Why you should elect a safety rep

By Antony Pearson
Work health and safety organiser

Preface: In early 2022 the new WA Work Health and Safety Act will come into effect for workplaces within Western Australia. This will lead to changes in the functions of safety representatives and terminology on the legislation will change. It is important to be aware that at present the OSH Act is still operating. Language will change with the change in legislation and this article will reflect the new terminology.

Terminology changes are as follows: Occupational safety and health becomes work health and safety (WHS); employer will become person conducting a business or undertaking (PCBU); employee will become worker; occupational safety and health representative will become health and safety representative (HSR).

Safety representatives and committees can be an effective mechanism for providing participation and improved consultation between the site manager and the staff on matters of work health and safety (WHS).

Safety representatives represent their fellow workers and carry out specific functions related to safety and health matters in the workplace, including identifying hazards, incident and hazard reporting and investigation.

One of the keys to good WHS leadership is getting your staff involved and taking ownership of what happens within the workplace.

WHS management is more likely to succeed if it encourages active involvement of staff and sets up a dialogue between workers and managers. This is best done through safety representatives and committees.

One of the challenges to developing a safe workplace, where staff are not afraid to report issues or accidents, is to create a no blame and positively responsible culture.

Managing safety and health well in your workplace, in consultation with your staff, will result in benefits to your school or college. You can expect fewer grievances, less conflict, reduced sickness absence, more efficient working methods and improved productivity.

There will be fewer student injuries, more time to focus on core business, a sense of pride amongst parents, students and improved relationships with the community.

Safety representatives can be very beneficial in helping to create a safer workplace and be a source of advice and assistance to the principal or line manager and their colleagues.

- They can increase participation and constructive discussion about safety and health.
- They encourage workers to use safe work practices.
- Safety representatives receive excellent training (at no cost to the school) to provide the skills and knowledge to help keep the workplace safe.
- They can identify hazards in the workplace that might otherwise go unnoticed – until an accident happens.
- They are elected by workers and therefore workers will feel more comfortable to approach them with their WHS concerns.
- They can bring your workers' WHS concerns to your attention and help resolve any disputes at an early stage before they become more complex, protracted or someone becomes injured.
- They can help school leaders and managers to meet their duty of care and ensure compliance with the WHS legislation.

The current legislation requires that safety representatives be elected every two years. If you were elected under the OSH Act, once the new legislation (WHS Act) comes into effect, you will serve out the rest of your two-year term if it is less than 12 months.

If you have more than 12 months left on your term you will cease to be an HSR 12 months after the new WHS Act comes into effect. There are also rules regarding the formation of a WHS committee, which need to be observed.

The position of safety representative is a leadership role and the staff need to consider whether the person they nominate and elect (if election is required) has the required skills to represent them.

For safety representatives the key requisite is the time to carry out their functions and a commitment to the role by leadership. It is a voluntary position and undertaken alongside normal duties.

There are no examinations that need to be undertaken to qualify as a safety representative but the representative needs to demonstrate the required competencies during the compulsory fiveday introductory course.

A rep must have undertaken the accredited training course in order to be qualified to serve Provisional Improvement Notices (PINs).

Once elected, a safety rep can commence carrying out all the other functions prescribed by the Act while awaiting training.

Safety representatives are not civilly liable for anything that is done or omitted to be done in their role. However, they can be disqualified under certain circumstances.

It is an offence for an employer to cause disadvantage to a safety representative if the reason is substantially because of their position, or for performing their legislated functions.

The safety representative is not answerable to the principal or manager for the way in which they carry out their function as long as they comply with the code of conduct and other related policy requirements.

Safety representatives must be consulted on all matters that might impact on the safety and health of staff and given an opportunity to provide input on such matters.

It is essential that site managers acknowledge the important role safety representatives play in improving safety in the workplace and respect the valuable work that they do in a voluntary capacity.

New WHS Act update

The new WHS Act will come into effect later this year with the current time frame for the end of March (at time of print). The new Act significantly changes the health and safety landscape in Western Australia and will lead to our state harmonising with legislation in other jurisdictions.

Key aspects of the new legislation are:

- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Under the primary duty of care, a PCBU must ensure, so far as is reasonably practicable:
    - The provision and maintenance of a working environment that is safe and without risks to health, including safe access to and exit from the workplace.
    - The provision and maintenance of plant, structure and systems of work that are safe and do not pose health risks (for example, providing effective guards on machines and regulating the pace and frequency of work).
    - The safe use, handling, storage and transport of plant, structure and substances (for example, toxic chemicals, dusts and fibres.
    - The provision of adequate facilities for the welfare of workers at work (for example, access to washrooms, lockers and dining areas).
    - The provision of information, instruction, training or supervision to workers needed for them to work without risks to their health and safety and that of others around them.
    - That the health of workers and the conditions of the workplace are monitored to prevent injury or illness arising out of the conduct of the business or undertaking.
    - The maintenance of any accommodation owned or under their management and control to ensure the health and safety of workers occupying the premises.
- A requirement that “officers” exercise “due diligence” to ensure compliance. (The SSTUWA believes the Department of Education corporate executive are officers under this legislation and not school principals.) This duty relates to the strategic, structural, policy and key resourcing decisions – that is, how the place is run.
- Increased powers and functions of HSRs:
    - The right to cease unsafe work in specific circumstances.
    - The right to request assistance from a union to assist with an issue – the PCBU must be notified that the union representative will be attending the workplace.

- Give reasonable notice to undertake an inspection. o Be at interviews of the workers they represent if a worker or workers have to attend an interview with an inspector or their PCBU.
- Receive information concerning the WHS of the workers they represent.
- Request the establishment of a WHS Committee at their workplace. An HSR does not have to be on the WHS Committee (though the SSTUWA endorses that the HSR be on their committee).
- Receive sufficient time to undertake the duties of their role. o Election is for three years, not two as currently. o Issue provisional improvement notices.

One major change in the legislation is the establishment of representation based on workers' work groups.

Different workers at workplaces can consult with their PCBU via HSR(s) specific to their work group.

The new legislation also allows such workers in a specific work group to determine the election process of the HSR, and if a majority of workers in such work group concur, they can seek for the election to be conducted with the assistance of a union.

HSR elections

While elections for OSH reps would traditionally be held a the start of the school year, at time of publication, proclamation of the new Work Health and Safety Act 2020 (WA) has not yet occurred. This act will change the election process for occupational safety and health reps
– who will be referred to as health and safety reps (HSRs). Further information about the act, materials for HSR elections and training course dates will be available at sstuwa.org.au and sent to members via eNews when available.

Source: Department of Mines, Industry Regulation and Safety, 2021, Overview of Western Australia's Work Health and Safety Act 2020: Department of Mines, Industry Regulation and Safety, Western Australia.

Authorised by Sally Dennis, General Secretary, The State School Teachers' Union of W.A.
ABN 54 478 094 635 © 2026