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Director obligations under WHS Psychosocial Code of Practice and leveraging Skodel for compliance

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1. Introduction

1.1 Overview

Skodel is a psychosocial hazard control platform designed to ensure businesses meet their legislative requirements concerning psychosocial hazards in the workplace. We provide an integrated solution that covers the entire compliance cycle, from hazard identification and risk assessment to implementing control measures and continuously reviewing their effectiveness. Our platform is dedicated to ensuring the psychological safety of employees while helping businesses reduce the risk of significant fines, penalties, and psychological injury claims.

1.2 Key Objectives

Our key objectives at Skodel are:

- To ensure businesses comply with psychosocial hazard legislative requirements.
- To create safer work environments that prioritise employee well-being.
- To reduce the financial and operational impact of psychological injury claims.

2. The Current State of Mental Health and Legislative Requirements

2.1 Psychosocial Hazards

A psychosocial hazard is a condition or factor in the workplace that has the potential to negatively impact an employee's mental health (i.e. cause psychological injury). The new model WHS Regulations define psychosocial hazard broadly to include any hazard that:

- arises from, or relates to the design or management of work, a work environment, plant at a workplace or workplace interactions or behaviours; and
- may cause psychological harm (whether or not it may also cause physical harm).

Currently, there are 14 psychosocial hazards that workplaces must monitor and address as outlined in the WHS Code of Practice. These are:

1. job demands
2. low job control
3. poor support
4. lack of role clarity
5. poor organisational change management
6. inadequate reward and recognition
7. poor organisational justice
8. traumatic events or material
9. remote or isolated work
10. poor physical environment
11. violence and aggression
12. bullying
13. harassment, including sexual and gender-based harassment, and
14. conflict or poor workplace relationships and interactions

Psychosocial hazards emerge regardless of workplace culture. It's important to note that psychological injuries do not need to be sustained for penalties to be imposed.

2.2 Legal Obligations

Work Health Safety Australia (WHS) mandates that businesses monitor and address psychosocial hazards to protect the mental health of employees. Failing to address these hazards can result in legal repercussions, fines, and penalties for non-compliance.

Compliant psychosocial hazard management

Figure 1 Effective psychosocial hazard management WHS

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What must be done	Key initiatives
Identify hazards	Workplace consultation and appropriately available outlets for employees to flag hazards
Assess level of risk	A system for categorising the level of risk a psychosocial hazard may carry
Control measures	Organisation wide action plans and emergency response protocols for high risk hazards
Review effectiveness	Data dashboards and reporting of psychosocial hazards to review the effectiveness

Figure 2 the four areas of psychosocial hazard management

The model provisions cast a broad net and require consideration of not only the physical work environment but also:

- how and when work is undertaken – this could impact job design, workloads, modes in which teams interact
- behaviours in the workplace – some behaviour giving rise to particular hazards and risks will be readily apparent, but there will be some individuals or parts of the business where a deeper analysis will be required to identify behaviours (and practices) presenting psychosocial risk
- instruction, training and supervision – ensuring workers are provided with the necessary information and skills to address issues or raise concerns, and ensuring managers can appropriately monitor their teams for psychosocial hazards and risks and respond to issues raised

Control measures are to be determined by reference to all relevant matters, including:

- the duration, frequency and severity of the exposure
- how the psychosocial hazards may interact or combine
- work designs and systems, including job demands and tasks and how work is managed, organised and supported

- design and layout, and environmental conditions, of the workplace and any accommodation provided by the person conducting business or undertaking (PCBU)
- workplace interactions or behaviours
- information, training, instruction and supervision provided to workers

2.3 Impact on Businesses and Directors

The impact of neglecting psychosocial hazards is substantial

Impact area	Statistics
Psychological injury claims	46% increase between 2019 and 2022 (Allianz Insurance) and 92% are successful
Cost per claim	$55,270 median compensation per claim (Safe Work Australia)
Employee absenteeism	The median time lost for mental health conditions was 5x higher compared to physical injuries (30.7 vs. 6.2 working weeks) (Safe Work Australia)
Employee performance	Psychologically safe workplaces have 6x less sick absences (Safe Work Australia)

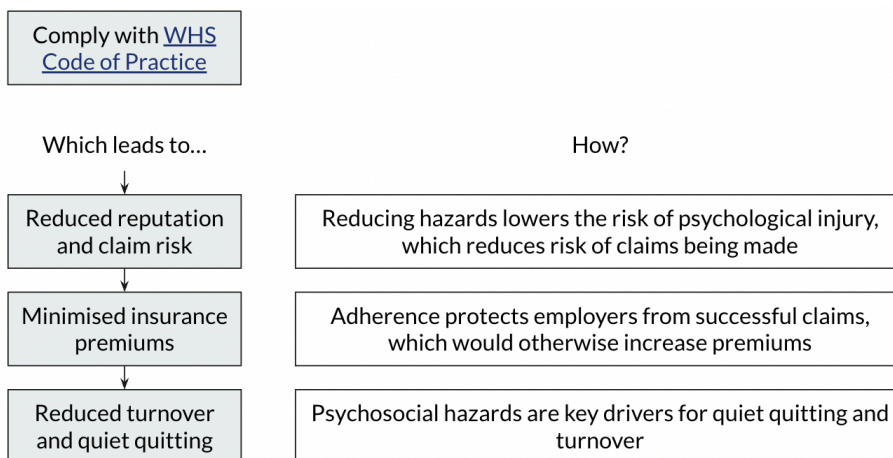**Figure 3** the impact of mental health on businesses

Figure 4 the benefits of compliance with WHS Code of Practice

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For directors of companies, the risks are significant

Prohibition of insurance or indemnity arrangements (s272A):

- Risk for directors: Directors who fail to address psychosocial hazards and comply with WHS regulations may find themselves personally liable for WHS penalties, as insurance or indemnity arrangements covering such liability are prohibited under s272A.
- Consequences: Without insurance or indemnity coverage, directors may have to bear the financial burden of WHS penalties, which can be substantial and damaging to personal finances.

Addition of gross negligence as an alternative fault element (s31):

- Risk for Directors: Directors who do not adequately address psychosocial hazards may inadvertently expose themselves to Category 1 WHS offences, which now include gross negligence as an alternative fault element under s31.
- Consequences: Being charged with Category 1 offences can result in more severe penalties, including imprisonment in some cases, significantly increasing the personal legal and financial risks for directors.

Inspector's authority to issue notices and interviews (s171(2A)-(2E)):

- Risk for directors: Directors who fail to address psychosocial hazards may face increased scrutiny by WHS inspectors, who now have the authority to issue notices to produce documents or information, even without attending the workplace. Interviews with inspectors can also be conducted via audio or audio-visual link.
- Consequences: Directors may find themselves subject to more frequent inspections and inquiries, which can be disruptive and time-consuming. Non-compliance or insufficient documentation could lead to further legal action and penalties.

Sharing of confidential information (s271A):

- Risk for directors: Directors may find their company's confidential information or documents, obtained during WHS inspections or investigations, shared between WHS regulators if it is reasonably believed

to be necessary for the administration or enforcement of the WHS Act or corresponding WHS laws, or to prevent serious risks to public health or safety.

- Consequences: The sharing of confidential information can have legal and reputational implications for directors and their organisations. It may expose sensitive business data and potentially harm the company's reputation.

How can employers discharge their OSHA obligation regarding psychosocial hazards in the workplace?

A WorkSafe inspector called to a workplace following a complaint or report of a psychosocial safety issue will look to see if the employer has a system to identify, assess and control the risk posed by psychosocial hazards and then review the control measures put in place. Employers that have followed these steps are less likely to have a WorkSafe inspection turn into an investigation.

3. How Skodel Ensures Compliance and Workplace Safety

3.1 Comprehensive Hazard Management

Workplaces are mandated to consult with their workforce on psychosocial safety. Skodel helps safety and leadership teams address the challenges of maintaining extensive documentation and effectively addressing high-risk hazards.

Stage	Description
Identification	Streamlined workplace consultation and always available outlet for teams to flag a psychosocial hazard
Risk assessment	Clearly defined categorisation of risk the hazard imposes with appropriate response protocols in place
Control measures implementation	Proactive organisation and individual action plans. Crisis management to ensure high risk hazards are addressed

| Continuous review | Compliant reports to demonstrate effective review measures of controls are in place and hazard trends are readily identifiable |

Figure 5 Skodel's comprehensive and aligned hazard management process
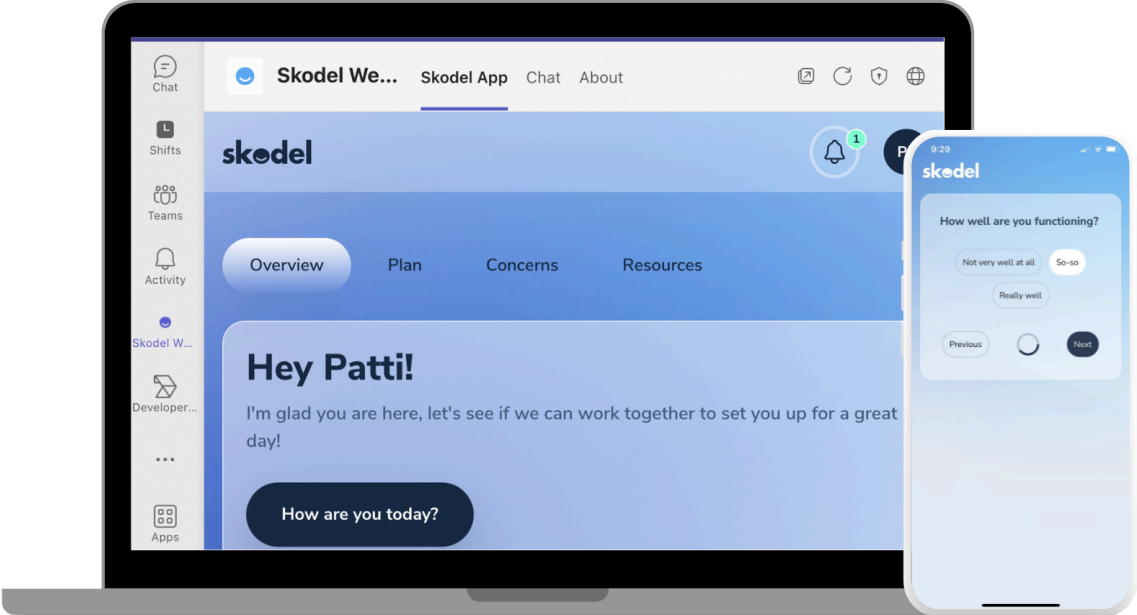
Identification

Figure 6 Microsoft teams integration and mobile app for streamlined worker consultation on psychosocial hazards to ensure workers have available outlets and are consulted with
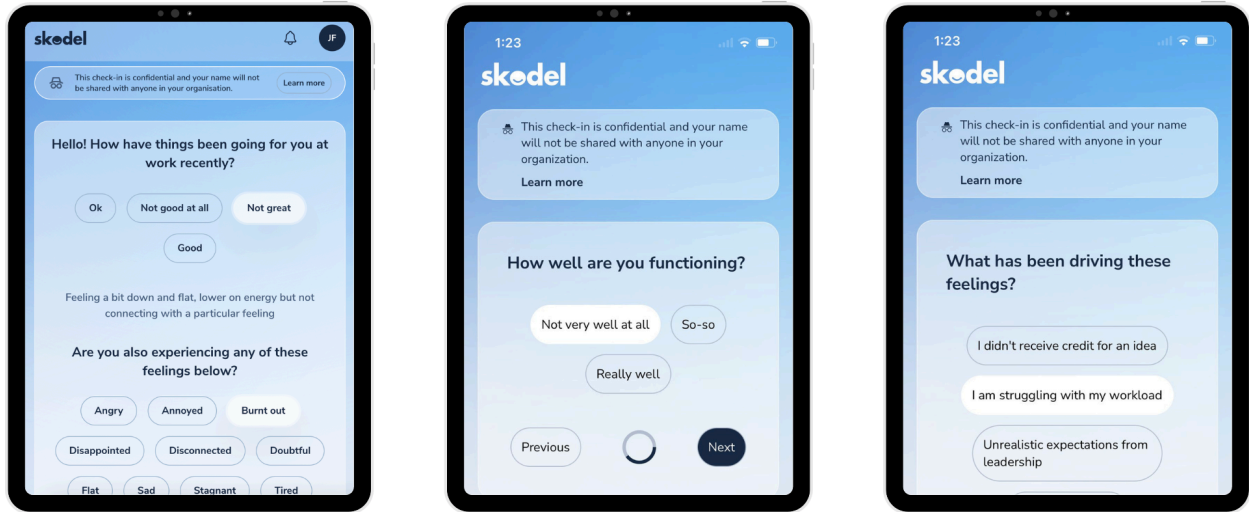
Risk assessment

Figure 7 example risk assessment on Skodel to indicate a psychosocial hazard and categorise its risk

Risk level	Categorisation on Skodel
High	Where the psychosocial hazard is highly sensitive (i.e. sexual harassment) and/or significantly impacting employee functioning and has been going on for a long time
Medium	Where the psychosocial hazard is having a mild impact on employee functioning and has been going on for a while to a long time
Low	Where the psychosocial hazard is identified but is not impacting functioning and has been going on for a short time

Figure 8 how Skodel categorises the level of risk a psychosocial hazard carries

Control measures

Risk level	How Skodel addresses it

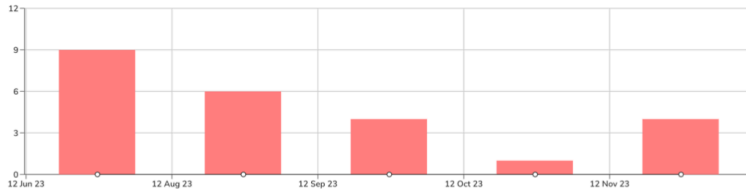|	
High	Risk is triaged and a relevant professional from the 24/7 support team will reach out confidentially to the individual. Documented report is provided to the company within 3 days of the process taken to address this risk for the individual.
Medium	Risk is triaged and relevant support lines and resources are provided to the individual employee so they are made aware of what support is available. The support that is provided is documented to demonstrate effective processes. Leadership will be notified and provided with suggested steps for addressing it.
Low	Risk is triaged and leadership is notified of a potential hazard that may escalate if not addressed. Leadership is provided with suggested steps to add to their organisation action plan.

Figure 9 control measures workflow on Skodel

Reviewing effectiveness of control measures

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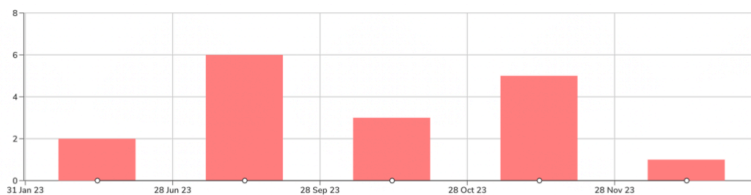**Incidents of high job demands**

Show percentage view

Compared to previous period: 12 less incidents

Incidents of low job control

01/01/2023 - 14/12/2023

Show percentage view

Priority	Hazard	Action	Obstacles	Contingency plan	Signed
1	Job demands				
2	Job control				
3	Bullying				

Figure 10 audit ready

psychosocial hazard report with action plan

3.2 Skodel compared to the market

In the current landscape of psychosocial hazard management, several approaches are commonly used, each with its own strengths and limitations. These approaches include:

Surveys: Some organisations opt to conduct surveys, which may involve retrofitting engagement surveys to include psychosocial hazards. However, this approach carries the risk of identifying high-risk hazards such as sexual harassment without clear control measures in place to address them effectively.

Employee Assistance Programs (EAPs): While EAPs are valuable control measures for addressing psychosocial hazards, they may not be sufficient on their own to demonstrate to regulators that an organisation has comprehensive processes in place to identify, assess, and review these hazards. They also often have low engagement rates (between 5% and 15%).

Engagement Surveys: Engagement surveys, although useful for assessing workplace culture, are not specifically designed to meet the requirements of safety regulators. They may not provide the necessary focus on identifying, assessing, and controlling psychosocial hazards.

Avoidance: Some organisations may choose to avoid addressing psychosocial hazards altogether, which exposes them to non-compliance risks and the potential for significant penalties.

The Skodel difference

Skodel's approach to psychosocial hazard management is comprehensive, enabling directors to meet their compliance obligations without exposing themselves to greater risks through mismanaged or missed hazards. Key differentiators include:

Continuous monitoring: Skodel provides continuous monitoring and real-time hazard identification, enabling organisations to proactively address psychosocial issues as they arise, reducing the risk of non-compliance.

Holistic wellbeing: Skodel takes a holistic approach to employee well-being, incorporating factors such as workload, workplace culture, and employee feedback into the hazard management process to create a comprehensive solution.

24/7 crisis support: Skodel integrates 24/7 support into the platform, ensuring that in emergencies or high-risk situations, organisations can access experienced response centre operators based in Australia who can coordinate assistance and support, enhancing safety and compliance.

Versatile communication channels: Skodel offers versatile communication channels, including call, chat, location sharing, and video call options, making it easier for employees to report issues and seek support in various situations, even when verbal communication is not feasible or safe.

Ongoing assistance: Skodel's response centre operators remain online until help arrives, providing ongoing support, advice, and reassurance to employees. All emergency incidents are documented, and compliant reports are provided to safety teams, ensuring transparency and accountability.

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By offering continuous monitoring, holistic well-being, and comprehensive post-consultation support, Skodel addresses the limitations of current approaches to psychosocial hazard management. This ensures that organisations can effectively identify, assess, and control these hazards while reducing compliance risks and promoting employee well-being.

Testimonials

Emma Grant, Dean of Wellbeing and Culture	*"I know that for our staff, what starts as a minor stress can often multiply into serious burnout if not addressed early. Skodel gives staff a safe and anonymous platform to express themselves and access support. What I've taken from this is that sometimes people just want to know they are acknowledged, valued and heard. And creating this safe space is an effective preventative measure."*
Martyn Campbell, former CEO of Safework SA and board member Safework Australia	*"In 2024 every CEO and Executive needs to understand their duties and get psychosocial risks on their radar. Beyond compliance, creating safe workplaces drives performance and enables good culture. Skodel's easy to use features and robust controls ensure companies meet their compliance obligations without exposing leaders and their teams to greater risk from missed or mismanaged psychosocial hazards."*

3.3 Industry Expertise

Skodel's industry expertise is a cornerstone of our platform's effectiveness in addressing psychosocial hazards and ensuring compliance with workplace safety regulations. Our team comprises a diverse group of professionals with deep knowledge and experience in various relevant fields, including organisational psychology, workplace

health and safety (WHS), clinical psychology, and emergency response. Here's how their expertise contributes to Skodel's capabilities:

Leading psychologists:
Skodel is proud to collaborate with leading psychologists who provide invaluable insights into the psychological aspects of workplace safety and well-being. Among them, Andrew Fuller, a renowned psychologist from the University of Melbourne, lends his expertise to ensure that Skodel's approach to psychosocial hazards is informed by the latest research and best practices in psychology.

WHS board members:
Martyn Campbell, a senior WHS board member and former CEO of WHS South Australia, is a key partner for Skodel. He played a pivotal role in the development of the Code of Practice during his tenure as CEO of WHS SA. His in-depth knowledge of WHS regulations and practices ensure that Skodel's platform aligns seamlessly with legislative requirements and industry standards.

Emergency Response Teams:
Skodel's collaboration with emergency response teams, such as Lifestream Guardian, further enhances the platform's capabilities. These teams provide immediate responses to high-risk situations, ensuring that Skodel can handle emergencies efficiently and effectively. This integration ensures that even the most critical incidents are managed safely and in compliance with regulations.

People and Risk Specialists:
Skodel's team of experts works collaboratively to integrate their knowledge and insights into our platform's features and processes. This synergy ensures that Skodel's approach to psychosocial hazard control is not only legally compliant but also psychologically sound, effectively addressing the well-being of employees.

3.4 24/7 Support Integration

Skodel integrates 24/7 support into the platform to address emergencies promptly:

Feature	Description
Operator Assistance	Experienced response centre operator based in Australia

Telehealth and Emergency Solutions	Access to critical information for coordinating emergency assistance
Industry Compliance	Compliant with Australian AS 4607 standard for response centres
Versatile Communication	Call, chat, location, and video call options, even in non-verbal situations
Ongoing Support	Operator stays online until help arrives, providing support and reassurance

Figure 11 Skodel's 24/7 crisis support

4. Skodel's Expertise in Mental Health

4.1 Integrated partners

Skodel boasts leading experts in mental health and workplace safety. These networks are seamlessly integrated into the Skodel platform, enabling Skodel to effectively handle any hazard while maintaining compliance with regulations and avoiding significant penalties.

Expert	Credentials
Andrew Fuller	Renowned psychologist from the University of Melbourne
Martyn Campbell	Senior WHS board member, former CEO of WHS South Australia, instrumental in developing the WHS Code of Practice
Howden People and Risk	Specialising in compliant workplace design processes

Lifestream Guardian	Emergency response team, available 24/7

Figure 12 Skodel's partner network

4.2 Demonstrated Success

Skodel has a robust track record of success, having deployed our platform in over 200 organisations, including notable clients such as the largest Catholic School in Australia and the Victorian Department of Education. Our extensive experience spans diverse industries, many of which are highly regulated, where compliance is paramount. Here's a closer look at our accomplishments:

Wide-ranging client base: We're proud to have worked with a diverse clientele, ranging from major educational institutions to SMEs. This demonstrates our platform's adaptability and effectiveness across various sectors.

Large-scale implementations: Managing over 200 successful deployments across 100,000 people underscores our platform's scalability and our ability to cater to the unique needs of organisations, regardless of their size or complexity.

Working effectively in highly regulated industries: Skodel has been chosen by prominent educational institutions like the largest Catholic School in Australia and the Victorian Department of Education to address psychosocial safety. These institutions are in the media and face significant scrutiny if their processes are not compliant.

5 million+ safety checks: Skodel's platform has conducted over 5 million safety checks and can provide benchmarkable data.

Data security standards: We take data security seriously and adhere to stringent standards, including Safer Technology 4 Schools, as well as other recognised security standards in Australia.