

Farming Out

When there's more work on your plate than you can handle, sometimes you need to call on others to give you a hand. If you're subcontracting work to another aviation operator, what do you need to consider to comply with health and safety law?

Whether you call it farming out, or simply subcontracting, your health and safety responsibilities don't end there.

It's essential to have your own internal health and safety processes. But it's just as important to ensure that the operators you are working with also have strong health and safety processes.

All parties in a subcontracting arrangement need to be on the same page about health and safety, including the main contractor, subcontractor, and the client (often a farmer).

CAA Manager Health and Safety Riki Tahau says there is currently a gap between some operators' robust internal health and safety systems, and the process for ensuring that their subcontractors also have one.

This affects all sizes of operations. It could be a small helicopter operator that needs help to complete a job. So, they call on another operator nearby. While it may be a quick job to complete, it could still be high risk. The same considerations towards health and safety need to be made as for a larger job.

"They have a duty to do more than just call on another pilot to do the job," says Riki.

At the same time, it's important to ensure that you're in compliance with the Civil Aviation Rules when working with subcontractors.

For example, if you're a Part 137 operator and plan to bring in another operator's aircraft under your certificate, the aircraft must be added to your Approvals Specification. This must be accepted by the CAA before work begins.

Alternatively, if the subcontractor is operating under their own certificate while assisting you, then separate approval is not required.

Riki recommends that operators select a contractor that has the right knowledge and skills to undertake the job in a safe way. They should ensure that they have a good risk assessment process to understand what the risks and hazards are, and the ability to manage them.

Overlapping duties

When multiple operators work together, there can be an overlap in health and safety duties. While they have individual health and safety responsibilities, they also need to work together to cover areas where more than one operator has control or influence over the work being undertaken.

Under the Health and Safety at Work Act 2015 (HSWA), the person conducting a business or undertaking (PCBU) must ensure, as far as is reasonably practicable, the health and safety of their workers – whether they are direct employees or subcontractors.

Wires are a significant hazard in agricultural aviation, and need to be included in worksite risk assessments. In 2017 there were five agricultural wire strikes or near-collisions reported. Two have been reported so far in 2018.

For more on wire strike avoidance, see www.caa.govt.nz/wires.

The PCBU is also required to *consult, cooperate, and coordinate* with other PCBUs involved in a job, about risks and hazards that may be encountered while performing the work. These are known as the ‘three Cs’.

By following the three Cs, it’s possible to determine where there are gaps in knowledge or understanding about risks, such as wires on worksites, and the skills to manage them.

PCBUs can establish roles and responsibilities around training, information, and supervision. These can be broken up and shared between the operators. For example, training could be the responsibility of the company being contracted, while information could be the responsibility of the client.

Regardless of the split in responsibilities, pilots directly undertaking work ought to ask about potential hazards. Do a risk assessment upfront, with the main contractor and the client.

“Have a list of questions,” says Riki. “Where can I refuel? Where don’t you want me to go? Is there any other work going on around here? Are there any wires or other hazards?”

“There can be hazards all over the place – wires on the property, ground conditions, terrain, and structures.”

Other work in the area can also be hazardous, such as another pilot flying close by.

Sharing knowledge

If you know about a wire across a valley, for instance, share that knowledge – don’t assume others are aware it’s there.

“In the event of an accident,” Riki says, “we would question why the primary operator didn’t let their subcontractors know about the wires, we would question why the farmer didn’t let them know, and we would also question why the pilot didn’t ask the farmer.

“There’s an overlap in responsibility. In the overlap everyone has a duty to do what’s right. Doing what’s right is letting everyone else know what can hurt them.

“It’s about sharing knowledge and expertise, and not just assuming the other parties will know, or see, the potential dangers on a job.

“It’s important to remember that operators have duties to all workers and others affected by their work – not just those they directly employ.”

Interface agreements

A good way to capture overlapping duties is within a contract between operators and subcontractors that clearly identifies who is controlling the various risks at worksites. This is sometimes known as an interface agreement.

Riki says that the interface agreement doesn’t have to be onerous. It can be short and simple. He recommends that the agreement is written down – even if just in an email.

“It makes it clear for each party what their expectations are,” he says.

It’s crucial to iron out how to do these agreements properly before entering into any subcontracting arrangement. Interface agreements are about ensuring that all parties understand their roles and responsibilities around health and safety.

Out of harm’s way

Riki’s most important message is that lives can be saved if time is spent upfront on addressing health and safety, even when your company might not be directly undertaking the work.

It comes down to caring about people.

“You wouldn’t allow your own family to step into anything that could really hurt them. So we shouldn’t reasonably expect anyone else to either.

“If there is threat of serious harm or worse, not only do operators legally need to manage it, but it’s morally the right thing to do.”

More information

For more information on your obligations and responsibilities under the HSWA, see the CAA’s Health and Safety Unit website at www.caa.govt.nz/hsu. The *PCBU – Overlapping duties* fact sheet is available under “Resources > Forms and Guides”.

WorkSafe also has information on overlapping duties and a ‘quick guide’. See worksafe.govt.nz, “Managing health and safety > Getting started > Understanding the law > Overlapping duties”. ■