

February 2019

## WORKSAFE POSITION

# Worker engagement, participation and representation

### Purpose

This position sets out our expectations on worker engagement, participation and representation to ensure healthier and safer work.

### Why are worker engagement, participation and representation important?

Strong worker engagement, participation and representation leads to healthier and safer work. They are also good for business performance and productivity – because they help inform better decisions. Workers who help shape safer work systems can suggest practical, cost-effective solutions. They are more likely to make them happen in practice.

### What does the law require?

The Health and Safety at Work Act 2015 (HSWA) requires that a person conducting a business or undertaking (PCBU) engage with and enable the participation and representation of workers. A PCBU should regularly discuss health and safety issues at their work with their workers.

There are extra requirements for worker engagement, participation and representation in the mining, petroleum, and major hazard facilities sectors<sup>1</sup>

### What is worker engagement, participation and representation?

Each PCBU determines the best way to meet its duties. What is reasonable and effective will depend on workers' views and needs, the size of the organisation and the nature of its risks. However, HSWA requires engagement in certain circumstances, such as when identifying hazards and assessing risks to work health and safety arising from the work carried out by the PCBU.

**Engagement** is how a PCBU involves workers in health and safety matters and decisions in the workplace.

A PCBU that has good engagement with workers will:

- share information and decisions in a timely way
- give workers reasonable opportunities to share their views, raise work health or safety issues, and contribute to decision-making processes
- consider the views of workers.

**Participation** is one way for workers to raise health and safety concerns, suggest ways to improve health and safety, and make decisions that affect work health and safety. A PCBU that has good worker participation will:

- give people opportunities to raise issues or suggestions in a timely way
- have workers who know how to participate, and use opportunities to do so
- have decision makers who consider and respond to workers' issues or suggestions.

<sup>1</sup> The requirements are in the following regulations available at: [www.legislation.govt.nz](http://www.legislation.govt.nz)

- mining: Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016
- petroleum: Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016
- major hazard facilities: Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

**Worker representation** involves workers electing one or more of their members as their Health and Safety Representative (HSR) to represent them on health and safety matters. The HSR is entitled to specialist training and becomes the workers' advocate at that workplace. The HSR does not have to be a member of a union.

### **What are WorkSafe's expectations about worker engagement, participation and representation?**

Engagement, participation and representation are related duties. What is done to meet one of those duties helps meet the others. The duties involve starting a conversation about health and safety. Everyone involved at a place of work must be able to contribute and have their opinion considered when decisions are made.

WorkSafe expects a PCBU to have deliberate, planned ways to engage with workers and support their participation. Having formal and informal ways for workers to contribute will be most effective. PCBUs should encourage their workers to ask questions about the effectiveness of their worker engagement and participation practices.

### **WorkSafe expects workplaces to have health and safety representatives in place**

A PCBU is meeting its duties in worker engagement, participation and representation when:

- they initiate the election of workers to be HSRs
- HSRs are well-established and support worker engagement.

Certain PCBUs are required to have an HSR or consider a Health and Safety Committee if requested.

### **What is WorkSafe's approach to worker engagement, participation and representation?**

WorkSafe provides information about effective worker engagement, participation and representation on our website: [worksafe.govt.nz/managing-health-and-safety/businesses/worker-engagement-and-participation](https://worksafe.govt.nz/managing-health-and-safety/businesses/worker-engagement-and-participation)

We consider a PCBU's engagement, participation and representation practices in our work with them. When our inspectors interact with a workplace, we ask questions, provide relevant information and, where necessary, require the PCBU to make improvements.

### **WorkSafe may consider enforcement action**

WorkSafe may consider taking enforcement action where:

- a PCBU does not have deliberate, planned ways to engage with workers or support worker participation.
- workers do not have formal and informal ways to engage and participate, and there is no worker representation at work
- worker engagement and participation is not working effectively, and the PCBU shows no evidence of tackling the problem effectively.