

Health and Safety Representative Handbook

A guide for Health and Safety Representatives (HSRs)



About this Guide

Health and Safety Representatives (HSRs) play a crucial role in enabling worker representation and fostering effective consultation on work health and safety (WHS) matters. This ensures that workers have a voice in decisions that impact their health and safety.

The *Work Health and Safety Act 2011* (NSW) (WHS Act) emphasises that workplaces achieve better health and safety outcomes when workers contribute to decisions about how the work can be safely carried out.

You can access HSR Resources and Guides on the SafeWork NSW HSR Hub website by scanning the QR Code below.



For more information,
scan the QR code

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Key definitions

Worker: A worker is anyone who carries out work in any capacity for a PCBU, including:

- employees
- contractors and subcontractors
- labour hire workers
- apprentices and trainees
- volunteers
- work experience students

Person Conducting a Business or Undertaking (PCBU): A PCBU is the primary duty holder under work health and safety law. It includes:

- employers
- corporations
- sole traders
- partnerships

Provisional Improvement Notice (PIN): A PIN is a written direction issued by a trained HSR to a PCBU, when the HSR reasonably believes that the PCBU is contravening or has contravened the WHS Act, in circumstances that make it likely that the contravention will continue or be repeated.

Direction to Cease Work: A legislative function allowing a trained HSR to direct workers to stop unsafe work if there is a serious and immediate or imminent risk to health and safety, and consultation has failed or is not reasonable.

Approved Code of Practice: An approved code of practice is a practical guide approved under the WHS Act. It provides detailed guidance on how to achieve the standards of work health and safety required under the WHS Act and Work Health and Safety Regulation 2025 (NSW) (WHS Regulation), including ways to identify and manage specific hazards and risks.

Powers, Duties and Rights under the *Work Health and Safety Act 2011*

This section provides a summary of certain key powers, duties, and functions under the current work health and safety (WHS) legislation. The information is designed to assist HSRs in effectively representing the WHS interests of their work group and to equip HSRs with the knowledge to perform their role with confidence.

SafeWork NSW is the workplace health and safety regulator in NSW.

A copy of the current *Work Health and Safety Act 2011* (WHS Act) and the *Work Health and Safety Regulation 2025* (WHS Regulation) can be accessed by scanning the QR Code below.



Work Health and Safety Act 2011



Work Health and Safety Regulation 2025

Consultation with workers

(Sections 47-49 – WHS Act)

PCBUs **must consult**, so far as is reasonably practicable, with workers who carry out work for the PCBU who are, or are likely to be, directly affected by a WHS matter.

Workers must be provided with relevant information about a WHS matter and given a reasonable opportunity:

- To express their views and raise WHS issues.
- To contribute to the decision-making process on health and safety matters.

Section 48(1) – WHS Act

PCBUs are also required to take into account the views of the workers and inform the workers consulted of the outcome of the consultation in a timely manner.

If workers are represented by an HSR, the consultation **must** include the HSR.



Consultation **must** take place:

- a. when identifying hazards and assessing risks to health and safety arising from work carried out or to be carried out by the business or undertaking,
- b. when making decisions about ways to eliminate or minimise those risks,
- c. when making decisions about the adequacy of facilities for the welfare of workers (toilets, lunchroom, first aid etc),
- d. when proposing changes that may affect the health or safety of workers,
- e. when making decisions about the procedures for -
 - i. consulting with workers, or
 - ii. resolving work health or safety issues, or
 - iii. monitoring the health of workers, or
 - iv. monitoring the conditions at any workplace under the management or control of the PCBU, or
 - v. providing information and training for workers,

There should be an agreement with workers about how they want to be consulted, and workers who are consulted, must be advised of the outcome of the consultation in a timely matter.



Primary duty of care

(Section 19 – WHS Act)

A PCBU **must ensure**, so far as is reasonably practicable, the health and safety of:

- **All workers** that the PCBU engages, causes to be engaged, or whose work activities are influenced or directed by the PCBU. (For example, employees, contractors.)
- **Other persons** – all other persons are not put at risk from the work carried out as part of the conduct of the PCBU. (For example, visitors, customers, clients, or members of the public.)

A PCBU **must ensure**, so far as is reasonably practicable:

- A **safe work environment** is provided and maintained. For example, clean, well-lit.
- **Safe plant and structures** are provided and maintained. For example, well-maintained forklifts fitted with safety features such as reversing alarms, seatbelts, and regular servicing in line with the manufacturer's instructions.
- **Safe systems of work** are provided and maintained. For example, documented procedures for high-risk tasks such as working at heights and lock-out/tag-out processes for machinery or, conducting pre-visit assessments for home care and supports.
- The **safe use, handling, and storage of plant, structures and substances**. For example, correct chemical storage cabinets, guarding on machines, safe scaffolding.
- **Adequate facilities for the welfare of workers are provided and accessible**. For example, toilets, washrooms, clean drinking water, and lunchrooms.
- **Information, training, instruction, or supervision** is provided to protect all persons from health and safety risks arising from the work carried out by the PCBU. For example, safety inductions, refresher training, toolbox talks, and supervision for new or inexperienced workers.
- The **health of workers and the conditions at the workplace are monitored to prevent illness or injury**. For example, air quality testing, noise monitoring, temperature checks in hot or cold environments and health checks for hazardous substance exposure.

Concurrent duties

(Section 16 – WHS Act)

It is important to emphasise that PCBU's can share duties with other PCBU's and that:

1. More than one person can concurrently have the same duty.
2. Each duty holder must comply with that duty to the standard required by the WHS Act, even if another duty holder has the same duty.
3. If more than one person has a duty for the same matter, each person: -
 - a. retains responsibility for their duty in relation to the matter, and
 - b. must discharge their duty to the extent to which they have the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.



How is ‘reasonably practicable’ determined?

(Section 18 – WHS Act)

The WHS legislation sets out what is considered ‘reasonably practicable’ in ensuring health and safety. When the WHS legislation states a PCBU must do something “so far as is reasonably practicable,” it means they must do what’s reasonably able to be done to ensure health and safety, considering the likelihood and seriousness of the risk, what is known about the risk and what can be done about it, the availability and suitability of control measures. Once those steps have been followed, whether the cost of those control measures is grossly disproportionate to the risk can be taken into account.

“Reasonably practicable” = doing what you are reasonably able to do to ensure the health and safety of workers and others like volunteers and visitors, having consideration for the factors below:

Likelihood of hazard or risk	How likely is it that the hazard or the risk will occur?
Severity of hazard or risk	How serious would the injury or illness be if that hazard/ risk occurred?
Knowledge	What was known (or should have reasonably been known) about the hazard or the risk and ways to eliminate or minimise the risk?
Available and suitable controls	What methods or solutions are available and suitable to eliminate or minimise the risk?
Cost	After evaluating the extent of the risk and the options available to eliminate or minimise it, take into account the costs of those options, including whether those costs are grossly disproportionate to the risk.

What does this mean for HSRs

The following steps are intended as general guidance only and are not an exhaustive statement of what may need to be considered in relation to the powers, duties and rights of HSRs.

- **You could ask:** “Has the PCBU done what’s reasonably practicable to manage this risk?”
- **You could look for:** A balance between risk and action. For example, if a risk is high, more effort should be made to control it.
- **You could use the above considerations** when inspecting, raising WHS concerns, or issuing a Provisional Improvement Notice (PIN).

HSRs representing workers

(Sections 50-52 – WHS Act)

HSRs are elected by their work group to represent them on WHS matters.

Work groups are formed to allow workers to elect HSRs to represent them on health and safety matters. In practice, work groups may include workers who perform similar types of work and have similar conditions in the workplace.

A **work group** is established through negotiation and agreement between the PCBU and the workers who will form the work group (and, if chosen, their representatives).

Any worker or group of workers may ask the PCBU to facilitate the election of one or more HSRs. The PCBU must then facilitate the determination of one or more groups of workers so that workers in each work group can be represented by one or more HSRs. The PCBU must take all reasonable steps to commence the negotiations with the workers about the formation of work groups within **14 days** after the request is made. If a worker asks the PCBU to negotiate with their representative then the PCBU must do so. The PCBU must notify the workers of the outcome of the negotiations and of any work groups determined by agreement as soon as practicable after negotiations are complete. When an election is held the workers in the work group can decide how the election is to be conducted under s61(1) of the WHS Act and, if the 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 under s61(3).

Powers and functions of an HSR

(Sections 68-70 WHS Act)

The functions of an HSR is to:

- Represent workers **in their work group** on WHS matters.
- Monitor measures taken by the PCBU or PCBU's representative to comply with the WHS Act in relation to workers in the work group.
- Investigate health and safety complaints raised by their work group.
- Issue a PIN (pursuant to Part 5, Division 7) if they reasonably believe a person is contravening the WHS Act, or, has contravened the WHS Act in circumstances that make it likely that the contravention will continue or be repeated.
- Direct workers in their work group to stop unsafe work (pursuant to Part 5, Division 6), if they have a reasonable concern that workers would be exposed to a serious risk to the worker's health and safety, emanating from an immediate or imminent exposure to a hazard, if they continue to work and be exposed to the harm/risk, (noting the requirement to first consult, unless the risk is so serious and immediate or imminent that it is not reasonable to consult before giving the direction).
- Inquire into potential risks to the health and safety of workers.
- Work with the PCBU, managers, supervisors, committees and other HSRs to resolve issues through consultation.

HSRs have powers to support and represent their work group by raising WHS issues with the PCBU and engaging in consultation.

The powers and functions described above are not exhaustive and should be read in conjunction with the WHS Act.

Can an HSR represent workers from a different work group?

Under usual circumstances, an HSR can only exercise their powers and perform functions in relation to matters that affect, or may affect, workers in their work group.

However, an HSR can exercise their powers and perform functions and represent workers from another work group if:

- a) there is a serious risk to health or safety from an immediate or imminent exposure to a hazard that affects or may affect a member of another work group, or
- b) a member of another work group asks for the representative’s assistance, and the HSR (and any deputy HSR) for that other work group is found unavailable after reasonable inquiry.

HSR powers and functions under the WHS Act

Power	WHS Act Section	What it allows
Represent workers	68(1)(a)	Speak up and act on behalf of workers in the HSRs work group on WHS issues.
Monitor	68(1)(b)	Monitor the measures taken by a PCBU to comply with their WHS duties in relation to workers in their work group.
Investigate	68(1)(c)	Investigate complaints from members of the work group relating to WHS issues.
Inquire	68(1)(d)	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.
Inspect workplace	68(2)(a)(b)	Inspect the workplace at which a worker in the work group works at any time, after giving reasonable notice to the PCBU or immediately after an incident/serious risk. Accompany an inspector during an inspection.

Power	WHS Act Section	What it allows
Be present at interviews	68(2)(c)(d)	Be present at an interview concerning work health and safety between a worker (or group of workers) and the PCBU or the person's representative or an inspector (with the worker's consent).
Request Health and Safety Committee (HSC)	68(2)(e)	Request that the PCBU forms an HSC.
Receive information	68(2)(f), 68(3)	Receive WHS information concerning the WHS of workers in the work group e.g. risk assessments, data, safety procedures). Without the worker's consent, HSRs are not entitled to have access to any personal or medical information concerning the worker, unless the information does not identify the worker and could not reasonably be expected to lead to the identification of the worker.
Request assistance	68(2)(g)	Request assistance from any person (e.g. union, technical expert).
Powers and functions generally limited to the particular work group	69	An HSR may only exercise powers and perform functions for matters that affect, or may affect, workers in the work group they represent, unless: • There is a serious risk to health and safety from an immediate or imminent exposure to a hazard that affects or may affect a worker from another work group, or • A worker from another work group asks for the HSRs assistance and the HSR (and any deputy HSR) for that other work group is found, after reasonable inquiry, to be unavailable. For example: • If a worker from another work group asks for help with an unguarded machine and their HSR and deputy HSR are not available, another HSR may step in to address the issue.
HSR on an HSC	76(2)	If a workplace has an HSC and there is an HSR for the relevant work group: • The HSR is a member of the committee if they consent.

Power	WHS Act Section	What it allows
May direct that unsafe work cease	85	An HSR, who has completed the initial course of training of 5 days' as provided under s21(1)(a) of the WHS Regulation (approved 5-day training course), may direct a worker in their work group to stop work if the HSR reasonably believes the work would expose them to a serious risk from an immediate or imminent hazard. Before giving the direction, the HSR must consult with the PCBU to try to resolve the matter and attempt to resolve the matter as an issue. If the risk is so serious, immediate or imminent that there is no time to consult first: • The HSR may still give the direction, but must consult with the PCBU as soon as practicable afterwards. The HSR must inform the PCBU of any direction to cease work being issued. If a direction to cease unsafe work is given workers must remain available at the workplace to carry out suitable alternative work that is safe and appropriate for the worker.
Issue a Provisional Improvement Notice (PIN)	90	An HSR, who has completed the approved 5 day training course, may issue a written PIN to a PCBU if they reasonably believe someone is contravening the WHS Act, or has contravened the WHS Act and is likely to continue contravening it. Before issuing a PIN, the HSR must first consult with the person responsible to try to resolve the issue. A PIN can require the person to: • fix the contravention, • prevent a likely contravention from occurring, or • remedy the cause of the contravention. The PIN must allow at least 8 days after the PIN is issued for the PCBU to remedy the contravention identified in the PIN. An HSR cannot issue a PIN if a SafeWork NSW inspector has already issued (or decided not to issue) an improvement notice or prohibition notice on the same matter.

HSR statutory requests under the WHS Act

Request SafeWork NSW to appoint an inspector

Failure of Negotiations s54	If there is a failure of negotiations (including negotiations concerning the variation of an agreement) on establishing or varying a work group (e.g. for HSR elections), any person who is or would be a party to the negotiations, including the HSR, may request SafeWork NSW to appoint an inspector to help resolve the matter. A request can be made if: • The PCBU has not taken all reasonable steps to commence negotiations, and • Negotiations have not commenced within 14 days of a request for elections of HSRs being made or a party to the agreement requests variation of the agreement, or • agreement is not reached within a reasonable time, or negotiations have broken down.
Obligation to train Health and Safety Representatives s72(5)	If a PCBU and an HSR cannot agree on approved HSR training within 3 months of the HSR's request, the HSR can ask SafeWork NSW to appoint an inspector to make a decision.
Constitution of committee s76(5)-(7)	If an agreement on establishing or structuring an HSC is not reached in a reasonable time, any party, including an HSR, can request SafeWork NSW to appoint an inspector. The inspector may decide the HSC's constitution or that it should not be established, and their decision is taken to be an agreement between the parties.
Issue Resolution s82	A party to the issue, including an HSR, can ask SafeWork NSW to appoint an inspector when a WHS issue cannot be resolved after reasonable efforts have been made to achieve an effective resolution between workers and the PCBU.
Request to the regulator to appoint an inspector to assist s89	If a direction to cease unsafe work occurs due to serious safety concerns (s85), work has stopped, and there is no agreement on how to proceed, an HSR, a worker or the PCBU may request SafeWork NSW to appoint an inspector to attend the workplace and assist in resolving the health and safety issue.

How to use these powers

Power	How to Exercise It
Inspect	An HSR may inspect the workplace at any time after giving reasonable notice to the PCBU. Notice is not required if the inspection is following an incident, or if there is a serious risk to the health or safety of a person. During an inspection, an HSR can take notes to assist them in exercising this power. An HSR can also report their findings. For example: • If a worker collapses from heat stress, the HSR can immediately inspect the work area without notice to the PCBU to identify risks and document findings. • Reports of verbal abuse or violence from a client posing an immediate risk to staff safety.
PIN	If an HSR, who has completed the approved 5-day training course, reasonably believes that a person is contravening or has contravened the WHS legislation, then the HSR must first consult with the person to try to resolve it. If unresolved, the HSR may issue a written Provisional Improvement Notice (PIN) stating the suspected contravention and may provide directions to remedy the WHS issue. • The PCBU may request a review of a PIN and has 7 days to request SafeWork NSW to appoint an inspector to review the PIN. • A PIN cannot be issued for a matter already dealt with by an inspector and must allow at least 8 days as a minimum period for compliance from the date of issue. The notice should specify the date by which compliance is required. • The PIN must allow at least 8 days after the PIN is issued for the PCBU to remedy the contravention identified in the PIN. • A copy of the PIN must be provided to SafeWork NSW as soon as practicable after receiving the PIN.

Power	How to Exercise It
Cease Work	An HSR, who has completed the approved 5-day training course, may direct a worker in their work group to stop work if they have a reasonable concern that continuing would expose the worker to a serious risk to the worker's health or safety arising from an immediate or imminent exposure to a hazard. Before giving this direction, the HSR must consult with the PCBU to try to resolve the matter and attempt to resolve the matter as an issue. Consultation or attempting to resolve the matter as an issue is not required if the risk is so serious and immediate that there is no time; in that case, the HSR must consult as soon as practicable after giving the direction. The HSR must always inform the PCBU of any direction to cease unsafe work. For example: Workers smell gas in an enclosed area, an HSR directs a cessation of unsafe work and evacuates until the area is deemed safe.
Seek Assistance	An HSR may request the assistance of any person if needed to carry out their powers or functions. Assistance may be provided from within the workplace (e.g. another HSR), or external experts (e.g. a consultant or union official). For example, assistance could include: - Advice on how to perform inspections - Technical advice to deal with a particular hazard or issue - How to negotiate agreed WHS procedures. The role of a person assisting an HSR - Act only in an assisting capacity – they cannot take over the role or act on behalf of the HSR. - Follow all reasonable WHS instructions from the PCBU (e.g. inductions, PPE).
Request Information	An HSR may seek and receive information relating to the WHS of workers in their work group, provided the worker's right to privacy is not breached (as per s68(3) and s71(2) WHS Act). This information may include: - Policies and procedures - Safety manuals and guidelines - Risk assessments and reports - Other relevant documents that assist the HSR to carry out their role

PCBU Obligations to HSRs

Obligations	The PCBU must:
Duty to Consult s47	So far as is reasonably practicable, consult, with workers who carry out work for the business or undertaking who are, or are likely to be, directly affected by a matter relating to work health or safety. Consultation must be in accordance with any consultation procedures agreed to by workers.
Nature of consultation s48	Consultation requires: - that relevant information about a health and safety matter is shared with workers, and - that workers are given a reasonable opportunity— - to express their views and to raise work health or safety issues, and - to contribute to the decision-making process relating to the matter, and - that the views of workers are taken into account by the PCBU, and - that the workers consulted are advised of the outcome of the consultation in a timely manner. If the workers are represented by an HSR, the consultation must involve that representative.
Give Information s70 (1)(c) and s71(2)	Allow an HSR access to information on hazards and associated risks that affect the HSRs work group, and the health and safety of the workers in the work group. A worker's personal or medical information must not be provided to the HSR without the worker's consent (unless the information is de-identified).
Permit an HSR to accompany an inspector s70(1)(h)	Allow an HSR to accompany an inspector during an inspection of the workplace where a worker of the work group works.
Allow an HSR to be present at interviews s70(1)(e)	Allow an HSR to attend an interview concerning WHS between a worker (or group of workers) and the PCBU or an inspector (with the worker's consent).

Obligations	The PCBU must:
Provide resources, facilities, and assistance to an HSR to fulfill their role. <i>s70(1)(f)</i>	Provide any resources, facilities and assistance that are reasonably necessary to enable the HSRs to exercise their powers or perform their functions under the WHS Act.
Allow a person to assist an HSR <i>s70(1)(g) and s71(4)</i>	Allow a person assisting an HSR access to the workplace if it is reasonably necessary for them to provide that assistance. A PCBU may, but is not required to, grant access to a person assisting an HSR if the person is a union official but who: • has had their WHS entry permit revoked or suspended, or • is disqualified from holding a WHS entry permit.
Pay normal wages to an HSR when performing their role <i>s70(2) and (3)</i>	Allow HSRs to spend time, as is reasonably necessary, to exercise their powers or perform their functions under the WHS Act and pay the HSR their usual wages and entitlements as if they were doing normal work.
Ensure HSRs are provided training <i>s72</i>	If requested, an HSR is entitled to attend an initial or refresher HSR training course, approved by SafeWork NSW, of their choice. The PCBU must, in consultation with the HSR, and as soon as practicable (within 3 months of the request): • Allow the HSR time off to attend the training • Pay the course fees and any other reasonable costs associated with the attendance at the training course (for example travel).
Display a list of HSRs for each work group <i>s74</i>	Display an up to date list of HSRs and deputy HSRs at the workplace.
Display of provisional improvement notice <i>s97</i>	As soon as practicable after the PIN is issued, display a copy of the PIN in a prominent place at or near the workplace.
Give copy of provisional improvement notice to regulator <i>s97A</i>	As soon as practicable after the PIN is issued, the PCBU must give the regulator a copy of the notice.

Quick tips for HSRs

Consult first



Always attempt to resolve issues through consultation before issuing a PIN or directing unsafe work to stop (s90, s85).

Keep records



Document inspections, consultation, meetings, and any actions taken.

Know your work group



Your powers generally apply only to the workers you represent (s69).



Your Rights as an HSR

This section outlines the key rights and entitlements of HSRs, and provides valuable information, guidance and resources to help you carry out your functions and exercise your powers as an HSR (see page 6 for more information).

Protection from Personal Liability: HSRs are not personally liable for anything done or omitted in good faith while performing their role. Acting in good faith means carrying out your duties honestly, with genuine intentions, and without negligence, recklessness, or malicious intent.

Protection from discriminatory conduct: It is an offence under the WHS Act to discriminate against or threaten an HSR because of actions taken in their role (ss104-106).

What “discriminatory conduct” means under the WHS Act

Discriminatory conduct occurs when a worker or HSR is treated adversely because they exercise, have exercised, or propose to exercise rights or functions under the WHS Act, including raising a health and safety matter or performing HSR functions, etc (**prohibited reasons**). For a complete list of prohibited reasons, see section 106 of the WHS Act.

The discriminatory conduct includes dismissing a worker, terminating their contract, putting them at a disadvantage in their employment, refusing to employ a prospective worker, offering less favourable terms, ending a commercial arrangement, or altering a role to the worker’s disadvantage. These protections apply whenever HSR functions are being carried out.

Consultation fundamentals

Consultation must occur with workers and HSRs, so far as reasonably practicable, when making decisions that may affect work health and safety, so that more informed decisions can be made.

Consultation is required in relation to the following health and safety matters:

- When identifying hazards and assessing risks.
- When making decisions about ways to eliminate or control risks.
- When making decisions about the adequacy of workplace facilities.
- When proposing changes that may affect the health and safety of workers.
- When making decisions about the procedures for:
 - Consultation with workers
 - Resolving safety issues
 - Monitoring conditions at the workplace
 - Monitoring the health of workers
 - Providing information and training to workers.

The above list is not exhaustive of when consultation is required. Further information can be found in section 49 of the WHS Act.

Consultation, cooperation, and coordination must occur with HSRs and/or HSCs and with other PCBU who have a shared health and safety duty.

Workplace inspections fundamentals

Workplace inspections are an opportunity to identify hazards and assess risk in the workplace. **An HSR may 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 PCBU at that workplace, and
- At any time, without giving notice, in the event of an incident, or any situation involving a serious risk to the health and safety of a person emanating from an immediate or imminent exposure to a hazard.

Inspections by an HSR of a workplace can take various forms including but not limited to:

- Scheduled inspections of the workplace
- Scheduled inspections of activities, processes or areas
- Specific inspections arising from concerns by workers of the work group
- Inspections before and following substantial change to the workplace (for example to plant or work processes).

The above examples provided are illustrative of how inspections may occur in practice and are not intended to reflect statutory categories under the Act.

HSRs and PCBUs should consult about the number and type of inspections to be carried out and the process for addressing any health and safety matters identified during the inspection. More frequent inspections may be needed in high-risk industries and workplaces subject to frequent change.

Health and safety hazards identified during inspections may be resolved between the PCBU and the HSR at the time the issue was identified. If it is not reasonably practicable to rectify the hazard identified during the inspection, it may be necessary for further consultation to occur as to how the hazard is to be controlled.

Provisional improvement notice (PIN) fundamentals

A PIN is a written notice issued by a trained HSR to a duty holder (for example, a PCBU) under the WHS Act or the WHS Regulation 2025, requiring them to address a health and safety contravention.

An HSR may issue a PIN requiring the duty holder to:

- Remedy the contravention
- Prevent a likely contravention from occurring
- Remedy the things or operations causing the contravention or likely contravention.

An HSR can only issue a PIN if they have: completed the 5-day HSR training course delivered by an accredited training provider, previously completed that training when acting as a health and safety representative for another work group, or completed training equivalent to that training under a corresponding WHS law.

Before issuing a PIN, the HSR must consult with the person responsible for resolving the WHS matter. This means that the HSR should:

- Provide information, either verbally or in writing, to the person about fixing the alleged contravention or activities causing the contravention
- Allow the person an opportunity to express their views and give them adequate time to fix the contravention
- Take into account the views of the person before issuing the PIN.

A PCBU must provide a copy of any PIN issued by an HSR to SafeWork NSW as soon as practicable after the PIN is issued.

It is recommended to keep a written record of the consultation that occurred prior to issuing a PIN, as evidence that consultation did occur.

The PIN must specify the day by which the person is required to remedy the contravention or likely contravention. **At least eight days** must be allowed between the date that the PIN was issued and the date that the PIN needs to be complied with.

An HSR may include directions on how to meet the requirements in the PIN. A direction may refer to a Code of Practice and offer the person to whom it is issued a choice of ways in which to remedy the contravention.

It is not compulsory to use a form to issue a PIN, but it may help to do so to ensure the required information is included.

SafeWork NSW has developed a model template for PINs that HSRs can use.

This can be accessed through the SafeWork NSW website.

A separate PIN is needed for each contravention.

A PIN must:

- State the HSR's belief on which the issue of the notice is based and the grounds for that belief.
- Specify the provision of the WHS Act or WHS Regulation that the HSR believes has been or is likely to be contravened.
- Specify briefly how the provision is being or has been contravened
- Specify a day (at least eight days after the day on which the notice is issued) by which the person is required to remedy the contravention or likely contravention or the activities causing it.

An HSR can issue a PIN to the relevant person by:

- Delivering it personally to the duty holder or by electronic transmission to the duty holder's usual or last known place of residence or business, or
- Leaving it for the duty holder at the duty holder's usual or last known place of residence or business with a person who appears to be over 16 years and who appears to reside or work there, or
- Leaving it for the duty holder at the workplace to which the PIN relates with a person who is or appears to be the person with management or control of the workplace, or
- In a prescribed manner

A copy of the PIN must be displayed in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.

The recipient of a PIN must either:

- Comply with it within the specified time frame.
- Make a request for review of the PIN, by contacting SafeWork NSW for an inspector to attend the workplace. This request must be made within **seven days** of the PIN being issued.

The operation of the PIN is stayed if a request is made to appoint an inspector to review it.

If a PIN is not complied with in the specified timeframe, the HSR can contact SafeWork NSW who will arrange for an inspector to attend the workplace.

The inspector will attend and enquire into the circumstances of the PIN to determine non-compliance, which could result in the inspector taking compliance and enforcement action.

Directing unsafe work to cease fundamentals

An HSR can only direct work to cease if the HSR has completed an approved HSR training course, previously completed that training when acting as an HSR for another work group, or completed training equivalent to that training under a corresponding WHS law.

An HSR can direct a worker in the work group to cease unsafe work if the HSR has a reasonable concern there would be a serious health and safety risk (physical or psychological) to the workers they represent from an **immediate** or **imminent** exposure to a hazard.

Before issuing the direction to cease work, the HSR **must** first consult about the matter with the PCBU and attempt to resolve the matter, **unless** the risk is so serious and immediate or imminent that it is not reasonable to consult before giving the direction. In these situations, the HSR must consult the PCBU as soon as practicable after giving the direction to cease work.

If a worker ceases work, following a direction from an HSR, the worker must remain available to carry out suitable alternative work and the PCBU may direct the worker to carry out alternative work that is safe and appropriate for the worker.

HSRs who give a direction to cease unsafe work are protected from discriminatory conduct.

HSR training and entitlements

HSRs are entitled to attend an approved initial 5-day training course in work health and safety, and a 1-day refresher course each year.

If requested by the HSR, the PCBU must allow an HSR to attend an accredited HSR Training Course.

HSRs are entitled to choose the approved training course that they wish to attend.

A PCBU must pay the HSR their normal pay, the course fees and any other reasonable costs associated with the HSR's attendance at the training.

Other reasonable costs could include travel and other incidental expenses.

HSRs who have received training can issue PINs and direct unsafe work to cease.

HSRs who have undertaken equivalent training to the initial 5-day HSR training in a jurisdiction under corresponding WHS laws can exercise their powers in NSW.



HSR access to WHS information

HSRs are entitled to access information held by the PCBU relating to:

- **Hazards** (including associated risks) at the workplace affecting workers in the work group.
- **The health and safety of the workers** in the work group.

The information an HSR may require can differ between workplaces, examples include but are not limited to:

- Information relating to any work-related incident or disease, including statistical records, such as an injury register.
- Health and safety policies and procedures, including safe work method statements.
- Records of risk assessments conducted at the workplace.
- Safety data sheets for chemicals used in the workplace.
- Technical specifications for equipment regarding noise, vibration or radiation emission.
- Results of occupational hygiene measurements, including dust levels, noise, chemical fumes, asbestos, and mould.
- Reports on work health and safety matters.
- Information provided by manufacturers and suppliers about plant, equipment or substances at the workplace.
- Health monitoring information that does not contain personal or medical information about a worker, unless they receive the consent from the worker to obtain such information.



Issue resolution

What is an issue?

An 'issue' is any concern about health and safety at the workplace that remains unresolved after consultation has occurred with the affected workers and the PCBU.

Who is involved in resolving a work health and safety issue?

The parties to the issue will be involved in resolving the issue.

This means:

- **The PCBU** with whom the issue has been raised or their representative.
- Any **other PCBU** or their representatives who is involved in the issue.
- Where at least one worker in a work group is affected by the issue, their **HSR or the worker's representative**.
- Where at least one worker who is not in a work group is affected by the issue, **the worker(s) or their representative**.

A representative of a party, such as a union official, may enter the workplace to attend discussions aimed at resolving the issue if workers request their assistance.

The aim is to resolve the issue as soon as can be reasonably achieved to avoid further dispute or a recurrence of the issue or a similar issue. The intention is that issues should be resolved 'once and for all' to the extent that is possible in the circumstances.

The WHS Act encourages PCBUs to agree on issue resolution procedures with their workers. If there are no agreed procedures, the default procedure for issue resolution under section 23 of the WHS Regulation must be followed.

Agreed procedures for resolving issues can also be established for a workplace as a minimum, the requirements set out in the WHS Regulation should be included.

Any party to the issue may commence the procedure by informing the other party that there is an issue to be resolved and the nature and scope of the issue.

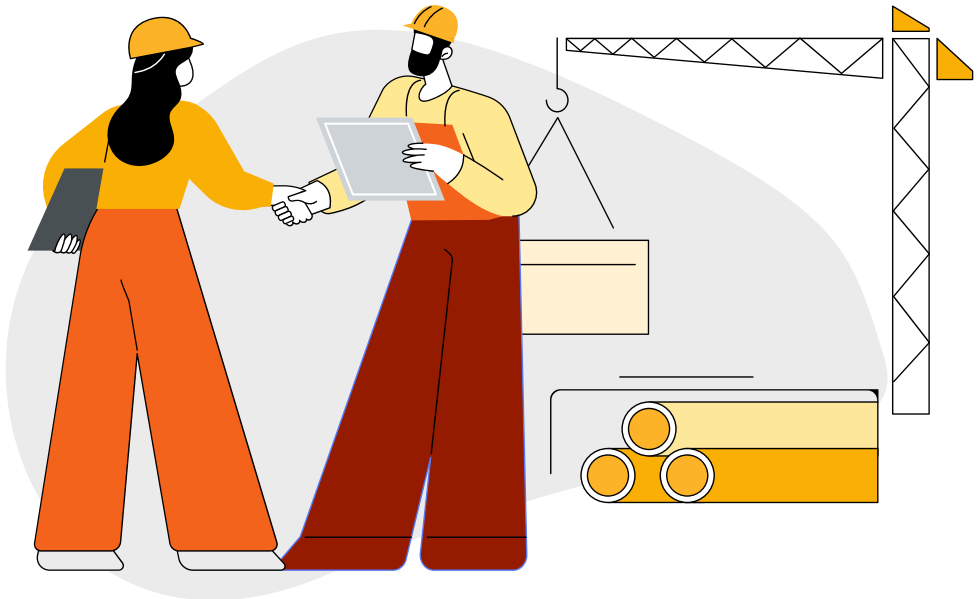
As soon as parties are told of the issue, all parties must meet or communicate with each other to attempt to resolve the issue.

The parties must consider all relevant matters including the following:

- The degree and immediacy of risk to workers or other persons involved in the issue.
- The number and location of workers and other persons affected by the issue.
- The measures (both temporary and permanent) that must be implemented to resolve the issue.
- Who will be responsible for implementing the resolution measures.

If the issue is resolved, the details of the issue and its resolution **must be documented in a written agreement** if any party requests it. At any time during the process an HSR can issue a PIN or a direction to cease work.

If an issue remains unresolved, any party to the issue may request SafeWork NSW to appoint an inspector to assist in resolution of the issue.



Discriminatory conduct

No person is permitted to undertake discriminatory, coercive or misleading conduct against workers who report a WHS matter or undertake the role and functions of an HSR.

The WHS Act explicitly forbids any *discriminatory conduct* against a worker—including an HSR—because they exercise WHS powers or perform WHS functions.

Examples of discriminatory conduct could include:

- Dismissing a worker.
- Terminating a contract for services with a worker.
- Changing a worker's position to their detriment (for example standing a worker or HSR down, less flexible work hours, less favourable shifts, less overtime and repeated changes to shifts, rosters or working hours).
- Treating a worker differently from others (for example issuing them with a warning letter).
- Not hiring someone.
- Offering a prospective worker less favourable terms and conditions.
- Terminating a commercial arrangement.

A person must not take any action intended to intimidate, force or cause a person to exercise or not exercise, a health and safety power, function or role.

Immunity of Health and Safety Representatives

The WHS Act provides protections for HSRs while performing their role and functions.

An HSR is not personally liable for anything done or omitted to be done in good faith when:

- Exercising a power or performing a function under the WHS Act; or
- In the reasonable belief that the action taken by the HSR is done in the exercise of a power or the performance of a function granted to an HSR under the WHS Act.

The Right to Speak Up

All workers have the right to speak up and report a health and safety concern.

The Speak Up Save Lives website is an effective tool to anonymously report any health and safety concerns you may have in your workplace. All submissions via Speak Up Save Lives app are assessed and responded to by SafeWork NSW. You'll also receive a reference number so you can follow up, should you wish to share your details.



speakup.safework.nsw.gov.au

SafeWork NSW inspectors

SafeWork NSW inspectors may visit a workplace in response to an incident, complaint or request for advice, or as part of a targeted injury prevention program.

An inspector may:

- Provide practical advice on how to eliminate or reduce the risk of injury and illness.
- Investigate and/or verify compliance with legislative obligations.
- Issue notices or other instructions to secure compliance with legislation.

An HSR can request SafeWork NSW to appoint an inspector to:

- Assist in resolving an 'issue' regarding the cessation of work.
- Make a decision following a failure of negotiations for the determination of work groups.
- To review a PIN and inquire into the circumstances that are the subject of the PIN.
- Attend the workplace to assist in resolving WHS issues.

Reviewable decisions

(Sections 223-228 – WHS Act)

Under the WHS Act, certain decisions made by an inspector may be eligible for internal review by SafeWork NSW.

An internal review is a systematic way of looking at the merits of an original decision and allows the person affected by the decision to seek an independent opinion from an officer who was not involved in the making of the original decision.

An HSR may be eligible to seek internal review where decisions relate to:

- Failure to resolve work group negotiations
- HSR training decisions
- Establishment or operation of an HSC
- Decisions about a PIN issued by an HSR
- Inspector decisions to issue, vary, cancel, or extend:
 - Improvement notices
 - Prohibition notices
 - Prohibited asbestos notices
 - Non-disturbance notices
 - Subsequent notices
- Decisions affecting workers the HSR represents
- Notices connected to a cease work direction under section 85

Further information on what decisions may be eligible for review can be found in Part 12 of the WHS Act.

An HSR may apply for a review where they are directly affected, represent affected workers or where the decision relates to their HSR functions.

To request an internal review, the eligible person must request the review usually within 14 days of the reviewable (eligible) decision being made.



For more information see safework.nsw.gov.au/compliance-and-prosecutions/inspector-decisionsregulator-decisions

or contact the reviews team at reviews@safework.nsw.gov.au.



WHS disputes

(Section 102 A-I – WHS Act)

Disputes regarding a “WHS matter” can be referred to the Industrial Relations Commission for mediation, conciliation or arbitration.

These include but are not limited to disputes regarding work groups, HSRs, issue resolution and the cessation of work.

Once a dispute is referred to the Industrial Relations Commission, an inspector cannot be appointed to resolve the matter, and if one has already been appointed, they cannot take any further action.

The Industrial Relations Commission may also review a decision made by an inspector, and may:

- decide to confirm the inspector’s original decision,
- substitute the original decision for another one,
- set aside the original decision and refer the matter back to the inspector with further directions.



For more information, see
irc.nsw.gov.au/my-legal-problem/whs-changes-workplace-protections-amendment-act/disputes-regarding-whs-matters.html.

Contact SafeWork NSW

Contact us on 13 10 50

People with a speech or hearing impairment can make or take phone calls using the following:

For voice calls or telephone typewriter (TTY) call **133 677** then ask for **13 10 50**.

For a **speak and listen service** call **1300 555 727** then ask for **13 10 50**.

For an **SMS relay service** call **0423 677 767** then type **10 10 50**.



You can access the **Speak Up Save Lives App** on our website by **scanning the QR Code**.

Notifying us of an incident

If there is a serious injury or illness, a death or a dangerous incident, **please report it to us on 13 10 50** as an urgent investigation might be needed.

Incidents can be notified 24 hours a day, 7 days a week.

Disclaimer

This publication contains general guidance about work health and safety in NSW, including the regulation and enforcement of relevant legislation. It may include information about some of your obligations under some of the legislation administered by SafeWork NSW.

This publication does not represent a comprehensive statement of the law, nor does it address how the law applies to particular circumstances or individuals. This publication does not create legal rights or obligations and does not limit or affect the exercise of statutory functions or powers by SafeWork NSW.

To ensure you comply with your legal obligations, you must refer to the appropriate legislation, including the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2025*. Information on the latest laws can be accessed at the NSW legislation website www.legislation.nsw.gov.au. In the event of any inconsistency, the legislation prevails.

This publication is not a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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