

# Xchanging Safety Sheet

Number 100

## Consultation & Health and Safety Committees

### Legislative Requirements

Occupational Health and Safety Act 2004

### What the law says

In Victoria, the law requires

- That employers consult with employees and contractors about OHS matters
- That employees elect an occupational health and safety representative if any one employee asks for one
- An occupational health and safety committee must be established if any employee OHS Representative asks for one.

### Duty to consult

Employers must consult with employees about the following OHS matters:

- Hazards, risks and proposed controls to eliminate or reduce the risk of injury or illness
- Adequacy of physical facilities, such as first aid and dining facilities
- Procedures for:
  - Consultation
  - Resolving OHS issues
  - Monitoring employee & contractor health
  - Providing OHS information and training
- Membership of OHS committees
- Changes in equipment or systems of work that affect OHS.

The method employers must use to consult employees and contractors is:

- Supply information about the OHS matter being consulted about
- Give employees and contractors reasonable opportunity to express their views
- In making decisions, the employer must take into account those views.

### What is consultation?

Consultation is a process of asking people for their opinions, ideas and information as part of the decision making process. Those consulted do not make the final decision; the responsible manager makes the final decision. Management should explain the reasons for the final decision to all those who participated in the consultation. There should be structures, processes and procedures in your company to facilitate consultation.

### Employee OHS Representatives

If any one employee asks for a Designated Work Group (DWG), or OHS representatives, the employer MUST then negotiate with employees the size and composition of Designated Work Groups, the number of employee health and safety representatives (HSRs) per group, and whether there will be deputy HSRs.

HSRs and deputy HSRs are eligible for 5 day initial training and annual 1 day update training, available through TAFEs and Registered Training Organisations listed by WorkSafe Victoria, if the HSR or deputy asks for the training.

The election of employee representatives is complemented by the appointment of a management occupational health and safety representative, to ensure OHS issues are always resolved. The management representative must be senior and competent. They must have enough seniority to resolve OHS issues. They must be competent in: OHS Act, negotiation skills and communication skills.

If no one asks for Designated Work Groups or OHS representatives, the employer is not obliged to establish them. In small enterprises they should not be necessary, as day to day contact with all employees and contractors provides many opportunities for OHS consultation.

### **Occupational Health and Safety Committees**

OHS committees are only compulsory if any one HSR asks for them. OHS committees should deal with company wide issues such as OHS policies and procedures. Committees should not enter into the day-to-day issues, unless an issue is applicable to the company as a whole.

### **Other means of consultation**

Health and Safety representatives and committees are only one way of organising consultation. Other systems include:

- Use of existing committees
- Tool box meetings
- Shift change-over meetings
- Surveys of employees' opinions
- Suggestion boxes
- Use of focus groups.

### **Consultation fails when**

- Those consulted are not representative of the group they represent
- The scope of the consultation is vague, or too wide or too narrow
- It is not made clear from the start that the final decision lies with management
- Unrealistic expectations are created that the consultation will lead to dramatic changes
- When the managers of the consultation and the participants have 'hidden agendas'
- The consultation is not time limited or insufficient time is allowed for people to develop their ideas and opinions and gather their facts
- Resources limit the ability of the participants to gather information or attend meetings
- Feedback is not provided or is inadequate – resulting in resistance to further consultation
- Approved Issue Resolution process is not followed, that consultation is a two way process involving active listening by employees and by management.

### **Issue Resolution Process**

Workplace health and safety issues need to be resolved as soon as possible to prevent them becoming disputes. You are required by law to have an Issue Resolution procedure. An 'agreed procedure' is a process that outlines the steps that will be followed in resolving health and safety issues and would include:

- Consultation between the employer (or their representative), the employees affected and their health and safety representative
- Must be consistent with the OHS Act 2004 (s73) and OHS Regulations 2007 (Part. 2.2 Issue Resolution Procedures)
- The employer representative participating in the resolution process must be sufficiently senior and competent to be able to make 'on the spot' decisions. They must not be a health and safety representative
- The agreed process must be able to resolve the issue, not just state how the issue is to be reported
- If the parties are not able to resolve the issue within a reasonable time frame, any of the parties involved may request a WorkSafe inspector to attend the workplace.

### **Services Available**

Xchanging can provide you with advice and assist you with the following services:

- Health and Safety Committee members training
- Developing and implementing policies and procedures.

Please contact the OHS Risk Consultants at [risk.management@au.xchanging.com](mailto:risk.management@au.xchanging.com) for further information.



Disclaimer: The information contained here is not intended to be relied upon as a substitute for legal or other professional advice. Meeting the requirements outlined does not guarantee you are compliant with the laws relating to health and safety in the workplace. It is your individual responsibility to meet all statutory and legal obligations, and further professional advice or directives may still be required. Updated: December 2009