

FRAMEWORK FOR NEGOTIATING A WORKER PARTICIPATION AGREEMENT

Purpose

The purpose of this document is to provide a framework that DHBs and unions can commit to and use as a basis to negotiate a worker participation agreement (WPA) for their DHB as part of the engagement process with all workers. It will support individual DHB's alongside union partners to implement best practice worker engagement, participation and representation systems in the workplace. The framework sets out a process to ensure all workers are provided with reasonable and effective opportunities to actively engage and participate in health and safety matters.

Our Commitment

DHBs and unions recognise that the safest and healthiest workplaces are ones where the PCBU and its workers work together. When negotiating a WPA, DHBs and unions will commit to meaningful and high engagement with all workers and their representatives.

- We will provide leadership and are committed to and support worker engagement, participation and representation across the health sector
- We are committed to enabling competent and effective Health and Safety Representatives (HSRs) and Health and Safety Committees (HSCs) as methods of engaging with all workers
- We will strive to be leaders and demonstrate our commitment to worker engagement, participation and representation across all industries and sectors
- We will strive to be leaders across all industries and sectors in creating work environments that promote the health and wellbeing of all workers so we can provide the best possible care and support for our community

We acknowledge that we must engage with our workers on matters that may affect their health and safety. This includes when we are identifying hazards and risks, and when we are making decisions on ways to eliminate or minimise those risks, and when we are making decisions on setting up worker participation practices such as workgroups. We acknowledge that, whatever matter is being considered, for engagement to be meaningful and effective:

- Workers must be given the relevant information in a timely manner. Information cannot be withheld and should be provided in a manner that workers can understand;
- Workers must be given an opportunity to respond, including being given an opportunity for workers to seek advice if they need it;
- Workers views need to be taken into account, and listened to with an open mind and a genuine willingness to reconsider decisions made; and
- Workers need to be advised of any outcomes reached.

Coverage and Scope

WPAs should cover all workers, including non-DHB employees. DHB's recognise that as a PCBU, they have duties to consult, co-operate with, and co-ordinate with other PCBUs. In some instances, DHB's acknowledge they may have duties to engage with workers of PCBU's that a DHB has overlapping duties with.

Leadership

For a health and safety system to be effective, leadership must be demonstrated at all levels. Each party has a role to play. Each party can show leadership in different ways:

- Workers: see it, fix it or escalate it
- Managers: listen, assess it, fix it or escalate it
- Senior Leadership: ensure the right people are in the room, talking about the right issues, with the right resources and have clear and effective escalation procedures
- Governance: champion health and safety for the organisation
- Unions: understand, participate, support, reinforce and use the health and safety system and structures. Identify and raise issues and challenges in a constructive way

DHBs should also provide leadership by consulting, co-operating and co-ordinating worker engagement, participation and representation activities with other PCBUs.

DHBs and unions also have a wider leadership role to play in all industries and sectors. We agree that we will work together to engage with workers across the sector on shared/mutual issues. This may include the setting up of cross-DHB working groups that include workers (or their representatives) from each DHB to consider particular issues that are sector-wide. The HSRA group can have oversight over such groups. The approach should include mechanisms to support the upskilling and build the competency of HSRs relating to these issues.

Workgroups

Workers and managers will discuss and agree on a suitable configuration of workgroups. Workgroups must be structured to allow for effective representation. A workgroup will be effective when:

- It accounts for the risk profile of the workers and the type of work occurring in that workgroup;
- It allows for the workers to be able to access their HSR (contact, time and resources, pattern of work, the time at which work is carried out); and
- The workers know which workgroup(s) they belong to.

A worker can belong to more than one workgroup and a workgroup can cover workers of more than one manager and/or PCBU.

Where workers and managers cannot agree on the configuration of workgroups, the decision will be escalated to the respective union officials and senior leadership within the PCBUs.

If agreement still cannot be reached, the parties will agree to independent mediation, which could include using [WorkSafe's issue resolution procedures](#).

Health and safety representatives

Health and safety representatives (HSRs) are an effective way of ensuring engagement and participation on health and safety matters. HSRs perform a key role in identifying hazards and risks within a workgroup and working with the DHB to manage them. They provide a link between workers and management, and help in situations where it will not be practical for the DHB to talk one-to-one with its entire workforce. HSRs bring a different perspective on the workplace, and can (in some cases) provide a voice for workers who may not otherwise speak up about health and safety matters.

DHBs and unions are committed to using HSRs as a form of participation, and will enable HSRs to be as effective as possible. To be effective, DHBs acknowledge HSRs must:

- Be given adequate time, training, resources, and equipment to undertake their functions and exercise their powers;
- Be supported by management to undertake their role. HSRs require a PCBU that is willing to respect, support and listen to the HSR;
- Have an interest in health and safety and representing their workgroup;
- Be able to liaise and assist other HSRs, management and the health and safety team in their roles; and
- Be included in risk management decision making processes.

Elections for HSRs

DHBs and unions agree that HSRs must be elected by the workers. Each DHB should have a clear election process agreed with its workers and their representatives. All workers can stand for election. The names of the elected HSRs should be clearly communicated to the workers in the workgroup.

Powers and functions

An HSR is not expected to know everything about workplace health and safety, or to take the overall responsibility for health and safety in their workgroup. The powers and functions of an HSR are set out in the Health and Safety at Work Act 2015 (the “Act”) [Schedule 2 Section 1 - 9 Functions of health and safety representatives](#). The DHBs obligations in relation to an HSR are also set out in the Act [Schedule 2 Section 10 Obligations of PCBU to health and safety representative](#).

Health and safety committees

Health and safety committees (HSCs) are a formal mechanism for resolving local issues that cannot be resolved between workers (or HSRs) and their managers. They are typically the first escalation point to manage risks or resolve workgroup issues. HSCs support the ongoing improvement of health and safety across the workplace.

DHBs should engage with its workers and the relevant unions on the structure and makeup of the HSCs. In most cases, HSCs should be aligned to the workgroups agreed to by the DHB and its workers, however, multiple workgroups might logically combine into one HSC.

The rules regarding the constitution, functions and powers of an HSC are set out in the Act 2015 [Schedule 2 Section 20 Functions of health and safety committee](#).

Other ways of engaging with workers

From time to time, DHBs may engage with workers outside of the formal HSR or HSC structures. These may include whole workforce discussions, or by calling together project or focus groups. DHBs and unions will work together to ensure these mechanisms of engagement and participation are effective.

Health and safety training for all

DHBs and unions recognise that for their health and safety system to operate effectively, each party requires a level of health and safety knowledge. DHBs are committed to providing health and safety training for all workers, including specific training for managements and HSRs. Unions are committed to providing health and safety training to union officials and delegates.

Health and safety representative training

HSRs have a 2 day annual entitlement to training. For HSRs in the first year of their term, DHBs and unions will promote the training to unit standard for NZQA 29315. HSRs are able to choose their training provider and course in consultation with the DHB. Unions support this training being provided by [WorkSafeReps](#).

After the first year of the HSRs term, DHBs and unions will work with the HSRs to identify effective training opportunities that will build their capability under the Occupational Health and Safety subfield of the NZQA framework. HSRs can also request additional training.

Measuring progress

A WPA should build in measures to assess whether it is operating effectively. Such measures of success should include:

- Managers demonstrate an understanding of their role and responsibility with respect to health and safety and how to effectively engage with workers and HSRs
- Workgroups have been determined for all work areas and work types
- HSRs have been elected for all workgroups and have been trained for their roles
- HSRs have time allocated as part of their role to undertake their functions
- Workers know who their HSR and representatives on their HSC are
- Worker feedback confirms positive engagement on health and safety

Additional measures of success can be found in the [Worker Engagement, Participation and Representation Good Practice Guidelines](#).