WHS consultation

Procedures governing arrangements for worker participation and representation in work health and safety (WHS) matters.
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Introduction

Roads and Maritime Services (Roads and Maritime) recognises that better work health and safety (WHS) outcomes are easier to achieve when workers are involved in creating and maintaining a safe and healthy workplace.

WHS consultation is a two-way process that empowers workers to identify WHS issues, share views and WHS information, participate in decision-making on WHS matters, and receive feedback on outcomes.

This is reinforced by the Work Health and Safety Act 2011 (WHS Act): under Section 47 a person conducting a business or undertaking (PCBU) must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking and who are – or are likely to be – directly affected by a health and safety matter.

Purpose

This procedure provides guidance for Roads and Maritime’s managers on establishing arrangements for WHS consultation with workers and resolving WHS issues.

The objective is to ensure that arrangements are in place across all Roads and Maritime workplaces to enable:

• Effective consultation with workers about WHS matters
• Worker participation in WHS activities
• Appropriate representation of workers’ perspectives in decision-making about WHS matters.

Scope

This procedure applies to Roads and Maritime managers at all levels who manage any person who carries out work in any capacity for Roads and Maritime. This includes Roads and Maritime employees (including labour hire, apprentices and trainees); professional services contractors and consultants; contractors, subcontractors and their employees; outworkers; students gaining work experience; and volunteers.

When consultation with workers is required

Consultation with workers can be formal or informal and must occur when:

• Making decisions about WHS consultation arrangements
• Identifying hazards, assessing risks and deciding on ways to eliminate or minimise those hazards and risks
• Monitoring worker health and workplace conditions
• Resolving WHS issues
• Providing training and information for workers

1 See Definitions
• Proposing changes that may affect the health and safety of workers.

Appendix A contains a checklist for duty holders to confirm that consultation obligations are met.

Consultation arrangements

Informal arrangements

WHS consultation with workers is integrated into day-to-day activities in the workplace. It takes place in:

• Daily communication between managers and workers
• Development and review of risk assessments (see WHS risk management)
• SWMS development and review (see Safe work method statements)
• Response to occurrences logged in the reporting system (see Occurrence management)
• Toolbox meetings
• Team briefings
• Face-to-face meetings
• Site inductions.

Refer to Appendix B for further examples of Roads and Maritime’s informal arrangements for sharing WHS information with workers and providing opportunities for day-to-day consultation about WHS matters.

Formal arrangements

Formal arrangements for WHS consultation involve health and safety representatives (HSRs) and/or health and safety committees; this procedure sets out how these are established.

Appendix C describes the formal role and function of HSRs and committees, and Roads and Maritime’s obligations to support them.

Further information

This document draws from the following SafeWork NSW (formerly WorkCover) publications, which contain extensive further information:

• Code of practice: **Work health and safety consultation, cooperation and coordination**
• *Worker representation and participation guide.*
Establishing consultation arrangements with workers

Process overview

1. Identify workers and other duty holders
2. Identify communication channels
3. Identify work groups
4. Propose work groups to workers
5. Consult workers about arrangements
6. Formal?
   - Yes: HSR Facilitate election of HSR
     - Notify workers, other duty holders, WHS Branch & SafeWork NSW
   - No: Negotiate
7. Workers agree on arrangements?
   - Yes: Inform workers and call for nominations
     - Workers agree on committee composition?
       - Yes: Form committee
       - No: Negotiate
   - No: Inform workers, other duty holders & WHS Branch

Informal arrangements only (see Appendix B). Notify workers, other duty holders & WHS Branch

HSRs and a committee may both be established, if requested. In that case, the HSRs must be included on the committee.
1 Identify all workers and other duty holders, and determine work groups

Every Roads and Maritime manager must ensure they have a complete picture of:

- The workers they have a duty to consult about WHS matters. This includes Roads and Maritime employees and others such as Transport Service employees working at Roads and Maritime, labour-hire staff, contractors and subcontractors, and employees of industry partners
- Other duty holders (within Roads and Maritime or other PCBUs) who have a concurrent duty to consult the same workers about WHS matters. This includes other Roads and Maritime managers, Transport for NSW, labour-hire providers and industry partners.

An example of where managers have a concurrent duty to consult with a group of workers about WHS matters is where there is a shared work environment.

Duty holders must consult each other about the arrangements for consultation with workers about WHS, and then cooperate and coordinate with each other to ensure that all workers are covered by WHS consultation arrangements.2

1.1 Identify communication channels

The most effective means of directly communicating with workers and other duty holders needs to be identified, so that they can be properly consulted and kept informed.

For workers, this may include any or all of existing team meetings, email, letter (mail), or workplace noticeboards.

As consultation is a two-way process, it must be clear to workers how they can respond and how they will receive feedback on WHS matters raised.

1.2 Identify potential work groups

A work group usually consists of workers who perform similar types of work and have similar health and safety concerns and conditions within the workplace. The aim is to ensure that workers are grouped in a way that most effectively and conveniently enables their health and safety interests to be represented, and that each member of the group can easily access the agreed arrangements.

Work groups may be functional or geographical, that is:

- A work group may comprise workers from more than one workplace, for example workers who perform a common function in different locations or workers in one branch, located in different workplaces
- A worker can be a member of more than one work group, for example an employee of a subcontractor can be a member of one work group determined by

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2 Note: for other processes for consultation, cooperation and coordination between duty holders see Consultation, cooperation and coordination SMS requirements.
Roads and Maritime (location based) and one determined by the subcontractor (function based)

- A Roads and Maritime employee could be assigned to one work group for their branch (function based) and another for their workplace (regional or site location)
- All workers at a location may be considered as one work group, or there may be more than one work group for the purposes of WHS consultation.

Factors to be considered include:

- The number of workers
- The nature of each type of work carried out by the workers
- The number and grouping of workers who carry out the same or similar types of work
- The areas or places where each type of work is carried out
- The extent to which any worker must move from place to place while at work
- The diversity of workers and their work
- The nature of any hazards and risks to health and safety at the workplace(s)
- The nature of the engagement of each worker, eg as an employee or as a contractor
- The pattern of work carried out by workers, eg whether the work is full time, part time, casual or short term
- The times at which work is carried out
- Any arrangements relating to overtime or shift work.

1.3 Propose work groups to the workers concerned

Once potential work groups have been identified, the manager must consult with the workers concerned. The views of the workers about the number and composition of work groups must be taken into account.

The workers may appoint a representative to negotiate on their behalf.

If agreement cannot be reached, contact the WHS Partner for advice. Anyone involved in the negotiations can ask SafeWork NSW to appoint an inspector to assist in the negotiations and make a determination if necessary.

Communicate the outcome

When agreement on the work groups has been reached, all the workers must be notified in writing (email or mail). A call for nominations of HSRs could be included in the communication.

If a work group includes workers employed by a labour-hire provider or an industry partner, those employers are other duty holders and need to be informed about the determination of the work group.

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3 WHS Regulation clause 17 identifies these factors to be considered when work groups are established to allow the election of health and safety representatives.
2 Consult workers about arrangements for WHS consultation

Workers are routinely consulted about WHS matters as part of day-to-day Roads and Maritime work practices (see Appendix B).

Workers must be consulted about whether they also wish to establish (or change) formal arrangements for consultation – ie through electing an HSR or appointing a health and safety committee, or both.

The WHS Act stipulates that:

<table>
<thead>
<tr>
<th>If:</th>
<th>then the manager must:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Any worker or group of workers requests that they elect HSRs</td>
<td>➢ Within 14 days commence negotiations with workers about the proposed work group and the number of HSRs (WHS Act s 52) – [see step 3]</td>
</tr>
<tr>
<td>• Five or more workers, or an HSR, request that a committee be established</td>
<td>➢ Establish the committee within two months (WHS Act s 75) – [see step 0]</td>
</tr>
</tbody>
</table>

If the workers do not wish to establish HSRs or a committee, then the ‘agreed arrangements’ are that WHS consultation takes place through the informal practices identified in Appendix B. This must be communicated to the workers and other duty holders.

3 Establish health and safety representatives (when requested)

The role and functions of health and safety representatives (HSRs) are set out in Appendix C.

3.1 Facilitate election of HSRs

If everyone involved in the negotiations agrees, more than one HSR may be elected for a work group and the HSRs may perform their roles at the same time. This can be particularly beneficial where there are large numbers of workers who perform similar work.

A manager cannot simply appoint HSRs. A work group member may nominate themselves or another member of the work group to stand for election. Where there is more than one work group, there needs to be a separate process to elect HSRs for each one.

An HSR is elected for a three-year term, and may then be re-elected for a further term.

All workers in a work group must be provided with every reasonable opportunity to nominate HSRs and vote in the election.

Any other duty holders must be informed of the election date as soon as practicable after the date has been decided.
Managers must provide resources, facilities and assistance to enable elections to be conducted, eg providing reasonable access to printing resources so election notices can be displayed in the workplace, or providing access to a meeting room.

If the number of candidates nominated for election equals the number of vacancies in the work group, the candidates are deemed to be ‘elected’ and there is no need to proceed with an election.

When an election is needed, workers from the work group determine how it is to be conducted. The election process may be informal – eg a show of hands – or it may involve a more formal process, such as the use of ballots. If the majority of workers in a work group agree, the election may be conducted with the assistance of a union or other organisation or person.

**Communicate the outcome**

When HSRs are elected, formal notification – ie the HSRs’ names – must be given in writing (mail or email) to:

- All workers in the work group
- The senior management team
- Other duty holders with a concurrent duty for this work group
- WHS Branch [email onermssms@rms.nsw.gov.au]

WHS Branch will notify SafeWork NSW.

### 3.2 Support HSR training

Roads and Maritime supports SafeWork NSW-approved training of HSRs. Although training is not mandatory, HSRs and deputy HSRs should be encouraged to take the opportunity to do the training.

HSRs and deputy HSRs are entitled to attend an initial training course of five days, at their normal pay. They are also entitled to one day's refresher training each year.

When an HSR is not a Roads and Maritime employee, the duty holders need to agree on the arrangements for the HSR to attend training.

(Note, only trained HSRs are empowered to direct unsafe work to cease or issue provisional improvement notices.)

For full details, refer to the SafeWork NSW *Worker representation and participation guide*. 
4 Establish a health and safety committee 
(where applicable)

A manager may initiate the establishment of a health and safety committee – eg following a relocation or organisational restructure.

A manager must establish a committee if five or more workers or an HSR requests it.

See Appendix C for more information about committees.

4.1 Inform workers about the proposed committee and call for nominations

The composition of a committee should be agreed between the manager and the workers concerned, bearing in mind that:

- The committee needs to be representative of the work group and be of a manageable size
- At least half of the members must be workers not nominated by management
- Any HSRs are to be included, if they consent
- Members nominated to represent Roads and Maritime should include:
  - Senior managers who are able to make decisions about health and safety
  - Managers, supervisors, safety officers, technical experts and personnel officers, so that the committee has the necessary level of decision-making, knowledge and expertise regarding agency policy, production needs and technical matters concerning premises, processes, plant, machinery and equipment, and systems of work.
- A WHS Partner could be asked to attend meetings to provide advice, rather than being a member.

If workers object to the composition of the committee and agreement cannot be reached, the WHS partner may be asked to assist with the negotiations.

If agreement cannot be reached, the WHS partner, or anyone who has been involved in the negotiations, can ask SafeWork NSW to appoint an inspector to decide on the committee.

For full details, refer to the SafeWork NSW Worker representation and participation guide.

4.2 Announce establishment of the committee

When the committee membership is finalised, workers need to be informed of the outcome, along with any other duty holders and WHS Branch.
4.3 Support the committee

As well as providing the committee with access to information, resources, facilities and assistance, managers need to demonstrate support for the committee by considering and responding to its recommendations promptly.

A one-day training course for committee members is available; they should be made aware of the course and given time to attend if they wish.

Roles and responsibilities

<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officers</td>
<td>Take reasonable steps to ensure that Roads and Maritime implements processes for complying with the duty to consult workers as well as consulting, cooperating and coordinating activities with other duty holders.</td>
</tr>
<tr>
<td>Managers</td>
<td>Establish, in consultation with workers and other duty holders, arrangements for consultation about WHS matters</td>
</tr>
<tr>
<td></td>
<td>Identify and inform other duty holders about consultation arrangements</td>
</tr>
<tr>
<td></td>
<td>Actively promote and participate in WHS consultation activities, including workplace inspections, meetings and provision of information, and allow workers to do the same</td>
</tr>
<tr>
<td></td>
<td>Follow the process for resolving WHS issues when agreement cannot be reached (see Appendix E)</td>
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<tr>
<td></td>
<td>If formal arrangements have been requested, implement the arrangements in accordance with WHS legislation</td>
</tr>
<tr>
<td></td>
<td>- Where HSRs are requested, facilitate elections</td>
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<tr>
<td></td>
<td>- Support paid training for HSRs and committee members</td>
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<tr>
<td></td>
<td>- Involve HSRs in all WHS consultation when their work group is affected</td>
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<tr>
<td></td>
<td>- Allow and enable HSRs to exercise their powers and functions</td>
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<tr>
<td></td>
<td>- Give worker representatives time during work hours to prepare for and attend committee meetings and report to other HSRs and workers</td>
</tr>
<tr>
<td></td>
<td>- Provide HSRs and committees with resources, facilities and assistance</td>
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<tr>
<td></td>
<td>- Give HSRs access to information 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</td>
</tr>
<tr>
<td></td>
<td>- Ensure that an up-to-date list of HSRs is accessible to workers and provided to WHS Branch.</td>
</tr>
<tr>
<td>Workers</td>
<td>Actively support and participate in WHS consultation activities.</td>
</tr>
<tr>
<td>Other duty holders</td>
<td>Actively support and participate in Roads and Maritime WHS consultation activities</td>
</tr>
<tr>
<td></td>
<td>Participate in the WHS issue resolution process where their workers are affected by the issue (see Appendix E).</td>
</tr>
<tr>
<td>Health and safety</td>
<td>Work cooperatively with Roads and Maritime</td>
</tr>
<tr>
<td>representatives (HSRs)</td>
<td>Carry out their role and functions in compliance with WHS legislation. See Appendix C for further details.</td>
</tr>
</tbody>
</table>
### Role Responsibilities

| Health and safety committee members | • Work cooperatively with Roads and Maritime  
• Perform their role and functions in compliance with WHS legislation. |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| WHS partners                        | • Disseminate WHS information  
• Provide support and advice during the establishment of WHS consultation arrangements  
• Assist with resolution of WHS issues (see Appendix E)  
• Provide support and advice where requested. |
| WHS Branch                          | • Provide support and advice  
• Maintain up-to-date records of consultation arrangements, including lists of HSRs  
• Inform SafeWork NSW of HSRs. |

### Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Agreed arrangements</td>
<td>Consultation arrangements agreed between workers and managers. This can be informal arrangements (see Appendix B), with or without HSRs or a committee.</td>
</tr>
<tr>
<td>Duty holder</td>
<td>If a person conducting a business or undertaking (PCBU) has a duty or obligation under the WHS Act, an officer of the PCBU must exercise due diligence to ensure that the PCBU complies with that duty or obligation.</td>
</tr>
<tr>
<td>HSR</td>
<td>Health and safety representative.</td>
</tr>
<tr>
<td>Manager</td>
<td>A person responsible for planning and directing the work of a worker or group of workers, monitoring their work, and taking corrective action.</td>
</tr>
</tbody>
</table>
| Officer                     | Broadly, an officer is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the organisation's activities – see section 4 of the WHS Act.  
The Chief Executive and executive directors ("the Executive") are officers, as they make decisions that affect Roads and Maritime’s strategies, planning and operations. |
| Other duty holder           | Where more than one Roads and Maritime division or more than one PCBU is delivering work or causing work to occur, duty holders of each must be identified and informed about consultation arrangements. |
| PCBU                        | Person conducting a business or undertaking as per section 5 of the WHS Act.                                                                 |
| SWMS                        | Safe work method statement.                                                                                                                  |
| WHS issue                   | Any concern about health and safety at the workplace that remains unresolved after consultation between the affected workers and Roads and Maritime. |
| WHS matter                  | An occurrence, series of occurrences, hazardous condition or set of hazardous conditions that has affected, is affecting, or might affect safety. |
| WHS Regulation              | Work Health and Safety Regulation 2017.                                                                                                       |
Term | Definition
---|---
Worker | Any person who carries out work in any capacity for Roads and Maritime – that is, Roads and Maritime employees (including labour hire, apprentices and trainees); professional services contractors and consultants; contractors, subcontractors and their employees; outworkers; students gaining work experience; and volunteers.

**References**

**Rocks and Maritime references**

<table>
<thead>
<tr>
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<tr>
<td>PN066P02</td>
<td>WHS risk management</td>
</tr>
<tr>
<td>PN066P11</td>
<td>Safe work method statements</td>
</tr>
<tr>
<td>PN066P27</td>
<td>Occurrence management</td>
</tr>
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<td>PN066P28</td>
<td>Hazard and occurrence reporting</td>
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**External references**

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<th>Type</th>
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<tr>
<td>Work health and safety consultation, cooperation and coordination</td>
<td>SafeWork NSW</td>
<td>Code of practice</td>
</tr>
<tr>
<td><a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a></td>
<td></td>
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<tr>
<td>Worker representation and participation guide</td>
<td>SafeWork NSW</td>
<td>Guide</td>
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<td></td>
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<tr>
<td>‘Safety representation’ topics</td>
<td>SafeWork NSW website</td>
<td>Web pages</td>
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<tr>
<td><a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a></td>
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**Records**

Appendix D shows the occasions when the outcomes of consultation about arrangements must be formally communicated. Each communication must be stored as a record.
# Appendices

## Consultation checklist

<table>
<thead>
<tr>
<th>Consultation compliance</th>
<th>Yes / No</th>
<th>Chapter in Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do I have one or more consultation arrangements in place after consultation with my workers?</td>
<td>☐ ☐</td>
<td>4</td>
</tr>
<tr>
<td>Do the consultation arrangements include workers other than my employees, such as contractors or labour hire workers who are part of my workforce?</td>
<td>☐ ☐</td>
<td>4, 5</td>
</tr>
</tbody>
</table>
| Do I use my consultation mechanism when I:  
  - Identify hazards and assess risks?  
  - Make decisions to control risks?  
  - Make decisions about welfare facilities?  
  - Propose changes to the work, including purchasing new or used plant or new substances or materials?  
  - Develop and review safety policies and procedures? | ☐ ☐ | 2 |
| When I consult with my workers on these issues do I:  
  - Inform them of what I intend to do (eg purchase a new piece of equipment)?  
  - Share relevant information about the issue with them?  
  - Give them a reasonable opportunity to respond?  
  - Discuss their safety concerns?  
  - Take into account the views they express?  
  - Advise them of my decision and the reasons for it? | ☐ ☐ | 3 |
| If workers are represented by a health and safety representative, do I:  
  - Include the representative in all health and safety consultations?  
  - Make myself available for the representative to raise and discuss health and safety matters with me? | ☐ ☐ | 4 |
| Do I consult other duty holders who share responsibility for a health and safety matter with me?  
Do I cooperate and coordinate activities with them? | ☐ ☐ | 5 |

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4 This checklist has been adapted from the code of practice *Work health and safety consultation, cooperation and coordination.*
B Informal consultation arrangements

Day-to-day consultation

WHS consultation with workers is integrated into day-to-day activities in the workplace. It takes place in:

- Daily communication between managers and workers
- Development and review of risk assessments (see WHS risk management)
- SWMS development and review (see Safe work method statements)
- Response to occurrences logged in the reporting system (see Occurrence management)
- Toolbox meetings
- Team briefings
- Face-to-face meetings
- Site inductions
- Training and information sessions
- SAFE (safety awareness for everyone) and GreenSAFE engagements
- Safe LEADAR engagements
- Other planned and unplanned safety interactions.

Sharing information about WHS

- WHS Branch maintains the content on the Roads and Maritime OneRMS SMS\textsuperscript{5} website and on Compass (intranet). Information that can be accessed from the pages includes:
  - Safety messages
  - WHS risk information
  - Health and safety topics
  - Health and wellbeing initiatives
  - WHS procedures, tools and guidance material
  - OneRMS SMS manual, frameworks and requirements
  - Drafts for consultation, with feedback channels provided.
- WHS information is also communicated throughout Roads and Maritime from time to time through the Chief Executive’s messages and Compass News (disseminated by email and on the intranet).
- Workplace noticeboards are also used to publicise WHS information.
- WHS partners are instrumental in ensuring that WHS information reaches the business.

\textsuperscript{5} OneRMS SMS is Roads and Maritime’s safety management system.
C  Formal consultation arrangements

Health and safety representatives (HSRs)

An HSR must be nominated and elected by their own work group, and workers must be involved in determining their work groups – see section 3.

HSRs facilitate the flow of information about health and safety between the business and the workers in their work group.

They monitor the health and safety actions taken by the business (or other duty holder), investigate workers’ complaints and look into anything that might be a risk to the health and safety of the workers they represent.

Roads and Maritime’s obligations

Once an HSR has been elected, all WHS consultation with members of their work group must involve them. Roads and Maritime must allow HSRs to exercise their powers and functions (see below), give them access to information relating to health and safety, and provide any resources, facilities and assistance that are reasonably necessary. HSRs are entitled to attend approved training (see section 3.3).

Powers and functions of HSRs

In summary, the powers and functions of HSRs are to:

- Represent the workers in their work group in relation to WHS matters
- Monitor the measures taken by Roads and Maritime to comply with the WHS Act in relation to their work group members
- Investigate complaints from work group members about WHS
- Inquire into anything that appears to be a risk to the health or safety of work group members arising from the conduct of the business or undertaking.

HSRs are entitled to carry out workplace inspections, accompany SafeWork NSW inspectors, and be present at an interview between a member of their work group and an inspector or Roads and Maritime manager or investigator.

An HSR who has completed the approved training may also:

- Direct workers in their work group to cease work, if there is a reasonable concern that to carry out the work would expose the worker to a serious risk, emanating from an immediate or imminent exposure to a hazard
- Issue a provisional improvement notice (PIN) (a notice issued to a PCBU requiring them to address a health and safety concern in the workplace) if the HSR reasonably believes that a PCBU is contravening or has contravened a provision of the WHS Act in circumstances that make it likely that the contravention will continue or be repeated.

For full details, refer to the SafeWork NSW Worker representation and participation guide.
Health and safety committees

A health and safety committee may be established as a forum for consultation to enable Roads and Maritime managers and workers to meet regularly and work cooperatively.

It is not mandatory for a work group to have a committee, unless five or more workers or a health and safety representative request it; however, a manager may initiate the establishment of a committee.

The main function of a committee is to facilitate cooperation in instigating, developing and carrying out measures to improve the health and safety of workers. Once a committee is established, the members may agree on other specific functions.

A committee does not have to be related to a specific workplace: it might be established for workers who carry out work at one or more locations or for those who do not have a fixed place of work.

A committee must meet at least once every three months, although the members may agree to meet more often.

Roads and Maritime’s obligations

Worker representatives must be given time during work hours to prepare for and attend committee meetings and to report the outcomes to other HSRs and workers in the workplace. Roads and Maritime must give committee members access to information relating to health and safety and provide any resources, facilities and assistance that are reasonably necessary.

For full details, refer to the SafeWork NSW Worker representation and participation guide.

A combination of committee and HSRs

When a workplace has both a health and safety committee and HSRs, there should be a clear distinction between their roles, as follows:

- HSRs are involved with specific health and safety issues affecting the work group they represent
- The committee is the forum for consultation on the management of health and safety for one or more work groups.

Unless they do not wish to participate, HSRs (if any) are automatically members of the committee. If there is more than one HSR at the workplace, the HSRs may agree among themselves about who will be on the committee. They may agree to have more than one HSR join the committee.
### D Obligations to communicate consultation arrangements

<table>
<thead>
<tr>
<th>When:</th>
<th>Workers</th>
<th>Other duty holders</th>
<th>WHS Branch</th>
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<tr>
<td>• Workers decide to continue with ‘informal’ consultation methods (not HSRs or committees)</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>• A work group is proposed</td>
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<td>✓</td>
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</tr>
<tr>
<td>• A work group is agreed</td>
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<td>✓</td>
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<tr>
<td>• An election is planned for HSRs</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>• HSRs are elected</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>• A committee is being established (call for nominations)</td>
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<td>✓</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>• Committee membership is decided</td>
<td>✓</td>
<td>✓</td>
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6 WHS Branch notifies SafeWork NSW
**E WHS issue resolution**

**What is an ‘issue’?**

A WHS issue is any concern about health and safety at the workplace that remains unresolved after consultation between the affected workers and Roads and Maritime, such as a difference of opinion about:

- Whether a particular control measure is adequate
- The means by which workers are consulted or participate in health and safety decisions.

Anyone who identifies a hazard is expected to report it to the WHS reporting line on **1300 131 469**. The report is assessed by WHS Branch to determine whether an investigation is required, as is a subsequent report by the respective line manager. The hazard would only become an ‘issue’ in this context if there were disagreement about the response.

Anyone – an HSR, worker, manager or other duty holder – can identify an issue that remains unresolved after consultation and requires resolution.

At any time during the process, any of the parties can ask SafeWork NSW to appoint an investigator to assist at the workplace.

At any time during the process, or if a request to SafeWork NSW is made, a worker is still entitled to exercise their right to cease work, or an HSR can issue a provisional improvement notice (PIN) or a direction to cease work.

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7 See WHS procedures *Hazard and occurrence reporting* and *Occurrence management*
Overview of the resolution process

Issue reported to the immediate manager

If the workers concerned are represented by an HSR, they or the manager should involve the HSR as soon as the issue is raised.

The manager must attempt to reach a resolution with the workers or their HSR before escalating the issue, and this should be documented.

Issue escalated to an appropriate manager

If a resolution has not been reached, the immediate manager must refer the issue to the appropriate level — usually their ‘one-up’ manager.

The manager who the issue has been referred to must have:

- The appropriate level of seniority to represent Roads and Maritime and make decisions to resolve workplace issues
- A general knowledge and understanding of:
  - WHS laws
  - How to manage and resolve work health and safety issues
  - The duties, functions and powers of the parties involved with the issue.

The manager who the issue has been referred to must assess its severity and determine an appropriate timeframe for response.
At this point, the manager should inform all parties, including:

- The manager who has been directly involved
- Any HSRs who represent the workers involved in the issue
- If there are no HSRs, the workers involved or their representative
- If the workers request it, their nominated union representative
- The WHS Partner
- Any other duty holders whose workers are affected by the issue.

It is not appropriate for a health and safety committee to be a party involved in issue resolution, although individual committee members may be included in their respective capacities as listed above.

**Solution determined**

The parties must promptly cooperate to achieve a final and effective resolution of the issue, identifying the measures – both temporary and permanent – that must be implemented and who is responsible for implementing them.

The solution must be documented as a formal record, and all parties must formally confirm that the record reflects what has been agreed.

**Further escalation**

If agreement cannot be reached, the issue should be escalated to the next level of management and the Director Safety notified.

**Outcome communicated**

As well as the parties involved in the resolution, the agreed solution must also be communicated to any health and safety committee at the workplace and to WHS Branch [email onermssms@rms.nsw.gov.au].
Document control

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Change history

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Feedback

Contact WHS Branch with feedback on this document at: onermssms@rms.nsw.gov.au