
Policy Title:	Work Health and Safety – Consultation
Policy No:	254
Policy Subject:	Work Health and Safety
Directorate:	Corporate Services
Department:	Work Health and Safety
Responsible Officer:	Director of Corporate Services
Authorised by:	North Burnett Regional Council
Adopted Date:	Policy & Planning Meeting – 05/03/2013
Review Date:	05/03/2015
Authorities:	<i>Work Health and Safety Act 2011</i> <i>Work Health and Safety Regulation 2011</i>

INTRODUCTION

This policy applies to all workers and other persons at North Burnett Regional Council including volunteers, work experience students, trainees and contractors.

OBJECTIVES

The purpose of this procedure is to provide guidelines and information for Work Health and Safety (WH&S) consultative arrangements.

RESPONSIBILITIES

It is the responsibility of all workers to adopt Work Health and Safety consultation. Specific responsibilities for consultation are delegated to relevant Managers, Supervisors, Safety Advisor(s), Health and Safety Representatives, Health and Safety Committee members and selected staff as identified.

DEFINITIONS

Qualified Person – a person who through training, knowledge, experience and qualification is competent to provide Work Health and Safety advice and guidance.

Qualified Health and Safety Representative (HSR) – is a worker who is elected as a Health and Safety Representative by the fellow co-workers in that workers workgroup, at the workplace and has completed a training course approved by the regulator that includes training in the giving of provisional improvement notices.

Supervisor – a person in control of a workplace, e.g. supervisor, ganger, leading hand or team leader.

Safety Advisor (WHSO) – a person who:

1. Through training, knowledge, experience and qualification is competent to provide work health and safety advice and guidance;
2. Is appointed as a Safety Advisor(WHSO) by:
 - a) An employer for the employer’s workplace; or
 - b) A Person Conducting a Business or Undertaking.

Health and Safety Representative (HSR) – a worker at a workplace who is elected as a Health and Safety Representative by the worker’s co-workers in that workers workgroup, at the workplace.

ASSOCIATED DOCUMENTS

- WHS-FORM-03.01 Register of Work Health and Safety Personnel
- WHS-WP-03.01 Work Health and Safety Committee Constitution
- WHS-FORM-03.01 Workplace Health and Safety Committee Agenda
- WHS-FORM-03.01 Workplace Health and Safety Committee Minutes
- WHS-WP-03.01 Provisional Improvement Notices (PINs)
- WHS-FORM-03.01 Provisional Improvement Notice (PIN)
- WHS-FORM-03.01 Register of Provisional Improvement Notices (PINs)
- Form 42 Request for a provisional improvement notice enquiry
- Form 17 Application for review of a decision
- Document Review and Consultation Record WHS-FORM-03.01.5
- Work Health and Safety Document Consultation and Review Register WHS-FORM-03.01.6
- WHS-WP-06.03 Record and Document Control

PRINCIPLES:

The *Work Health and Safety Act 2011 and Work Health and Safety Regulation 2011* proscribes consultative arrangements in the workplace between the employer and workers. This is partly achieved through the appointment of Safety Advisor(s), election of Health and Safety Representatives and the establishment of Health and Safety Committee(s).

Safety Advisor (WHSO)

Appointment of Safety Advisor

1. As part of its' commitment to work health and safety, North Burnett Regional Council appoints Safety Advisor(s)
2. The North Burnett Regional Council can appoint as many Safety Advisors (WHSOs) as desired;
3. The identity of the Safety Advisor (WHSO) is to be displayed in one or more conspicuous positions at the workplace;
4. A person conducting a business or undertaking may appoint a Safety Advisor for more than one workplace if the person can reasonably perform the person's functions as a Safety Advisor for each workplace.

Functions of a Safety Advisor (WHSO)

1. Provide advice to Management, Supervisors and employees in relation to Work Health and Safety Act, Regulations and Codes of Practice.
2. Conduct and / or arrange work health and safety related training activities including Safety Inductions and tool box talks.
3. Implementation and maintenance of Work Health and Safety Management System.
4. Conduct and / or arrange regular workplace inspections to identify hazards, risks and unsafe conditions and practices.
5. Report to Management any hazards, risks and unsafe conditions and practices and provide advice on control measures.
6. Ensure all workplace incidents are investigated and reported.

Employer to Assist Safety Advisor (WHSO)

The North Burnett Regional Council as part of its commitment to health and safety at the workplace should:

1. Provide information about risks to the work health and safety of workers and other persons from workplaces, relevant workplace areas, workplace activities, or plant or substances for use at a relevant place to the Safety Advisor;
2. Include the Safety Advisor at any interview about work health and safety between the employer and a worker, if the worker agrees;
3. Consult the Safety Advisor on any proposed change to the workplace that affects, or may affect, health and safety at the workplace;
4. Help the Safety Advisor to seek appropriate advice on issues that affect, or may affect work health and safety at the workplace;
5. Allow the Safety Advisor to conduct workplace inspections and assessments during normal working hours;
6. Provide resources to the Safety Advisor to allow them to properly exercise their functions.
7. Take appropriate action to rectify any identified unsafe work health and safety conditions and practices;
8. Take all reasonable steps to ensure the Safety Advisor performs their duties and functions;

The North Burnett Regional Council may:

1. Instruct the Safety Advisor on action to be taken to ensure work health and safety at the workplace.
2. Provide duty statements to the Safety Advisor outlining their responsibilities within the Council.

Health and Safety Representatives (HSRs)

The workers at a workplace are entitled to elect one Health and Safety Representative to represent their workgroup in the workplace, but may, as a result of negotiations with their employer, elect more than one representative.

North Burnett Regional Council in negotiation with its' workers will determine workgroups within the workplace to be represented by elected Health and Safety Representatives (HSRs) and notify the workers of the Workgroups determined.

Election of Health and Safety Representatives

1. Eligibility to be elected

A worker is eligible to be elected as a Health and Safety Representative for a work group only if he or she is a member of that work group; and he or she is not disqualified under the act from being a Health and Safety Representative.

2. Procedure for election of Health and Safety Representatives

- a) The workers in a work group may determine how an election of a Health and Safety Representative for the work group is to be conducted.
- b) An election must comply with procedures (if any) prescribed under a regulation.
- c) If a majority of the workers in a work group so determine, the election may be conducted with the assistance of a union or other person or organisation.
- d) The person conducting the business or undertaking to which the work group relates must provide any resources, facilities and assistance that are reasonably necessary or are prescribed under a regulation to enable elections to be conducted.

3. Eligibility to vote

- a) A Health and Safety Representative for a work group is to be elected by members of that work group.
- b) All workers in a work group are entitled to vote for the election of a Health and Safety Representative for that work group.

4. When election not required

If the number of candidates for election as a Health and Safety Representative for a work group equals the number of vacancies, the election need not be conducted and each candidate is to be taken to have been elected as a Health and Safety Representative for the work group.

5. Term of office of Health and Safety Representative

- a) A Health and Safety Representative for a work group holds office for 3 years.
- b) However a person ceases to hold office as a Health and Safety Representative for a work group if—
 - i) The person resigns as a Health and Safety Representative
 - ii) for the work group by written notice given to the person conducting the relevant business or undertaking; or
 - iii) The person ceases to be a worker in the work group for which he or she was elected as a Health and Safety Representative; or
 - iv) The person is disqualified under section 65 from acting as a Health and Safety Representative; or
 - v) The person is removed from that position by a majority of the members of the work group under a regulation.
- c) A Health and Safety Representative is eligible for re-election.

6. Disqualification of Health and Safety Representatives

- a) Application may be made to disqualify a Health and Safety Representative on the ground that the representative has—
 - i) Exercised a power or performed a function as a Health and Safety Representative for an improper purpose; or
 - ii) Used or disclosed any information he or she acquired as a Health and Safety Representative for a purpose other than in connection with the role of Health and Safety Representative.

7. Immunity of Health and Safety Representatives

A Health and Safety Representative is not personally liable for anything done or omitted to be done in good faith—

- 1. In exercising a power or performing a function under the Act; or
- 2. In the reasonable belief that the thing was done or omitted to be done in the exercise of a power or the performance of a function under the Act.

8. Powers and functions of Health and Safety Representatives

The powers and functions of a Health and Safety Representative for a work group are—

- a) To represent the workers in the work group in matters relating to work health and safety; and
- b) To monitor the measures taken by the person conducting the relevant business or undertaking or that person's representative in compliance with the *Work Health and Safety Act* in relation to workers in the work group; and
- c) To investigate complaints from members of the work group relating to work health and safety; and

- d) To inquire into anything that appears to be a risk to the health or safety of workers in the work group, arising from the conduct of the business or undertaking. In exercising a power or performing a function, the Health and Safety Representative may—
- i) Inspect the workplace or any part of the workplace at which a worker in the work group works
 - ✓ At any time after giving reasonable notice to the person conducting the business or undertaking at that workplace; and
 - ✓ At any time, without notice, in the event of an incident, or any situation involving a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard; and
 - ii) Accompany an inspector during an inspection of the workplace or part of the workplace at which a worker in the work group works; and
 - iii) With the consent of a worker that the Health and Safety Representative represents, be present at an interview concerning work health and safety between the worker and—
 - ✓ An inspector; or
 - ✓ The person conducting the business or undertaking at that workplace or the person's representative; and
 - iv) With the consent of one (1) or more workers that the Health and Safety Representative represents, be present at an interview concerning work health and safety between a group of workers, which includes the workers who gave the consent, and—
 - ✓ An inspector; or
 - ✓ The person conducting the business or undertaking at that workplace or the person's representative; and
 - v) Request the establishment of a health and safety committee; and
 - vi) Receive information concerning the work health and safety of workers in the work group; and
 - vii) Whenever necessary, request the assistance of any person. A Health and Safety Representative is not entitled to have access to any personal or medical information concerning a worker without the worker's consent unless the information is in a form that—
 - ✓ Does not identify the worker; and
 - ✓ Could not reasonably be expected to lead to the identification of the worker.

Nothing in the *Work Health and Safety Act* imposes or is taken to impose a duty on a Health and Safety Representative in that capacity. A trained Health and Safety Representative has a power to direct work to cease in certain circumstances and to issue provisional improvement notices (PINs).

9. Powers and functions generally limited to the particular work group.

A Health and Safety Representative for a work group may exercise powers and perform functions of a Health and Safety Representative only in relation to matters that affect, or may affect, workers in that group, unless there is a serious risk to health or safety emanating from an immediate or imminent exposure to a hazard that affects or may affect a member of another work group; or

A member of another work group at North Burnett Regional Council asks for the representative's assistance; and the Health and Safety Representative for that other work group is found, after reasonable inquiry, to be unavailable.

10. Obligations to Health and Safety Representatives

North Burnett Regional Council will –

- a) Consult, so far as is reasonably practicable, on work health and safety matters with any Health and Safety Representative for a work group of workers carrying out work for the business or undertaking; and
- b) Confer with a Health and Safety Representative for a work group, whenever reasonably requested by the representative, for the purpose of ensuring the health and safety of the workers in the work group; and
- c) Allow any Health and Safety Representative for the work group to have access to information that the person has relating to:
 - i) Hazards (including associated risks) at the workplace affecting workers in the work group; and
 - ii) The health and safety of the workers in the work group; and
- d) With the consent of a worker that the Health and Safety Representative represents, allow the Health and Safety Representative to be present at an interview concerning work health and safety between the worker and—
 - i) An inspector; or
 - ii) The person conducting the business or undertaking at that workplace or the person's representative; and
- e) With the consent of one (1) or more workers that the Health and Safety Representative represents, allow the Health and Safety Representative to be present at an interview concerning work health and safety between a group of workers, which includes the workers who gave the consent, and—
 - i) An inspector; or
 - ii) The person conducting the business or undertaking at that workplace or the person's representative; and
- f) Provide any resources, facilities and assistance to a Health and Safety Representative for the work group that are reasonably necessary or prescribed under a regulation to enable the representative to exercise his or her powers or perform his or her functions; and
- g) Allow a person assisting a Health and Safety Representative for the work group to have access to the workplace if that is necessary to enable the assistance to be provided; and
- h) Permit a Health and Safety Representative for the work group to accompany an inspector during an inspection of any part of the workplace where a worker in the work group works; and

- i) Provide any other assistance to the Health and Safety Representative for the work group that may be required under a regulation.

North Burnett Regional Council will allow a Health and Safety Representative to spend the time reasonably necessary to exercise his or her powers and perform his or her functions.

Any time that a Health and Safety Representative spends for the purposes of exercising his or her powers or performing his or her functions must be with the pay that he or she would otherwise be entitled to receive for performing his or her normal duties during that period.

11. Obligation to train Health and Safety Representatives

North Burnett Regional Council will, if requested by a Health and Safety Representative for a work group for that business or undertaking, allow the Health and Safety Representative to attend a course of training in work health and safety that is –

- a) Approved by the regulator; and
- b) A course the Health and Safety Representative is entitled under a regulation to attend;
 - ✓ An initial course of training of five (5) days;
 - ✓ One day's refresher training each year, with the entitlement to the first refresher training commencing one (1) year after the initial training.

North Burnett Regional Council will –

- a) As soon as practicable within the period of 3 months after the request is made, allow the Health and Safety Representative time off work to attend the course of training; and
- b) Pay the course fees and any other reasonable cost associated with the Health and Safety Representative's attendance at the course of training.
- c) Any time that a Health and Safety Representative is given off work to attend the course of training must be with the pay that he or she would otherwise be entitled to receive for performing his or her normal duties during that period.

12. List of Health and Safety Representatives

North Burnett Regional Council will ensure that –

- a) A list of each Health and Safety Representative for each work group of workers carrying out work for the business or undertaking is prepared and kept up to date; and
- b) A copy of the up-to-date list is displayed at each depot and office in a way that is readily accessible to workers in the relevant work group or work groups.

North Burnett Regional Council will provide a copy of the up-to-date list of Health and Safety Representatives to the regulator as soon as practicable after it is prepared.

13. Health and Safety Committee(s)

- a) North Burnett Regional Council may establish a Health and Safety Committee.
- b) The employer, a person conducting a business or undertaking, or principal contractor must establish a Health and Safety Committee for a workplace if a Health and Safety Representative for the workplace asks to establish a committee;
- c) More than one committee can be established for a workplace;
- d) The H&S Committee for a workplace will include;
 - i) The Safety Advisor and Health and Safety Representative(s) for the workplace; and
 - ii) Other members negotiated by the employer, any principal contractor, and workers at the workplace;
- e) A committee member must be an employer, principal contractor, or worker at the workplace;
- f) At least half of the committee must be workers who are not nominated by North Burnett Regional Council, the employer or principal contractor;
- g) A constitution or terms of reference is to be developed for the Health and Safety Committee outlining the methodology for their operation;
- h) A committee meeting is to be held during normal working hours;
- i) The Health and Safety Committee must meet at least once every three months;
- j) Committee members are to consult with their respective work groups before a proposed meeting to ascertain if the workers have any issues to be taken to the Health and Safety Committee meeting;
- k) Health and Safety Committee minutes are to be kept and distributed around the workplace or displayed on noticeboards;
- l) The identity of the Health and Safety Committee members should be displayed at the workplace;
- m) Relevant training should be provided to the Health and Safety Committee members;
- n) Duty statements are to be distributed to each of the Health and Safety Committee members outlining their responsibilities within Council;
- o) The Health and Safety Committee is to set itself goals and should review these goals at twelve (12) monthly intervals.

14. Functions of the Health and Safety Committee

The functions of the health and safety committee are—

- a) to facilitate cooperation between North Burnett Regional Council and workers in instigating, developing and carrying out measures designed to ensure the workers' health and safety at work; and
- b) to assist in developing standards, rules and procedures relating to health and safety that are to be followed or complied with at the workplace; and
- c) any other functions prescribed under a regulation or agreed between North Burnett Regional Council and the committee.

This may be achieved by:

- a) Encouraging and maintaining an active interest in workplace health and safety;
- b) Considering measures for training and educating persons at the workplace about workplace health and safety;
- c) Telling workers about control measures (policies, procedures, inspection, audits, etc.) for workplace health and safety;
- d) Reviewing the circumstances surrounding workplace incidents;
- e) Advising the employer or principal contractor of the results of the review and making recommendations;
- f) Helping in the resolution of issues about workplace health and safety at the workplace;
- g) Conducting a formal review of the Health and Safety Committee operations to actually identify if the committee is working effectively.

15. Document Implementation and review consultation

As part of the document development and review process draft versions should be provided to relevant workers for comment and review.

- a) Comments and suggested changes may be recorded on the draft versions provided.
- b) This will be recorded on 'Document Review and Consultation Record' WHS-FORM-03.01.5
- c) 'Document Review and Consultation Record' and Draft versions of documents will be returned to Safety Advisor or Work Health and Safety Administration Officer.
- d) Document Review and Consultation will be recorded on 'WHS Document Consultation and Review Register' WHS-FORM-03.01.6

General

- a) A register of Health and Safety Personnel is to be developed and maintained (WHS-FORM-03.01 Register of WH&S Personnel).
- b) Staff are to be advised of the consultative arrangements through the conduct of a toolbox talk and issuing WHS-T5-03.01 Consultation.
- c) Staff are required to undertake the Take 5 Paper and Quiz, complete and sign the quiz and the records are to be maintained.
- d) The North Burnett Regional Council must keep all workplace health and safety related documentation in accordance with WHS-WP-06.03 Record and Document Control.