already to meet your current OHS obligations
- > Strengthen and improve your current policies, procedures and risk management strategies

Summary

- > A new approach to WHS across Australia
- > Comcare is getting ready to be the federal WHS regulator
- > Understand your rights, obligations and duties
- > For further information - www.comcare.gov.au