

Code of Practice

on Chief Executives' and Board of Directors' Workplace Safety and Health Duties



WSH Act already holds CEOs and Board directors liable for WSH lapses

Offences by bodies corporate, etc.

48.—(1) Where an offence under this Act has been committed by a body corporate, an officer of the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless the officer proves that —

- (a) the offence was committed without his or her consent or connivance; and
- (b) he or she had exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the nature of his or her functions in that capacity and to all the circumstances.

[WSH Act Section 48](#) holds “officers” - Chief Executives, Board Directors, partners, association presidents – liable for their workers’ safety and health.

Officers will not be guilty if he/she can prove:

- Offence was committed without their consent or willingness; AND
- They exercised **all such diligence**

Adhering to the ACOP for CEOs & Directors can be a mitigating factor in WSHA prosecution

- Code provides greater clarity on systems and processes that are examples of taking “all due diligence”
- CEOs and Board Directors should follow 4 Principles in the Code
- Evidence of following 4 Principles is based on measures implemented
- CEOs and Board Directors can refer to 17 measures in the Code as examples of how to follow the 4 Principles
- 17 measures are non-exhaustive; companies may adopt other measures to fulfil the Principles too
- Code applies to all companies and partnerships, regardless of industry and size

CEO prosecuted under WSH Act in 2021

AT THE COURTS

Fatal lab explosion: Ex-director of gas supply firm fined \$45k

Shaffiq Alkhatib
Court Correspondent



Gary Choo Pu Chang was fined for failing to take necessary measures to ensure the safety of employees.

The former executive director of an industrial gas supply firm linked to a 2015 fatal blast was fined \$45,000 yesterday for failing to take necessary measures to ensure the safety of employees who were working in a laboratory at its speciality gas centre.

Gary Choo Pu Chang, 64, pleaded guilty on Monday to an offence under the Workplace Safety and Health Act.

The explosion, which ripped through Leeden National Oxygen's laboratory in Tanjong Kling Road in Jurong on Oct 12, 2015, killed chemist Lim Siaw Chian and left seven others injured.

In January last year, the company was fined \$340,000 and Mr Steven Tham Weng Cheong, who was its managing director, was fined \$45,000 over workplace safety lapses.

The company and Mr Tham, then 69, were each convicted of an offence under the Act in December 2020.

Leeden National Oxygen was established on Oct 1, 2014, following the merger of two firms – Leeden and National Oxygen.

Choo resigned on Aug 12, 2015, two months before the fatal blast on Oct 12 that year.

Shortly before the tragedy, Ms Lim was carrying out a gas analysis on a gas cylinder in the laboratory. The initial explosion killed her instantly and injured three of her colleagues who were working nearby. The incident further resulted in injuries to four other employees of Leeden National Oxygen.

In an earlier proceeding, Ministry of Manpower prosecutors Samuel Chia and Khong Zi-Wei told the court that closed-circuit television footage showed that the initial explosion occurred to-

wards the rear of the laboratory. Ms Lim was last seen touching a regulatory valve assembly (RVA) connected to a gas cylinder beside a gas chromatography machine before a bright light appeared.

A forensic assessment later determined that the primary failure was at an unqualified welded joint found in a stem of the RVA, which was attached to a valve of the cylinder.

The prosecutors said: "The failure of the welded joint in the... stem of the RVA was found to have pre-existed but was not prudently checked before usage prior to the incident. The failure... resulted in a leak of flammable methane-oxygen-nitrogen mix."

The court heard that the leak led to an ignition caused by the spontaneous reaction of the leaking gas mixture in the presence of frictional heat generated due to the escaping gas mixture and internal sudden agitation of debris and particulate. The blast happened soon after.

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Case

An explosion occurred in a laboratory, which killed a chemist and injured seven others.

Findings

- Company CEO did not establish safe work procedures, which could have prevented the explosion.
- There was no system set up to periodically test and maintain lab equipment.
- He was informed that the company's gas detection system was unreliable but held off a proposal to revamp the system.

Outcome

The CEO was sentenced to S\$45,000 fine.

(maximum sentence: jailed for up to two years, fined up to S\$200,000, or both)

Court ruled that not following another ACOP suggested failure to fulfil WSHA obligations



Case

An expressway viaduct under construction collapsed; leading to the death of one worker and injuring 10 others.

Findings

Court determined that “deviations from the Approved Code of Practice on Risk Management (RMCP) suggested the company had failed to meet safety standards required under the WSH Act”.

Outcome

S\$1 million fine.

Following ACOPs can support defence under WSHA prosecution

The 4 CORE Principles of the Code

C

Clarity in identifying who among the CE and Board members have WSH responsibilities.

O

Organisational culture where leaders set the tone for WSH.

R

Review WSH management systems to ensure they are highly effective.

E

Empower workers to actively engage in WSH.

CORE

Clarity in identifying who among the CE and Board members have WSH responsibilities.

Measure 1: Assign and document WSH roles and responsibilities of individual Company Director(s).

Examples of what can be done:

- Assign 1 Board Director to be responsible for this Principle and all the measures under it.
- Assign the Chief Executive to be responsible for the ORE Principles and all the measures under it.
- Document this allocation at a Board meeting.
- Communicate this allocation to all staff; eg at townhalls.

Measure 2: Establish the WSH policy, standards and strategic goals for the organisation.

Examples of what can be done:

- Devise a WSH policy & communicate it; eg to strive for zero accidents and to support staff physical & mental well-being, set WSH as important and non-negotiable decisions by management.
- Decide on WSH targets; eg injury rate, % of staff expressing burnout, % of staff that went through workplace health screening & coaching.
- Formulate the strategy to achieve the targets; eg upgrade risk management capability through bizSAFE

CORE

Organisational culture
where leaders set the
tone for WSH.

Measure 3: Publish WSH commitment; review, endorse and track WSH targets and performance regularly.

Examples of what can be done:

- Publish WSH targets and results both internally and externally; eg in website or annual report.

Measure 4: Set WSH as a regular agenda item in Board meetings.

Examples of what can be done:

- Embed WSH as part of the TOR of a Board committee; eg Sustainability Committee.
- Board meetings should discuss strategies to achieve WSH targets, learnings from recent accidents or near misses, training & budget for WSH etc

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Measure 5: Ensure sufficient resource allocation to WSH.

Examples of what can be done:

- Conduct regular risk assessments.
- Provide WSH training.
- Provide personal protective equipment.
- Hire professional advice for WSH issues.
- Set reasonable timeframes for projects, taking into account manpower constraints.

[For companies with manual work]

- Adopt WSH technology and best practices to prevent accidents.

Measure 6: Facilitate direct reporting of WSH issues.

Examples of what can be done:

- Identify the CEO or a Board Director whom staff (including WSH professionals) can report mental stressors, workplace harassment, workplace risks to directly.
- Set up a WSH Committee with representation from management, workers (and union if applicable) as an alternate reporting platform.

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Measure 7: Acquire WSH knowledge.

Examples of what can be done:

- WSH professionals (if available) to brief CEO and Board Directors on risk management.
- Company Directors to attend training & events on latest WSH developments.

[For companies with manual work]

- Subscribe to [WSH Bulletin](#) & share its content among staff.

Measure 8: Conduct engagements to understand processes, workers' concerns, and communicate the need to prioritise WSH.

Examples of what can be done:

- Measure state of mental well-being and discuss ways to improve results regularly; eg with iWorkHealth, pulse surveys, at townhalls.

[For companies with manual work]

- CEO or Board Directors to conduct in-person worksite walkabouts (with union leaders and WSH professionals, if applicable) to understand workers' WSH concerns.

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Measure 9: Set and demand effective WSH standards and performance from vendors and partners.

Examples of what can be done:

- Require all contractors to be at least bizSafe Level 3 accredited.
[For companies with manual work]
- Require all contractors working on your worksites to have no major or fatal injuries in past 3 years; check using [CheckSafe](#).
- Include WSH track record (eg injury-free man-hours) as a criterion in the selecting contractors.

CORE

Review WSH management systems to ensure they are highly effective.

Measure 10: Ensure effectiveness of WSH management systems and maintain oversight of compliance with safe work procedures.

Examples of what can be done:

- Institutionalise regular WSH audits.
- Develop process to share audit findings and improvement plans with all staff.

[For companies with manual work]

- Work with WSH professionals (or union leaders if applicable) to remind workers to follow safe work procedures.

Measure 11: Ensure suitable, adequate and timely risk assessment.

Examples of what can be done:

- CEO or Company Directors to ensure that risk assessment is done, control measures are effective, and risks are updated; eg
 - after an incident,
 - when new info or new scenarios (such as a pandemic) are known,
 - before deploying new equipment and introducing new work procedures,
 - when new WSH rules and guidelines are introduced.

CORE

Review WSH management systems to ensure they are highly effective.

Measure 12: Recognise and reward workers' efforts towards achieving good WSH performance.

Examples of what can be done:

- Recognise mental well-being champions / peer supporters.
[For companies with manual work]
- Celebrate workers that report near-misses or warn their co-workers of risks.
- Provide a bonus for workers that meet safety performance standards; eg drivers that attain a certain number of hours without traffic infringement

Measure 13: Endorse immediate remedial/disciplinary action to address workers' repeated non-compliance with safe work procedures.

Examples of what can be done:

[For companies with manual work]

- Establish a system to counsel workers with repeated non-compliance to safe work procedure; to consider sterner disciplinary action for recalcitrant cases.

CORE

Empower workers to actively engage in WSH.

Measure 14: Ensure processes are in place for workers to receive info on WSH risks and safe work procedures in a timely manner.

Examples of what can be done:

- Establish process for regular WSH info sharing to all workers; eg
 - WSH incidents & hazards
 - WSH Alerts on recent fatal accidents (from WSH Bulletin)
 - New WSH regulatory requirements

Measure 15: Set up reporting systems, encourage proactive reporting, and ensure proper follow-up to address WSH issues.

Examples of what can be done:

- CEO or Company Directors to ensure that reporting system is available and known to all workers and members of the public for:
 - WSH incidents (including workplace harassment and bullying),
 - Near misses
 - WSH concerns
- CEO or Company Directors to assure workers of safeguards for reporting:
 - No penalties for speaking up
 - Keep identities confidential
- Allow all workers to stop work if they sense red flags

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Measure 16: Commit resources and protected time for workers to undergo WSH training and refresher courses.

Examples of what can be done:

- Ensure that HR or WSH professionals identify suitable WSH training; eg on identifying signs of mental distress, on physical safety risks
- CEO or Company Directors to allocate budget and protected time for WSH training, refresher courses, workshops

Measure 17: Involve workers in the development and implementation of strategies/programmes to improve WSH.

Examples of what can be done:

- CEO or Company Directors to include WSH considerations in work planning sessions.
 - Involve union leaders (if applicable) in WSH improvement plans.
- [For companies with manual work]
- Involve contractors' and vendors' WSH teams in WSH improvement strategies/programmes.

All workplaces are different and there is no one-size-fits-all solution. Thus, you can adopt and adapt the suggested measures to best suit your organisation.

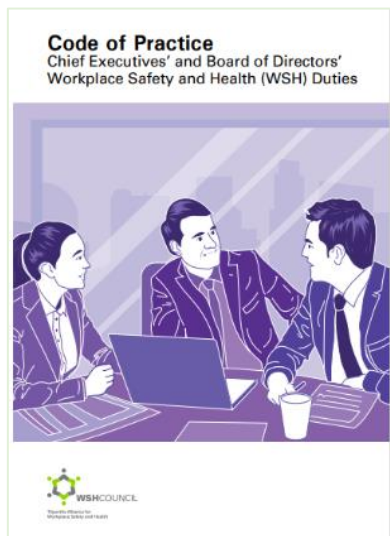
You can adhere to the **CORE** Principles by implementing other measures in place of those listed, if you can demonstrate how these other measures fulfil these **CORE** principles.



There are resources listed in the Code of Practice. You can refer to the FAQ on WSH Council's website to find answers to questions you may have. Should you need more guidance, you can write to:

- Ministry of Manpower at <https://www.mom.gov.sg/contact-us>
- Or email WSH Council at contact@wshc.sg

ACOP

FAQ



Frequently Asked Questions: Code of Practice on Chief Executives' and Board of Directors' Workplace Safety and Health Duties (to be gazetted as an Approved Code of Practice by Oct 2022)

S/N	Question	Answer
1	Which section of the Workplace Safety and Health (WSH) Act does it state that Chief Executives (CEs) / Board of Directors (BODs) are liable for WSH offences?	Under section 48(1) of the WSH Act, an officer of the company (including CE/BOD members) can be held accountable for the WSH Act offence committed by his/her company, unless he/she proves that: (a) the offence was committed without the officer's consent or connivance, and (b) the officer had exercised all due diligence to prevent the commission of the offence.
2	What is the legal bearing of an Approved Code of Practice (ACOP)?	ACOPs provide guidance for companies to attain the outcome stated in a regulation. Not following the recommendations in an ACOP in itself is not breaking the law, because this may not be the only means of achieving the intent of the regulations. However, in the event of a WSH Act contravention, abiding with the recommendations in an ACOP can help in a defence when standing in court.
3	Why not legislate the prescribed duties of CEs and BOD members?	The intent of the ACOP is to shape company leadership's mindset and drive the right behaviours to improve the company's WSH standards, which is a more effective and sustainable way of uplifting WSH standards. The four principles in the ACOP were developed to guide CEs and BOD members on the company leadership's WSH responsibilities instead of dictating what every CE and BOD member should do in relation to their company's WSH matters. There is no one-size-fits-all solution that meets the different needs of every organisation and the measures within the ACOP are not intended to be exhaustive.



<https://www.tal.sg/wshc/resources/publications/codes-of-practice/code-of-practice-on-chief-executives-and-board-of-directors-wsh-duties>



[https://www.tal.sg/wshc/programmes/
bizsafe/apply-for-bizsafe](https://www.tal.sg/wshc/programmes/bizsafe/apply-for-bizsafe)

END



**TAKE TIME
TO TAKE CARE**
of your **SAFETY** and **HEALTH**