



**DRAFT**

# Code of Practice

## **HOW TO CONSULT ON WORK HEALTH AND SAFETY**



**safe work australia**

## Table of Contents

<b>FOREWORD</b> .....	<b>3</b>
<b>PURPOSE</b> .....	<b>3</b>
<b>SCOPE</b> .....	<b>3</b>
<b>1. INTRODUCTION</b> .....	<b>4</b>
1.1 Who should use this Code? .....	4
1.2 What are the duties in relation to consultation? .....	4
1.3 Why is consultation important? .....	5
<b>2. WHAT IS EFFECTIVE CONSULTATION?</b> .....	<b>6</b>
2.1 Sharing information .....	6
2.2 Providing reasonable opportunities to express views and contribute .....	7
2.3 Taking views into account .....	7
2.4 Advising outcomes of consultation .....	7
2.5 To what extent should I consult? .....	7
2.6 Must consultation be documented? .....	8
<b>3. HOW TO CONSULT WITH YOUR WORKERS</b> .....	<b>9</b>
3.1 What kind of consultation is best for your workplace? .....	9
3.2 Agreeing on consultation procedures .....	9
3.3 Consulting using health and safety representatives and committees .....	10
3.4 How should the consultation arrangements be reviewed? .....	12
<b>4. WHEN TO CONSULT</b> .....	<b>13</b>
4.1 Managing risks .....	13
4.2 Deciding on welfare facilities .....	14
4.3 Making changes .....	14
4.4 Developing procedures .....	14
<b>5. HOW TO CONSULT, CO-OPERATE AND CO-ORDINATE ACTIVITIES WITH OTHER DUTY HOLDERS</b> .....	<b>15</b>
5.1 Consult .....	15
5.2 Co-operate .....	16
5.3 Co-ordinate .....	16
5.4 Sharing consultation arrangements with other duty holders .....	16
<b>APPENDIX A – EXAMPLES OF CONSULTATION ARRANGEMENTS</b> .....	<b>17</b>
<b>APPENDIX B – CONSULTATION CHECKLIST</b> .....	<b>19</b>
<b>APPENDIX C – CONSULTING, CO-OPERATING AND CO-ORDINATING ACTIVITIES</b>	<b>20</b>

## FOREWORD

---

This Code of Practice on how to consult on work health and safety matters is an approved code of practice under section 274 of the *Work Health and Safety Act* (the WHS Act).

An approved code of practice is a practical guide to achieving the standards of health, safety and welfare required under the WHS Act and the Work Health and Safety Regulations (the WHS Regulations).

A code of practice applies to anyone who has a duty of care in the circumstances described in the code. In most cases, following an approved code of practice would achieve compliance with the health and safety duties in the WHS Act, in relation to the subject matter of the code. Like regulations, codes of practice deal with particular issues and do not cover all hazards or risks which may arise. The health and safety duties require duty holders to consider all risks associated with work, not only those for which regulations and codes of practice exist.

Codes of practice are admissible in court proceedings under the WHS Act and Regulations. Courts may regard a code of practice as evidence of what is known about a hazard, risk or control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.

The WHS Act and Regulations may be complied with by following another method, such as a technical or an industry standard, if it provides an equivalent or higher standard of work health and safety than the code.

An inspector may refer to an approved code of practice when issuing an improvement or prohibition notice.

This Code of Practice has been developed by Safe Work Australia as a model code of practice under the Council of Australian Governments' *Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* for adoption by the Commonwealth, state and territory governments.

A draft of this Code of Practice was released for public consultation on 7 December 2010 and was endorsed by the Workplace Relations Ministers Council on [to be completed].

### ***How to use this code of practice***

This Code includes references to both mandatory and non-mandatory actions. The references to legal requirements contained in the WHS Act and Regulations (highlighted in text boxes in this Code) are not exhaustive and are included for context only.

The words 'must', 'requires' or 'mandatory' indicate that legal requirements exist, which must be complied with.

The word 'should' indicates a recommended course of action, while 'may' indicates an optional course of action.

## PURPOSE

---

This Code of Practice provides practical guidance on how to consult about work health and safety matters under the WHS Act and the Regulations, including information on mechanisms to facilitate worker participation and representation.

## SCOPE

---

This Code applies to all types of work and all workplaces covered by the WHS Act.

## 1. INTRODUCTION

---

### 1.1 Who should use this Code?

You should use this Code if you have duties to ensure health and safety under the WHS Act and Regulations as a person conducting a business or undertaking, whether you are an employer, self-employed, a principal contractor, a person with management or control of a workplace, a designer, manufacturer, supplier, importer or installer.

This Code will help you understand the importance of consultation in managing work health and safety risks. It provides guidance on different ways of consulting, who you should consult and when.

Officers, such as company directors, should also use this Code because they must exercise due diligence to ensure that the business or undertaking implements processes for consultation that meet the requirements of the WHS Act and Regulations.

This Code can also be used by those who participate in consultation at the workplace, such as workers and their health and safety representatives.

### 1.2 What are the duties in relation to consultation?

The WHS Act requires you to consult with workers who work for your business or undertaking on matters relating to work health and safety.

If you share responsibility for work health and safety matters with another person, then the WHS Act requires you to consult, co-operate and co-ordinate with each other person who shares the responsibility.

Duty holder	Responsibilities
Person conducting a business or undertaking	<ul style="list-style-type: none"><li>• must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking and who are (or are likely to be) directly affected by a health and safety matter [s.47]</li><li>• must consult in an effective way [s.48]</li><li>• must consult on certain matters [s.49]</li><li>• must consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter [s.46]</li><li>• if workers are represented by a health and safety representative, consultation must involve that representative [s.48(2)].</li></ul>

The broad definition of a 'worker' under the WHS Act means that you must consult with your employees plus anyone else you engage to carry out work for your business or undertaking. This means you must consult, so far as is reasonably practicable, with your contractors and sub-contractors and their employees, labour hire personnel, volunteers and any other people who are working for you and who are directly affected by the health and safety matter.

There will be situations where more than one person conducting a business or undertaking is required to consult on the same health and safety matter, for example, a labour hire organisation and 'host' employer may be required to consult a worker on certain matters. That process of consultation should be co-ordinated between all relevant duty holders.

Workers should participate in the consultation arrangements at the workplace and report any hazards and health and safety incidents to their manager. Workers are entitled to be represented in relation to work health and safety by health and safety representatives.

### 1.3 Why is consultation important?

Consultation is a legal requirement and an essential part of managing health and safety risks.

A safe workplace is more easily achieved when people at the workplace communicate with each other about potential health and safety problems and work together to find solutions.

By drawing on the knowledge and experience of your workers, more informed decisions can be made about how the work should be carried out safely.

In situations where you share responsibility for health and safety with another person, the requirement to consult, co-operate and co-ordinate activities with the other duty holder will help address any gaps in managing health and safety risks that often occur because duty holders assume that someone else is taking care of the health and safety matter.

Effective health and safety consultation also has other benefits:

- *Greater awareness and commitment* – because workers have been actively involved in how health and safety decisions are made
- *Positive working relationships* – because understanding the views of others leads to greater co-operation and trust.

## 2. WHAT IS EFFECTIVE CONSULTATION?

---

Consultation is a two-way process between you and your workers where you:

- *talk* to each other about health and safety matters
- *listen* to their concerns and raise your concerns
- *seek and share* views and information, and
- *consider* what your workers say before you make decisions.

Consultation requires that:

- relevant work health and safety information is shared with workers
- workers are given a reasonable opportunity to express their views and to raise health or safety issues
- workers are given a reasonable opportunity to contribute to the decision-making process relating to the health and safety matter
- the views of workers are taken into account, and
- workers are advised of the outcome of any consultation in a timely manner.

Management commitment is important in achieving effective consultation. Your workers are more likely to engage in consultation when their concerns about health and safety are taken seriously.

Consultation does not mean telling your workers about a health and safety decision or action after it has been taken. You should ensure that your workers are:

- made aware of health and safety matters as soon as possible
- encouraged to ask questions about health and safety
- encouraged to raise concerns and report problems
- encouraged to make work health and safety suggestions
- involved in the problem solving process, and
- promptly informed of the outcome of the consultation and your decisions.

### 2.1 Sharing information

For consultation to be meaningful, you must share information with workers and their health and safety representatives about matters that are relevant to them. This information should be provided early on so that workers and health and safety representatives have enough time to consider the matters, discuss them and then provide feedback to you.

You should make available all the information that you have relating to the health and safety matter to enable informed and constructive discussions. This information may include:

- health and safety policies and procedures
- technical guidance about hazards, risks and risk control measures
- hazard reports and risk assessments
- proposed changes to the workplace, systems of work, plant or substances, and
- data on incidents, illnesses or injuries (in a way that protects the confidentiality of personal information).

The information should be presented in a way that can be easily understood by your workers and take into account literacy needs and the cultural or linguistically diverse backgrounds of your workers.

Remember that young workers and those with limited English may be less likely to question health and safety practices or speak up if they are unsure. They may find it easier to communicate through a health and safety representative, an interpreter or worker representative. Information should also be simplified and presented in different ways, such as using diagrams, to make it easier to understand.

In addition to face-to-face discussions, information can be shared in various ways including:

- intranet sites featuring health and safety news and information can also be used to seek the views of all your workers, and
- notice boards and newsletters.

Keep the information updated and draw attention to new material so people who do not regularly check it will know what is happening in their workplace.

## **2.2 Providing reasonable opportunities to express views and contribute**

Giving your workers a reasonable opportunity to express their views and contribute to health and safety decisions may involve:

- providing a suitable time during work hours for consultation with workers
- allowing opinions about health and safety to be regularly discussed and considered during workplace meetings, and
- providing your workers with different ways to provide feedback, for example using email, setting up an intranet health and safety page or a suggestion box.

How long the consultation process takes will depend on the complexity of the health and safety matter, how many people you are consulting and the methods of consultation. A simple issue affecting only a small number of workers can probably be dealt with in a few days through regular channels of communication. A complex technical matter, or consulting a large workforce, is likely to require more time.

If there are health and safety representatives for the workplace, you must include them in the discussions, with or without the involvement of workers directly. Allow time for consultation whenever a health and safety representative makes a reasonable request to meet with you.

## **2.3 Taking views into account**

You must take the views of your workers and health and safety representatives into account before making a decision. Consultation does not require consensus or agreement but it does allow your workers to contribute to any health and safety decisions you make in your business.

## **2.4 Advising outcomes of consultation**

You should agree to respond to concerns and questions raised by workers within a certain timeframe and offer feedback about any options they propose. You must inform your workers of your final decision or course of action. You should provide information to help them understand the reasons for your decision.

## **2.5 To what extent should I consult?**

You must consult on health and safety matters so far as is reasonably practicable with workers who carry out work for you and who are (or are likely to be) directly affected. This includes consulting with independent contractors and their employees about health and safety decisions that directly affect them and which you influence or control.

‘Reasonably practicable’ means that you must consult to the extent that is reasonable in the particular circumstances. What is reasonably practicable will depend on factors such as:

- the size and structure of the business
- the nature of the work that is carried out
- the nature of the particular decision or action, including the urgency of the need to make a decision or take action
- the work arrangements, such as shift work and remote work, and
- the characteristics of workers, including languages spoken and literacy levels.

In most situations it would be reasonably practicable to consult with workers who are:

- working in the workplace
- regularly working outside the workplace (e.g. drivers on the road or employees working from home), or
- on short-term leave (such as sick leave or annual leave).

You are not expected to do the impossible, but are required to take a proactive and sensible approach to consultation. For example, it may not be reasonably practicable to consult with workers who are on extended leave. However, it would be appropriate to ensure that these workers are kept informed about any matters that may affect their health and safety when they return to work.

The more likely a hazard is to cause serious harm, the more extensive your consultation should be. However, an urgent response to the risk may necessarily limit the extent of consultation in some circumstances.

It is not always necessary to consult with every worker in your workplace. The workers you consult with will be those who are, or could be, directly affected by the health and safety matter. For example, a problem with air temperature experienced on one level of an office block would not directly affect the work health and safety of workers on other levels. Only workers on the affected level must be consulted about the matter.

## **2.6 Must consultation be documented?**

Consultation with workers and with other duty holders does not have to be documented unless specifically required under the WHS Regulations. However, it is recommended that you keep records to demonstrate compliance with consultation requirements. Records of consultation may also assist the risk management process and make disputes less likely.

The records should include any outcomes of discussions. The records can be brief and simple, and cover:

- who is involved
- what the safety matter is
- what decision has been made
- who is to take action and by when, and
- when the action has been completed.

### 3. HOW TO CONSULT WITH YOUR WORKERS

---

Consultation with your workers can be undertaken in various ways. It does not need to be a formal process and can be as simple as talking to your workers regularly and considering their views when you make health and safety decisions.

Consultation can also be undertaken through health and safety representatives and health and safety committees. The WHS Act provides triggers for the establishment of these consultation mechanisms.

You may establish any other arrangements for consultation to suit your workers and workplace situations, including agreed consultation procedures, as long as those arrangements are consistent with the requirements of the WHS Act.

#### 3.1 What kind of consultation is best for your workplace?

Consultation arrangements for your workplace should take into account the size of your business and what suits your workers. Many workplaces will already have ways to consult on health and safety that suit their needs. If not, you should first discuss with your workers issues such as:

- your duty to consult and the purpose of consultation
- the range of work and associated health and safety issues at the workplace
- the various ways for consultation to occur, including your workers' right to elect health and safety representatives, and
- your workers' ideas about how to consult.

You should work out methods that:

- meet your duty to consult
- ensure all workers can participate in consultation, and
- will best integrate with the way you manage health and safety risks.

Consider how you normally communicate with your workers. You may not need to establish separate consultation arrangements if you regularly have discussions with your workers, for example weekly team meetings. This may be the case if you have a small business with few workers where you engage in direct discussions with them as part of everyday work.

Some workplaces may need a mix of consultation arrangements to suit different types of workers and situations.

For example, you may have a number of full-time workers where structured arrangements involving health and safety representatives and committees may be suitable. On occasions you may also engage contractors or labour hire workers to carry out specific tasks, where arrangements such as 'toolbox talks' (short discussions on specific health and safety topics relevant to the task) may be the most practical way to consult with them.

For unexpected matters that may arise, you may not have time to plan consultation so consider if the issue can be addressed through one of your regular communication channels, or if you need to do something different like hold a one-off meeting.

See *Appendix A* for examples of consultation arrangements for different types of workplaces.

#### 3.2 Agreeing on consultation procedures

The WHS Act allows you to establish agreed procedures for consultation with your workers. If you create agreed consultation procedures, you must consult with your workers according to those procedures [s.47(2)].

Agreeing on procedures for consultation with your workers can save time and confusion about how and when consultation must occur. The agreed consultation procedures may clarify key responsibilities of people in the workplace and clearly state when consultation is necessary.

Before proposed consultation procedures can be agreed, you must genuinely consult about the proposed consultation procedures with all affected workers at the workplace, including any health and safety representatives for the workplace.

If you and your workers have agreed to procedures for consultation, the WHS Act requires consultation to be conducted in accordance with those procedures. They must also be consistent with the requirements of the WHS Act. For example, the procedures must include sharing of information, allowing workers a reasonable opportunity to express their views and cannot remove the powers of any health and safety representatives or the functions of any health and safety committee established for the workplace.

Agreed consultation procedures should include:

- the matters you must consult about
- who will be consulted
- the ways consultation will occur, for example, through regular meetings, tool box talks or health and safety representatives
- how information will be shared with workers and health and safety representatives
- what opportunities will be provided for workers and health and safety representatives to give their views on proposed matters
- how feedback will be given to workers and health and safety representatives
- how consultation will occur with any workers who have special language and literacy needs, and
- timeframes for reviewing the procedures.

The procedures may also include the provision of practical assistance for affected workers and health and safety representatives to facilitate the consultation process. For example, opportunities may be made available for affected workers and their health and safety representatives to come together to consider the information that has been provided, to discuss the issues and form their views.

In a small business with few workers, effective informal agreed procedures that are understood by everyone in the business should be sufficient, though these should be discussed and reinforced regularly. In larger workplaces, documented procedures are appropriate.

Consultation procedures should be monitored and reviewed to ensure they continue to be effective.

### **3.3 Consulting using health and safety representatives and committees**

#### ***Health and safety representatives***

A worker may ask you for the election of a health and safety representative to represent them on work health and safety matters. If a worker makes this request, work groups need to be established to facilitate the election. The process requires you and your workers to negotiate and agree on a suitable arrangement.

The WHS Act specifies that the purpose of the negotiations is to determine:

- the number and composition of work groups to be represented by health and safety representatives;
- the number of health and safety representatives and deputy health and safety representatives (if any) to be elected;
- the workplace or workplaces to which the work groups will apply, and
- the businesses or undertakings to which the work groups will apply.

A work group may operate across multiple businesses if all parties agree to such an arrangement.

To establish a work group, the WHS Act requires that you:

- 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 a union official) if a worker asks you to do so.
- Notify the workers of the outcome of the negotiations and of any work groups determined by agreement as soon as practicable after negotiations are complete.

If negotiations fail, you or a work group member can ask the regulator to appoint an inspector to assist negotiations and determine certain matters if negotiations remain unresolved.

Even if your workers do not make a request you can propose they consider having health and safety representatives who can assist in reviewing, investigating and resolving health and safety matters on behalf of a work group.

Where health and safety representatives have been elected, they must always be included in any consultation that affects, or is likely to affect, the health and safety of members of their work group.

The WHS Act and Regulations contain further provisions regarding health and safety representatives including the determination of work groups, conduct of elections and their functions and powers.

### ***Health and safety committees***

A health and safety committee brings together workers and management to assist in the development and review of health and safety policies and procedures for the workplace.

You must set up a health and safety committee if you are requested to by 5 or more of your workers, or by a health and safety representative.

Health and safety representatives may choose to be members of the health and safety committee. Additionally, at least half of the members of the committee must be workers who are not nominated by management.

If you and your workers cannot agree about the health and safety committee in a reasonable time, either party can ask the regulator to appoint an inspector to decide on the make-up of the health and safety committee, or whether it should be established at all.

Health and safety committees must meet at least every 3 months.

You can also initiate establishing a committee yourself if you consider it will help you meet your duty to consult and assist your workforce to participate in making health and safety decisions. A health and safety committee can be a good option if your business has a significant number of workers who are reluctant to take on the role of a health and safety representative, but some would be willing to participate on a committee.

The benefits of a health and safety committee include:

- having regular, planned and structured discussions about work health and safety matters
- encouraging a cooperative approach to health and safety issues
- bringing together a group of worker and business representatives to collaboratively discuss and develop ways of improving the systems for managing health and safety at the workplace, and
- encouraging the development and retention of corporate knowledge on health and safety matters for the workplace.

The membership of the health and safety committee should be determined by agreement between you and the workers at the workplace to be represented by the committee.

When a workplace has both a health and safety committee and health and safety representatives then there should be a clear distinction between their roles.

- Health and safety representatives deal with the specific health and safety issues relevant to the work group they represent.
- The health and safety committee is the forum for consultation on the management of health and safety across the whole workforce. It should consider the development, implementation and review of the policies and procedures associated with the organisation's work health and safety system.

If the workplace has a health and safety committee but does not have health and safety representatives, the committee could consider the issues that would normally be dealt with by a health and safety representative.

The *Worker Representation Handbook [under development]* provides further information on health and safety representatives and committees.

### **3.4 How should the consultation arrangements be reviewed?**

When you have established ways to consult on work health and safety that suit your workplace, you should monitor and review these procedures in consultation with workers and health and safety representatives to ensure that consultation occurs as required by the WHS Act and Regulations.

A checklist to help you review your consultation arrangements is at *Appendix B*.

## 4. WHEN TO CONSULT

---

Many organisational decisions or actions have health and safety consequences for workers. For example, introducing new equipment into the workplace may affect the tasks your workers carry out, the timeframes for doing work, how they interact with each other and the environment in which they work.

The WHS Act identifies specific matters that trigger the requirement for consultation.

Consultation with workers must occur when:

- identifying hazards and assessing risks arising from the work carried out or to be carried out
- making decisions about ways to eliminate or minimise those risks
- making decisions about the adequacy of facilities for the welfare of workers
- proposing changes that may affect the health or safety of your workers, and
- making decisions about procedures for consulting with workers; resolving health or safety issues; monitoring health of your workers; monitoring the conditions at the workplace and providing information and training for your workers.

However, it may be useful to also consult workers about matters that are not listed above, for example when conducting investigations into incidents or 'near misses'.

Regular consultation is better than consulting on a case-by-case basis only as issues arise because it allows you to identify and fix potential problems early.

### 4.1 Managing risks

Consultation is required when identifying hazards, assessing risks and eliminating or minimising those risks.

In deciding how to eliminate or minimise risks you must consult with your workers and their health and safety representatives who will be directly affected by this decision. Their experience may help you choose practical and effective control measures. Their involvement will also increase the level of acceptance of any changes that may be needed to the way they do their job.

Regularly walking around the workplace, talking to your workers and observing how things are done will also help you identify hazards. Conducting a survey of your workers can provide valuable information about work-related health issues such as workplace bullying, stress, as well as muscular aches and pains that can signal potential hazards.

Workers and their health and safety representatives may need access to information such as technical guidance about workplace hazards and risks (plant, equipment and substances). Information should not be withheld just because it is technical or may be difficult to understand.

Remember that the WHS Act requires that you allow any health and safety representative for a work group to have access to information you have relating to hazards (including associated risks) affecting workers in the work group and also any information about the health and safety of workers in the work group. This does not extend access to any personal or medical information concerning a worker without the worker's consent.

Further guidance on risk management is available in the *Code of Practice: How to Manage Work Health and Safety Risks*.

## 4.2 Deciding on welfare facilities

Facilities are things provided for the welfare of workers, such as toilets, drinking water, washing facilities, dining areas, change rooms, personal storage and shelter.

You must consult your workers when working out what facilities they need (for example, the number and location of toilets), taking into consideration the number and composition of your workforce, the type of work your workers do and the size and location of your workplace. The consultation should also cover things such as access, cleaning and maintenance of the facilities.

If the facilities are already established at the workplace, you should periodically consult your workers and their health and safety representatives to find out whether the facilities are meeting their needs. This will help you determine if you need to change or expand your facilities.

Further guidance is available in the *Work Environment and Facilities Code of Practice*.

## 4.3 Making changes

You must consult your workers when planning to make any changes that may affect their health and safety, such as:

- changing work systems, work procedures or the work environment
- developing a new product or planning a new project
- purchasing new or used equipment or using new substances, and
- restructuring your business.

*Appendix A* provides an example of consultation when workplace changes are made in a large transport company.

## 4.4 Developing procedures

A procedure sets out the steps to be followed for workplace activities. You must consult with affected workers when making decisions about procedures for:

- resolving work health and safety issues
- consulting with workers on work health and safety
- monitoring workers' health and workplace conditions, and
- providing information and training.

Procedures should be in writing to provide clarity and certainty at the workplace and assist in demonstrating compliance. They should clearly set out the role of health and safety representatives, and any other parties involved in the activity. You should ensure that all workers have access to the procedures, for example by placing them on noticeboards and intranet sites.

## 5. HOW TO CONSULT, CO-OPERATE AND CO-ORDINATE ACTIVITIES WITH OTHER DUTY HOLDERS

---

There are often situations where more than one business or undertaking operates at a workplace and where people share responsibility for work health and safety to varying degrees, for example shopping centres, construction projects, labour hire, multi-tenanted office buildings.

The WHS Act requires that where more than one person has a duty for the same matter, each person retains responsibility for their duty in relation to the matter and must discharge the duty to the extent to which the person can influence and control the matter [s.16].

In these situations, the WHS Act requires that each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a work health or safety duty in relation to the same matter [s.46].

Since you cannot transfer your responsibilities to another person, the requirement to consult, co-operate and co-ordinate activities with other duty holders will help you meet your primary duty to ensure, so far as is reasonably practicable, that workers and other persons are not put at risk from work carried out as part of your business or undertaking. For example, you may not need to provide toilet facilities for your workers if they are already available, but you need to check that those facilities are in good working order, clean and accessible for your workers. Consultation, co-operation and co-ordination between you and the person providing those facilities will help you ensure that the necessary steps are being taken so that you can meet your duty.

The duty requires persons conducting businesses and undertakings to work together in a proactive and reciprocal way, so that all risks associated with the activity that they are involved in are eliminated or minimised as far as is reasonably practicable.

To assist you in meeting this duty, you should consider the following questions:

- What is the work activity and the health and safety duty I have?
- Who else has influence and control in that work activity?
- How do we each affect work health and safety in relation to that activity?
- Where do my work activities interact with those of the other duty holders, and what impact do they have?
- What information should I share?
- What do I need to know to effectively comply with my duty?
- What action do I need to take to communicate and work together with the other duty holders?

### 5.1 Consult

The first step is to identify who the other duty holders are that you need to consult with, for example, a building owner, a supplier, a contractor or the business operator next door. Before deciding on a course of action, you should contact them and:

- discuss the health and safety matter and share all relevant information that you have in relation to it
- find out what the other duty holder(s) know about the health and safety risks and ways to control them, and
- plan what each duty holder will do to control the risks.

The outcome of the consultation should be a shared understanding of what the risks are, which workers are affected and how the risks will be controlled.

## **5.2 Co-operate**

Co-operating with other duty holders involves providing assistance where necessary and interacting with other duty holders in such a way that each of your activities do not interfere with another person's duty.

Co-operation also means that, if you are approached by other duty holders wanting to consult with you on a health and safety matter, you should:

- not obstruct communication, and
- respond to reasonable requests from other duty holders to assist them in meeting their duty.

## **5.3 Co-ordinate**

Co-ordination involves planning and organising activities together with the other duty holders so that each person can meet their duty of care effectively without leaving any gaps in health and safety protection.

## **5.4 Sharing consultation arrangements with other duty holders**

If you have contractors or labour hire workers as part of your workforce you share a duty of care to these workers as well as consultation duties with the business that provides them. You need to consult and co-operate with the contractor or labour hire firm to develop your shared consultation arrangements with the workers. In doing this you should consider the types of issues that may arise where you would need to consult the contractor or labour hire firm and their workers.

For example you may propose to change the work carried out by contractors. This may involve changing the equipment, substances or materials used in the production process or the way tasks are carried out. You should ask: how should I inform and discuss proposed changes with the contractors' labour hire or contractor firm? How should we both co-ordinate consultation with the affected workers?

Similarly, you should discuss how you would respond to a safety issue raised by one or more of the contractors. You may also need to discuss how you both would implement a request from the workers to be represented by a health and safety representative.

See *Appendix C* for examples of how to consult, co-operate and co-ordinate activities with other duty holders.

## APPENDIX A – EXAMPLES OF CONSULTATION ARRANGEMENTS

---

### Example 1:

#### Consultation in a small workplace – with no health and safety representatives

Overview	<p>This is a small business crane hire business. It employs 7 workers, 5 of whom are crane operators. When the operators return to the yard after a job, they report any defects or problems with the crane. This has been an informal process and many times there have been failures to report mainly small problems. The owner has decided to introduce a checklist to be filled out by the operator when returning the crane.</p>
WHEN to consult	<p>Consultation was required for:</p> <ul style="list-style-type: none"><li>• the identification and assessment of hazards and risks, and</li><li>• making decisions about risk controls.</li></ul> <p>Before introducing the checklist, the owner wanted to discuss its merits with the crane operators.</p>
WHO to consult	<p>As there are no health and safety representatives in the workplace, the company consulted will all workers directly.</p>
HOW to consult	<p>The agreed consultation mechanism for the workplace is the regular weekly meeting with workers where work health and safety is always an item on the agenda.</p> <p>The owner circulated the checklist to the workers a week before the meeting. In discussions at the meeting, there was support for using the checklist with a few more items added to it. It was agreed that workers would trial the new checklist for three months as some operators were concerned that it would be a waste of time if no action was taken on any problems notified in using the checklist.</p> <p>The business kept records of significant work health and safety issues that were discussed, actions to be taken and timelines for taking action. The records were displayed on the noticeboard in the workplace and were sent via email to workers as well.</p>

**Example 2:**

**Consultation in a large transport company – with health and safety representatives**

Overview	<p>This company operates around the clock and has over 500 workers. Work groups have been established covering all workers working across three shifts, each of which is represented by a health and safety representative. A health and safety committee has been established and is made up of all health and safety representatives and some management representatives who hold senior positions in the organisation.</p> <p>When the company identified the need to move to new premises, it recognised this had the potential to affect all workers. The committee played a major role in obtaining worker and health and safety representative input about warehouse layout, ergonomics, selection of new equipment and machinery, traffic management, access/egress and emergency procedures. The committee members were also encouraged to undertake regular visits to the new premises to view progress and provide advice.</p>
WHEN to consult	<p>Consultation was required for:</p> <ul style="list-style-type: none"><li>• the identification and assessment of hazards and risks</li><li>• making decisions about risk controls</li><li>• proposing changes to the workplace, and</li><li>• making decisions about the adequacy of welfare facilities.</li></ul> <p>The design and fit-out of the new premises included consideration of layout, equipment selection, new work systems, lighting installation, design and commissioning of a sorting table and warehouse airflow.</p>
WHO to consult	<p>The relocation affected all workers and they were all consulted via their respective health and safety representatives. The committee acted as a centralised conduit for information flow in this process.</p>
HOW to consult	<p>The organisation consulted via health and safety representatives and the committee.</p> <p><b>Health and safety representatives</b></p> <p>Health and safety representatives acted as a communication channel between management and workers. Health and safety representatives chaired the health and safety sections of weekly toolbox meetings, using these as an open forum to the committee.</p> <p><b>Health and safety committee</b></p> <p>Consultation procedures were developed and agreed and the membership of the committee was determined via extensive consultation between health and safety representatives and all workers. The committee takes ongoing responsibility for ensuring that all relevant health and safety information is posted on worker noticeboards, e.g. meeting agendas, minutes, alerts and newsletters. The committee also sets timelines and frameworks for evaluating systems and processes, e.g. warehouse airflow to be assessed by external consultant every 3 months.</p>

## APPENDIX B – CONSULTATION CHECKLIST

Consultation compliance	Yes /No	Chapter in Code
1. Do I have one or more of the following consultation mechanisms which I have put in place after consultation with my workers? <ul style="list-style-type: none"> <li>• Health and Safety Representative(s)</li> <li>• Health and Safety Committee</li> <li>• Agreed procedures</li> <li>• Other agreed consultation arrangements</li> </ul>		3
2. Do the consultation arrangements include workers other than my employees such as contractors or labour hire workers who are part of my workforce?		3, 5
3. Do I use my consultation mechanism when I: <ul style="list-style-type: none"> <li>• identify hazards and assess risks?</li> <li>• make decisions to control risks?</li> <li>• make decisions about welfare facilities?</li> <li>• propose changes to the work, including purchasing new or used plant or new substances or materials?</li> <li>• develop and review safety policies and procedures?</li> </ul>		4
4. When I consult with my workers on these issues do I: <ul style="list-style-type: none"> <li>• Inform them of what I intend to do (<i>eg purchase a new piece of equipment?</i>)</li> <li>• Share relevant information about it with them?</li> <li>• Give them a reasonable opportunity to respond?</li> <li>• Discuss any of their safety concerns?</li> <li>• Take into account the views they express?</li> <li>• Advise them of my decision and the reasons for it?</li> </ul>		2
5. If workers are represented by a health and safety representative, do I: <ul style="list-style-type: none"> <li>• Include the representative in all health and safety consultations?</li> <li>• Make myself available for the representative to raise and discuss health and safety matters with me?</li> </ul>		3
6. Do I consult other duty holders who share responsibility for a health and safety matter with me? <ul style="list-style-type: none"> <li>• Do I co-operate and co-ordinate activities with them?</li> </ul>		5

## APPENDIX C – CONSULTING, CO-OPERATING AND CO-ORDINATING ACTIVITIES

---

### Example 1:

#### Finance company leasing premises in a multi-tenanted office block – lift maintenance

<p>IDENTIFY health and safety duties and other duty holders</p>	<p>The finance company has a duty as a person conducting a business or undertaking to ensure the health and safety of its workers and clients visiting its offices.</p> <p>At the same time, the building owner and property manager have duties as persons with management or control of the building to ensure people can safely enter and exit the building and that the building is safe and without risk to others.</p> <p>A company contracted to maintain and repair lifts (maintenance contractor) has a duty to ensure that its workers and other persons are not put at risk from work carried out as part of its business.</p>
<p>CONSULT</p>	<p>The finance company consults the property manager to find out what arrangements are in place for the proper maintenance of plant such as air-conditioning systems and lifts.</p> <p>Before maintenance is to be carried out on the lifts the property manager consults with the maintenance contractor, the tenants, the cleaning contractor so that all duty holders know of the work and what they each need to do to ensure the safety of persons in the building.</p>
<p>CO-OPERATE</p>	<p>The finance company and other tenants co-operate with the maintenance contractor by complying with contractor's safety procedures.</p>
<p>CO-ORDINATE activities</p>	<p>The finance company ensures that its workers and clients do not use the lifts during the maintenance work and that they have another safe means of entry and exit.</p> <p>The maintenance contractor works with the property manager to schedule maintenance work so that it does not interfere with the safe movement of persons in the building, as far as is reasonably practicable.</p>

**Example 2:**

**Commercial cleaning business purchasing chemicals**

<p>IDENTIFY health and safety duties and other duty holders</p>	<p>The cleaning business has a duty as a person conducting a business or undertaking to ensure the health and safety of its workers.</p> <p>The supplier of cleaning products has a duty to ensure that the cleaning chemicals it supplies are without risks to health and safety and must provide information to enable the safe use of the product.</p> <p>A company contracted to transport and deliver the chemicals has a duty to ensure that its workers and other persons are not put at risk from work carried out as part of its business.</p>
<p>CONSULT</p>	<p>The cleaning business consults the supplier about the health and safety risks of the chemical and whether there are any safer alternatives on the market.</p> <p>The cleaning business also consults the transport company about when and where the chemicals are to be delivered, and how to deal with potential hazards such as chemical spills, manual handling and being hit by moving vehicles during unloading of containers.</p>
<p>CO-OPERATE</p>	<p>The supplier provides the health and safety information the transport contractor and cleaning business needs and ensures that the products are properly labelled and packaged before leaving the warehouse.</p> <p>The transport contractor follows the instructions for safe transport and delivery.</p>
<p>CO-ORDINATE activities</p>	<p>The cleaning business ensures that there is safe entry and exit for the delivery truck at the premises and works with the transport contractor during unloading to ensure the health and safety of the workers.</p>