When consultation is required

Consultation is required when:

(a) Identifying hazards and assessing risks arising from the work carried out or to be carried out
(b) Making decisions about ways to eliminate or minimize those risks
(c) Making decisions on the adequacy of facilities for the welfare of workers
(d) Proposing changes that may affect the health and safety of workers. This may include any changes to the workplace such as building renovations, maintenance work, or minor works.
(e) There are any proposed changes to the work environment, processes, practices or purchasing decisions that impact on workers' health and safety.
(f) Making decisions about health and safety related procedures
(g) Changing workgroups or consultation arrangements
(h) Determining training requirements for the workgroup
(i) Developing, implementing and reviewing health and safety related procedures.

Setting up consultation arrangements:

Health & Safety Representative

Who is a Health & Safety Representative?

A Health & Safety Representative (HSR) is a worker who has been elected to represent their workgroup on health and safety matters, who sits on a Health & Safety Committee (HSC) or has been deemed to fill that position. A Deputy HSR may also be elected to deputise for the workgroup's HSR should the HSR not be available.

The steps below describe how to set up consultation arrangements for a new workplace, or if a worker requests the election of a HSR. Management must consult with workers to decide on how consultation will occur.

Firstly workgroups are determined, then workers have the option of electing one or more HSRs for their workgroup. Furthermore, HSRs and workers can decide if they wish to establish a Health and Safety Committee that covers their workgroup.

Establishing workgroups

Within an area (e.g. a school/unit) workgroups are formed by negotiation and agreement by a majority of the members of the workgroup (including workers and management). The purpose of the negotiation is to determine:

- The number and composition of workgroups to consult with
- The number of HSRs and Deputy HSRs to be elected (this will depend on the hours worked, different site locations, the level of risk involved, shift patterns etc)
- The workplace/s to which the workgroups will apply
- The businesses or undertakings to which the workgroups will apply.

To establish a workgroup, the Person Conducting a Business or Undertaking (PCBU)/management must:

- Take all reasonable steps to commence negotiations with the workers within 14 days after a worker makes the request
- Negotiate with a worker's representative (such as union official) if a worker asks you to do so
- Notify the workers of the outcome of the negotiations and of any workgroups determined by agreement as soon as practicable after negotiations are complete.

Workers are encouraged to provide feedback as to whether they agree with the proposed "workgroups", by sending an email to a nominated management representative by a specified date, indicating if they *"agree with the proposed workgroups".* If "no response" is received by email from the majority of workers by the specified date, it will be assumed that the majority of workers agree with the proposed workgroups.

If there is a failure in negotiations for the establishment of workgroups, then any party to the negotiations may ask the regulator (SafeWork NSW or Worksafe) to appoint an inspector to assist.

Electing Health and Safety Representatives

HSRs must be elected by members of the workgroup they will represent. Management needs to consult with all workers in the workgroup to determine how an election is to be conducted (if one is needed), and all workers must be informed of the election date as soon as practicable after the date is decided. The election process may be informal, for example with a show of hands. Alternatively, it may be a more formal process such as the use of ballots. If the majority of workers in a workgroup agree, the election may be conducted with the assistance of a union or other organisation or person.

If the number of candidates for election as a HSR equals the number of vacancies, an election need not be conducted and the candidate(s) are taken to have been elected as the HSR for their workgroup.

Management must inform all workers of the outcomes of elections. Once a HSR is elected they must complete the UNSW HSE Consultation Course Online. To enrol in this training, the HSR needs to log into myUNSW. A HSR for a workgroup holds office for 3 years, and is eligible for re-election at the end of this term. Schools and Departments are responsible for monitoring the terms of office of their HSRs and for organising elections (if required) at the end of the 3-year term.

If a workplace needs help with establishing their consultation arrangements, the supervisor/manager of the work unit should contact their Work Health & Safety Contact

Management should ensure that HSRs are provided with the time and resources required to fulfill their duties as a HSR.

Powers and functions of a HSR:

Under Section 68 of the WHS Act 2011, the powers and functions of a HSR are:

- To represent the workers in the workgroup in matters relating to work, health and safety
- To monitor the measures taken in relation to the WHS Act for the health and safety of workers in the workgroup
- To investigate complaints from members of the workgroup relating to health and safety
- To inquire into anything that appears to be a risk to the health or safety of workers in the workgroup, arising from the conduct of the business or undertaking.

These powers and functions are generally limited to the particular workgroup they represent. Section 69 of the WHS Act 2011 states “A health and safety representative for a workgroup may exercise the powers and perform functions under this Act only in relation to matters that affect or may affect, workers in that group.”

HSRs with additional powers:

After being elected, a HSR is given the option of obtaining ***additional powers*** which entitle them to:

- Direct unsafe work within their workgroup to stop when they have a reasonable concern that carrying out the work would expose a worker to serious risk
- Issue a Provisional Improvement Notice (PIN) when they reasonably believe there is a contravention of the WHS Act 2011. A PIN is a notice issued to a person requiring them to address a health and safety concern in the workplace.

To obtain these additional powers, the HSR must complete a 5 day Workcover approved HSR training course and a 1 day refresher course each year during their term of office. This is in addition to the UNSW HSE Consultation Course online.

If a HSR would like to do this training, they need to contact their Work Health & Safety Contact to find a suitable training provider. Then they need to discuss this with their supervisor/manager to decide on a convenient time to do this training. The PCBU must as soon as practicable within a 3 month period after the request is made, allow the HSR time off work to attend the training. Any HSR who completes this training needs to send a copy of their training certificate to UNSW’s WHS Senior Manager.

The names of any HSRs who have completed the WorkCover approved HSR training course must be communicated to the state regulator (e.g. in NSW this is SafeWork NSW) and displayed on the Health & Safety website. This notification will be completed by UNSW's WHS Senior Manager.

Health & Safety Committee

A new HSC must be established if requested by at least five workers or a HSR. A HSC may also be established by a PCBU on their own initiative. A HSC is made up of HSRs who have been elected by their peers to represent their workgroup, management representatives, other workers and advisory members as required. At UNSW, all HSRs are strongly encouraged to become members of the area's HSC.

HSCs also include PCBU/Management representatives, who have the authority to help make decisions about HS matters.

Each HSC needs to develop its own procedures for organising and conducting meetings. This can be done using the template HS L3 Committee Constitution

Powers and functions of a HSC:

Under Section 77 of the WHS Act 2011, the powers and functions of a HSC are:

(a) to facilitate co-operation between the person conducting a business or undertaking and workers in instigating, developing and carrying out measures designed to ensure the workers' health and safety at work, and
(b) to assist in developing standards, rules and procedures relating to health and safety that are to be followed or complied with at the workplace, and
(c) any other functions prescribed by the regulations or agreed between the person conducting the business or undertaking and the committee.

It may not be practical for all workgroups to have a HSC, so they may request to have a HSR to represent them independently, or they may decide to adopt 'other agreed arrangements.'

Other agreed arrangements

This is where workers and management establish alternative consultation arrangements which are suitable for their unit/area. These arrangements must be negotiated and agreed to by all parties. Options could include:

- Direct communication between workers and supervisor/s to formally discuss health and safety issues
- Team meetings where health and safety is discussed and minutes recorded
- A variation of the established Level 3 HSC structure
- Toolbox talks.

These arrangements may be suitable for workers such as contractors, volunteers or small or low risk workgroups such as office-based staff.

The arrangements for consultation including the names of HSRs and HSC members (where relevant) must be communicated to all staff e.g. via email, displayed on health and safety noticeboards, via local school/work unit websites etc.

Agreement on proposed consultation arrangements

Whichever method of consultation is proposed, (e.g. HSRs, HSCs or "Other agreed arrangements"), management needs to communicate the details of the proposed health and safety consultation arrangements to all workers, and ask workers for feedback as to whether they agree with the proposed arrangements. This can be done by a range of communication means including email, whereby workers are asked to respond to a nominated management representative by a specified date. If "no response" is received by email by the majority of the workers by the specified date, it will be assumed that the majority of the workers agree with the proposed consultation arrangements.

UNSW Health and Safety Meeting Structures

At UNSW there are established HSRs and HSCs. These operate at three levels:

Level 3 – HSC

These committees operate at a school or department level and are made up of different workgroups. Commonly each workgroup has elected a representative (a HSR), to represent them on health and safety issues. At UNSW, HSRs are strongly encouraged to be part of the HSC, (although the WHS legislation does not make this mandatory).

Greater than 50% of the members of the HSC must be workers who are nominated by the workers in their workgroup. Management representatives must not outnumber worker representatives.

The HSC membership should also include the Head of School/Department, or a Senior Manager who is acting as their delegate. This person must have the appropriate authority to make decisions about health and safety matters.

The purpose of the L3 HSC is to discuss health and safety issues/concerns raised in the local area (e.g. school/unit level). This would include discussion of any proposed changes to the workplace that may impact on workers' health and safety. Any concerns that cannot be resolved by the members' direct supervisor or their HSR, can be raised at this committee.

Minutes of HSC meetings should be kept and distributed to the workgroup electronically, with corrective actions recorded. Level 3 HS Committee Agenda Template can assist with maintaining meeting agendas and the Level 3 HS Committee Minutes Template (link) can assist with recording minutes of meetings.

For more information on the functions of HSCs, and procedures for organizing and conducting meetings, refer to: L3 HS Committee Constitution template.

Compliance checklist for Level 3 HSCs

Level 3 HSCs have the option to complete L3 Health & Safety Committee Compliance Checklist as a health check for their committee. Completion of this checklist is not mandatory but may be required, for example due to a major structural change, audit or other requirement.Any '*actions required'* after completing the checklist need to be documented at the next L3 HSC meeting, with a due date for completing the actions.

Level 2 – Two options are available:

(i) Faculty/Divisional Executive Management Meeting

The Work Health & Safety Contact attends a quarterly Faculty/Divisional Executive Management Meeting, and presents a summary of health and safety statistics and issues relevant to the entire Faculty/Division to the senior management team. Any issues that cannot be resolved by local area supervisors/managers can be raised by the Head of School/Department Manager during these Executive Management meetings. This group is chaired by the Dean or Division Manager.

(ii) L2 Faculty/Division Executive Management Meeting Including HSRs

The L2 Faculty/Divisional HSC may be made up of the Chairpersons of each of the L3 HSCs or a workgroup representative, and the relevant management representative for the workgroup (e.g. Head of School/Department). For example, the Chairperson for the L3 School of Civil Engineering HSC and the Head of School would attend the Faculty of Engineering L2 HSC.

This committee's role is to discuss issues that have may have an impact on workers across the faculty/division, and to review hazards, incidents and outstanding corrective actions for the Faculty/Division. Any issues that cannot be resolved by the L3 HSC, should be raised at this meeting.

Level 1 – UNSW Health, Safety and Environment Strategic Planning Committee

This committee is chaired by the Vice-Chancellor. Its role is to:

- Establish and monitor health and safety objectives within UNSW's Health and Safety Strategic Plan
- Ensure UNSW implements an effective Health and Safety Management system (HSMS)
- Address any health and safety issues raised that affect the University Community as a whole.

Consulting with other PCBUs

UNSW has relationships with a number of PCBUs both on and off the campus. Appropriate consultation arrangements with these organisations will be discussed and agreed upon by all parties.

There may also be situations where UNSW needs to engage contractors, sub-contractors or labour hire workers to carry out specific projects or tasks. In these situations, UNSW will discuss and negotiate with these workers, to determine their preferred method/s of consultation with UNSW. The different options available for consultation will be included in the engagement contract documentation with these parties. Examples may include toolbox talks, team meetings (where health and safety is an agenda item), face-to-face discussions and cross representation on other committees etc.