

CONSULTATION WITH WORKERS



Health and Safety Guidance Note



NFU Mutual
RISK MANAGEMENT SERVICES

INTRODUCTION

The Safety Representatives and Safety Committees Regulations and the Health and Safety (Consultation with Employees) Regulations require employers to consult with their employees (or a representative elected by them) on health and safety.

Consultation on health and safety is simply a two-way process between you and your employees where you talk to each other about issues, listen to their concerns and raise your concerns, seek and share views and information, discuss issues in good time and consider what employees say before you make decisions.

WHY CONSULT WITH EMPLOYEES?

Aside from the legal requirements, consulting with employees can have real benefits for your business overall. Businesses with good workforce involvement in health and safety tend to have a better productivity rate, with improvements in overall efficiency and quality. Reduced accidents and ill health will reduce costs to the business. Consultation can also achieve higher levels of workforce motivation. Empowering your workforce, giving them the right skills, and getting them involved in making decisions shows them that you take them seriously. They not only raise concerns but offer solutions too.

Consulting employees about health and safety can specifically result in:

- An overall healthier and safer workplace with fewer accidents and ill health – your employees are the best people to help you identify hazards, assess risks and develop ways to control or remove risks;
- Better decision making – you have the opportunity to get input and experience of a range of employees, who have extensive knowledge about their own job and the business;
- A stronger commitment to implementing decisions or actions – as employees have been actively involved in reaching these decisions;

- Greater co-operation and trust – employers and employees who talk to each other and listen to each other gain a better understanding of each other's views; and
- Joint problem-solving.

WHAT YOU MUST CONSULT EMPLOYEES ON

Whether the safety representatives are recognised trade union members or not, employers must consult employees on:

- The introduction of any change which may substantially affect health and safety (e.g. installation of new machinery/equipment/process, use of a new hazardous substance, ways of working, new shift pattern, etc.);
- The appointment of any persons to assist in complying with legislation (e.g. appointment of health and safety manager or other competent person);
- Information required to be provided to employees (e.g. information on risks and precautions they should take, emergency and first aid arrangements);
- The planning and organisation of training required by law (e.g. use of a fork-lift truck, manual handling, safe use of machinery, etc.);
- The consequences of introducing new technology (e.g. self-propelled machinery, ionizing radiation, etc.).

There is no legal set time limit when you should consult but there has to be enough time to explain the issues to employees, time for them to consider and get back to you with informed responses and time for you to take into account their response before you make a final decision. There may be unexpected issues for which you will not have had time to plan consultation, so you may need to do something different like hold a one-off meeting.

Consultation will not always result in agreement but you should be able to resolve differences of opinion by being open, explaining the reasons behind decisions, and following agreed procedures for resolving problems.

UNION APPOINTED VS NON-UNION SAFETY REPRESENTATIVES

If you recognise trade unions in any part of the business then the Safety Representatives and Safety Committees Regulations 1977 will apply. The trade union may appoint health and safety representatives (referred to as ‘safety representatives’ in the regulations) and you must consult the union-appointed health and safety representatives on health and safety matters affecting the employees they represent.

Where safety representatives are not appointed through trade unions, the Health and Safety (Consultation with Employees) Regulations 1996 will apply. You can choose to consult employees directly as individuals, or through elected health and safety representatives (known as ‘representatives of employee safety’ in the Regulations), or a combination of the two.

Although by law health and safety representatives appointed by trade unions have more functions than representatives elected by employees, you can choose to give your elected representatives extra roles as well, as long as they agree to this.

Where you have a combination of trade union and non-trade union representatives, it is simpler and better to consult health and safety representatives at the same time about the same issues where possible. Joint involvement leads to joint problem solving.

FUNCTION OF SAFETY REPRESENTATIVES

Representatives who have been elected by any group of employees may:

- Make representations to the employer on health and safety issues;
- Represent fellow employees in consultation with Health and Safety Inspectors and Environmental Health Officers – on health and safety issues only;
- Be given training and reimbursement of costs in respect of their functions;
- Take time off their ordinary work with pay for training and to fulfill their functions.

You must provide the representatives with facilities and assistance to allow them to carry out their function. This includes relevant information on risks, such as risk assessments, accident reports, etc.

Legislation	Safety Representatives and Safety Committees Regulations 1977	Health and Safety (Consultation with Employees) Regulations 1996
Selection	Representatives are appointed in writing by a trade union recognised for collective bargaining purposes.	Elected by the workforce, where the employer has decided not to consult directly.
Title/Position	Safety Representative	Representatives of employee safety
Function	Investigate potential hazards and dangerous occurrences at the workplace, complaints by an employee relating to health, safety and welfare at work, and examine causes of workplace accidents.	
	Representation to the employer on the above investigations, and on general matters affecting the health and safety of the employees they represent.	Representation to the employer on: <ul style="list-style-type: none"> • Potential hazards and dangerous occurrences; • General matters affecting the health and safety of the employees they represent; and • Specific matters on which the employer must consult.
	Inspect the workplace	
	Represent employees in dealings with health and safety inspectors.	Represent employees in dealings with health and safety inspectors.
	Receive certain information from inspectors	
Attend health and safety committee meetings		

*Referenced from “Table 1 Functions of health and safety representatives” from HSE INDG232 Consulting employees on health and safety – A brief guide to the law

CONSULTATION MEETINGS

There are many ways in which you can consult the workforce. The type of consultation you choose will usually depend on the size, nature and culture of the business.

The more staff who are pro-actively involved in the health and safety decision making process, the better. Several organisations choose to hold regular meetings with all members of staff to discuss health and safety matters and gain their input in the development of policies and procedures. The whole workforce approach can be an extremely good way of embedding a positive safety culture within the business.

However, it is accepted that it is not always feasible to have all members of staff involved in meetings. In such instances, it is recommended that a Health and Safety Committee be formed. Such a Committee should have a balanced cross-section of the workforce, including workers with technical knowledge, and representation from Management with authority to agree proposals and any relevant expenditure.

Ideally, every department of the business should be represented, although the size of the committee should not be so large that it is counterproductive.

The types of things the Committee should discuss, study accident and illness trends, using the accident record book, safety and accident reports, etc., develop safety rules, discuss upcoming changes where they may affect health and safety, establish adequate safety training and provide a link with the Health and Safety Inspectorate.

It is strongly recommended that records (e.g. minutes) are kept of all formal consultation meetings.

IMMIGRANT AND MIGRANT WORKERS

Whilst there is no evidence to suggest that immigrant or migrant workers are more prone to accidents than any other group of employees, they are often employed in higher risk industries, which may have a higher than average accident rate.

To reduce the risk of injury to immigrant and migrant workers, training, language and cultural factors must be taken into account. This can be done in a number of ways:

- Encourage employees to express their views in their preferred language by using interpreters, a work colleague;
- Safety instructions may have to be prepared in the language of the worker concerned;
- Safety signs, pictures/photos and DVDs (which should require minimal translation) should be used indicate the hazards and precautions to be taken;
- Where information has to be in English, use clear and simple materials, and allow more time for staff to digest the content.

Be aware of cultural differences and take these into account when consulting employees because there may be some employees who do not feel able to speak up about health and safety matters.

The key to individual consultation is to make sure that everybody is involved so you will have to choose methods carefully to encourage all members of the workforce.

FURTHER GUIDANCE

- HSE Website “Consulting and involving your workforce”
www.hse.gov.uk/involvement/
- Safe and Sound at Work
www.hse.gov.uk/involvement/doyourbit/index.htm
- L146 Consulting workers on health and safety: Safety Representatives and Safety Committees Regulations 1977 (as amended) and Health and Safety (Consultation with Employees) Regulations 1996 (as amended) - Approved Codes of Practice and guidance. Available from HSE’s website:
www.hse.gov.uk/pubns/priced/l146.pdf
- INDG232 Consulting employees on health and safety: A brief guide to the law. Available from HSE’s website: www.hse.gov.uk/pubns/indg232.pdf
- HSG263 Involving your workforce in health and safety. Available from HSE’s website:
www.hse.gov.uk/pubns/priced/hsg263.pdf
- Protecting Migrant Workers Available from HSE’s website:
www.hse.gov.uk/migrantworkers/employer/protecting.pdf
- A leaflet/pocket card “Working in the UK from overseas?” Available from HSE website:
www.hse.gov.uk/pubns/indg410.htm. This leaflet is available in a range of different languages.

These documents are available to download free of charge from www.hse.gov.uk/pubns/books/

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