

ACT PUBLIC SECTOR

CONSULTATION IN THE WORKPLACE.

1. PURPOSE

This policy articulates the framework in which the ACT Government is to consult with its workers on matters which directly affect their work safety.

2. SCOPE

This policy applies to all ACT Public Sector (ACTPS) Directorates and entities and any person who is considered to be a worker for the ACT Government under the *Work Health and Safety Act 2011* (WHS Act).

3. LEGISLATIVE REFERENCE

Section 47 of the WHS Act, states that employers have a duty to consult, as far as reasonably practicable, with their workers to allow the workers to contribute to matters directly affecting their work safety.

Section 48 of the WHS Act outlines the duty for employers to ensure that workers are provided with relevant information concerning matters concerning their work safety and that consultation processes must include the health and safety representative (HSR) if one has been elected to represent the work group.

Section 17 of the *Work Health and Safety Regulation 2011* (Regulation) made under the WHS Act details the issues to be considered in the establishment of work groups and Section 18 of the Regulation outlines the election process for a Health and Safety Representative (HSR).

These arrangements are supported by specific terms of current ACTPS Directorate-based Enterprise Agreements.

4. DIRECTION STATEMENT

Workers are a valuable source of knowledge and experience about work safety issues that directly relate to their work tasks/practices. To effectively consult with workers about a work safety matter, directorates must:

- share information with workers about matters which may have impact on their health, safety or well-being;
- provide workers with a reasonable opportunity to contribute information and to express their views; and

- genuinely consider the views of workers.

The duty to consult applies in respect of all workers, not just employees of the agency.

The WHS Act allows for consultation to occur through a variety of flexible methods that are agreed between the employer and workers. While the process for consultation is not prescribed, each agency, when negotiating the process, must take the following into consideration:

- its range of operations;
- the risk profile associated with each of these operations; and
- arrangements under its Safety Management System.

This could well result in an agency having different consultation arrangements in different units of its operation.

5. CONSULTATION GUIDANCE

Detailed guidance on workplace consultation requirements is available from the Safe Work Australia website via the following link:

<http://www.safeworkaustralia.gov.au/AboutSafeWorkAustralia/WhatWeDo/Publications/Pages/Worker-Representation-guide.aspx>

This guidance should be followed by all ACT Government Directorates and entities in establishing consultation processes in their workplaces

Further information and advice about the role of HSRs can also be obtained from the WorkSafe ACT website at: http://www.worksafe.act.gov.au/health_safety

6. RESPONSIBILITIES

a) Directors-General

Directors-General have primary responsibility and accountability for the implementation of ACT Government policies at all levels of their organisations and ensuring that they have appropriate arrangements in place to consult with their workers to allow the workers to contribute to matters directly affecting their work safety.

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b) Executive, Managers and Supervisors

Directorate executives, managers and supervisors have responsibility for:

- providing a safe and healthy working environment for their workers;
- ensuring that HSRs are given sufficient time off work to undertake the functions of their office and to attend the required training;
- identifying and assessing risks to work safety;
- implementing measures to eliminate, control or manage those risks; and
- assisting Directors-General in the implementation of this consultation policy in their workplace and ensuring that workers are consulted with accordingly.

c) Workers

A worker has a duty to comply with all safety requirements in the workplace and not to expose themselves, or other people, to the risk of injury or illness as a result of the tasks they are undertaking.

Examples of this duty may include the following:

- Cooperating with a person conducting business or an undertaking in relation to work safety;
- Complying with instructions given by a person conducting the business or undertaking in relation to work safety;
- Using equipment supplied for work safety at the workplace properly; and
- Reporting any risk, illness and injury, connected with work, which the worker is aware of.

d) Health and Safety Representatives (HSR)

If an HSR has been elected to represent the Work Group in relation to work safety, they are responsible for:

- representing the workers in relation to work safety issues;
- informing the relevant manager in the agency of potential risks and dangerous occurrences at any workplace where workers they represent work;

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- informing the relevant manager in the agency of work safety matters directly affecting the workers they represent;
- investigating complaints from members of the work group in relation to work health and safety matters;
- monitoring the measures taken by the person conducting the business or undertaking, or their representative, in complying with their legal responsibilities for the safety of workers

Under the WHS Act an HSR may exercise powers and perform functions only for their Work Group.

In order for the HSR to perform all the duties of the office it is required that they undertake training in an approved training course within 3 months of election.

A person who has been elected as an HSR holds office for a period of not more than three years unless the office is terminated early or the HSR ceases to be a worker in the Work Group for which they were elected.

e) Health and Safety Committees

A Health and Safety Committee has the following responsibilities:

- giving information, ideas and feedback to employers and managers on how to implement work safety best practice;
- assisting to develop standards, rules and procedures relating to health and safety that are to be complied with in the workplace
- providing a forum for employers to raise work safety concerns;
- encouraging workers to take an interest in work safety concerns;
- reviewing the circumstances of injuries, diseases and serious incidents in the workplace, and make recommendations to employers; and
- undertaking other activities agreed between employers and the committee that the committee members have suitable qualifications and training to deal with.

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7. GLOSSARY

“Worker” refers to:

- an employee;
- contractors or sub-contractors;
- an employee of a contractor or subcontractor;
- an employee of a labour hire company who has been assigned to work in the business;
- an outworker;
- an apprentice or trainee;
- undertaking student gaining work experience; and
- Volunteers; or
- A person of a prescribed class for the purposes of the WHS Act

“Workplace” means ‘a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work (includes vehicle, vessel, aircraft or other mobile structure).¹

“Work Group”, for an employer, means:

- the group of all of the employer’s workers; or
- a work group which is established under section 51 of the Act for the purpose of electing an HSR.

8. REFERENCES AND LINKS

- *Work Health and Safety Act 2011* <http://www.legislation.act.gov.au/a/2011-35/default.asp>
- *Work Health and Safety Regulation 2011* - <http://www.legislation.act.gov.au/sl/2011-36/default.asp>

¹ Section 8 of the WHS Act

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- ACT Government Health and Safety Framework – Consultation and Communication Section: http://sharedservices/actgovt/WHS/SafetyMgt/y_communication.htm
- Safe Work Australia Website: <http://www.safeworkaustralia.gov.au/Pages/default.aspx>
- The ACT Work Safety Commissioner’s website also has additional guidance material relating to Workplace Arrangements at: http://www.worksafe.act.gov.au/health_safety

9. REVIEW

This Policy Statement will be reviewed after three (3) years or at an earlier date if amendment is required.

10. APPROVAL AUTHORITY

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 Andrew Kefford
 Commissioner for Public Administration

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 Date

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