WHS 2020: what does it mean for me?

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Work health and safety organiser

With the recent implementation of the Work Health and Safety Act 2020 (WHS Act) in WA, what key points of change may affect school and TAFE environments, compared with the Occupational Safety and Health Act 1984 (OSH Act)?

Duty of care

Duties of care in the OSH Act were predominantly based on the employer- employee relationship. The WHS Act introduces the person conducting a business or undertaking (PCBU) as the person with the primary duty of care. The concept of PCBU covers a broader range of workplace relationships to reflect the wide variety of workplace relationships in the modern workplace that do not readily fall into traditional concepts of employment, such as labour hire and the gig economy.

Mental health

In the WHS Act, Section 4 defines
health as meaning both physical and psychological health. Section 19 outlines that PCBU duty of care must ensure the health and safety of workers.

The Work Health and Safety Commission of WA has developed three codes of practice around hazards associated with mental health at work that further reinforce the need for employers to consider such hazards and subsequent risk in relation to their workers. The three codes are:

- Violence and aggression at work.
- Psychosocial hazards in the workplace.
- Workplace behaviour.

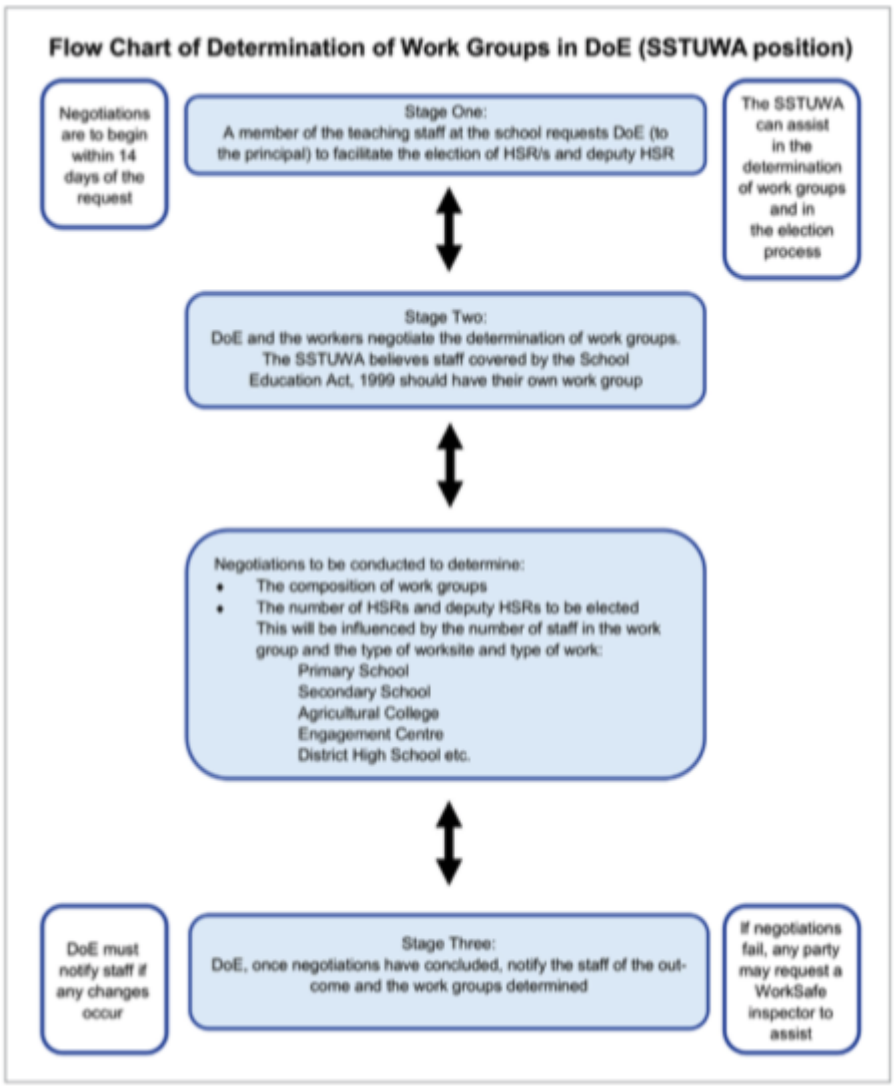
They can be found at the following link: bit.ly/3L9ERhD

What does this mean for OSH representatives?

If you were an elected occupational safety and health (OSH) representative under

the OSH Act, your title is now a health and safety representative (HSR) under the WHS Act. An HSR is elected by their work group under the WHS Act to represent workers in work health and safety (WHS) matters.

If your school or TAFE workplace does not have an elected HSR, it is important that you do so, to maintain a safe working environment for all.



Electing an HSR

With the implementation of the new WHS Act, the process to elect HSRs has changed. Workers must initiate the process by asking their PCBU (the Department of Education) to conduct an election for one or more HSRs. The PCBU must then begin negotiations to determine one or more work groups within 14 days.

During negotiations the number of HSRs for each work group must be determined. While no specific numbers of HSRs are stipulated in the Act or regulations the SSTUWA suggests a general rule of thumb is one HSR per 30 staff members.

The type of school/worksite, the curriculum delivery occurring and learning areas should be also considered in these negotiations; a secondary school with a Trade Training Centre, for example, will need potentially more HSRs than a small country school.

If SSTUWA members express to the Department of Education (DoE) that they want the SSTUWA involved in negotiations regarding work groups, then an SSTUWA organiser is available on request to assist. This request needs to be made to the school principal at the worksite.

Once negotiations are complete and if agreement is reached, the department must notify the workers of the outcome of the negotiations as soon as reasonably practicable.

Contact your SSTUWA organiser for more information on the HSR election process.

Education specific HSR training courses

The SSTUWA is running five-day introductory course available to elected HSRs who:

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Have registered with the DoE OSH Team as the elected representative for your school by completing an election notification form.

- Have not previously completed the Five-Day Introductory OSH/WHS Course.
- Have written permission from DoE Central Office OSH Team to attend the course in Perth if based in a regional area.

This newly developed course is a statutory requirement for elected HSRs and has been updated based on the new WHS
Act, 2020. It provides HSRs within the DoE the skills and knowledge necessary to effectively perform their functions in protecting and promoting the work health and safety of those they represent.

Visit sstuwa.org.au/training for more information about the course.

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