

Information for workers, and prospective and current HSRs and deputy HSRs

Health and safety representatives (HSRs) play a key role in ensuring healthier and safer workplaces, by representing the views of their work group in matters of work health and safety (WHS).

HSRs are elected by their work group and consult with employers to help support good WHS outcomes.

HSRs are not professional safety officers. They do not manage WHS and do not need WHS experience to be eligible. An HSR does not have an additional duty of care or statutory liability. WHS legislation gives the HSR role special functions, rights, powers and training to enable them to undertake this voluntary role during their usual work hours. If you want to help your work colleagues have a healthier and safer workplace, being an HSR could be for you.

Deputy health and safety representatives

The role of deputy health and safety representative (DHSR) is also established under work health and safety laws. DHSRs take the same training to ensure ready access to an HSR when they are unavailable (e.g. due to leave, illness or shiftwork). When this happens, the DHSR is deemed to be the HSR and may exercise HSR functions and powers for their work group.

Why does the HSR role exist?

Worker consultation helps ensure that WHS risk management is informed and improved by input from workers with direct experience of the work undertaken and their work environment.

HSRs can make this consultation more accessible, efficient and effective, by representing their work group and taking their collective WHS concerns to the person conducting a business or undertaking (PCBU) or senior management.

Protection and support

PCBUs are required to ensure HSR training, facilities and assistance are available to enable HSRs to undertake their role and be reasonably available to discuss WHS matters.

An HSR is not personally liable for HSR functions or powers done (or omitted to be done) in good faith. Work health and safety laws prohibit discriminatory conduct against a worker having been, being or proposing to be an HSR. A court penalty of up to \$100,000 can be applied for discriminatory conduct.

Workplace Health and Safety Queensland (WHSQ) is responsible for providing information and advice, fostering cooperative relationships between PCBUs and HSRs, supporting HSR training, and monitoring and enforcing compliance with HSR matters.

When do HSRs perform their role?

HSRs must be allowed reasonable time and access to the PCBU and work group members to discuss WHS matters.

When exercising their powers or functions as an HSR and doing HSR training, HSRs must be paid as if at work, including shift or other allowances to which they would otherwise be entitled.

Inviting workers to request the election of an HSR

If no HSR has been elected at a workplace, the term of office for an existing HSR ends, or an existing HSR ceases to hold office, the PCBU must notify workers in writing and in the required timeframe of certain matters, such as:

- the process for the election of an HSR.
- the powers and functions of HSRs.

The PCBU must also invite the workers to ask the PCBU to facilitate an election of an HSR.

While notification must be in writing, there is no specific form that a PCBU must use.

It is at the PCBU's discretion how the notification should be given (i.e. distributing the notice by email, displaying the notice in an area commonly accessed by all workers, etc.).

There are specific timeframes for when a PCBU must provide this notification depending on the circumstances that apply. Notification must happen either:

- as soon as possible after the PCBU first starts; or
- within one year of the previous notification for election being given; or
- as soon as reasonably practicable after an HSR's term of office ends or they cease to hold office.

Election

HSRs and DHSRs are elected by members of their work group. PCBUs or managers cannot appoint or select them. Any worker can request the PCBU conduct an HSR election. Just one request triggers the following process:

- The PCBU has 14 days to complete negotiations with workers to determine and agree on grouping staff into work groups and the number of HSRs (and any DHSRs) to represent each work group.
- Once these arrangements are agreed, work group members can nominate themselves or another member to stand for election.
- Work group members may also determine how the election will be conducted (e.g. with a show of hands, or more formal ballot). The PCBU must provide any resources, facilities or assistance reasonably necessary to facilitate the election processes.
- If the number of candidates equals the number of vacancies, each candidate is elected.
- The PCBU must ensure all work group members are informed of the election outcome, display a written list of current HSRs and DHSRs in the workplace, and provide this list (and any updates) to WHSQ.
- The term of office for HSRs and DHSRs is three years. They may re-nominate for election when their term of office expires.

WHSQ can provide help and dispute-resolution assistance if significant issues or delays arise in the above process.

HSR functions and rights

- Consult with their work group about WHS matters and investigate their concerns.
- Inspect the workplace to identify WHS hazards and risks.
- Represent their work group when consulting with the PCBU or senior management and attempt to resolve WHS issues.
- Access information about WHS for their work group (except personal or medical information that could identify a worker).
- Monitor measures made by the PCBU to comply with work health and safety laws.
- Be notified if a WHSQ inspector enters a workplace and accompany a WHSQ inspector during a workplace inspection where a work group member works.
- Make a request to the PCBU for the assistance of a *suitable entity* (e.g. a *relevant union*, an engineer assisting the HSR to resolve a plant guarding issue) where necessary to perform their role as HSR, and to have the *suitable entity* access the workplace to assist the HSR.
- Be notified if a WHS entry permit holder enters the workplace if relevant to the HSR's workgroup, and to accompany the WHS entry permit holder during an inspection if the reason for the WHS entry permit holder's entry relates to the work group or a part of the workplace where a worker in the work group works.
- Request the establishment of a health and safety committee (HSC), to be actioned by the PCBU within two months.
- If the HSR consents, be a member of the HSC (which meets at least every three months, and enables a PCBU, senior management and workers to work cooperatively to develop policies and procedures to improve WHS).

Training

PCBUs must ensure that HSRs and DHSRs are provided with the five-day HSR training course within 28 days of election, so they can fulfil their roles effectively. HSRs and DHSRs are also entitled to attend a one-day refresher training once every year. A PCBU must ensure HSRs and DHSRs have completed both the five-day training

course and one-day refresher course, and allow them to choose their training provider.

These training courses are run by registered training organisations (RTOs), and provide HSRs with the skills, knowledge and confidence to represent their work group.

Powers

After an HSR has completed the initial five-day HSR training course, they can use specific powers under work health and safety laws, including to give a worker a verbal or written notice (cease work notice) to stop, or not start, unsafe work.

- Consultation with the PCBU is required before using the power to stop unsafe work unless the HSR verbally directs a worker to stop as the HSR reasonably believes there is a serious risk to health and safety from immediate or imminent exposure to a hazard.
- If consultation does not resolve a WHS issue with the relevant party, and an HSR reasonably believes a person is or has contravened work health and safety laws, the HSR may issue a provisional improvement notice (PIN). The recipient of a PIN must either comply by the due date or contact WHSQ within three days of issuance to dispute the PIN.

Key definitions

A **suitable entity**, for representing or assisting a worker or HSR, means:

- (i) a relevant union for the worker; or
- (ii) another entity that is authorised by the worker or representative to represent or assist the worker or representative; and
- (iii) cannot be an *excluded entity* for representing or assisting the worker or representative.

A **relevant union** for a worker (whether the worker is an HSR or another worker) is a union of which the worker is a member or is eligible to be a member, and whose rules entitle the union to represent the worker's industrial interests. Unions must be employee organisations registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth) or the *Industrial Relations Act 2016*.

An **excluded entity** for representing or assisting a worker or HSR for a worker is an excluded body that is:

- (i) an entity, other than a union, that is an association of employees or independent contractors, or both;
- (ii) an entity, other than a union or an association mentioned in subparagraph (i), that represents, or purports to represent, the industrial interests of the worker or representative;
- (iii) an entity that demands or receives a fee from another excluded body, for representing, or purporting to represent, the industrial interests of the worker or representative;
- (iv) a union that is not a relevant union for the worker.

An **excluded entity** is also an individual who is an officer or employee of an excluded body, acts as an agent of an excluded body or is otherwise representing or purporting to represent an excluded body.

Further information

This information is an overview and does not cover all requirements relating to HSRs and DHSRs, work group negotiations, elections and training. Further information is available on the WorkSafe website.

