

CONSULTATION

Work Groups

This information bulletin provides guidance for employers and workers on the constitution of work groups under the [Workplace Health and Safety Act](#). More information can be found in Sections 33 to 35 of the Act and Regulation 35B of the [Workplace Health and Safety Regulations](#).

What is a Work Group?

Under the Act, a work group is a grouping of workers which enables them to elect one of them to be the Health and Safety Representative (HSR) for the group to represent them on health and safety matters. There are a number of ways that a workgroup can be structured.

A work group is a group of 10 or more workers constituted as a work group under the legislation. In a small workplace (less than 10 workers), workers cannot form a workgroup at that workplace but can join another workgroup consisting of workers from two or more employers if their employer agrees. If no workgroup is formed the employer still has an obligation to consult with the workers on OHS matters.

A work group may consist of:

- **all the workers of a particular employer, or of 2 or more employers;**

Examples:

- all workers of one employer regardless of where they are located,
- or for example, two workshops in an industrial estate located close together and the employers and their workers agree to form one workgroup and share a HSR,
- or perhaps two or more employers and their workers who are in a similar business but not located together agree to form one work group and share a HSR.

- **all the workers of a particular employer, or of 2 or more employers, at a particular workplace;**

Examples:

- all the workers of a single employer at one of that employer's workplaces,
- or for example, cleaners working for an employer at a fast food outlet and counter staff working for another employer at the same fast food outlet could form one work group,
- workers from a number of government agencies working in the same location e.g. a remote area, could form one work group.

- **a particular class of workers of a particular employer, or of 2 or more employers;**

Example:

- shop assistants employed by a retail store or a group of shop assistants working for different employers at a shopping centre.

- **a particular class of workers of a particular employer, or of 2 or more employers, at a particular workplace;**

Example:

- all the boilermakers that work for the one employer or all the boilermakers on site if they are employed by more than one employer

Work groups are formed to facilitate the representation of workers and two or more employers cannot form a 'multiple employer' work group unless their workers agree. The primary relationship under the Act in relation to representation and consultation is between workers and their employer.

Under the Act, a "worker" is defined as any person who works for the employer in any capacity; this includes apprentices, contractors and sub contractors and their employees as well as labour hire employees and volunteers. See Section 4 of the *Workplace Health and Safety Act – Definitions*.

The same worker cannot be a member of more than one work group at a time and employees of contractors or labour hire employees may belong to a work group with their direct employer and not be included in a work group at the workplace of their host employer. The primary goal of work groups is the right of workers to be represented and the range of different working relationships will need to be taken into account in negotiations to form work groups.

Sharing of costs where there are multiple employers for a single work group

If a single work group consists of the workers of 2 or more employers, any costs and expenses of a health and safety representative that are to be borne by an employer are to be apportioned between the employers as agreed between them or, if they can't agree, equally.

Forming Work Groups

Within a particular organization there may be one or more HSRs, with each being elected to represent a particular work group of workers. Before HSRs can be elected, a decision must be made about what the work groups will be and/or who will be in each group.

Getting started

It only needs one worker to ask the employer to form a work group though the request may come from several workers or there may be a request for more than one work group. Also, where the employer recognises the benefits of having representation in the workplace, they may suggest to workers that work groups be formed.

However, the Act requires that when an employer receives a request from a worker to set up a work group, the employer must commence negotiations for the formation of one or more work groups within 1 month of the request. This does not mean that the work group(s) must be established within 1 month but that the employer must start consulting with workers about the establishment of work groups within that period. The work group or work groups must be formed within 3 months of the original request. A work group is formed by agreement between the employer or employers concerned, and the workers who are to be members of the proposed work group or work groups.

Who can be involved?

The number and the nature of the work groups established will determine the representation of workers at the workplace so any worker who could be affected by the decision about the make-up of work groups has the right to have a say and to be listened to in this process.

How are Work Groups set up?

Decisions about work groups must be made by consultation and agreement between the employer and any workers who may be affected, or a person appointed by the workers to negotiate on their behalf.

Consultation in determining work groups should provide a genuine opportunity for all the parties affected by the decision to have input into it. Regulation 35B (1) requires negotiations to have the objective of ensuring the accessibility of the HSR(s) to the people they represent but this leaves open a range of possible arrangements depending on the nature and size of the workplace itself.

Consultation under the Act requires that all parties in the process be willing to consider other opinions and proposals that may be different from their own. Refer NT WorkSafe information bulletin [18.01.01 Consultation - general](#).

What factors need to be considered when setting up Work Groups?

The Act and the regulations require a number of factors to be considered when setting up work groups. The aim of these is to recognise that different workplaces will have different structures and physical locations, the nature and the hazards of the work of different groups of workers may vary considerably and groupings need to take account of these factors.

For example, where a workplace consists of office workers and technical operators who operate plant and equipment and work away from the direct management of the employer, it may be considered appropriate to establish at least two work groups so that the HSR for each group of workers performs the kind of work they do and will be more likely to appreciate the hazards of their work and the health and safety issues for them.

There may also be language issues in the workplace where for a group of workers, English is their second language and they are better able to communicate their concerns and receive information in that language. In this case it may be agreed that these workers will form a work group of their own, electing a HSR who is able to communicate both with them and with the employer on health and safety issues.

Specifically, Regulation 35B(2) requires that the following matters be considered:

- the location of each relevant workplace;
- the number of workers who will form the work group;
- the languages spoken by the workers;
- the overtime or shift work arrangements that apply to the workers;
- the capacity in which each worker is engaged to perform work;
- the nature of each type of work performed by the workers;
- the nature of particular risks involved in each type of work;
- the nature of particular hazards at each relevant workplace.

Other relevant factors may also be considered. The aim is to ensure that each worker has the opportunity to be represented by a HSR and that each work group is set up in a way that will allow the elected representative to perform his or her functions effectively.

To be effective a HSR will need to have regular and easy contact with members of the work group. This may be difficult if members of the work group are at work at different times (due to shifts) or if they work at different locations (unless there are systems and arrangements in place to allow the representative to communicate with workers in the work group). Similarly, if a work group is too large it will be difficult for the representative to

keep in regular contact with workers in the work group and to investigate health and safety issues arising in their work.

Organisations with particular challenges

Some organizations may experience difficulties in determining work groups because of the way work is organised. Some examples of work arrangements and workplaces that have particular issues to consider are workers who:

- have changing work locations within a work site;
- have changing working hours (e.g. rotating shift work);
- may move from site to site according to the demands of the job;
- travel from place to place, and do not have a fixed workplace (e.g. road freight transport workers);
- perform transient, seasonal and other short-term work.

There are ways of overcoming these problems. To do so requires employers, workers and their representatives to consult and determine solutions that are acceptable, workable and relevant to the workplaces and work arrangements in question.

What if problems arise?

If the composition of work groups or the recognized members of such groups cannot be agreed upon by consultation between the relevant people within 3 months of the initial request, or if the employer fails to respond to a request to form work groups within the 1 month allowed, the matter may be referred to NT WorkSafe either by the workers or the employer.

WorkSafe will attempt to assist the parties to come to an agreement that is in accordance with the objects of the Act in relation to worker representation and consultation, taking into account all the factors required.

If it is not possible for the parties to reach an agreement, the Act provides that NT WorkSafe can in fact determine what the work groups will be and establish them.

For further information contact NT Worksafe on 1800 019 115 or go to www.worksafe.nt.gov.au