

Building a **Just Culture** in the **Workplace**



E tū
STAND TALL 

The purpose of this workbook

This workbook is designed to help workers and managers develop a 'just culture' approach to mistakes, risk-taking and failure to comply with health and safety rules in the workplace. It promotes a just, fair, measured and consistent process.

Taking a 'just culture' approach is an important step towards developing a good safety culture in the workplace. It develops trust and confidence and allows workers to report incidents without fear of the consequences.

At the end of the session participants should be able to:

- understand the need for a 'just culture' approach to guide employer's actions in relation to mistakes, risk taking, and failure to comply with health and safety rules in the workplace

- be able to promote a just and fair approach to encourage reporting of incidences and the development of a good health and safety culture
- understand the principles of the 'just culture' approach and be encouraged to organise for the approach to be implemented in their workplace
- have confidence in using the model when supporting members in disciplinary meetings.

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Introduction: What is safety culture?

The safety culture in a workplace includes the attitudes, values, patterns of behaviour, perceptions and competencies of everyone at work.

The safety culture you have determines the commitment, approach, style and ability of a company's health and safety management and practice.

Safety culture is how your company behaves when no one is watching.

A 'just culture' describes a model for creating an effective safety culture in your workplace.

Why is safety culture important?

Any management system, and its policies and procedures, depend on the actions of individuals and groups to be successful.

The values of an organisation, including its staff members, help shape the attitudes of individuals. Those attitudes play a significant

role in determining how owners, managers, supervisors and workers behave.

The following questions are important for workers, Health and Safety Representatives and managers to discuss:

Thinking about your attitudes and behaviours

Question 1: *What do we value? (What is important to us?)*

Question 2: *What do we believe? (What do we accept as being true?)*

Question 3: *How do we normally behave? (How do we do things around here? How do we handle blame and punishment?)*

What happens when you have a poor safety culture?

Poor safety culture can lead to injuries through:

- slips, lapses, mistakes
- inadequate training
- poor communication
- bad procedures and processes
- poor design of workspaces or machinery people use
- having an atmosphere of non-compliance
- putting production first over safety
- lack of investment
- worker fatigue.

If we don't appreciate operational danger, it can lead to:

- hazardous conditions and practices
- working without adequate equipment
- downgrading of training for emergencies
- injury or death
- lost production
- unwillingness to be proactive or work around problems
- financial penalties.

The following questions are important considerations for workers, health and safety representatives and managers to discuss:

Thinking about your attitudes and behaviours

Question 4: *How does your company's culture influence your health and safety performance?*

Question 5: *How could somebody get injured because of your company's attitude or values?*

Question 6: *Is it easy to forget about the dangers in your workplace?*

A reporting culture

If you answered “yes” to question 6, you need to establish a reporting culture where people don't fear the consequences of reporting dangers.

Good reporting helps us to find underlying causes of danger like poor design, building or maintenance. It also helps to identify active mistakes like breaches of protocol, non-compliance, horseplay or cutting corners. We should collect, analyse and distribute information from incidents and near misses as well as from audits.

Having good data on risks and other reminders like safety briefs help us to create a state of intelligent and respectful wariness.

An informed culture is a safety culture.

A good safety culture encourages workers to report incidents and use them as a learning opportunity.

What are the preconditions for good reporting?

- Confidentiality - not identifying individuals who report risks
- Keeping reporting separate from discipline
- Giving feedback which is rapid, useful, accessible and intelligent
- Making it easy to file reports
- Having trust - by creating a just culture

Thinking about your attitudes and behaviours

Question 7: *Do workers in your company report all incidents and near misses?*

Question 8: *If not, what are the barriers to reporting?*

Question 9: *What would we need to have good reporting?*

Why do we need a just culture?

A just culture allows people to report mistakes. If reporting mistakes leads to heavy-handed discipline, workers will just stop reporting.

Managing workers through fear and intimidation drives health and safety issues underground.

A just culture is a culture in which frontline operators or others are not punished for actions, omissions and decisions taken by them that are in line with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.

This is important because we know we can learn a lot from the honest mistakes.

You need to have a fair process to give workers the trust and confidence to report.

When they report a breach of rules or procedures, they need to know that the response will be measured and consistent for all staff.

You need to recognise the difference between an honest mistake and wilful and deliberate action that has or could have led to an injury.

There are four questions to ask:

1. Was the action intentional?
2. Was the worker incapacitated?
3. The compliance test: did the worker depart from procedure?
4. The substitution test: would another worker have done the same?

Thinking about your attitudes and behaviours

Think of a recent incident in your workplace where a worker (or manager) breached safety rules. Follow the flowchart on the next page, and see where it leads you.

Question 10: *What do we value? (What is important to us?)*

Question 11: *What do we believe? (What do we accept as being true?)*

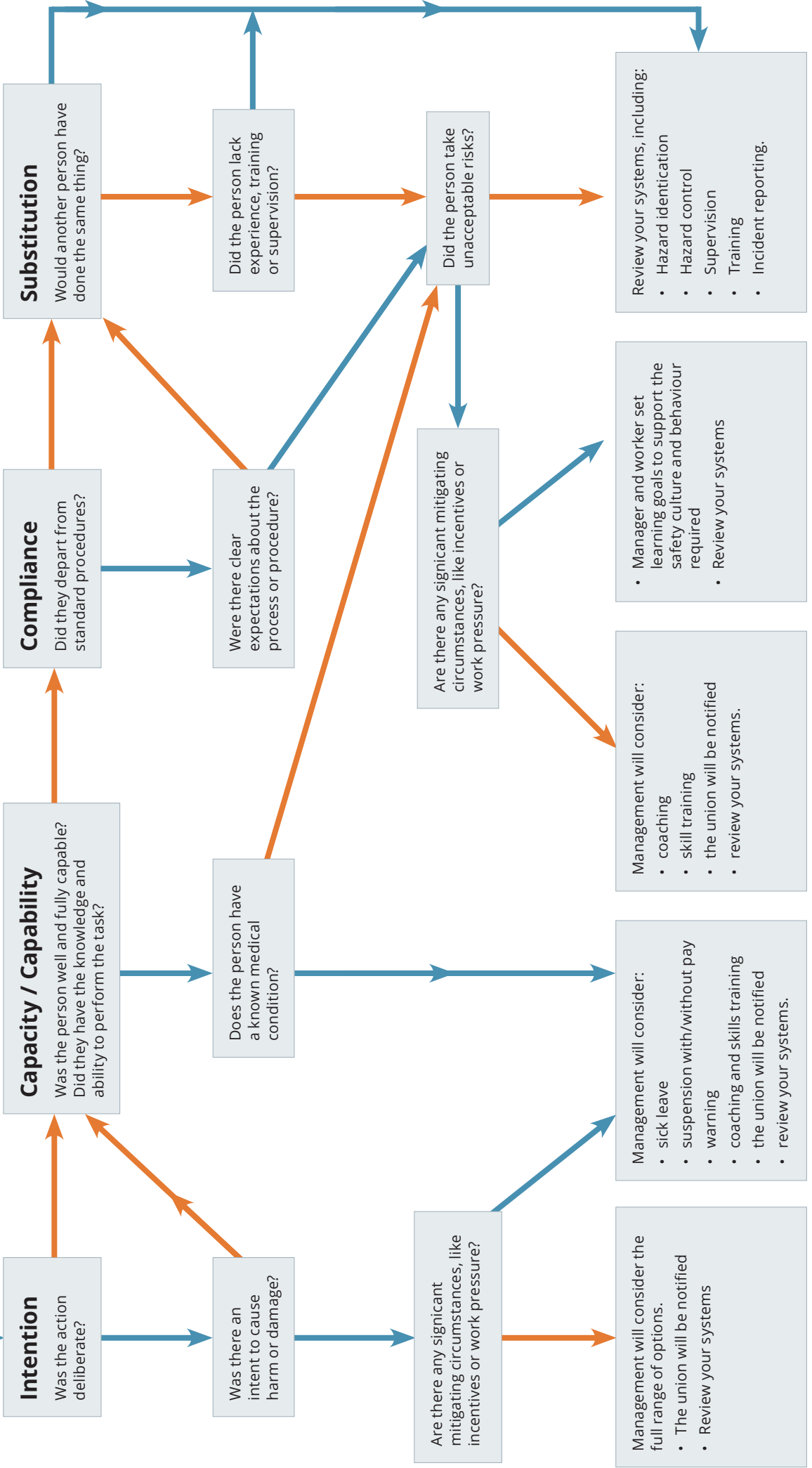
Question 12: *How do we normally behave? (How do we do things around here? How do we handle blame and punishment?)*

START HERE

FOLLOW

for "no"

for "yes"



Think:

Worker accountability ← → *Company / system accountability*

What would a just culture agreement look like?

To change a company's culture from a punitive culture to a just culture we would have to convince management of the merit. We would need to negotiate and come to an agreement about it.

Example

The employees of Surefire Ltd, the company and E tū agree to use the E tū just culture model if somebody is found to be in breach of health and safety procedures.

The parties acknowledge that wherever practicable, hazards will be eliminated or isolated.

Employees will support reporting of incidents and reports will be welcome and used as learning opportunities.

Exercise: Putting a just culture into practice



George



Pete



Sylvia

George is a forklift driver in a sawmill. He's been told to sound the horn at certain places where there are blind spots. He has a high workload and keeps forgetting to do it.

Pete tells the Health and Safety Representative Sylvia about it. Sylvia says Pete should report it but he doesn't want to dob in his mate.

Questions

How could this be resolved?

How could Sylvia convince Pete to report?

Two weeks later, Pete comes to work after a fight with his partner. He walks across the yard without taking any notice of the walkway, and is struck by a stack of timber on George's hoist.

George is supposed to drive in reverse when the hoist has a load on.

Luckily Pete is only bruised but the manager wants to deal with this before somebody gets seriously harmed.

Questions

What should happen for George?

What should happen for Pete?

What should the company do to make sure this doesn't happen again?

Health and Safety at Work Act 2015

What you need to know

Key points:

- Inclusive coverage
- Defines the PCBU (“persons conducting a business or undertaking” – usually the employer or ‘the boss’) and workers
- Defines liability of officers and increased accountabilities
- Prescribed approach to hazards and risk
- Strengthens worker participation and gives more powers to worker Health and Safety Representatives (HSRs)

The union effect

Many people join a union and remain a member for many years because of the great work unions do improving people’s safety at work.

The evidence is clear.

In Australia a 2011 study found that unionised sites had nearly half the injury and illness rate of non-unionised sites. A 2007 study of manual workers found unionised workplaces were less likely to have fatal injuries.

Another Australian survey in 2007 found significantly lower injury rates in unionised workplaces, compared with those where occupational health and safety was decided by management alone.

A 1995 study in the British manufacturing sector found that workplaces with union Health and Safety Committees had nearly half the injury rate of those without them.

A further analysis of this research in 2004 confirmed that “health and safety should not be left to management”.

A 2000 study found “arrangements associated with trade unions ... lower the odds of injury and illness ... compared to arrangements that merely inform employees of occupational health and safety (related) issues.”

A 2007 UK Government report concluded that safety reps saved society between £181m and £578m (in 2004 prices) by reducing “lost time” from occupational injuries and work-related illnesses of between 286,000 and 616,000 days.

Australian unionised sites are three times more likely to have a Health and Safety Committee, and twice as likely to have a management occupational health and safety audit over the last year, compared with non-union workplaces.

Even the World Bank said:

“Trade unions can play an important role in enforcing health and safety standards. Individual workers may find it too costly to obtain information on health and safety risks on their own, and they usually want to avoid antagonising their employers by insisting that standards be respected.”

How it happens

Unions help ensure HSRs (elected Health and Safety Representatives) are trained. Trained HSRs know their rights and how to exercise them.

A 1997 survey for the UK Government safety body found that 90% of HSRs were aware of

the central principles of the main chemical regulations. More than 33% of managers had not even heard of them. 80% of HSRs had been trained in the last two years, compared with 44% of managers.

Unions support their workplace HSRs

Unions recognise risks – often long before management even accepts the risk exists. Prime examples of this are asbestos and the effects of stress on the health and well-being of workers.

With the exception of the figure from the 2011 study, all references are drawn from the Trade Union Congress – “How Unions Make a Difference to Health and Safety: The Union Effect” May 2011.

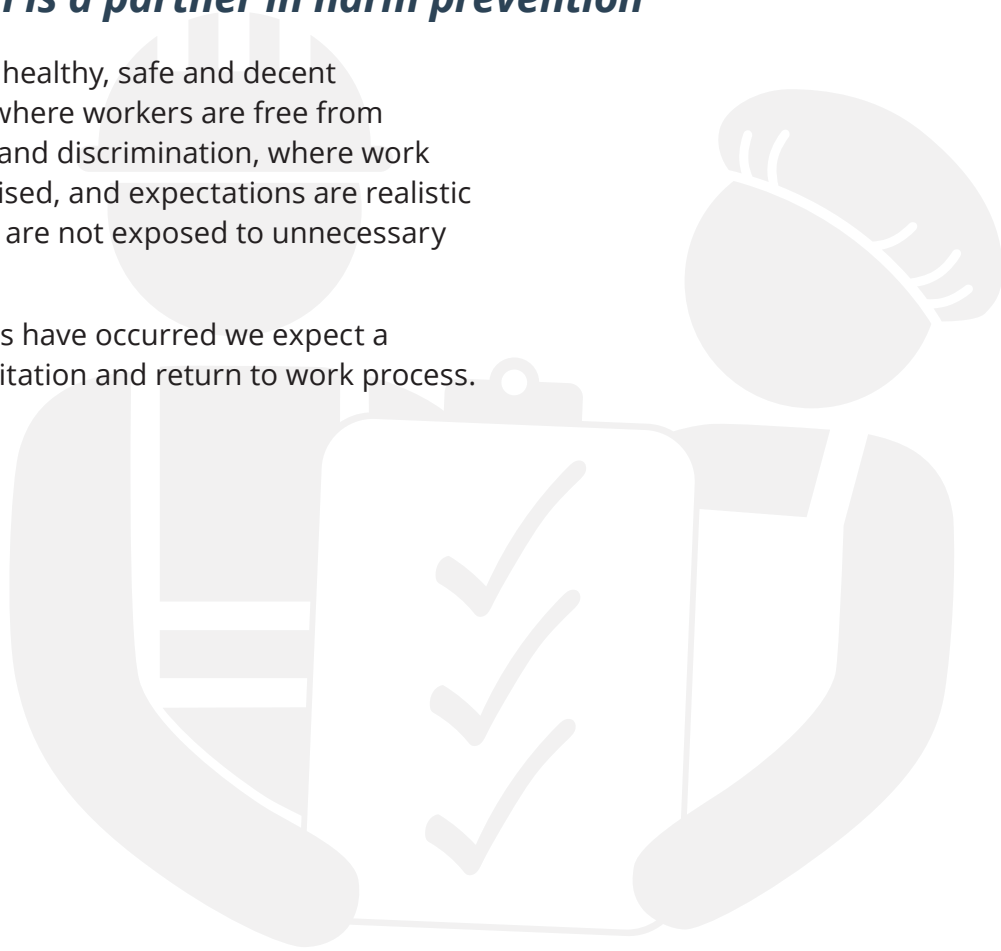
The Royal Commission on the Pike River Coal Mine Tragedy 2012 commented that: “Trade

union support may make it more likely that worker participation and representation will result in improved health and safety, but this may not be the case where there are difficult worker/employer relationships.” And further that: “The unions should support all workers and HSRs regardless of union membership.” The NZ Good Governance Practice Guidelines for Managing Health and Safety Risks for Directors point out that: “Research has shown that worker participation (and trade union participation) leads to better health and safety outcomes.”

The union is a partner in harm prevention

Our vision is healthy, safe and decent workplaces where workers are free from harassment and discrimination, where work is well organised, and expectations are realistic so members are not exposed to unnecessary stress.

When injuries have occurred we expect a good rehabilitation and return to work process.



Opportunities for engagement, participation and representation

persons conducting a business or undertaking (PCBUs) must have worker participation practices and must engage with workers on health and safety matters.

Under the Employment Relations Act, unions have the right of access, the ability to bargain around health and safety and to check compliance, and they can negotiate for employee participation with the employer parties. They must act in good faith, and the PCBU must organise the election of an HSR if there are more than 20 workers and/or the work is deemed high-risk.

A PCBU must ensure that workers are grouped effectively and are accessible to the HSR.

PCBUs cannot refuse a request for a Health and Safety Committee unless existing practices are sufficient. If there is a Health and Safety Committee at least half must be worker representatives. Effective worker participation and engagement will make New Zealand workplaces healthier and safer. To make good decisions about health and safety, PCBUs must draw on the knowledge and experience of the people who do the job.

You can call E tū for support, contact Worksafe NZ, or stop doing unsafe work. Workers can also elect a union delegate to represent them on health and safety issues and the delegate can obtain training under the Employment Relations Act. Workers benefit from being unionised because an active union in the workplace improves health and safety. This is called the union safety effect.

Under the Health and Safety at Work Act, engagement with workers and HSRs is formalised.

The objective of worker participation:

The PCBU must have practices that provide workers with reasonable opportunities to participate effectively in improving health and safety on an ongoing basis. Workers and employers must act in good faith.

The objective of worker engagement:

The PCBU must have procedures to provide workers with reasonable opportunities to engage on matters relating to workplace health and safety. An example of an agreed procedure could include formalising worker engagement or developing worker participation practices through a Worker/ Employee Participation Agreement between the PCBU and E tū.

The matters on which a PCBU must engage with workers are listed in the Act. This is a key section and includes engagement around identifying hazards and assessing risk, and making decisions about managing these risks.

Worker representation (the role of the HSR):

A representative is a person chosen to act or speak on behalf of a wider group. The election of someone to speak on your behalf occurs in all walks of life. In the workplace, representation means workers can participate in health and safety and engage with the PCBU about health and safety. It means a group of people in the workplace can elect someone to speak for them and represent them.

Engagement is required when:

- identifying hazards and risks
- making decisions about ways to eliminate or minimise risks
- making decisions about the adequacy of facilities
- proposing changes to health and safety
- deciding about how to engage with workers, monitor health, monitor conditions and provide information
- developing worker participation practices including determining workgroups
- deciding how to comply with regulations.

Health and Safety Representatives can:

- issue a PIN Notice
- stop unsafe work.

Unit Standard 29315 is required for the two above – register here with the Council of Trade Unions: worksafereps.co.nz/health-and-safety-courses/

Once elected/endorsed by fellow workers, HSRs can:

- investigate complaints, represent workers
- monitor measures taken by the PCBU
- inquire into risks
- make recommendations
- provide feedback to the PCBU
- promote the interests of workers
- attend interviews, with workers' consent, with an inspector
- enter and inspect a workplace
- request information
- accompany an inspector
- consult the regulator.

Risk management

A hazard is a situation or thing that has the potential to harm a person.

A risk is the possibility that harm (death, injury or illness) might occur when exposed to a hazard.

Risk control means taking action to eliminate health and safety risks so far as is “reasonably practicable”, and if that is not possible, “minimising” the risks so far as is reasonably practicable.

***The Act is there to protect workers:
keep in touch with E tū to find out about it.***

Health and Safety Participation

Model worker participation agreement

The Royal Commission on the Pike River tragedy reported that worker participation is essential to keeping workplaces healthy and safe. The effectiveness of worker participation systems should be regularly reviewed and any problems should be addressed.

Extensive research in worker participation has shown that collective representation through elected Health and Safety Representatives ensures

better outcomes for health and safety. Workers in this process are not passive recipients of information – they must have opportunities to influence decision making.

Note: the term 'person conducting a business or undertaking' (PCBU) is used in health and safety legislation to identify the person or party in charge – in most workplaces this means the employer.

The model worker participation agreement covers all workers and all participants must act in good faith.

Involving the union in health and safety matters

The parties recognise that the union has an important role in harm prevention in the workplace and that relevant information and minutes of the Health and Safety Committee meetings will be provided to the union. The union may raise concerns or suggestions with the employer (PCBU) and may ask for issues to

be placed on the Health and Safety Committee agenda. The employer recognises the union's representative role and its shared interest in health and safety, and will engage with the union. The union organiser may attend Committee meetings.

Health and Safety Representatives

Health and Safety Representatives (HSRs) will be elected by their fellow workers both union and non-union. (More details in the appendix).

By law, Health and Safety Representatives can:

- issue PINs (Provisional Improvement Notices)
- direct unsafe work to stop
- support workers when there is an immediate and/or serious danger
- investigate complaints
- represent a worker (including in relation to a complaint)
- monitor measures taken by the PCBU
- inquire into anything that appears to be a risk arising from the conduct of the PCBU
- make recommendations

- provide feedback to the PCBU
- promote interests of workers who have been harmed at work including arrangement for rehabilitation
- attend interviews with the PCBU or a Worksafe inspector (with the consent of affected workers)
- enter and inspect workplace
- be accompanied/assisted by another person
- request information
- assist other HSRs
- accompany and consult Worksafe inspector or regulator.

By law, the PCBU must:

- consult and confer with HSRs about health and safety matters
- allow HSRs reasonable paid time to carry out their duties
- provide information to HSRs
- allow the HSR to be present at a worker's request in all health and safety-related interviews
- provide the resources, facilities, and assistance necessary for HSRs to fulfil their obligations
- allow any person assisting HSRs to have access to the workplace
- permit HSRs to accompany a Worksafe inspector.

The PCBU agrees to be available to discuss issues with HSRs as they arise.

Agreed additional functions – HSRs will:

- participate in investigating accidents in their area and contribute to the preparation of reports
- be advised of any inspection, visit, monitoring or audit undertaken in relation to health and safety
- have an opportunity to participate in the ACC Partnership Programme audit
- be given an opportunity to meet with the person undertaking the inspection, visit, monitoring or audit
- be given an opportunity to meet with any new employees, temporary employees or contractors who will be working in the relevant designated work area
- regularly inspect and investigate their designated work area
- regularly assess the suitability of health and safety information for their designated work area
- request outside expertise to investigate and assess hazards
- inform workers of the outcome of inspections and investigations
- regularly inspect the contents of first aid kits
- support workers in their rehabilitation and return to work as requested.

Every HSR is entitled to two days paid leave per year to attend a training course provided by Worksafe Reps (worksafereps.co.nz) at the PCBU's expense.

Worksafe
reps

Health and Safety Committees for larger worksites

The employer will establish a Health and Safety Committee with representatives from:

- worker HSRs
- union delegates
- management.

The Health and Safety Committee will not have more management representatives than worker representatives.

The Health and Safety Committee will meet regularly. These meetings will have an agenda and occur during normal work time. If an HSR or delegate has to attend outside of their normal or scheduled rostered work time, they will be entitled to time in-lieu or overtime. All workers must be notified of upcoming Committee meetings and must be given a reasonable opportunity to provide input.

The Health and Safety Committee will:

- develop and review the effectiveness of health and safety policies and procedures
- monitor arrangements for rehabilitation and return to work
- receive reports on accidents and potentially hazardous incidents
- receive suggestions from the workers and the PCBU regarding health and safety
- receive reports on health and safety inspections and audits
- monitor compliance with legislation, codes of practice, guidelines, and standards relevant to the company
- request monitoring of the work environment including workplace design and procedures
- make recommendations on the establishment, maintenance and monitoring of safety systems
- receive proposals from the employer on new or changed machines, or work methods
- recommend programmes to eliminate, isolate or minimise hazards in the workplace
- recommend programmes to reduce particular accidents in the workplace
- monitor suitability of safety equipment and clothing
- be regularly informed about management of hazardous substances or equipment in the workplace
- request and provide feedback on safety training programmes
- be informed of or request employee health monitoring programmes in relationship to risks
- ensure safety communications systems are adequate
- ensure emergency response procedures are adequate Request information on health and safety issues in similar industries.

Members of the Health and Safety Committee will receive training in health and safety legislation, hazard management and accident investigation.

The Committee will elect a chairperson for a specified period of time agreed by the Committee, and will keep accurate records of all matters that come before it and report regularly.

Worker representatives will meet before each committee meeting.

Review of agreed worker participation procedures

The employer, the union, HSRs and the Health and Safety Committee will review the worker participation system ideally every 12 months, but no longer than every 24 months.

The Committee may also review and make recommendations about specific aspects of the system as appropriate.

Appendix

Election of Health and Safety Representatives (HSRs)

- (a) There shall be at least one HSR for each workplace or designated work area at a ratio of no less than one HSR to 19 workers, including contractors and casuals.
- (b) HSRs may exercise functions and powers outside their work group when there is a serious risk to health and safety arising from an immediate or imminent exposure to a hazard that affects or may affect a member of another work group.
- (c) They may also assist or accompany another HSR when requested, and may act in the capacity of another HSR when requested by a worker when an HSR is absent or has asked another HSR to cover for them.
- (d) The election of HSRs will be held every 3 years on the anniversary of the signing of this agreement.
- (e) The union and the employer will jointly manage the election process. Each HSR is to be elected by secret ballot by those workers in the work group they will represent.
- (f) If there is only one candidate for the position of HSR the candidate must be endorsed by the workers they are going to represent.
- (g) When an HSR position becomes vacant another election shall be held.
- (h) If the majority of workers in a particular work group ask for an election a new election shall be held.

Health and Safety Representative training

- (a) Each elected HSR will be required to attend union-based training provided by Worksafe: see www.worksafereps.co.nz. If this is not available, training will be carried out by a provider of the worker's choice following consultation with the union and the Health and Safety Committee.
- (b) Initial training will take place within 6 months of the election of the HSR. Level 2 training will take place within the 2nd year after the election. Attendance at Level 3 will be required if the HSR remains in the position for 3 years or more. There will be a training entitlement of 2 days every year.
- (c) At least 14 days' notice must be given to the PCBU of the leave required to attend the training, and taking the leave should not be unduly disruptive to the PCBU's business. The PCBU will pay wages, as well as travel and accommodation if necessary.

Resources for Health and Safety Representatives

HSRs will have sufficient time to carry out their duties. They will have access to the internet and if a specialist or auditor has been engaged, they will be given the opportunity to discuss any relevant issues with them. Access to photography equipment will also be provided.





Acknowledgment

This workbook is based on the ideas of
James Reason and David Marx