



Mining & Quarrying
OCCUPATIONAL HEALTH &
SAFETY COMMITTEE

Workplace Consultation and Communication Guide

Promoting Work Health and Safety in the Workplace

The South Australian Mining and Quarrying Occupational Health and Safety Committee

Promoting Work Health and Safety in the Workplace

This workplace industry safety resource is developed and fully funded by the Mining and Quarrying Occupational Health and Safety Committee (MAQOHSC).

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Workplace Consultation and Communication Guide

AIM

The aim of this Guidance Material is to provide Persons Conducting a Business or Undertaking (PCBUs) with practical guidance on how to effectively consult and communicate with workers who carry out work for the PCBU.

Forward

Consultation is a legal requirement under the *Work Health and Safety Act 2012 (SA)* and *Work Health and Safety Regulations 2012 (SA)*, and an essential part of managing health and safety risks.

A healthy and safe workplace is more easily achieved when workers at all levels within the business talk to each other about potential issues/hazards, and work together to find solutions.

By drawing on their knowledge of the workplace and work practices, workers can provide valuable input on work hazards and the effectiveness of policies and procedures.

Consultation between Officers, Senior Management, Work Health and Safety personnel, Managers, Health and Safety Representatives (HSRs) and workers on health and safety matters, can result in healthier and safer workplaces, improved issue or decision ownership, effective and robust outcomes, stronger commitment by everyone to implementing decisions and greater cooperation and trust between all levels of the business.

In situations where you share responsibility for health and safety with another PCBU, the requirement to consult, co-operate and co-ordinate activities with other duty holders will help address any gaps in managing health and safety risks that often occur when:

- There is a lack of understanding of how the activities of each person may add to the hazards and risks to which others may be exposed;
- Duty holders assume that someone else is taking care of the health and safety matter; and
- The person who takes action is not the best person to do so.

The outcome of consulting and communicating activities with other duty holders is that you each understand how your activities may impact on health and safety and that the actions you each take to control risks are complementary.

1. When is consultation required?

Many organisational decisions or actions have health and safety consequences for workers. For example, introducing new equipment into the workplace may affect the tasks your workers carry out, the timeframes for doing work, how they interact with each other and the environment in which they work.

Under the *Work Health and Safety Act 2012 (SA)*, consultation is required:

- When identifying hazards and assessing risks arising from work;
- Making decisions about ways to eliminate or minimise those risks;
- Making decisions about the adequacy of facilities for the welfare of workers;
- Proposing changes that may affect the health or safety of workers (change of equipment or work processes);
- Making decisions about the procedures for resolving health or safety issues;
- Monitoring the health of workers or workplace conditions, information and training or consultation with workers; and
- When carrying out any other activity prescribed by the *Work Health and Safety Regulations 2012 (SA)*.

However, it may be useful to also consult with workers about matters that are not listed above, for example when conducting investigations into incidents or 'near misses'.

Regular consultation is better than only consulting on a case-by-case basis as issues arise because it allows you to identify and fix potential problems early.

1.1. Managing Risks

Consultation is required when identifying hazards, assessing risks and deciding on measures to control those risks.

In deciding how to control risks, you must consult with your workers who will be affected by this decision, either directly or through their Health and Safety Representative. Their knowledge and experience may help you identify hazards and choose practical and effective control measures.

Regularly walking around the workplace, talking to your workers and observing how things are done will also help you identify hazards.

Conducting a survey of your workers can provide valuable information about work-related health issues, such as workplace bullying, stress, as well as muscular aches and pains that can signal potential hazards.

Workers and their Health and Safety Representatives may need access to information such as technical guidance about workplace hazards and risks (plant, equipment and substances).

The *Work Health and Safety Act 2012 (SA)*, requires that you allow any Health and Safety Representative for a work group to have access to information you have relating to hazards (including associated risks) affecting workers in the work group and also any information about the health and safety of workers in the work group.

This does not extend access to any personal or medical information concerning a worker without the worker's consent.

1.2. Deciding on welfare facilities

Facilities are things provided for the welfare of workers, such as toilets, drinking water, washing facilities, dining areas, change rooms, personal storage and first aid.

You must consult your workers when making decisions about what facilities are needed (for example, the number and location of toilets), taking into consideration the number and composition of your workforce, the type of work your workers do and the size and location of your workplace.

The consultation should also cover things, such as access, cleaning and maintenance of the facilities.

If the facilities are already provided at the workplace, you should consult your workers and their Health and Safety Representatives when there are any changes that may affect the adequacy of the facilities. This will help you determine if you need to change or expand your facilities.

1.3. Making changes

You must consult your workers when planning to make changes that may affect their work health and safety, for example when:

- Changing work systems (work rosters, work procedures or the work environment);
- Developing a new product or planning a new project;
- Purchasing new or used equipment or using new substances; and
- Restructuring the business.

1.4. Developing procedures

A procedure sets out the steps to be followed for work activities. You must consult with affected workers when developing procedures for:

- Resolving work health and safety issues;

- Consulting with workers on work health and safety;
- Monitoring workers' health and workplace conditions; and
- Providing information and training.

Procedures should be in writing to provide clarity and certainty at the workplace and assist in demonstrating compliance. They should clearly set out the role of Health and Safety Representatives, and any other parties involved in the activity.

The procedures should be easily accessible, for example by placing them on noticeboards, in equipment and intranet sites.

If issue resolution procedures are agreed to, the *Work Health and Safety Regulations 2012 (SA)* include minimum requirements that must be complied with, including that these procedures are set out in writing and communicated to all workers to whom the procedure applies.

2. What is effective consultation?

Consultation is a two-way exchange of information between you and your workers where you:

- Talk to each other about health and safety matters;
- Listen to workers concerns and raise your concerns;
- Seek and share views and information; and
- Consider what your workers say before you make decisions.

It should be seen as an opportunity to add value to the Persons Conducting a Business or Undertaking decision-making processes.

Management commitment and open communication between managers and workers is important in achieving effective consultation. Your workers are more likely to engage in consultation when their knowledge and ideas are actively sought and any concerns about health and safety are taken seriously.

Consultation does not mean telling your workers about a health and safety decision or action after it has been taken. Workers should be encouraged to:

- Ask questions about health and safety;
- Raise concerns and report problems;
- Make safety recommendations; and
- Be part of the problem solving process.

While consultation may not result in agreement, this should be the objective as it will make it more likely that the decisions are effective and will be actively supported.

The Safety Rehabilitation and Compensation Commission (SRCC) has adopted a working definition of what constitutes consultation from the Australian Industrial Relations Commission case, *Australian Workers' Union v Campbell Mushrooms Pty Ltd* 1183/96 Print N4825 (1996). Consultation, as explored in that case can be summarised as:

Consultation means to appropriately inform workers, inviting and considering their response prior to a decision being made. Workers' opinions should not be assumed. Sufficient action must be taken to secure workers' responses and give their views proper attention.

Consultation requires more than a mere exchange of information. Workers must be able to contribute to the decision-making process, not only in appearance but in fact.

3. Steps to effective consultation

The following steps may assist you in determining how to approach consultation and communication:

3.1. Inform

Your workforce will be more aware of risks and how they are controlled.

Success can be achieved by:

- Providing information during workplace induction;
- Carrying out regular workplace briefings;
- Using an interpreter and/or translation service if necessary; and
- Involving workers in all matters which affect their health and safety at work.

3.2. Instruction and training

Your workforce will understand how to do their job in a way that does not put themselves, their colleagues or others at risk.

Success can be achieved by:

- Demonstrating your commitment to training, so that your workers recognise the importance of training. You may also need to appoint someone competent to conduct the training for you.
- Ensuring adequate supervision is provided. Supervision is particularly vital when workers are new, inexperienced or young. Even experienced workers can become complacent and take shortcuts.

3.3. Health and Safety Representatives (HSRs)

Health and Safety Representatives and other worker representatives for health and safety can play a key role in getting people on board with new initiatives. They represent the interests and concerns of their fellow workers and provide valuable insight, skills and resources.

Success can be achieved by:

- Giving the Health and Safety Representatives full support and access to necessary equipment and facilities;
- Understanding the role and function of the Health and Safety Representatives and other representatives; and
- Involving Health and Safety Representatives as a potential champion to assist in the promotion of Work Health and Safety in your team.

3.4. Consulting

As workers are often the most aware of health and safety issues and solutions, it makes sense to listen to them. If your workers feel their ideas are valued, they will generally have a stronger commitment to tackling such problems.

Success can be achieved by:

- Conducting regular scheduled meetings such as daily prestart meetings;
- Conducting toolbox talks;
- Engaging in face-to-face discussions; and
- Setting up focus groups to deal with specific issues.

Other ways could include:

- Undertaking worker surveys;
- Displaying information on noticeboards;
- Recording and responding to Work Health and Safety issues or concerns raised by workers; and
- Sharing information and good practice through memos, newsletters and updates.

3.5. Joint problem solving

Including workers in the problem solving process will assist to improve health and safety standards and increase productivity, efficiency and motivation throughout the workforce.

It will also boost co-operation and trust between workers, managers and senior leaders.

Success can be achieved by:

- Involving workers and their representatives in tackling health and safety issues to create a genuine and valuable partnership; and
- Allowing concerns and ideas to be freely shared and acted upon as the whole workforce aims for a healthier and safer environment.

4. To what extent should you consult?

You must consult on health and safety matters so far as is reasonably practicable with workers who carry out work for you and who are (or are likely to be) directly affected.

This includes consulting with your contractors and their workers and volunteers (if any) about health and safety decisions that directly affect them and which you influence or control.

Consultation that is 'reasonably practicable' is both possible and reasonable in the particular circumstances. What is reasonably practicable will depend on factors, such as the:

- Size and structure of the business;
- Nature of the work that is carried out;
- Nature and severity of the particular hazard or risk;
- Nature of the decision or action, including the urgency to make a decision or take action;
- Availability of the relevant workers and any Health and Safety Representatives;
- Work arrangements, such as shift work and remote work; and
- Characteristics of the workers, including languages spoken and literacy levels.

The aim of consultation should be to ensure that you have sufficient information to make well-informed decisions and that the workers who may be affected are given a reasonable opportunity to provide their views and understand the reasons for the decisions.

You are not expected to do the impossible, but are required to take a proactive and sensible approach to consultation. For example, an urgent response to an immediate risk may necessarily limit the extent of consultation in some circumstances.

It may also not be reasonably practicable to consult with workers who are on extended leave. However, it would be appropriate to ensure that these workers are kept informed about any matters that may affect their health and safety when they return to work.

5. Do I need to document consultation?

Consultation with workers and with other duty holders does not have to be documented unless specifically required under the *Work Health and Safety Regulations 2012 (SA)*. However, it is recommended that you keep records to demonstrate compliance with consultation requirements. Records of consultation may also assist the risk management process and make disputes less likely.

The records should include any outcomes of discussions. The records can be brief and simple, and cover:

- Who is involved;
- What the safety matter is;
- What decision has been made;
- Who is to take action and by when; and
- When the action has been completed.

6. Consulting with other duty holders

If you have contractors or on-hire workers as part of your workforce you share a duty of care to these workers as well as consultation duties with the business that provides them. You should consult, co-operate and co-ordinate activities with the contractor or on-hire firm to develop your shared consultation arrangements with the workers.

In doing this you should consider the types of issues that may arise where you would need to consult the contractor or on-hire firm and their workers.

For example, you may propose to change the work carried out by contractors. This may involve changing the equipment, substances or materials used in the production process or the way tasks are carried out. You should ask:

- How should I inform and discuss proposed changes with the contractors' on-hire or contractor firm?
- How should we both co-ordinate consultation with the affected workers?
- How should we each respond to a safety issue raised by one or more of the contractors or to a request from the workers to be represented by a Health and Safety Representative?

6.1. When must you consult with other duty holders?

You should commence consultation with other duty holders when you become aware they are or will be involved in the work. This will usually be apparent from the circumstances, through contractual arrangements, presence on site or the need for others to be involved in the work.

You should identify who else will be involved in the work, make contact with them and commence discussions as soon as they are reasonably able to do so. This may occur as part of contractual negotiations, or discussions when you are engaged to carry out the work, or when you engage another business to carry out work for your business or undertaking.

Consultation should commence during the planning of the work, to ensure that health and safety measures are identified and implemented from the start. A need for further consultation may arise when circumstances change over the period of the work, including the work environment and the people involved in the work.

Consultation with other duty holders should be an ongoing process throughout the time in which you are involved in the same work and share the same duty.

6.2. What is meant by consulting with other duty holders?

The objective of consultation is to make sure everyone associated with the work has a shared understanding of what the risks are, which workers are affected and how the risks will be controlled. The exchange of information will allow the duty holders to work together to plan and manage health and safety.

The consultation should include:

- What each will be doing, how, when and where and what plant or substances may be used;
- Who has control or influence over aspects of the work or the environment in which the work is being undertaken;
- Ways in which the activities of each duty holder may affect the work environment;
- Ways in which the activities of each duty holder may affect what others do;
- Identifying the workers that are or will be involved in the activity and who else may be affected by the activity;
- What procedures or arrangements may be in place for the consultation and representation of workers, and for issue resolution;
- What information may be needed by another duty holder for health and safety purposes;
- What each knows about the hazards and risks associated with their activity;
- Whether the activities of others may introduce or increase hazards or risks;
- What each will be providing for health and safety, particularly for controlling risks; and
- What further consultation or communication may be required to monitor health and safety or to identify any changes in the work or environment.

This consultation will determine which health and safety duties are shared and what each person needs to do to co-operate and co-ordinate activities with each other to comply with their health and safety duty.

7. Barriers to effective consultation

There are many barriers to how we communicate and consult with each other in the workplace. Finding the right time and delivering messages in the right way can be a challenge.

Managers should establish a relationship with their workers that encourage open and honest discussion and mutual trust.

Consultation often fails due to:

- A lack of clarity in the message;
- The absence of emotional resonance in your message;
- Inaccurate targeting;
- Poor timing; or
- Not providing genuine feedback.

7.1. How to reduce barriers through communication

The tips listed below will assist you in reducing the barriers to effective consultation.

When communicating with workers and others ensure that you:

- Engage people on an emotional level;
- Provide clear messages with concrete examples to help people focus their energies;
- Think about what you say and how you say it (is what you are saying aligned with what you are feeling and thinking?);
- Back up written material with verbal communication;
- Check the tone of the communication (edit, edit and edit again);
- Provide prompt feedback, some news is better than no news; and
- Let people know the status of what is happening, you are the key in communicating change, workers look to you to see if there is real acceptance.

7.2. How can I contribute to improving and promoting communication?

Managers often have many conflicting priorities on their time. They should however always make time to listen to their workers and be aware of the importance of establishing open and honest communication channels to workers. On any normal working day we communicate on a number of different levels. We:

- Talk to other team members;
- Seek support and guidance from friends and other colleagues;
- Discuss work practices and other issues with your managers;
- Use the internet and intranet to gain updates and information; and
- Use an assorted number of social media options to stay in touch.

To ensure that communication is effective in your workplace, you should use all the available and established channels to provide your ideas and concerns about health and safety in your workplace.

Managers can use the following suggestions as ways to ensure they are promoting and contributing to effective communication:

- Encourage worker contribution at meetings;
- Access and seek information and raise awareness on matters that may affect workers;
- Use emails to clarify, and provide a two way communication approach;
- Establish an open and constructive approach to talking to your workers; and
- Consider the barriers to communication in remote and isolated work locations (e.g. shift work, working on your own, isolated by distance or team support, working from home) make regular contact with workers.

Frequent and informal communications between workers and management on safety issues is critical for improved performance. These behaviours demonstrate a managers concern for safety and provide opportunities for early recognition of hazards.

FURTHER ASSISTANCE

MAQOHSC Work Health and Safety Specialists are available to provide further advice and assistance on all Work Health and Safety matters.

MAQOHSC Work Health and Safety Specialists are able to be contacted via our website at www.maqohsc.sa.gov.au or email maqohsc@sa.gov.au.

ADDITIONAL INFORMATION

Work Health and Safety Legislation, Codes of Practice, fact sheets, Health and Safety Representatives (HSR) information and guides can be found at the following websites:

SafeWork SA – www.safework.sa.gov.au or call 1300 365 255

Safe Work Australia – www.safeworkaustralia.gov.au or call 1300 551 832

REFERENCES

Work Health and Safety Act 2012 (SA)

Work Health and Safety Regulations 2012 (SA)

Work Health and Safety Consultation, Co-operation and Co-ordination, Code of Practice (SafeWork SA)

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