

Safety and health representatives Handbook



Works for us, works for business



Department of Consumer
and Employment Protection
Government of Western Australia



Introduction

Congratulations for being elected as a safety and health representative. Safety and health representatives are without a doubt the ambassadors of safety in the workplace.

You have been chosen to represent your workmates in matters of occupational safety and health. Your important role is to help identify, communicate and respond to safety and health issues within your workplace.

Keep this handbook close at hand as a day-to-day ready reference guide. You can also find other sources of more detailed information listed at the back of this handbook.



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Why safety and health representatives are important



It makes sense for employers and employees to talk to each other about safety at work.

A safety and health representative is the key link to this communication. They make it easier to exchange ideas and concerns about safety between employers and employees.

Employees usually feel more comfortable talking to their safety and health representative to raise an issue or present an idea about occupational safety and health than to management. That's because the safety representative is an employee too and more likely to understand the issues first-hand and have the time to listen.

Safety and health representatives raise and discuss safety issues and concerns with employers and/or managers so they can work together and arrive at a solution to make the workplace safe. Safety and health representatives can make a difference.

"If you have a happy and safe workforce, production will increase."

When everyone works together as a team, great things can happen,

such as improving work conditions and keeping people safe. You can tell when you enter a workplace that operates this way - employees feel involved, people are more committed to working safely, the working environment is happier, people want to work harder, productivity is higher, and there are less accidents and injuries.

It works for everyone.

The *Occupational Safety and Health Act 1984* (Act) encourages employers and employees to talk to each other about safety matters and work together, particularly through elected safety and health representatives and occupational safety and health committees.

Safety and health representatives are not safety and health officers or coordinators and they are not responsible for solving safety and health problems in the workplace. That's still up to the employer. But the safety representative is an important link between employers and employees.

The commitment and efforts of safety and health representatives have helped reduce occupational injury and disease rates in Western Australia in recent years.



"Safety representatives are the link between employers and employees."

The Act and framework of occupational safety and health law

The *Occupational Safety and Health Act 1984* (Act) is a valuable tool for safety and health representatives. It describes the duties, functions and responsibilities of all people who play some part in the safety and health of people at work. It promotes consultation and cooperation between the relevant parties about safety in workplaces.

The Act also places significant legal duties on individuals called 'general duties of care'. A general duty of care applies to all people at workplaces to take care of their own safety and to take care of others' safety. The general duty to take care of others applies more stringently to those who have control over workplaces eg employers, designers, and manufacturers.

Together with the Act, the following information makes up the framework of occupational safety and health law.

You may need access to the Act and the documents listed below. Your employer must make them available if requested.

Occupational Safety and Health Regulations 1996 (regulations) These regulations set minimum requirements for specific hazards and work practices.

Codes of practice These provide strategies to prevent accidents and acceptable ways of complying with occupational safety and health laws in Western Australia. The Commission for Occupational Safety and Health (COSHWA) develops them.

Guidance notes These cover a broad range of issues, hazards and topics developed by COSHWA.

National codes of practice, national standards and the Australian Standards



"I am approachable - employees can talk to me."



"Safety representatives are the eyes and ears of the workforce."



"Elect a safety representative - it makes all the difference."



Electing safety and health representatives



The Act outlines the procedures for electing a safety and health representative. The election process is further explained in other publications. These publications are available from WorkSafe or www.worksafe.wa.gov.au/safetyrep.

Registration

Safety and health representatives are encouraged to register with WorkSafe to receive relevant information about Occupational Safety and Health and events such as seminars. Registered safety and health representatives receive a CD with codes of practice and guidance notes, a safety and health representative identity badge, the handbook, a subscription to *SafetyLine* magazine and email updates. Registration forms are available from www.worksafe.wa.gov.au/safetyrep or by contacting WorkSafe.

Notification

The person who conducted the election is responsible for notifying the WorkSafe Western Australia Commissioner and the employer of the results of the election. Notification forms are available from www.worksafe.wa.gov.au/safetyrep or by contacting WorkSafe.

Training

Once elected as a safety and health representative you should enrol in an accredited introductory training course within the first three months. You should attend this training within six months of being elected. If you have previously received training you may consider a course to update your knowledge. Safety and health representatives can choose the course provider from the list of accredited training providers. Contact WorkSafe for a current list of accredited training providers. Read the section on provisional improvement notices for further information.



Your functions as a safety and health representative

Under the Act, a safety and health representative has the necessary powers to carry out a number of very important functions. These functions are outlined below.

FUNCTION	COMMENT
To inspect the workplace areas you were elected to represent regularly, at agreed times and frequency.	<p>You can make an inspection with prior notice every 30 days, however wherever possible, you and your employer should agree on the number and type of workplace inspections to be carried out.</p> <p>Types of inspections may include:</p> <ul style="list-style-type: none">• regular general inspections;• regular inspections of particular activities, processes or areas;• inspections arising from employees' complaints;• inspections after substantial changes to the workplace; and• inspections after an accident or dangerous incident. <p>After an inspection, you should report to the employer about any safety or health issue identified during the inspection. The report should be in writing, although hazards needing quick action should be verbally reported immediately.</p> <p>As a safety representative, you should also inform employees about any workplace hazards and potential risks identified during the inspection.</p> <p>Checklists may be useful for safety and health representatives when carrying out workplace inspections. A fixed checklist of items can be limiting, so keep it open-ended and make sure it covers the nature of potential hazards and the level of risk. A list of potential problems with their consequences may reveal a range from minor to serious.</p> <p>Safety and health representatives can discuss the completed checklist with the employer and safety and health committee (if there is one) to help identify solutions to hazards identified.</p>
To investigate immediately the scene and details of any accident, dangerous incident or risk of serious injury or harm to any person.	<p>After an accident or dangerous incident, the employer should take immediate steps to prevent the incident happening again.</p> <p>The employer should notify you immediately after an accident or dangerous incident. Depending on the situation, you may choose to investigate on your own or agree to a joint investigation with the employer.</p> <p>Examples of dangerous incidents that you may need to investigate include:</p> <ul style="list-style-type: none">• an incident that could have caused fatal or serious injuries;• a falling object landing close to an employee;• failure of a sling or lifting device;• uncontrolled release of a hazardous chemical or substance;• spillage resulting from failed valves, connections or hoses;• failure of plant or equipment; or• collapse of a building or structure. <p>Safety and health issues identified by any safety representatives should be raised with the employer according to the steps agreed upon.</p>

FUNCTION	COMMENT
To keep up to date with workplace safety and health information provided by the employer and liaise with government and other bodies.	The employer has a duty to make safety and health information available to you. You can also liaise directly with WorkSafe or other organisations to find out more about safety matters.
To report hazards in the workplace to the employer.	You should report any hazard or potential hazard to your employer or your employer's representative. You may recognise a hazard or find out about a hazard from an employee before management becomes aware.
Where there is a safety and health committee for the workplace, to refer any matters that you think should be considered by the committee.	You have an important role in identifying matters that should be considered by the safety and health committee.
To consult and cooperate with the employer on safety and health matters.	You should consult and cooperate with management on all safety and health matters relevant to the work area and employees you represent.
To liaise with employers about safety and health matters.	You have a responsibility to advise management of the views of the employees you represent. To do this effectively you should discuss the matter with the employees before meeting with the employer. You also have an important role in passing on information about safety and health matters to the employees that you represent.

A safety and health representative carries out these functions in the workplace areas they were elected to represent. This could be for one workplace, more than one workplace, an area of the workplace or workforce group.

As a safety and health representative you may accompany a WorkSafe inspector on an inspection of your workplace, if requested by the inspector.

The Act also provides an important and necessary protection for safety and health representatives elected in accordance with the Act. You cannot be sued for damages for anything arising from having performed, or failing to perform, any function related to your position as a safety and health representative. However, you do have the same responsibilities and general duties of care as any other employee.

Provisional improvement notices

A Provisional improvement notice (PIN) is a notice issued by an elected and qualified safety and health representative about a previously raised safety and health issue in the workplace. A PIN is similar to an improvement notice issued by WorkSafe Inspectors.

Your power to issue a PIN improves your effectiveness as a safety and health representative. However, there is no requirement for you to issue a PIN if you choose not to.

Qualified to issue PINs

Before being able to issue a PIN, you must be qualified. Being qualified means you have completed the accredited introductory training course including the section about PINs. Current safety and health representatives, who completed the accredited introductory training course prior to the introduction of PINs, can become qualified by doing a special one-day transitional course. Ask the accredited training providers about this.

Before you can issue a PIN you must:

- have the opinion that the person is breaching, or has breached either a provision of the Act or a regulation;
- have consulted with the person who will receive the PIN, and another safety and health representative at the workplace (if you are able to do so); and
- ensure you only issue the PIN for the workplace/s you are elected to represent (or in a workplace where there is at least one worker you were elected to represent).

Who can be issued a PIN?

You can issue a PIN to anyone who has a duty of care under the Act. This includes public bodies, companies, associations, employees, employers, principal contractors, host employers and anyone for whom someone else does work. If a PIN is issued to an employee, the employee must give a copy to their employer.

You cannot issue a PIN to a trading or a registered business name. Rather it must be issued to individuals or the corporations carrying out the business.

How to issue a PIN

PIN forms can be downloaded from www.worksafe.wa.gov.au/safetyrep or are available from WorkSafe.



The PIN must be in writing and specify:

- your opinion that there has been a breach of the Act, and/or this breach is likely to continue or be repeated;
- the reasons for your opinion;
- the provisions of the Act or regulation you consider are being breached;
- the date when the breach is to be remedied. You must allow **more than seven days** from the day the PIN is issued; and
- a brief summary of the right to have the notice reviewed by an inspector.

Right of review

Recipients **must** comply with the PIN by the remedy date stated on the PIN, or they may seek to have it reviewed before the remedy date elapses. Failure to comply is an offence.

A request must be made in writing to WorkSafe for an inspector to review a PIN. The PIN is suspended to allow time for review. The inspector may affirm the PIN, modify the PIN or cancel the PIN. If the inspector affirms or affirms and modifies the PIN it has the effect of becoming an improvement notice issued by an inspector.

Keeping records

Keeping records of tasks related to your functions is an important part of being a safety and health representative. These may include:

- daily diary of safety and health events;
- monthly planner for inspections, meetings and follow-up;
- copies of issued PINs;
- list of job procedures for hazard identification and risk analysis;
- photographs of relevant plant and equipment;
- reports of your inspections;
- interviews with employees;
- copies of agendas and minutes of employee meetings and safety and health committee meetings; and
- hazard information relevant to the workplaces or workgroup for which you were elected.



Keeping records is an important part of being a safety and health representative.



Employer duties to representatives

The Act encourages employers to work with you as a safety and health representative and sets out duties for your employer to support you.

These employer duties are to:

- make safety and health information available in relation to hazards, plant, substances used, the systems of work and the safety and health of the employees at the workplace.

For example: information such as Material Safety Data Sheets (MSDS) for any hazardous substances used in the workplace, accident investigation reports or accident summaries, details of notices issued by inspectors, results of testing such as noise levels or atmospheric testing and statistical information. There are exceptions. Employers are not required to provide representatives with employees' personal medical information without their consent nor are they required to provide trade secrets;

- allow you to be present at any interview on safety and health between the employer (or the employer's representative) and the employee whenever the employee requests;
- consult with you on any changes in the workplace that may affect employees' safety and health;
- allow you to take time off work, with pay to perform your functions and attend accredited training courses;
- pay for course fees and associated costs for accredited introductory training or transitional training;
- notify you of any accidents or dangerous incidents; and
- provide assistance and access to facilities to help you carry out your functions. For example, where available and relevant, access to a desk, telephone, typing and photocopying facilities, storage, a meeting room and use of notice boards.

If a WorkSafe inspector visits your workplace, your employer or employer's representative, once notified of the visit, must advise you and any other safety and health representatives of the inspector's visit.



Discrimination

Under the Act, it is an offence for an employer or prospective employer to disadvantage somebody because that person:

- is or has been a safety and health representative or a member of a safety and health committee;
- performs or has performed any function as a safety and health representative or committee member;
- gives or has given assistance to an inspector, safety and health representative or committee member; or
- makes or has made a complaint about workplace safety and health to the employer, a fellow employee, inspector, safety and health representative or committee member.

A safety and health representative who has been disadvantaged may have grounds to lodge a claim with the Safety and Health Tribunal. The tribunal may order reinstatement and/or compensation.

Safety and health committees

A safety and health committee can be established if any employee requests a committee, the employer decides to establish one or the WorkSafe Western Australia Commissioner directs the appointment of one.

Workplaces can choose the best committee structure to suit their operation. For example: A construction company might have one committee across several worksites. A large hospital however, might choose to have one main OSH committee with several sub-committees.

Workplaces can also choose the composition of their occupational safety and health committee providing the following applies. A safety and health committee must be made up of half or more employee representatives. The committee may include elected safety and health representatives and also may have other employees elected by the employees to represent them. These elections are to be held by secret ballot.

Other members can be employers and/or the employer representatives (eg management).

The functions of a safety and health committee are to:

- enable and assist consultation and cooperation;
- help to initiate, develop and implement safety and health measures;
- keep informed about safety and health standards in similar workplaces;
- make recommendations on safety and health rules, programs, measures and procedures;
- ensure information on hazards is kept where it is readily accessible;

- consider and make recommendations about changes that may affect the safety and health of employees;
- consider matters referred to it by safety and health representatives; and
- perform other functions prescribed in the regulations or given to the committee, with its consent, by the employer.

With regard to workplace safety and health, the committee may deal with:

- policy development;
- monitoring programs;
- emergency procedures;
- training and supervision;
- trends in accident and illness reports; and
- resolution of safety and health issues.

Resolution of issues

The best way to resolve safety and health issues in the workplace is for the parties in the workplace to agree on relevant procedures that suit individual workplaces and to resolve the issues before they become disputes.

The Act requires employers, safety and health representatives and employees to resolve safety and health issues by following relevant procedures for the workplace. If these procedures fail, the Act sets out steps to resolve the issue. If no procedures have been developed, then the procedures in the regulations must be followed. If the issue cannot be resolved and there is both a safety and health representative and a safety and health committee, the safety and health representative must refer the issue to the committee for resolution.

If an issue remains unresolved, either the employer or a safety and health representative may request a WorkSafe Western Australia inspector to attend the workplace. Inspectors only become involved after they have satisfied themselves that an attempt has been made to resolve the matter at the workplace as required by the Act.

Inspectors can issue improvement or prohibition notices or take whatever action under the Act they consider appropriate. Alternatively, an inspector may decide that no action is required.



Right to refuse unsafe work

The Act allows employees to refuse work if they have reasonable grounds to believe the work is dangerous and there is an immediate risk of serious injury or harm to themselves or others in the workplace. The employer and the safety and health representative must be notified.

The employer can give employees other work to do away from the danger. If an employee leaves the workplace without the employer's permission or has refused to do reasonable alternative work, the employee is not entitled to normal pay and conditions. Employees do not need the employer's permission to leave the work area if they risk imminent and serious harm by remaining.

The matter has to be resolved by the employer and the safety and health representative or committee, or employees, just like other safety and health issues. If these people cannot resolve the matter, they may then request a WorkSafe inspector to attend the workplace.

If there are any unresolved problems related to pay or benefits, an employee or the employer can refer the case to the Safety and Health Tribunal.

Disentitled employee

An employee who leaves the workplace without authorisation or refuses to undertake alternative work is not entitled to pay or other benefits. Such a person is called a disentitled employee. It is an offence to pay a disentitled employee or for a disentitled employee to receive benefits where the employee:

- does not have reasonable grounds to believe that to continue to work would expose him or her or any other person to the risk of imminent and serious injury or harm;
- leaves the workplace without the employer's authority;
- refuses alternative work; or
- refuses to work on the grounds that another employee refuses to work.

Disqualification of safety and health representatives

The Safety and Health Tribunal can disqualify a safety and health representative. As a safety and health representative you can be disqualified if:

- you are found to have acted with the intention of harming your employer or your employer's business;
- you use or disclose information obtained from your employer not connected with your functions under the Act as a safety and health representative, with the intention of harming your employer or your employer's business; or
- if you have failed to adequately perform your functions under the Act.

Note: The misuse of PINs may meet one or more of the criteria above.

Information and support

WorkSafe provides a variety of printed publications to industry and the community to assist in the prevention of work-related injury and disease. The Department also publishes *SafetyLine*, which is mailed quarterly and free of charge. The Commission of Occupational Safety and Health publishes a number of codes of practice and guidance notes.

All printed publications are available at www.worksafe.wa.gov.au and from WorkSafe. A wide range of safety and health general information, solutions to work safety problems and interactive educational services are also available online.

A safety and health representative web page has been set up for you to find relevant information easily at www.worksafe.wa.gov.au/safetyrep

The WorkSafe library is open to the public and is a great source of occupational safety and health information.

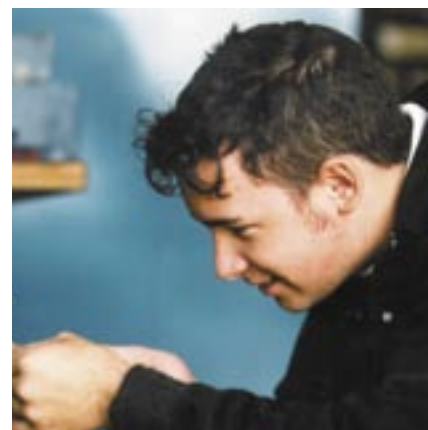
Copies of the *Occupational Safety and Health Act 1984* and Occupational Health and Safety Regulations 1996 can be purchased from WorkSafe or the State Law Publishers and are also available online.

WorkSafe

Post: PO Box 294 WEST PERTH 6872
Address: WESTCENTRE
Level 5 1260 Hay Street WEST PERTH

State Law Publishers

10 William Street PERTH 6000



WorkSafe contacts

WorkSafe enquiries:	1300 30 78 77
Certificates of competency:	1300 30 78 77
Accident reporting (24 hours):	1800 67 81 98

DOCEP regional offices

Great Southern Region - Albany Office:	9842 8366
South West Region - Bunbury Office:	9722 2888
Mid West Region - Geraldton Office:	9964 5644
Goldfields/Esperance Region - Kalgoorlie Office:	9021 5966
North West Region - Karratha Office:	9185 0900

Other useful telephone numbers

Standards Australia International (WA):	9221 6700
Department of Industry and Resources - Explosives and Dangerous Goods:	9222 3333



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