

Worker participation practices

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QUICK GUIDE



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1. Introduction

The Health and Safety at Work Act 2015 (HSWA) and the Health and Safety at Work (Engagement, Participation and Representation) Regulations 2015 lay out specific requirements for how businesses must engage with their workers and set up practices around how workers participate in health and safety. This makes sure businesses incorporate the views of their employees into their health and safety practices.

Who should read this guidance

This guidance is intended for persons conducting a business or undertaking (PCBUs) on ships or operating on major ports or the Cook Strait ferry terminals.

This guidance outlines some ways that businesses can work to meet the HSWA requirement to provide opportunities for worker participation.

This quick guide does not specifically explain your legal obligations. You can find out more about those in our factsheet 'PCBU duties for worker engagement and participation' and by reading the Health and Safety at Work Act 2015 (HSWA) and Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016.

Key concepts

TERM/CONCEPT	BRIEF EXPLANATION
Health and safety committee (HSC)	A committee established under HSWA s66 at a workplace to: <ul style="list-style-type: none">– help the PCBU and workers work together to ensure health and safety– help develop standards, rules, policies or procedures relating to health and safety– make recommendations relating to work health and safety– perform any other functions required by regulations or agreed between the PCBU and the committee
Health and safety representative (HSR)	A worker elected by the members of a work group to represent them in health and safety matters, in accordance with HSWA ss62–65. In our guidance, we only use this term to refer to elected representatives who meet the requirements of HSWA and the Regulations. It does not include other worker representatives
Officer	A person who has the ability to significantly influence the management of a PCBU. This includes, for example, company directors and chief executives. Officers must exercise due diligence to ensure the PCBU meets its health and safety obligations. Note In the context of HSWA, an officer of a PCBU is different from an officer on a vessel. Someone who is the captain of a fishing vessel might or might not be an officer of the PCBU that owns or runs the vessel.

TERM/CONCEPT	BRIEF EXPLANATION
Person conducting a business or undertaking (PCBU)	<p>In most cases this is a business entity such as a company. However, an individual carrying out business as a sole trader or self-employed person is also a PCBU.</p> <p>It does not include workers or officers of a PCBU, volunteer associations with no employees, or home occupiers that employ or engage a tradesperson to carry out residential work.</p> <p>You can find the definition of PCBU in HSWA section 17</p>
Work group	<p>PCBUs form work groups so that all workers can elect health and safety representatives who represent them effectively on health and safety matters.</p> <p>HSWA says that the standard work group includes all the workers in a business or undertaking, unless the PCBU determines otherwise.</p> <p>For example, a port that has both land-based and sea-based workers might choose to have a work group for the land-based workers and a work group for the sea-based workers. This means that each group has one or more health and safety representatives who understands their situation and can support them effectively.</p> <p>PCBUs determining work groups must do so under HSWA section 64</p>
Worker	<p>A worker is an individual who carries out work in any capacity for a PCBU. A worker may be an employee, a contractor or sub-contractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker (including a homeworker), an apprentice or a trainee, a person gaining work experience or on a work trial, or a volunteer worker. Workers can be at any level (for example, managers are workers too).</p> <p>You can find the definition of worker in HSWA section 19.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. The worker engagement, participation and representation part of HSWA does not apply to: <ol style="list-style-type: none"> a. a volunteer worker b. a worker who is a prisoner carrying out work inside a prison. 2. Certain sections of the worker engagement, participation and representation part of HSWA do not apply to members of the Armed Forces. These are: <ol style="list-style-type: none"> a. Section 62(1), relating to requests for the election of health and safety representatives b. Section 66(1)(b), relating to the establishment of a health and safety committee c. Sections 83 and 84, relating to the worker's right to cease unsafe work or for a health and safety representative to direct unsafe work to cease

2. Requirement for worker participation in the Health and Safety at Work Act 2015

HSWA section 61 says:

A PCBU must have practices that provide reasonable opportunities for workers who carry out work for the business or undertaking to participate effectively in improving work health and safety in the business or undertaking on an ongoing basis.

This means you have to give your workers reasonable opportunities to have a say in helping to improve health and safety. These opportunities must allow them to participate effectively and in an ongoing way.

You have the same duty of care to volunteer workers that you have to all workers. However, the duty to have worker participation practices does not apply to volunteer workers.

HSWA s 61(3) lays out what 'reasonable opportunities' are. They are opportunities that are reasonable in the circumstances, having regard to relevant matters.

When you are planning your participation practices, consider such relevant matters as:

- how many workers are working for you (if you have more workers, or workers from a variety of backgrounds, you might consider having a greater variety of participation practices)
- how many different workplaces you have, whether the different sites have different risks, whether sites are land-based, vessel-based, or both, and the distance between sites
- what the likely risks to health and safety are in your business and what the level of those risks is (that is, how much harm they might cause)
- what the nature of the work that workers perform is and the way you arrange or manage it
- what the nature of your employment or contracting arrangements is, including the extent and regularity of employment or engagement of temporary workers
- how willing workers and their representatives are to develop worker participation practices
- how the practices fit with the requirement under the Employment Relations Act 2000 for employers and employees to act in good faith.

You can decide, by engaging with your workers, how they can participate in discussions about health and safety.

3. Characteristics of good participation practices

Worker participation in health and safety protects workers by allowing them to have a say in the practices that keep them safe and healthy in the workplace. When knowledge and experience are shared between the people who manage the work and those who carry out (or are affected by) the work, everyone can contribute to making better decisions about how the work can be carried out safely.

There are a number of factors to think about when you're trying to decide if your participation practices are good.

Your health and safety participation practices should provide your workers with ongoing ways to:

- comfortably raise health and safety concerns
- get and share information about health and safety issues
- offer suggestions for improving health and safety
- contribute to decisions which affect work health and safety
- get information about health and safety decisions.

The practices should be flexible. Set up whatever practices:

- best suit your size and risk profile
- best reflect work patterns, including shift work
- suit the nature of the work and the workers
- fit with workers' views
- meet workers' needs.

Workers should be able to raise health and safety concerns at any time. They should not need to wait for a formal opportunity (such as a health and safety meeting) to participate.

Opportunities for workers to participate effectively

Worker participation practices must provide reasonable ongoing opportunities for workers to participate effectively in improving work health and safety.

When participation practices are effective:

- workers know how to participate, and use opportunities to do so
- you act in a timely manner when workers raise issues about health and safety matters
- your decision-makers consider and respond to workers' suggestions for improving health and safety
- you use appropriate systems to document and track responses.

Workers can choose to participate directly or through representation

Worker participation practices can be direct or through representation. Representatives can be formal, for example an elected health and safety representative (HSR), or informal, for example a kaumatua.

You must initiate an election of HSRs if a worker requests one. You can also choose to hold an election of HSRs even if a worker does not request it.

Direct participation includes processes that make it easy for workers to communicate with supervisors, managers, or other people who are in charge of how and where work is carried out.

Representation means that workers choose one or more people to speak or act on their behalf. Workers can share questions, concerns and suggestions with HSRs, health and safety committees (HSCs), unions or other worker representatives who can then raise issues with the PCBU.

Workers can also get external advice, for example from unions, health and safety advisors, or medical specialists.

It is good practice to use a combination of types of practices. Mix open door policies, regular health and safety-focused meetings and other opportunities for regular informal input with more formal approaches that could include HSRs and HSCs.

Be clear about what you expect and give workers feedback on their participation

HSWA requires that you provide workers with relevant information about a health and safety matter you are engaging with them about. This information should enable them (make it possible for them) to:

- be clear about the options under consideration and what you are asking them to provide feedback on
- commit to a time-frame for making the decision in consultation with your workers
- consider whether the decision will affect workers at a single location or all workers throughout the business, and adjust your consultation process accordingly.

If your decision is different from what workers requested, you should:

- show how you considered their ideas
- clearly explain why you reached your decision.

Demonstrating commitment to worker participation

Commit to and model open and transparent participation processes to build trust and effective working relationships with your workers. You can do this by:

- showing how cooperating with workers in other areas of the business has led to improvements
- demonstrating evidence of the benefits worker participation has had to the business and to workers
- role modelling positive health and safety practices, particularly those that have been implemented following worker participation
- identifying other current health and safety issues that need to be addressed and invite suggestions or arrange a session where everyone can offer and discuss solutions.

4. Participation practices you could put in place

This section outlines some participation practices you can consider putting in place. It explains why each practice is good and how it would benefit you. Finally, it gives some information about how you might set up this practice so it works well.

Health and safety as a routine agenda item

Include a health and safety item on the agenda of all meetings. You can do this differently at different levels. Here are some examples of how you might include health and safety at different levels of meetings.

- At board and governance meetings, officers may discuss examples of HSC meeting minutes, resourcing for health and safety, and approaches to addressing identified health and safety issues.
- At all of staff meetings, HSRs can talk about issues that have come up recently and what is being done to resolve them.
- At team meetings, members of teams who may experience similar risks can discuss their experiences and approaches for escalating issues where necessary.
- At regular toolbox talks, someone can talk about an experience where they had a close call and how others can avoid a similar situation.

Reasons it is good practice

This practice keeps health and safety in people's minds.

Having health and safety as part of every meeting ensures that it is 'part of what we do'.

It sends clear message that you are committed to health and safety.

A permanent health and safety spot on the agenda means it is more likely that people will raise issues.

Making the practice effective

Prepare prompts to encourage people to speak up.

Encourage workers to provide agenda items.

Raise awareness that health and safety items on the agenda could cover a range of topics. If you are addressing worker health protection satisfactorily, over time you might take a broader approach to worker health – for example, you could include agenda items that promote the general health and wellbeing of workers (such as encouraging physical activity).

Invite guest speakers to team meetings (for example, an occupational health nurse; a hearing specialist).

Health and safety committee

Set up a HSC or similar committee to support the ongoing improvement of work health and safety. You must set up a HSC if an HSR or five or more workers ask you to. You may choose to set one up even if no one requests it. A HSC has four main purposes:

- To make it easy for the PCBU and workers (including HSRs) to cooperate on ways to make sure workers' health and safety is protected at work
- To help develop standards, rules, policies and procedures for work health and safety
- To make recommendations on workplace health and safety
- To carry out other tasks that are agreed between you and the HSC or set down in the Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016.

Reasons it is good practice

It ensures there are regular planned and structured discussions about health and safety.

It encourages a cooperative approach to health and safety.

It allows you to deal with issues across sites.

Committee members gain valuable skills.

Making the practice effective

Allow time for the HSC to meet more often than the minimum required by regulations, which is once every three months.

Encourage the HSC to develop ground rules and use decision-making techniques to ensure that meetings are focused.

Include representatives of every work group, regular shift or location of workplace on the HSC.

Health and safety representatives

Work groups elect health and safety representatives to:

- represent them on health and safety matters
- investigate health and safety complaints and risks
- represent a worker in a matter relating to health and safety when the worker asks them to
- monitor health and safety measures that you have taken
- inquire into anything that appears to be a health and safety risk arising from your conduct as a PCBU
- make health and safety recommendations
- give you feedback about whether the business is complying with health and safety requirements
- promote the interests of workers who have been harmed at work, including arrangements for rehabilitation and returning to work.

Reasons it is good practice

A HSR represents workers and can sound out issues they may be having.

A HSR provides workers with a voice on health and safety matters.

HSRs gain valuable skills and knowledge by being involved in discussions about health and safety, including through training.

HSRs are a well-established method of representation.

Some HSRs who gain confidence advance to team leader positions or other positions of responsibility. They can then use their health and safety experience at these levels.

Making the practice effective

Address any barriers that might make people reluctant to be an HSR.

Make sure that everyone knows what an HSR's role involves, and what they are not expected to do.

Make sure the work groups fairly represent everyone who works at the business. Consider different shifts, work locations and types of work.

Interactive intranet site

Create an interactive intranet site that allows all workers to connect, communicate and collaborate on health and safety matters with each other, for example by asking other workers for their opinions and expertise.

Reasons it is good practice

All workers can take part even if they are based at different sites.

It allows you to use multiple channels to engage with workers (for example, forums, blogs, online forms, collaboration tools, eNewsletters).

It allows workers on different shifts or working at different locations to engage with one another.

Making the practice effective

Develop an organisational culture that is open to different ways of communicating, including through technology such as the intranet.

Have an intranet platform that is easy to use and reliable.

Ensure that all workers have access to the intranet. Offer workers training so that they can use the intranet effectively.

Ensure intranet content is also shared in other ways with workers who have low literacy skills or computer skills.

Get someone to regularly update intranet content.

One-to-one discussion

Managers can discover many issues just during casual conversations. A worker might say something that leads to the manager realising there is a health and safety issue, or they might feel more comfortable just chatting than they would filling out a form.

Reason it is good practice

It allows for a more casual way of discussing issues.

A manager hears from individual workers.

It provides a confidential and safe environment for individual workers to share their experiences, which may be particularly important for situations where the worker is suffering from bullying or psychological harm.

Making the practice effective

Give workers time to prepare for a one-to-one discussion.

Recognise that some workers may prefer to raise issues in a group setting, and do not try to force them to raise issues in individual conversations if this is the case.

Make sure workers also have access to other individuals who can progress health and safety issues, in case they feel uncomfortable raising a particular issue with their manager.

Pre-start document or job safety analysis

A pre-start document focuses on what tasks are required to begin work on a job, the risks associated with each and how the risks will be managed.

A job safety analysis breaks a job down into tasks and identifies how risk will be managed for each task.

These documents record what has been done and what is planned for a job. They make it clear who is responsible for implementing, checking, and reviewing control measures.

This type of document allows workers to participate before a job starts as they contribute to creating the document.

Reasons it is good practice

It documents participation: workers have input into the document and then confirm that they have read, understood and agreed to the procedure and controls.

Good record-keeping can save time and money.

It allows workers to think about the tasks they will be completing, what risks are involved in each task, and how they can control the risks.

Making the practice effective

Set aside enough time to consider the task involved and the safest way to complete it.

Prepare the best possible document – it does not need to be long.

Be open to workers' ideas for better and safer ways of completing a task.

Quality circle or solution-focused group

This is a team of workers and managers who meet to identify and solve specific work health and safety matters.

Group members should be directly involved with the issues being addressed.

Reasons it is good practice

It provides an opportunity for everyone to be involved.

It encourages cooperative problem-solving.

It can focus on solving a specific issue.

There is not necessarily a long-term commitment to attend meetings, meaning those with busy schedules can still participate.

Making the practice effective

Show that there is commitment from managers. One way to do this is to have them participate.

Try to be proactive rather than reactive.

Have a clear agenda so that gatherings are effective.

Recognise that the success rate may be variable.

Sub-contractor meeting

This is a meeting with all sub-contractors on a project or site.

Reasons it is good practice

This type of meeting can address one or more issues affecting a particular group of workers (for example, all plumbers working on a site who may be employed by different PCBUs).

It ensures that there are common and consistent approaches to health and safety.

Making the practice effective

Try to get everybody together at the same time, if possible.

Suggestion scheme

This could be a noticeboard, suggestion box, web page, 'Bright Ideas' form, email link or other way for workers to offer suggestions and solutions.

Reasons it is good practice

It provides an easy and visible way for workers to offer suggestions about health and safety issues.

It provides evidence of worker participation.

It shows that you want to know what is happening with your workers.

When you respond to suggestions, it shows you are committed to health and safety.

It could lead to health and safety gains, savings, or increased revenue.

Workers can offer suggestions anonymously.

Making the practice effective

Regularly review and act upon the suggestions. You can:

- recognise workers (individually/by team/by project) who have contributed to a safer workplace
- reward good suggestions.

Commit time to review and respond to all suggestions.

Make sure that there is a strong feedback cycle between yourself and workers.

Opportunity for improvement form

An opportunity for improvement (OFI) form is a type of suggestion scheme. It typically asks for information from workers about health and safety issues that have occurred. Sometimes it might be called a health and safety observations form. It collects information on:

- what happened
- what the issue was
- what was good or what could be improved on
- what needs to be done next
- who is responsible for taking action and by when.

Reasons it is good practice

An OFI form is an effective way for a worker to raise an issue and to suggest possible solutions.

Managers can talk with workers using information on the form as a starting point. Information on the form can be entered into a database.

OFI forms (whether paper or electronic) can be kept in vehicles, site offices, yards and mobile worksites throughout the company.

This makes it easy for all workers to fill one out when they notice something that could or should be improved.

Making the practice effective

Offer support for workers who have limited literacy skills, and for anyone else who might find it difficult to fill out the form.

Design a simple form that is quick and easy to complete when things pop up that need attention. Consider how your workers would find it easiest to complete such a form, and use the phrasing and names of items that will be familiar to them.

Check that a manager regularly reviews the forms submitted and then follows up.

Make sure that workers are given feedback on their ideas (even if something cannot be done or has to be put off until later).

Survey

This is a method for gathering information. You can run a survey by phone, online, via pen and paper, or face-to-face.

Reasons it is good practice

A survey can:

- help you understand what workers think about their work and their working environment
- cover a wide or narrow range of topics
- measure engagement and organisational culture.

Making the practice effective

Check that the survey is well-designed so that people will respond with meaningful information and you will get the type of answers you need.

Include only questions that are easy to understand and answer.

Offer support to workers who might need help to complete the survey (for example, workers with low literacy or workers who do not speak or write English).

Accept that not everyone will choose to take part.

Allow enough time to analyse responses.

Make it clear to people whether answers will be anonymous (there is no way for the answers to be traced to the person who provided them) or confidential (the research team knows who provided the information but must make every effort to prevent anyone else knowing who said what).

Report back on the general findings of the survey, so everyone knows what the results were.

If an external organisation – such as a union or market research company – runs the survey, workers may feel they can say what they really think.

Toolbox talk

A toolbox talk focuses on risks associated with the work that the group is going to do.

Note

A toolbox talk is not a replacement for training.

Potential topics include:

- safety around propellers
- electrical hazards
- slips, trips and falls
- deploying, retrieving and stowing telescopic accommodation ladders safely
- eye protection
- workplace stress
- managing subcontractors.

You can hold them face-to-face or via conference call.

You can hold them daily, weekly, fortnightly or monthly – how often will depend on the size, nature and location of your workplace.

Reasons it is good practice

Having supervisors regularly brief all workers helps to encourage a positive workplace culture.

You can share information with workers, and workers can have a say about hazards and controls, incidents and accidents, work processes and company procedures.

Managers and workers can work together to come up with solutions.

Making the practice effective

You can share topics via text with onsite supervisors.

Keep toolbox talks short and focused.

Be prepared – some people may need more explanation than others.

Think about how key messages could also be reinforced in other ways.

Encourage workers to suggest topics.

Offer training and support to people who lead toolbox talks. This can help them to explain things clearly, encourage questions, and get good discussions going.

Whole team/whole workforce discussion

You invite all workers to contribute to discussions about a variety of health and safety topics such as:

- emergency plans
- risk protection and prevention measures
- safety audits
- HSR roles and responsibilities
- the duties and expectations of other workers who have health and safety responsibilities
- risk assessment outcomes
- notifiable events
- advice from health and safety experts or consultants
- the planning and organisation of safety and health training
- the introduction of new equipment
- changes to working conditions or the work environment.

Reasons it is good practice

It signals that everyone should be involved in health and safety.

It is good for discussing issues affecting all workers on site.

You can share important information with all workers at the same time.

Making the practice effective

Be aware that quieter people may be less likely to speak up. Think about how to encourage them to take part.

Stay alert and make sure that assertive people are not dominating discussions.

Offer small group or one-to-one discussions to workers who may not feel safe talking in a large group.

Consider whether work should stop while the discussion takes place. If some people cannot attend, find ways to tell them later what happened, for example providing meeting minutes.

Offer facilitation skills training to people who run the discussions – successful discussions are well-run.

Have an agenda or topic of discussion that you tell people about in advance, so they have a chance to think about it before the meeting.

Workplace walkabout

Managers catch up with workers during walks around the workplace. This can be formal or informal.

Reasons it is good practice

Workers are more likely to share ideas and bring up any health and safety concerns with managers who are available and approachable.

Managers can invite HSRs, HSC members and/or union delegates to join the walk.

Workers can point out equipment or factors in the environment causing concern.

Making the practice effective

Recognise when your workers are doing something good for health and safety, and acknowledge what they are doing.

Consider whether and how a walkabout could interrupt the workflow, and how to make it less of an interruption.

Let workers know when the walkabout will happen so:

- they are not surprised
- they have time to think about issues to raise.

Worksite meeting

This is a meeting held on a worksite to discuss health and safety issues. It can be between specific parties, or an open meeting that a variety of people can attend.

Reasons it is good practice

Everyone can be involved.

It gives you an opportunity to discuss issues affecting all workers on a site.

Making the practice effective

Consider whether work has to stop while the meeting takes place.

If some people cannot attend, find ways to tell them later what happened.

Disclaimer

This publication provides general guidance on your duties under relevant legislation (including the Health and Safety at Work Act 2015 and the Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016). It is not possible for Maritime New Zealand to address every situation that could occur at work, and it is your obligation to make sure you are complying with legislation and to obtain legal advice where appropriate. This means that you need to think about this guidance and how best to apply it to your particular circumstances. Maritime New Zealand regularly reviews and revises guidance to make sure that it is up-to-date and reflects any changes in legislation, but you cannot rely on this guidance for currency. Please check maritimenz.govt.nz/ to confirm that you are referring to the current version of this publication.



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