

Summary – A good practice guideline for worker engagement, participation and representation at work.

Draft advice (published November 2015) on **Part 3 of the 2015, Health and Safety at Work (HSW) Act** that will be amended once the **Regulations** have been finalised (due late February 2016).

The Key Message is: Everyone has a role to play in making sure workplaces are healthy and safe.

The ‘twin duties’ for a PCBU are... the duties to have:

- (1) **Engagement** with workers; and
- (2) Worker **participation practices**.

The focus is on **active, effective and reasonable**, rather than requiring any particular system.

A PCBU can use its defined worker participation practices to engage, but should use other ways too.

A PCBU must engage on any work health and safety matter that directly affects the workers and provide them with the opportunity to influence and shape their working conditions and systems.

Participation practices must reflect the views, needs, size and nature of the workforce. They are the system, put in place (perhaps along with worker input) to give workers those ongoing opportunities.

Leadership and commitment from managers are essential for worker participation to be effective.

Health and Safety **Representatives** and **Committees** are two common participation methods.

If Health and Safety Representatives are chosen, the Regulations will apply.

NB: Some workplaces (small businesses) will not need to have worker representatives.

If workers are represented by a “Representative”, engagement must involve that Representative.

Participation can be either direct or through a Representative who may raise issues on their behalf.

An elected Representative is chosen by the members of their work group using the election process.

Appropriately trained Representatives have additional powers.

A Committee may be requested by workers or established by the PCBU.

For most PCBUs, if workers request a Committee, the HSW Act requires the PCBU to consider that request. That request may be declined if it is satisfied that its existing practices are fit for purpose.

Low risk business with fewer than 20 workers are not legally required to consider a request for a Committee.

An ‘issue’ is any concern or difference about health and safety at the workplace. A PCBU should have a good and well understood system to resolve issues and make reasonable efforts to use it.

Worker Engagement and Participation at a Glance

All businesses must have worker engagement and participation practices, regardless of their size, level of risk or the type of work they carry out.

Twin duties:

Two overarching and overlapping duties for every PCBU



The 'twin duties' are equally important.

Together, these duties empower a PCBU to lead work health and safety.

A PCBU and its workers can develop their own worker participation practices

- The HSW Act outlines certain requirements if Health and Safety Representatives (HSRs) and Health and Safety Committees (HSCs) are the chosen practices.
- The regulations support the HSW Act. They outline requirements that apply to workplaces with Health and Safety Representatives and/or Health and Safety Committees.

Flexible practices

Practices are flexible - whatever best suits the business or undertaking's size and risk profile, and lets workers engage and participate effectively.

A PCBU must engage with workers when developing worker participation practices - so that the practices will work for everyone.

A PCBU can decide to set up a Health and Safety Committee (HSC)

If workers request an HSR:

- A worker may request an HSR, or the PCBU may put this option in place.
- The regulations will apply if an HSR is chosen as a means of participation.

If workers request an HSC:

- Five or more workers, or an HSR, may request an HSC.
- The PCBU must make a decision within 2 months of the request.
- The regulations will apply if an HSC is chosen as a means of participation.

When is an HSR not required?

A PCBU is not required to initiate the election of one or more HSRs if the work of the business or undertaking—

- (a) is carried out by fewer than 20 workers; and
- (b) is not within a high-risk sector or industry specified by the regulations

When is an HSC not required?

A PCBU is not required to decide whether to establish an HSC if the work of the business or undertaking—

- (a) is carried out by fewer than 20 workers; and
- (b) is not within a high-risk sector or industry specified by the regulations

A PCBU may decline a request for an HSC if its existing participation practices are considered effective.

Additional protections for workers

Worker's right to cease work likely to cause harm.

Issue resolution process for health and safety matters. (Also a benefit and protection for a PCBU.)

Protection for all workers who raise health and safety matters

The HSW Act prohibits adverse conduct against workers who raise health and safety matters.