

FIRST AID RESPONSIBILITIES FOR HOTELS AND RESORTS

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The United Nations World Tourism Organization (UNWTO) reports that international tourist arrivals (overnight visitors) worldwide exceeded the 1 billion mark for the first time ever in 2012, with 1,035 million tourists crossing borders. Long term forecasts suggest that international tourist arrivals worldwide will increase by 3.3% a year to reach 1.8 billion by 2030.¹

Travel medicine studies show that between 20 and 70% of these international tourists may experience some form of illness during their time away from home.² Most of these illnesses are not life threatening, but they can severely disrupt a vacation or business trip. The most frequent are: travellers' diarrhoea (accounting for up to two thirds of health problems), upper respiratory tract infections, skin diseases and fever.

Among the current 1 billion plus travellers worldwide, of particular concern are those who have pre-existing medical conditions and who may be relying on accommodation providers at their destination to render first aid and emergency assistance should it be required. These 'hidden' conditions include diabetes, epilepsy, pregnancy, food allergies, respiratory problems, psychiatric conditions and immunocompromised travellers.³ Cardiovascular conditions are the main cause of tourist death from illness, while road accidents and drowning lead the injury fatalities.

While not necessarily preventable, many of these illnesses and injuries will respond to appropriate and timely first aid.⁴ Survival rates for out-of-hospital cardiac arrest, for example, are significantly improved if appropriate first aid assistance is rendered in the first four minutes following the arrest.⁵

1. UNWTO World Tourism Barometer, Volume 11, January 2013.

http://dtxqtq4w60xqpw.cloudfront.net/sites/all/files/pdf/unwto_barom13_01_jan_excerpt_0.pdf

2. Nothdurft, H.D. & Caumes, E. Epidemiology of health risks and travel. In: Zuckerman, J. (ed.), *Principles and Practice of Travel Medicine*, 2nd edition. Oxford: Wiley-Blackwell, 2013, 19-26.

3. Tessier, D. Fitness to travel. . In: Zuckerman, J. (ed.), *Principles and Practice of Travel Medicine*, 2nd edition. Oxford: Wiley-Blackwell, 2013, 27-36.

4. 'First aid' is the immediate treatment or care given to a person suffering from an injury or illness until more advanced care is provided or the person recovers.

5. Eisenburger, P. & Safar, P. Life supporting first aid training of the public--review and recommendations. *Resuscitation*, 1999, 41(1), 3-18.

Unfortunately, studies of lay bystander response show that less than 30% of the general public is comfortable or willing to initiate first aid. This is not just CPR (Cardio Pulmonary Resuscitation) or Expired Air Resuscitation (mouth-to-mouth) but even more general first aid responses to choking, bleeding and sudden loss of consciousness.

For international tourists, many of whom are travelling with a pre-existing illness or who are statistically more exposed to injury than local residents,⁶ this means a greater reliance on first aid from commercial accommodation providers.

Hotels and Resorts

Hotels and resorts are not obligated to provide medical services. Their legal duty is to provide such first aid as they reasonably can and call the local emergency phone number for assistance.⁷ What is reasonable first aid is often mandated under workplace health and safety legislation or local ordinances, and this varies by jurisdiction.

In *Roberts v Iberotravel Limited*⁸ the plaintiff Kevin Roberts, aged six at the time of the incident, suffered a near drowning event while on holidays with his family in Majorca. Kevin was found floating unconscious in the swimming pool and carried by another guest to the hotel reception. Even though there were many guests at the pool when the incident occurred, none offered to help. Kevin sustained catastrophic brain damage.

Under Spanish law the hotel had a responsibility to provide pool attendants who could swim and were trained in life saving and the practice of artificial respiration in cases of asphyxia from immersion in water.

His Honour Justice Gibbs found “There is no evidence that any staff or other person connected with the hotel and who was in any way trained in life-saving or resuscitation responded to the emergency ... In short there was, as I find, a complete absence of any significant staff, equipment or procedure to deal with any drowning emergency”. His Honour found the hotel negligent both in relation to Kevin’s immersion and their failure to resuscitate.

Medical evidence indicated that if Kevin, who was in a state of cardiac arrest, had been retrieved from the pool within three minutes of immersion and effective cardiopulmonary resuscitation been applied immediately, it is probable that he would have survived without brain injury.

Australian Workplace Legislation

Safe Work Australia is an Australian Government statutory agency established in 2009. Safe Work Australia consists of representatives of the Commonwealth, state and territory governments, the Australian Council of Trade Unions, the Australian Chamber of Commerce and Industry and the Australian Industry Group.

6. Bauer, R., Körmer, C., Parkarri, J., et al. *Scope and Patterns of Tourist Accidents in the European Union*. Vienna: Austrian Board for Safety and Prevention, 2001.

7. Morris, K., Cournoyer, N.G. & Marshall, A.G. *Hotel, Restaurant and Travel Law: A Preventive Approach*. Clifton Park, NY: Thomson Delmar Learning, 2008.

8. [2001] QBD 5 March.

In July 2012, Safe Work Australia launched the new harmonised *First Aid in the Workplace Code of Practice* (the Code) which is currently being rolled out across the country.⁹ This new Code is an approved Code of Practice under section 274 of the Work Health and Safety Act (the WHS Act). Previously, each State and Territory jurisdiction maintained its own work health and safety regulator with responsibility for administering and enforcing the new WHS laws. This Code has changed the first aid responsibilities of Australian businesses.

Codes of practice are admissible in court proceedings under the WHS Act and Regulations. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.

As part of this new Code, workplaces are expected to undertake a risk assessment in order to identify the first aid equipment, procedures and First Aiders¹⁰ they should have in place. The new Code provides guidance on first aid requirements appropriate for different workplace risks and hazards.

Implications for Hotels and Resorts

Like other workplaces, hotels and resorts have health and safety duties in relation to first aid under the new Code, which provides:

“A person conducting a business or undertaking has the primary duty under the WHS Act to ensure, so far as is reasonably practicable, that workers and other persons are not exposed to health and safety risks arising from the business or undertaking.” (Emphasis added)

The WHS Regulations place specific obligations on a person conducting a business or undertaking in relation to first aid, including requirements to:

- provide first aid equipment and ensure each worker at the workplace has access to the equipment
- ensure access to facilities for the administration of first aid
- ensure that an adequate number of workers are trained to administer first aid at the workplace or that workers have access to an adequate number of other people who have been trained to administer first aid.

While the focus of the new Code is on protecting workers and ensuring workplaces are safe, compliance also offers a wide safety net for visitors and guests. Indeed, in planning first aid resources the Code specifically recommends consideration of other people at the workplace who are not workers, for example, students in workplaces such as schools, members of the public in places of entertainment, fairgrounds and shopping centres (page 8).

9. Safe Work Australia. *First Aid in the Workplace: Code of Practice*. Canberra: Safe Work Australia, 2012.

10. ‘First aider’ is a person who has successfully completed a nationally accredited training course or an equivalent level of training that has given them the competencies required to administer first aid.

St John Ambulance Australia Report

In March 2013 St John Ambulance Australia released a comprehensive research report, 'First Aid Readiness in the Australian Workplace'¹¹ to assist Australian employers and workplaces become compliant with the new Code.

The research surveyed 100 employers (CEOs, senior managers, OHS managers) and 600 employees in the retail, education and hospitality sectors. In addition, the report integrates information from secondary data sources (e.g. Australian Bureau of Statistics, Safe Work Australia, academic papers) and relevant regulatory frameworks (WHS Act). Among the key findings of the research were:

- The majority of employers (65%) are unaware of the new First Aid in the Workplace Code of Practice.
- Currently, only 13% of Australian workplaces are compliant with all core elements of the Code (accredited training opportunities, workplace first aid resources, and first aid procedures/drills training).
- 43% of workplaces have appropriate workplace resources (first aid kits, signage), but only 24% of employees have participated in first aid procedures training or first aid drills.
- Among those employees who received first aid training in the workplace, almost half (48%) had to wait six months or more after hiring until they received that training.

Looking more closely at the hospitality industry sector, the report found that just 10% of hospitality workplaces are fully compliant with the new Code.

Hospitality first aid 'readiness' across the three core elements was:

Training – accredited training and refresher readiness	36.7%
Workplace resources readiness (first aid kits, signage)	42.2%
Training – drills and procedures readiness	16.7%
Overall first aid readiness – compliant on all three above	10.0%

An interesting finding from the full report was that less than one in three Australian employees (31%) currently feels confident to perform first aid in a workplace emergency, with reasons ranging from 'a lack of training' through to feeling 'personally responsible' if something went wrong. The research also found that the training provided by employers is the number one factor in making employees feel confident to act if a first aid incident occurs.

Changing Status of First Aid and the Law

Historically, customer health care reflected a worldwide tradition of accommodation providers looking after their guests under a general duty of care to provide safe lodging. Increasingly there are legal requirements at most destinations for hotels and resorts to provide first aid and emergency services because they are workplaces. The new Australian *First Aid in the*

11. St John Ambulance Australia. *First Aid Readiness in the Australian Workplace*. Canberra: St John Ambulance Australia, 2013.

Workplace Code of Practice is a good example. Even though it is not specifically directed at first aid for visitors or guests, the fact that mandatory first aid services are required at all times at a property means that the legal and practical safety net is automatically extended to hotel and resort customers.

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