



Government  
of South Australia

SafeWork SA

# Application for proposed **ENFORCEABLE UNDERTAKING**

The commitments in this undertaking are offered to the regulator by

**DEPARTMENT FOR EDUCATION**

**ABN 60 168 401 578**

The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health and Safety Act 2012* (SA). This information will be managed within the requirements of the current State Government privacy regime.

The terms of an accepted enforceable undertaking are a matter of public record.

When an enforceable undertaking is accepted, notice of the decision to accept it and reasons for that decision will be published by the regulator on the SafeWork SA website within 14 days of the date of the decision.

Enforceable undertakings will not be removed from the public register and will remain on the register after a company or individual has discharged all obligations of the undertaking.

#### COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

## SECTION 1: GENERAL INFORMATION

### 1.1 Details of the person proposing the undertaking

Nominated person: (Point of contact for SWSA communications)	Voula Panayotopoulos, Director, Work Health and Safety
Street address:	31 Flinders Street, Adelaide 5000
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Telephone:	8226 0949
Email address:	<a href="mailto:Voula.Panayotopoulos@sa.gov.au">Voula.Panayotopoulos@sa.gov.au</a>
Legal structure:	State Government Department
Type of business:	State Government Department
Commencement date:	TBC
Workers:	As at 30 June 2022: Department employees: 28989
	Casual workers: 2279
	Total employees:31268

Products and services:	Public Education
Comments:	<p>The Department for Education provides integrated, high-quality services to South Australian children and young people across early childhood, education, and training.</p> <p>We support young South Australians through their education and transition to adulthood, in all communities.</p> <p>The public education system anchors its strategies through 6 key levers, being:</p> <ul style="list-style-type: none"> <li>- Expert teachers</li> <li>- Quality leadership</li> <li>- Engaged parents and communities</li> <li>- Stronger services</li> <li>- Resourcing and investment</li> <li>- Accountability and support</li> </ul> <p>The department has circa 1,000 sites across the State responsible for providing quality education in pre-school, primary and secondary settings across metropolitan Adelaide and regional South Australia.</p> <p>A child's first 5 years builds the foundational skills and abilities they need to be successful at school and life. As such, the government's Office for the Early Years resides within the department responsible for the work to support parents and their children in these critical years as a single point of leadership across the public sector to improve the proportion of children developmentally on track when starting school.</p> <p>At the other end, the government's Skills and Training function also resides within the department responsible for helping students, business and industry to thrive through skills and vocational education and training.</p> <p>Skills SA works in partnership with learners, business, peak and representative groups and the community to:</p> <ul style="list-style-type: none"> <li>- increase skill levels so that more people have job and career opportunities</li> <li>- enable a quality, accessible and relevant training eco-system</li> <li>- respond to current and emerging skills needs</li> <li>- deliver timely services and supports for our customers, clients and partners</li> <li>- promote VET pathways and make it easier to navigate the options available through VET.</li> </ul>

## 1.2 Details of the alleged contravention

SafeWork SA has alleged that the Department for Education (the department) (as the responsible agency for the Crown) has committed a Category 2 offence under the Work Health and Safety Act 2012 on 27 November 2020 at Urrbrae Agricultural High School in Netherby in the State of South Australia.

The alleged contravention is contrary to section 32 of the Work Health and Safety Act 2012 (the Act). This is a minor indictable offence.

The particular of the alleged contravention is outlined as follows:

1. The department had a health and safety duty:
  - as a person conducting a business or undertaking being the administration, operation and/or management of (Urrbrae Agricultural High School (UAHS) to ensure, so far as reasonably practicable, that the health and safety of persons was not put at risk from work carried out as part of the business or undertaking (s19(2) of the Act).
2. The department failed to comply with that duty:
  - because a person was exposed to a risk to their health and safety by reason that:
    - a Fitme Pty Ltd was located on a mezzanine within the UAHS gymnasium and was vacating that place.
    - the UAHS Facilities Manager (an employee of the department) was asked by employees of the department (Management of UAHS) to assist in work removing items from the mezzanine level to the ground level (the work task);
    - the Facilities Manager had as part of their duties available to them equipment, being a forklift, pallet and angle grinder.
    - to assist in the removal of items from the mezzanine, the Facilities Manager cut and removed a section of protective edging (fence) from an elevated walkway which created an unprotected edge (the unprotected edge), so as to facilitate a forklift positioning a pallet on the walkway on which items were to be placed.
    - the Facilities Manager thereafter operated the forklift so as to position the pallet on the elevated walkway.
    - persons, including the injured person, were working proximate to the unprotected edge placing items onto the pallet which exposed persons to a fall risk.
3. The department failed to comply with its health and safety duty because it failed, so far as was reasonably practicable to provide and maintain a safe system of work to minimise risks to health and safety of persons from work it carried out by reason that it failed to:
  - countermand the work method of persons being permitted to work on an elevated walkway with an unprotected edge; and/or
  - require the Facilities Manager to identify to their managers the work method proposed to be used for their approval prior to it being implemented; and/or
  - require the Facilities Manager to present to their managers a Job Safety Analysis of the work task and methods for their approval which identified:
    - alternative work methods to the use of a forklift and pallet that could be adopted that minimised a fall risk to persons; and/or
    - alternative work methods using the forklift and pallet that did not require the creation of an unprotected edge (such as the
    - cutting of only part of the edge protection so that a top rail was maintained), and/or
    - control measures for the proposed work method that needed to be taken to minimise the risk to persons proximate to the unprotected edge such as safety equipment, instruction, and supervision; and/or
  - prior to the Facilities Manager using a forklift and pallet to move items from the elevated walkway with an unprotected edge (and otherwise while he continued to do so) ensure that:
    - warning signs and/or bunting were installed on the elevated walkway

and at the external access to the elevated walkway, from the gymnasium to inform or remind workers of the hazard of the unprotected edge; and/or

4. The department failed to comply with its health and safety duty because it failed, so far as was reasonably practicable to provide such information, training, instruction, or supervision that was necessary to minimise risks to health and safety from work it carried out by reason that it failed to ensure that the Facilities Manager was supervised prior to work being undertaken on the elevated walkway (including cutting and removing the edge protection (fence) from the elevated walkway).
5. The department's failure to comply with its health and safety duty exposed an individual to a risk of death or serious injury:
  - o being the risk arising from falling from a height of 3.2: metres from the elevated walkway to the paved surface below.
  - o which risk materialised when the injured person, while carrying a load, fell from the unprotected edge on the elevated walkway, causing serious injuries requiring hospitalisation for a period of more than a month.

### 1.3 Detail the events surrounding the alleged contravention

On 27 November 2020, an incident occurred at Urrbrae Agricultural High School (UAHS) while a third-party Fitme Pty Ltd was removing its equipment from a space it leased from the school gymnasium.

The incident involved a fall from a height, resulting in an injury to one of Fitme Pty Ltd.'s patrons. The injured party was acting in a voluntary capacity, at the request of the Fitme Pty Ltd.'s franchisee, to remove gym equipment.

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

Tick if there were no notices issued by SWSA in relation to the contravention

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice
27/11/2020	WHSPN	310252	Stop the activity of the use of the gymnasium fire exit external walkway.	With approval from SafeWork SA, the walkway was demolished.
27/11/2020	WHSNDN	308301	Ensure no access or use of the fire exit external walkway to occur until such time that a SafeWork SA Inspector releases the site.	With approval from SafeWork SA, the walkway was demolished.

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

The injured party, who was a volunteer of Fitme Pty Ltd., sustained damaged vertebrae requiring surgery, hearing loss and as a consequence continues to endure tinnitus, restricted movement and short term memory loss.

1.6 Detail the employment status and the workers' compensation or other 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 – as a volunteer engaged by Fitme Pty Ltd to assist them in removing their equipment the injured person does not have a claim for workers compensation, but the department has provided him with information regarding his legal right to compensation.
- not applicable

Status: Add status of claim and level of recovery/return

*(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 person to the injured person and/or family or other/s

Date	Description of support	Comments
<p><b>27/11/2020 (and ongoing)</b></p>	<p>First aid was provided to the injured person.</p> <p>Critical incident support was provided to workers involved in the incident including the offer of counselling.</p> <p>The department continues to fund and provide legal representation as required for relevant workers.</p> <p>The department continues to provide direct support to the UAHS Principal, Deputy Principal, Business Manager and Facilities Manager. This includes support immediately after the incident and further advice regarding resolution of actions identified after the incident.</p>	<p>The department continues to provide support to the site and workers impacted by the alleged contravention.</p>
<p><b>August 2023</b></p>	<p>The injured person has been contacted by the department to offer ongoing assistance and information regarding the initiatives contained within this undertaking.</p> <p>In addition the injured person has been provided with information regarding the process to seek compensation.</p>	

## 1.8 Detail any current work, health and safety systems at the workplace

The department has a comprehensive safety management system in place designed to minimise the risk of harm to employees, students, young people, volunteers, and others. The department's safety system aligns with the whole of government strategy "Building Safety Excellence in the Public Sector".

The system includes:

- A Work health and safety policy outlining the department's commitment to creating a safe and healthy work environment for all workers and others.
- Clear and defined WHS roles and responsibilities.
- A risk management program which identifies the key risks within the department and provides direction on key risk controls.
- Hazard identification and risk assessment procedures designed to ensure hazards are well identified and controls can be easily understood and implemented at the local level.
- Information, instruction and training to ensure that all workers acquire the knowledge, skills and understanding necessary to perform their tasks effectively.
- Methods of consultation and communication.
- Incident response, investigation and reporting systems so that all workers are able to report near misses, hazards, incidents, and injuries.
- Evaluation and continuous improvement including internal and external audits, site reviews to guide improvement in safety practices and operational requirements.

The department's Safety management procedure articulates the safety management system. Further guidance is provided on the department's intranet to assist in the implementation of system requirements at every site within the department.

Each of the department's key WHS risks and their associated controls are detailed on the internal departmental intranet. Sites are required to implement controls for each key risk.

System compliance is undertaken in a variety of ways including through the department's WHS internal audit program and external audits managed through Office for the Commissioner for Public Sector Employment. In addition, compliance is also conducted using the department's annual school compliance report and the online Safety, Task and Action Reporting system (STAR).

STAR is an online system designed to assist site leaders manage their work health and safety risks. It contains an annual schedule of checks for risk controls of the site's key WHS risks.

The WHS unit also developed an internal technology platform to assist in monitoring trends and key safety tasks. It provides the ability to record and monitor advice provided to key stakeholders including workers, site leaders and executives.



## 1.9 Detail the level of auditing currently undertaken on the work, health and safety systems referred to in term 1.8, including compliance audits and audit frequency

The department is subject to both internal and external audit programs.

The department's WHS internal audit is a risk based program designed to align with the WHS Act 2012 (SA), AS45001 Safety Management Systems, AS19011 Guidelines for auditing management systems, OCPSE Building Safety Excellence and the department's WHS safety management system.

The external audit program was conducted by external auditors from Deloitte on behalf of the Office of the Commissioner for Public Sector Employment (OCPSE). These external audits have included:

- WHS management system audit
- Psychological Safety audit
- Electrical compliance audit

The WHS internal audit program consists of 4 elements:

- audit of WHS responses from the Annual School Compliance Report
- audit of STAR task site level outcomes for high priority WHS risks and control
- technical site audits being conducted on a scheduled basis for sites with specific facilities.
- audit verification conducted by accredited WHS auditors from within the WHS directorate.

All (100%) sites are audited each year utilising the information obtained from the Annual School Compliance Report and the STAR system. Subsequently, 10% of site audits are verified by attendance of trained WHS auditors at the sites.

The internal audit aims to verify the implementation of safety management system requirements as identified under the Safety Management procedure.

The Internal Audit Schedule is reviewed on an annual basis incorporating:

- a review of high priority WHS risks to be audited
- analysis of injury and hazard data to assist with the identification of additional audit subjects
- review of the results from the previous internal audits
- any emerging issues or risks
- review of other audit results such as AVS or other external audit results
- review of the commencement date and duration for the 3 year cycle of the risk based internal audits
- consideration regarding internal and/or external resource requirements.

Liaison and/or consultation with key stakeholders including Education Directors, Unions, Health and Safety Representatives, and the department's WHS Peak Operational Committee.

The external audit program comprises an online self-assessment tool consisting of a series of questions aligned to the Public Sector's Building Safety Excellence (BSE) strategy and a verification process undertaken by the external auditors at the site level.

Agencies are measured against four levels of maturity classification consisting of 'Reactive', 'Calculative', 'Proactive' and 'Safety Leader'.

In regard to the WHS Management Audit, the department was identified as performing at the maturity level of 'Proactive' for Safety Leadership and Risk Management and, 'Safety Leader' for Wellbeing & Engagement and Performance Measurement.

In August 2018, Deloitte conducted a Psychosocial Risk Audit on behalf of OCPSE and assessed the department as a 'Safety leader'.

The findings stated that the department had a strong commitment to managing psychosocial risk at an operational and strategic level and there was a good understanding of the psychosocial risks associated with the work conducted by staff.

There were many control measures implemented, including access to information and services relating to psychosocial risk and wellbeing via the department's intranet site.

The department's electrical hazard management processes were audited by Deloitte as part of OCPSE's Audit and Verification System (AVS) in 2022. The primary objective of the audit was to ensure that the department was adequately addressing the risk of electricity and had appropriate controls in place.

The corrective actions from this audit were predominantly related to the dissemination of information regarding electrical incidents to the WHS Peak Operational Committee. Also, it was recommended that the risk of electricity be scheduled for inclusion as part of the WHS risk review program. All identified corrective actions have been addressed.

#### 1.10 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

The Office for the Minister for Education, Training & Skills has been advised that the department is seeking to enter into an Enforceable Undertaking.

The Chief Executive Officer, the Deputy Chief Executive – Strategy & Corporate Services and the Chief Operating Officer have been consulted at various stages throughout the process to develop this undertaking.

The Senior Executive Group and Education Directors have also been advised of the incident, and that the department is seeking to enter into an Enforceable Undertaking.

Relevant members of the Senior Executive Group have been consulted as specific to their area of responsibility where required. The department will continue to ensure that they are informed of the outcomes of the Enforceable Undertaking.

The members of the department's Work Health and Safety Peak Operational Committee have also been advised of the incident that has led to this Enforceable Undertaking. The Committee will disseminate appropriate information relating to this undertaking more broadly to all departmental employees.

The department commits to consult with the Committee in relation to the obligations and outcomes set out in this document.

The department's Legal Services Unit has been advised of this matter.

Urrbrae Agricultural High School leadership will continue to be consulted with and supported by the department.

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

Given the scope of the department, and therefore the necessity to delegate responsibilities within the department's safety management system to the local level, the following rectifications have been implemented immediately by the department following the incident to strengthen governance and support.

The department chose to commence rectification work immediately to minimise, so far as is reasonably practicable, any future incidents.

### **Restructure of Work Health & Safety Unit (WHS Unit)**

The department's corporate WHS unit was restructured to ensure the unit's resources were deployed in the most effective manner.

The new structure ensures the unit can meet operational and strategic demands.

### **Additional advisor to WHS Directorate**

An additional role (ASO4) was created in the Work Health and Safety unit to strengthen resources and ensure the unit could meet the needs of stakeholders.

The total amount spent on the additional role and associated costs was **\$96,000** per annum. This role is exclusively a safety role and involves the provision of work health and safety advice to workers at sites. The role also assists with the development and implementation of the WHS internal audit program. The role also analyses incident data to identify emerging trends to facilitate risk reduction programs.

### **WHS risk review process**

The WHS Unit engaged an external safety consultant to conduct a detailed analysis of injury, incident, and claims data to verify the department's risk profile.

This information will be incorporated into the department's risk review program to ensure the department understands its current risk profile and has appropriate controls in place to deal with these risks and create a safer workplace.

The total amount spent on this initiative was **\$33,000**.

### **Directorate online work and project platform**

The Work Health and Safety unit developed a specific online internal technology platform to ensure the unit could achieve:

- improved oversight and monitoring of all activities
- improved oversight and tracking of interaction with stakeholders
- monitoring and tracking of workflows
- effective communication within the unit
- consistent delivery of messages to all stakeholders

The total amount spent on the online work and project platform was **\$10,000**.

### **Work Health and Safety training review**

The Work Health and Safety unit engaged a contractor to audit and evaluate the department's WHS training program to ensure that:

- the department continues to meet legislative requirements
- employees are provided with a comprehensive and appropriate WHS training program to protect them from the department's WHS risks

- training content is up to date, fit for purpose and accessible
- the WHS training program is effectively communicated to employees
- to ensure training requirements are monitored and followed up.

The review identified:

- areas of good practice
- key findings
- gaps in existing training
- areas for improvement.

Recommendations were made based on the identified gaps against legislative requirements, the department's 21 high-priority risks, incident data, injury management data, training records, and WHS training in other jurisdictions.

Improvements will enhance the effectiveness of WHS training and induction and strengthen processes and good practice. Further, improvements will enhance the effectiveness of the safety management system through successful implementation of the training program and compliance with legislation.

Some of the key recommendations for improvement are outlined under the 'planned initiatives' header that follows.

The total amount spent on the WHS training review was **\$126,000**.

### **Redesign of the WHS Internal Audit Program**

The WHS Internal Audit Program was completely redesigned to make the process more streamlined and efficient.

The new WHS Internal Audit Program audits the department's WHS risks over a 3-year cycle with selected risks being audited each year. Sites are audited by specialist auditors and 10% of audits are verified.

The WHS internal audits verify the implementation and effectiveness of the WHS management system and allow the department to identify opportunities for improvement. They also contribute towards the department's overall governance framework.

All participating sites receive their individual audit report, together with a list of their corrective actions, within 24 hours of the audit. Sites are then monitored to ensure they address and close-out any non-conformances within prescribed timeframes.

Education Directors, as the line managers of site leaders, receive a summary report of the findings from these audits. This assists them to exercise their due diligence through increased awareness and understanding of the risks and performance of sites within their portfolios.

As part of the audit process, WHS Business Partners actively engage with Education and Corporate Directors to ensure key learnings obtained from the audits are communicated and result in meaningful improvement to safety outcomes.

The redesigned audit program has led to a significant increase in the level of engagement of leaders within the organisation and greater consultation in relation to safety.

The costs of conducting the audit program from November 2020 to date are **\$30,000**.

### **Online Work Health and Safety reporting platform**

The department has committed to the development of a new WHS incident reporting platform. The new system, known as Incident 360, will provide the department with improved oversight and visibility of locally reported hazards, incidents and injuries at department workplaces. The new system will allow sites, including UAHS, to monitor trends and respond to incidents in a timely manner at the local level.

The new platform will cover all the department's sites (approximately 1000) and all (approximately) 31,000 employees with the intention of providing user friendly system access to all levels of employees. It is anticipated that each worker, and in turn each site, will be in a better position to identify and effectively manage risk, so far as is reasonably practicable.

The new system will enable more timely hazard reporting and ensure the requirements of the safety management system are implemented more effectively and efficiently. The new system will:

- enable employees to report safety incidents online and via portable devices
- allow for better incident investigation and management
- provide the department with better oversight of WHS risks at site and corporate level.
- allow the department to identify, monitor, and report on trends
- allow sites to actively and effectively manage WHS risk

The system is planned for launch in the 2024 school year (contingent on pilot and business acceptance of the final product).

The total amount spent on the new online WHS reporting platform (as at September 2022) was **\$750,000**.

A further \$447,000 has been spent on the system (as at September 2023).

It projected a further \$1.9 million will be spent on development and full implementation.

### **Playground and outdoor learning environment safety**

The department's data indicates that injuries to children caused by falls predominantly occur in playgrounds.

The department has extended its partnership with Kidsafe SA (an accredited playground safety training and inspection provider) to conduct comprehensive playground inspections and training services at department sites, as part of the department's strategy to manage the risk of falls from height.

The purpose of the playground safety inspections is to identify, risk assess, and rectify any hazards that could present risks to children. The agreement with Kidsafe SA provides services to schools and preschools which in turn benefits the local community who use the department's facilities.

The service agreement delivers:

- comprehensive annual inspections of playgrounds by the service provider
- written inspection reports for all annual inspections
- accredited training to sites to enable them to inspect their own playgrounds at regular prescribed intervals
- an advisory service to department sites

The cost of this agreement is **\$220,000 per annum**.

**SiSU health stations program**

In 2022, the department partnered with SiSU Health Group to provide a number of mobile health stations to participating workplaces. The purpose of the program was to offer employees an opportunity to take a proactive approach to the management of their physical and psychological health.

The SiSU health stations provide information to help employees make informed decisions about their health and lifestyle. They measure the user's weight, height, blood pressure, body mass index, heart rate, diabetes risk level and stress level.

Employees who used the health stations received a confidential report. If an adverse result was identified, the report included a recommendation that they consult a medical practitioner.

A de-identified report was provided to the department by SiSU Health Group each month. This assisted the department to develop improvement strategies targeting the wellbeing and health of employees.

The total amount spent on health stations was **\$78,000**.

## SECTION 2: GENERAL TERMS

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

### 2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

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

### 2.2 Statement of regret that the alleged contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the alleged contravention than a court-imposed sanction

The department sincerely regrets the alleged contravention.

The department considers this Enforceable Undertaking as an opportunity to ensure that system-wide improvements identified to mitigate risk are visible and transparent.

It will enable the department to direct its energies and resources into system improvements, benefitting all sites of operation and workers.

The department recognises the significance, relevance, and the potential for industry wide benefits from the learnings connected with this alleged contravention. The department is committed to understanding and communicating the learnings specifically with regard to risk assessments, risk of falls, developing safe systems of work and provision of information, instruction, training and supervision within the department and more broadly within the industry. These learnings will be communicated to workers, industry and community through this Enforceable Undertaking. For this reason the department considers this a more appropriate and effective response than a court-imposed sanction.

### 2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the alleged contravention has ceased and will not reoccur

The department confirms this activity has ceased at UAHS.

The department is committed to ongoing compliance with all obligations under the Act and considers this as an opportunity to make broader improvements to the department's work health and safety management system.

Since the incident, the department has implemented actions (noted in this document) and continues to strengthen its processes to ensure WHS requirements are implemented effectively at all workplaces.

The department is confident that the implementation of measures included in this EU will significantly minimise or eliminate the risk of this type of incident occurring again.

The auditing, increased awareness and new review processes for safety management outlined in this EU will address the factors that led to this incident. The department is committed to ensuring alleged contraventions of this nature do not occur in the future.

#### 2.4 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: Version 1

Dated: June 2018

#### 2.5 Acknowledgement that this undertaking may be published and publicised

The department acknowledges that the undertaking may be published on the SafeWork SA website and referenced in SafeWork SA material.

The department acknowledges that the undertaking may be publicised in newspapers.

#### 2.6 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

The Crown in the right of South Australia has the financial ability to comply with the terms of this undertaking.

#### 2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

The department has an agreement with Kidsafe SA to provide services to reduce the risk of serious injury in play spaces, whilst supporting children's development, learning, health and wellbeing. Kidsafe SA are an independent, not-for-profit organisation specialising in child safety and injury prevention. Kidsafe SA are part of a national network of independent Kidsafe organisations.

#### 2.8 Statement regarding Intellectual Property Licence

The department grants SafeWork SA access to review any materials internally developed as a result of this undertaking.

Any review of Salesforce will be subject to appropriate confidentially arrangements.

#### 2.9 Acknowledgement that the person may be required to provide a statutory declaration

Has SafeWork SA requested a statutory declaration outlining details of any prior work



health and safety convictions<sup>1</sup>, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under work health and safety legislation or work health and safety related legislation?

YES

NO

## 2.10 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

It is acknowledged that the regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.

Cooperation will be given to allow the regulator's officers to assess compliance including giving access to relevant material (evidence of compliance).

It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.

## 2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

The department is committed to discharging its obligation under The Act and this commitment is reinforced by:

- The rectification referred to in clause 1.11; and
- Undertakings made in this document

## 2.12 A commitment regarding linking the promotion of benefits by the person to this undertaking

The department realises the relevance of lessons learnt from this incident and is committed to improving the implementation of its safety management system.

<sup>1</sup> Subject to any local legal constraints such as spent conviction legislation.

## SECTION 3: ENFORCEABLE TERMS

The department 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 department 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)

Dissemination will be achieved via the following:

- WHS Peak Operational Committee – the committee will distribute information regarding the outcome of this undertaking as relevant
- Senior Executive Group (SEG) – the SEG will be informed of the outcomes of this undertaking
- Education Directors – as line managers of Principals and Preschool Directors this leadership cohort will be informed of the outcomes of this undertaking, and will ensure they are aware of the key lessons and how this applies across all sites
- Site Leaders – as line managers of Groundspersons this leadership cohort will be informed of the outcomes of this undertaking and distribute information regarding the outcome of this undertaking as relevant.

### 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 data-bbox="220 1697 284 1731"><b>3.2.1</b></p> <p data-bbox="304 1451 687 1485">New WHS training initiatives:</p> <p data-bbox="304 1518 911 2022">The department has implemented new WHS training resources which are detailed below. These training resources will provide workers at department sites with additional training and information about WHS risks associated with their roles and assist them to identify WHS risks and control them. The additional training resources are targeted at the risks involved in this incident. The focus of the training is risk assessment, working at heights and working with high risk machinery. There is also a focus on the provision of information, instruction and training. The aim is to make this available to all 31,000 department employees.</p> <p data-bbox="304 2045 868 2101">As an outcome of the review, the following training initiatives were recommended, and</p>		

	<p>are to be implemented as an ongoing commitment beyond the life of this enforceable undertaking:</p>		<p>24 months from acceptance</p>
3.2.1.a.	<p><b>Grounds person</b>  The existing grounds person training course has been improved and updated so that it better aligns with department standards and procedures relating to WHS risks. Changes include the provision of information in relation to working from heights, machinery and equipment and electrical safety – specific to the learnings from this incident. The focus of the training will be on individual decision making, roles and responsibilities and how to get help and how to engage with third parties.</p> <p>It will be delivered by an expert contractor and has been reviewed by TAFE to ensure it meets tertiary expectations. This training is provided as an ongoing commitment by the department.</p> <p>The department will provide Safework SA with a report on the location and number of training sessions delivered.</p>	<p>\$20,680</p>	<p>24 months from acceptance</p>
3.2.1.b.	<p><b>Contractor Management training</b>  The department will develop training to ensure workers are aware of their responsibilities to implement safe systems of work when engaging contractors. The training will include information regarding the engagement of a suitable contractor when working from heights is required. The training will be face to face and also available online via a webinar and delivered to department workers who are responsible for engaging contractors.</p> <p>SafeWork will be provided with the webinar link and invited to attend.</p>	<p>\$20,000</p>	
3.2.1.c	<p><b>WHS training for work placement students</b>  To embed safety culture from in the emerging workforce the department will provide focused WHS education to students to prepare them for work placement. The WorkPRO program educates students about their rights and responsibilities during workplace learning. Linking to the learnings</p>	<p>Internal costs only</p>	

from the incident, this training will be updated to address when to speak up and how to get help.

The program includes 12 modules that cover what a student needs to know to keep themselves and others safe while participating in workplace learning:

- Getting ready
- Speaking up
- Rights and responsibilities
- Laws and rules
- Hazards
- Risk assessments
- Chemicals
- Communication
- Manual handling and ergonomics
- Personal protective equipment
- Handling unusual situations
- Mental health
- What's next

The program encourages students to speak up in the event that they identify a WHS concern. They are provided with information about their WHS rights and responsibilities and they are encouraged to communicate with others about WHS. Further they are also reminded that it is everyone's responsibility to promote continuous improvement in the management of WHS.

This program was established in consultation with SafeWork SA and evidence will be provided to SafeWork of the updated training.

### 3.2.2

#### **WHS Training Officer**

Recruit, engage and retain a WHS training officer who will assist with the development, implementation, and review of WHS training initiatives as detailed below.

This new training role will be a resource exclusively based within the department's corporate WHS unit and duties will include the identification and management of appropriate WHS training as detailed in this document. This will promote improved safety knowledge in the workplace leading to better

\$102,000

6 months from acceptance

	<p>safety outcomes. This role will be ongoing with the outcome of effectively managing and addressing WHS training needs. This role is a commitment made subject to agreement of this undertaking.</p>		
<p><b>3.2.3</b></p>	<p><b>Playground and outdoor learning environment safety inspections</b>  Department data indicates that the majority of student injuries from falls occur in playgrounds.</p> <p>The department has extended its partnership with Kidsafe SA to reduce the risk of serious injury from falls in play spaces.</p> <p>Kidsafe SA are an independent, not-for-profit organisation specialising in child safety and injury prevention. Kidsafe SA are part of a national network of independent Kidsafe organisations.</p> <p>The Kidsafe SA Playground Advisory Unit provides a range of services to reduce the risk of serious injury in play spaces, whilst supporting children’s development, learning, health and wellbeing. Kidsafe SA’s playground inspectors are experienced in assessing and reporting according to the Australian Standards relating to playgrounds (AS 4685:2021, 2017 Playground equipment and surfacing, AS 4422:2016 Playground surfacing.)</p> <p>Under the service agreement, Kidsafe SA delivers:</p> <ul style="list-style-type: none"> <li>• comprehensive annual inspections of playgrounds to identify any hazards relating to the design, installation, maintenance and environmental conditions of play spaces</li> <li>• accredited training to sites to enable them to inspect their playgrounds at regular prescribed intervals</li> <li>• advice and support to sites on matters relating to playground safety</li> </ul> <p>These services are centrally funded and provided at no cost to schools and preschools.</p> <p>This initiative aims to use the learnings from the incident regarding falls from heights and broaden the safety response beyond grounds persons to one of the department’s key falls risks – students.</p> <p>The department will provide SafeWork with a report summarising the services provided by Kidsafe SA</p>	<p>\$220,000</p>	<p>2024</p>

3.2.4	<p><b>External Review - Risk of Falls</b></p> <p>The department will engage an external expert safety contractor to conduct a review of the risks and control strategies that are in place regarding working at heights. The external consultant will prepare a report with recommendations. These recommendations will be considered by the department. The department will then provide SafeWork with a summary of the recommended actions.</p>	\$50,000	12 months from acceptance
Total minimum cost of benefits for workers/others		\$412,680	

### 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

Activities	Minimum cost	Timeframe
3.3.1	<p>To promote awareness of legal responsibilities in relation to working from heights, the department will present a mock trial and invite Catholic Education SA (CESA) and the Association of Independent Schools of SA (AISSA) to participate.</p> <p>The aim of the mock trial will be to share the department's learnings regarding working at heights and risk assessments with the industry to minimise this type of incident occurring across the sector. Two sessions will be run over the life of the EU.</p> <p>The department is willing to run this in conjunction with SafeWork Month subject to agreement. A report summarising attendance numbers will be provided to Safework SA following delivery.</p>	<p>\$ 25,000</p> <p>12 months from acceptance</p>
3.3.2	<p>The department will facilitate a regular WHS system presentation to Ventia Australia, the department's preventative and scheduled maintenance contract service provider. The aim of the sessions will be to ensure a shared understanding between the department and the key contract service provider regarding their joint responsibilities under WHS legislation and share the learnings from this incident. The focus will be on the responsibilities relating to contractor management to ensure both parties engage in meaningful consultation to eliminate or minimise WHS risks as far as is reasonably practicable.</p>	<p>\$ 942</p> <p>6 months from acceptance</p>

	The presentation content will be provided to SafeWork SA.		
	<p>The department met with Ventia Australia, on Friday, 3<sup>rd</sup> February 2023. A follow-up meeting is scheduled for the second half of 2023.</p> <p>At the meeting, the department was represented by 2 members of staff from Assets and Facilities Management and 3 from the WHS Directorate. Ventia Australia was represented by 3 members of staff.</p> <p>Ventia Australia shared information on their vetting processes for prospective contractors, incident reporting system and ongoing on-site safety checks used to verify safety compliance by contractors engaged to do works at departmental sites.</p>		
3.3.3.	<p><b>Training – Instructional Video – working at heights</b></p> <p>The department will commit to the development of an instructional/ educational video on the general risks associated with working at heights to educate on the learnings from the incident and in so doing minimise the risk of this type of incident in the future.</p> <p>The department will share this video with SafeWork SA and the following industry participants:</p> <ul style="list-style-type: none"> <li>• Independent Schools Association of SA;</li> <li>• Catholic Education of South Australia;</li> <li>• Return to Work SA;</li> <li>• Business SA; and</li> <li>• Self-Insurer’s Association of SA.</li> </ul>	\$20,000	12 months from acceptance
Total minimum cost of benefits for industry		\$ 45,942	





<p><b>3.4.3</b></p>	<p>The department will be involved in the planning of 2 Principal's Tours of the school per year.</p> <p>These events are attended by members of the public, parents of students and parents of prospective students and covers approximately 100 families on each occasion.</p> <p>Events include tours of the site to demonstrate site machinery and equipment, farming techniques, products, animal handling, buildings and grounds. Information will be provided about the safe use of machinery and equipment.</p> <p>The WHS Unit will provide support to UAHS during the development of the event management plan and ensure that all activities are risk assessed and appropriate controls are in place.</p> <p>This will be an opportunity to build the capacity of UAHS in relation to event planning and management, identification and control of WHS risks and ensure continuous improvement and address a key learning from the incident in relation to risk assessment and planning.</p> <p>The WHS Unit will provide evidence of the risk assessment process undertaken following these two events.</p>	<p>\$ 5,000</p>	<p>12 months from acceptance</p>
<p>Total minimum cost of benefits for the community</p>		<p>\$ 68,255</p>	

### 3.5 Agreement to pay the regulator's costs

3.5.1 Agreement is given 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	\$ 1,200.00
Compliance monitoring costs	\$ 4,945.00
Publication costs	\$ NIL
Total Amount	\$ 6,145.00

### 3.6 Minimum spend

3.6.1 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)

Estimated total value of	Minimum spend
Benefits to workers/others	\$412,680
Benefits to industry	\$ 45,942
Benefits to community	\$ 68,255
Regulator costs	\$ 6,145
Estimated total minimum spend for the undertaking	\$533,022 including Regulator costs

3.6.2 The Department agrees to spend any residual amount arising from the total minimum spend value not being met. Agreement on how to spend this residual will be sought from the regulator.

### 3.7 A commitment to maintain a work, health and safety management system (WHSMS)

The Work Health and Safety unit has responsibility for the safety management system. The system is audited and meets legislative requirements. The department commits to continuously improve those systems and ensure sites such as UAHS implement those systems effectively.

The Senior Executive Group provides leadership on strategic priorities, strategies, and initiatives. Members of the Senior Executive Group, and corporate and education directors have oversight to meet the department's duty of care obligations. It does so by:

- demonstrating safety leadership by promoting a positive safety culture
- ensuring adequate resources and support are provided to sites to safely perform job roles
- monitoring causes of serious injuries and ensuring that appropriate actions have been implemented to prevent reoccurrence.

### 3.8 A commitment to ensure the WHSMS is audited by third party auditors

Details of the auditor's qualifications against the stated requirements will be provided with audit reports submitted to the regulator.

### 3.9 A commitment to provide a copy of each finalised WHSMS audit report to the regulator

3.9.1 It is acknowledged that audit reports received from the auditor will be sent to the regulator within 30 days of the audit along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

3.9.2 It is acknowledged 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.

### 3.10 A commitment to implement the recommendations from these audits (unless otherwise negotiated with the regulator)

3.10.1 The recommendations resulting from the WHSMS audit will be implemented within a reasonable timeframe of receiving the audit report, unless the regulator offers a variation of the undertaking due to the actions being unreasonable.

## SECTION 4: OFFER OF UNDERTAKING

### EITHER

I offer this undertaking and commit to the terms herein.

Signed  \_\_\_\_\_  
[Person]

Voula Panayotopoulos

\_\_\_\_\_  
[Print name]

Director, Work Health and Safety

\_\_\_\_\_  
[Position]

Dated at Adelaide this 02/02/2024

### OR

As a duly authorised person of Enter name of person I offer this undertaking and commit Enter name of person to the terms herein.

Signed: \_\_\_\_\_  
[Duly Authorised Person]

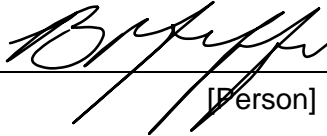
\_\_\_\_\_  
[Print name]

\_\_\_\_\_  
[Position]

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

## 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]

**Brett Pfeffer**

\_\_\_\_\_  
[Print name]

**Director, Compliance and Enforcement Directorate**

\_\_\_\_\_  
[Position]

Dated at Keswick this 26 day of March 2024



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safeworksa



**Government of South Australia**  
SafeWork SA