Managing Risk Around Horses

By Ross Donaldson, CBP Lawyers

Safe Work Australia has released a new guide outlining risk management around horses — an important guide to those in the horse industry. Ross Donaldson from CBP Lawyers explains the new guidelines.

In June this year, Safe Work Australia (SFA), a statutory agency comprising representatives of commonwealth and the state governments, unions and businesses issued the following guidelines: ‘Guide to managing risks when new and inexperienced persons interact with horses’.

The guide seeks to help businesses manage the risks to be faced by new or inexperienced workers and others when interacting with horses. The others may include members of the public, including those who have paid to engage in horse riding activities, such as horse lessons, equestrian events and recreational trail riding.

The guide complements a number of other guidelines or codes produced by groups interested in the pursuit of horse riding activities, such as horse schools, and recreational trail riding.

The guide indicates that between July 2000 to June 2012 there were 98 horse related deaths - 48% were related to horse riding activity and 74% of the fatalities resulted from a fall from a horse. For injuries, females account for two-thirds of hospital admissions, with those admissions being skewed towards relatively young female participants.

Research shows that horses are a common cause of death and injury on farms. Trail and general horse riding accounted for 80% of those admitted to hospital for a horse-related incident.

Understandably, both the commonwealth- and state-based employment related compensation schemes would like to reduce the number of victims in the work place.

The purpose of the guide

The guide states it is to provide practical guidance for those operating businesses or undertaking work which interacts with horses. This is not simply for the farming or agricultural sector, but encompasses work places such as riding and equestrian schools, and trail-riding businesses.

We note that, throughout Australia, there are hundreds of recreational riding businesses, both large and small, that offer horse-related activities to members of the public - many who have had no experience with horses whatsoever.

The guide reminds those in these industries of their obligations as employers, occupiers and operators to provide safe workplaces in accordance with various commonwealth- and state-based Work Health and Safety (WHS) laws.

Relevant duties

The guide reminds businesses and operators that they must, so far as reasonably practical, take steps to ensure their employees, volunteers and members of the public are not exposed to health and safety risks while undertaking their activities, in accordance with WHS laws. This duty entails identifying the hazard and risk presented by an activity, and taking reasonable steps to eliminate that risk.

This requires that a workplace is, as best as practical, free of hazard, and that staff are properly inducted, trained and supervised.

Risks of interacting with horses

The guide encourages the proper identification of the hazard and risk associated with an involvement of horses. In explaining the process of a risk assessment, the guide helpfully identifies the multitude of the risks to persons. Many are obvious to a lay person, but perhaps often forgotten when interacting with horses.

It is interesting to see those risks listed in clear language. To those raised on a farm or who have been involved in horses all their life, such hazards would be second nature, but for others, particularly novices, they would not.

Those risks identified include poorly maintained equipment, the unpredictable acts of horses, their propensity to be frightened or spooked by environmental factors, such as motor vehicles or changes in the weather, or the lack of training of staff. These are all tasks that can cause harm. Horses are herd animals and will interact with the herd. They can become aggressive, flighty and unpredictable. Apart from falling from a horse, a regular cause of injury has been being bitten or struck by a horse.

The guide also provides advice on the controlling of the risk, induction and safe work procedures, supervision and instructor competencies, and the selection of appropriate horses. Appendices provide statistics and a guide to additional resources.

Conclusion

Commonwealth and state WHS law places a high burden on employers and occupiers in regard to their activities. Outside of these statutory regimes, injured persons have significant rights of recovery where WHS law has not been complied with or there has been negligence.

The guidelines provide a useful template to assist operators in assessing the hazards and risks for any particular horse-related activity. It helps operators to recognise that these activities are relatively high-risk and can result in injuries, even fatalities.

The guidelines also highlight the difficulty for operators in providing horse riding activities with novice or inexperienced riders because of the unpredictable nature of horses.

The guide will complement the existing codes and standards in regard to the safe conduct of horse-related activities. However, none of them will make the activity harm-free; the industry has a duty to adequately warn participants of those risks.

It is hoped that, within reason, with better education and the development of essential skills, the risk to participants will be reduced, but it cannot be expected that this will ever be a harm-free activity. Participants may recognise this and make their decisions in respect of participation accordingly.

From a civil liability perspective presently, the incident rate involving injuries and this activity remains relatively high, and we expect liability claims for compensation for harm will continue to be pursued both in the employment/employee context and the operator/customer context. In some jurisdictions, liability has been curtailed by legislation, but not entirely excluded.

For operators of horse activities offered to members of the public, it is essential that, for their own financial interest, they maintain adequate liability insurance cover and ensure that their customers read, understand and sign correctly drafted risk warnings and liability waivers.

But, fundamentally as best practice, operators need to ensure they have correct and well-maintained equipment, and appropriately qualified and trained staff who can, as best as possible, seek to minimise risks to their customers, while ensuring the activity remains a fulfilling and exciting recreational experience.

About the Author: Ross has over 23 years’ experience as a liability and insurance lawyer. He acts as a defence lawyer in liability claims, for a wide variety of professions, institutions and businesses. He has acted for many trail ride businesses, horse schools, and recreational and adventure camps. He has a particular interest in legal liability issues regarding recreational and adventure pursuits.

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