



CONSULTATION

Consultation is a fundamental element of a positive approach to health, safety and wellbeing at the University.

Through consultation, staff will be more aware of hazards and HSW issues. We encourage stakeholders to provide suggestions to solve any health and safety problems that may arise and therefore assist in the prevention of work-related injury, illness and disease.

Consultation may involve a number of parties including:

- employees;
- health and safety representatives;
- health and safety officers;
- health and safety committees;
- other internal and external stakeholders;
- external parties with relevant expertise.

There are a number of times when consultation should take place, for example:

- When there are changes made at the workplace that may affect health and safety;
- When identifying hazards and assessing risks;
- Deciding on measures to control risks and when implementing controls;
- When reviewing the effectiveness of controls;
- When revising and developing policies and business processes; and
- When evaluating the University's business management system.

The OHSW Regulations place an obligation on the University to consult [OHSW Regulation 1.3.1].

HEALTH AND SAFETY REPRESENTATIVES (HSRs)

The University has elected Health and Safety Representatives in many of our Schools/Branches.

Where they have been elected they can assist employees to have health, safety and welfare issues raised. The benefit is that they have a practical understanding of the health and safety problems and can suggest ways to resolve these problems.

There is no legal requirement to elect a Health and Safety Representative. This is a decision by the employees in the work group. If you do not have a Health and Safety Representative and wish to find out how to elect a representative then please refer to the University [HSW website](#).

Functions and rights of Health and Safety Representatives

Health and Safety Representatives have legal rights and functions under the legislation, [OHSW Act: 32].

The University cannot discriminate against HSRs for performing any of their functions [OHSW Act: 56].

A HSR can take action on health and safety issues affecting employees of the designated work group – this includes issues affecting contractors, labour hire workers and visitors.

Health and Safety Representatives are entitled to:

- inspect the workplace at any time after giving reasonable notice to the employer, or immediately if there is an incident, dangerous occurrence, imminent danger or risk to the health, safety or welfare of a member of the representative's work group.
- be advised immediately if any of these things happen during an inspection of the workplace;
- discuss any matter affecting health, safety or welfare with any employee at the workplace and to carry out appropriate investigations;

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CONSULTATION (Continued)

Functions and rights of Health and Safety Representatives (Continued)

- be accompanied by a consultant (approved by the Minister, the employer or a relevant health and safety committee) in an inspection of the workplace;
- accompany an inspector from SafeWork SA during an inspection of the workplace;
- investigate complaints on health, safety or welfare made by employees in the work group;
- have access to information about risks to health and safety that may arise, in any work or from any plant or substances, which may affect members of the representative's work group;
- have access to information about the health and safety of employees with the employee's consent;
- raise any issue affecting the health, safety or welfare of members of the work group with the employer;
- if requested by an employee in the work group, be present at any interview about health and safety between the employee and the employer or the employee and a government inspector;
- be consulted about proposed changes to the work, the workplace, plant or substances used, which may affect the health, safety or welfare of employees in the representative's work group;
- be consulted about policies, practices and procedures on health, safety and welfare, and on any proposed changes to these;
- be consulted about any proposed application to SafeWork SA for modification of requirements of any Regulation;
- issue a Default Notice to require that action is taken to resolve a health and safety problem;
- direct that work cease if there is an immediate threat to the health and safety of an employee in the work group until adequate measures are taken to protect the employee;
- be provided with facilities and assistance to enable the HSR to perform his or her functions under the Act.

HSRs do not have any legal liability for their actions, or lack of action on any matter in their role as HSR. However, if a representative is found guilty of using their powers or information obtained for an improper purpose, the representative may be fined.

A register of Health and Safety Representatives is maintained by the HSW Team.

[Health and Safety Representative Register](#)

Health and Safety Committees

The University has a number of registered Health and Safety Committees with defined [Terms of Reference](#).

Our Health and Safety Committee structure is outlined in Table 1.

Please contact your Manager/Supervisor or [Division/Faculty HSW Manager](#) if you require further assistance.

Communication between the University and Faculty/Divisions

See also the [A3 flowchart](#) which sets out the communication, reporting, monitoring and evaluation of the HSW Management System.

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Consultation (Continued)

(Table 1)

1	University Health and Safety Committee (UHSC)		
	<p>One executive or management representative from each Faculty/Division Health and Safety Committee One Health Safety Rep or other employee representative from:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Division of S&R and VC & P Division of DVC and VP (R) Division of DVC and VP (A) Faculty of ECMS Faculty of Health Sciences Faculty of HUMSS Faculty of Professions Faculty of Sciences </td> <td style="width: 50%; border: none;"> Non-members - There is a standing formal arrangement for the following visitors: Manager, Health Safety and Wellbeing Director, Human Resources Director, Infrastructure Property and Technology Higher Degree Student Representative (Nominated by the PGSA) Undergraduate Student Representative (Nominated by the AUU) Union Representation (NTEU) </td> </tr> </table>	Division of S&R and VC & P Division of DVC and VP (R) Division of DVC and VP (A) Faculty of ECMS Faculty of Health Sciences Faculty of HUMSS Faculty of Professions Faculty of Sciences	Non-members - There is a standing formal arrangement for the following visitors: Manager, Health Safety and Wellbeing Director, Human Resources Director, Infrastructure Property and Technology Higher Degree Student Representative (Nominated by the PGSA) Undergraduate Student Representative (Nominated by the AUU) Union Representation (NTEU)
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2	Divisions of Services and Resources and VC&P		
	<p>One Executive or Management representative (or sub-unit of the area); and One Health Safety Rep or other employee representative from:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <ul style="list-style-type: none"> • Office of the VC and President • Human Resources • Legal and Risk • Financial Services </td> <td style="width: 50%; border: none;"> <ul style="list-style-type: none"> • Marketing and Strategic Communications • University Libraries • Office of the VP (Services and Resources) • Infrastructure Property and Technology </td> </tr> </table>	<ul style="list-style-type: none"> • Office of the VC and President • Human Resources • Legal and Risk • Financial Services 	<ul style="list-style-type: none"> • Marketing and Strategic Communications • University Libraries • Office of the VP (Services and Resources) • Infrastructure Property and Technology
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3	Deputy Vice Chancellor and Vice President (Academic)		
	<p>One Executive or Management representative (or sub-unit of the area); and One Health Safety Rep or other employee representative from:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <ul style="list-style-type: none"> • Office of the DVC & VP (A) • Student Support Services • International Office • Strategic Planning • Quality and Review </td> <td style="width: 50%; border: none;"> <ul style="list-style-type: none"> • Centre for Learning and Professional Development and General Manager • Student Services Office • Professional and Continuing Education • Student Admin Services </td> </tr> </table>	<ul style="list-style-type: none"> • Office of the DVC & VP (A) • Student Support Services • International Office • Strategic Planning • Quality and Review 	<ul style="list-style-type: none"> • Centre for Learning and Professional Development and General Manager • Student Services Office • Professional and Continuing Education • Student Admin Services
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4	Deputy Vice Chancellor and Vice President (Research)		
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5	Faculty of Engineering, Computer & Mathematical Sciences		
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6	Faculty of Health Sciences		
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7	Faculty of Sciences		
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8	Faculty of Humanities and Social Sciences		
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9	Faculty of Professions		
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CONSULTATION (Continued)

Raising Health and Safety Issues

- Consult with your Manager/Supervisor and discuss the issue and possible solution(s). This can be either verbally or in writing, and aims to jointly find a solution.
- If the issue cannot be resolved, then the Health and Safety Representative (if applicable) is to be consulted.
- If the issue cannot be resolved, then the matter should either be referred to the Head of School/Branch or if not urgent the School/Branch Health and Safety Committee (if applicable) and/or the Division/Faculty Health and Safety Committee.
- If the issue cannot be resolved, and the HSR considers the issue to be a breach of the Act or Regulations, then the HSR may issue a Default Notice.

Issue of a Default Notice

A Default Notice is an official declaration by the HSR that, in his or her opinion, provisions of the Act or Regulations are being breached and that it has not been possible to resolve the problem by consultation.

A Default Notice must not be issued on any matter that is already the subject of an Improvement or Prohibition Notice issued by an inspector.

The Default Notice must state the reasons why the HSR considers the person is breaching the Act or Regulations, or is likely to repeat a previous breach. The HSR may specify a time limit in which the breach is to be fixed.

Action by person receiving a Default Notice

The person to whom the Default Notice is addressed must bring the Notice to the attention of any worker whose work is affected by it. They must also display the Notice in a prominent place close to the workplace(s) affected. The employer must keep a copy of the Notice for three years.

No person can remove the Default Notice while it is on display and in force.

It is the responsibility of the employer to take all reasonable steps to resolve the problem by the day specified in the Default Notice. If no day has been specified then the problem should be solved as soon as possible.

If the employer wishes to challenge the Notice, they have 14 days from the date the Default Notice is received in which to do so.

Asking an inspector to attend the workplace does this. If this happens the Default Notice is then suspended and the employer does not need to take any action in response to the Default Notice until the inspector is able to resolve the issue. An inspector may also be called in by a HSR if the HSR thinks there has been a delay in resolving the problem or if the HSR is not satisfied with the action taken in response to the Notice.

Who can cancel a Default Notice?

The Default Notice remains in force until the matter has been resolved, unless:

- an inspector has been called to attend the workplace (i.e. the Notice is suspended pending advice from the inspector)
- the HSR who issued the Notice cancels it (which he/she may do at any time)
- a relevant health and safety committee cancels the Notice in circumstances where the HSR is absent from the workplace and cannot be contacted.

An inspector may also cancel a Default Notice.

Attendance by an inspector at the workplace

An inspector may be asked to visit the workplace if the:

- person receiving the Default Notice or that person's employer, believes that the Notice should not have been issued (this request must be made within 14 days of receiving the Notice)
- HSR believes there has been an unreasonable delay in taking action to resolve the problem, or that the action taken is inadequate.

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CONSULTATION (Continued)

Raising Health and Safety Issues (Continued)

The inspector must attend the workplace as soon as possible and within seven business days of being asked to do so. When an inspector has been asked to visit the workplace, the operation of the Default Notice must be suspended pending the advice of the inspector. When visiting a worksite, an OHS inspector will ensure that the HSR is advised of their attendance and will invite the HSR to accompany and consult with them during the inspection of the workplace. HSRs are encouraged to contact SafeWork SA on 1300 365 255 or 8303 0400 for further advice and assistance.

Action by inspector on a Default Notice

The inspector will attempt to resolve any occupational health, safety or welfare matter that remains unresolved and may:

- confirm, modify or cancel the Default Notice
- issue a Prohibition or an Improvement Notice
- take any other appropriate action to resolve the problem.

If the inspector confirms or modifies the Default Notice, the responsible person must comply with the instructions within a period of time specified by the inspector. It is an offence not to comply with the inspector's direction.

If requested, the inspector should give the HSR, the occupier or employer, a copy of any written report about the inspection.

An employer, worker or HSR who is dissatisfied with the action taken by an inspector in relation to a Default Notice can appeal to the President of the Industrial Court.

Procedure for an immediate threat to Health, Safety and Wellbeing

Whenever possible, a HSR must consult with the employer if he or she believes there is an immediate threat to the health, safety or welfare of an employee.

If an immediate threat to health and safety is not resolved through consultation within a reasonable time, the HSR may direct that the unsafe work stops, if they believe that the nature of the threat and the degree of risk warrants this. The order to stop unsafe work procedure is then followed.

Order to stop unsafe work

A HSR may direct that unsafe work stop immediately without prior consultation, if he or she believes that the nature of the threat and the degree of risk to health and safety justifies stopping work. The direction to stop unsafe work may be given verbally by speaking to the relevant employees and directing them to stop work. The representative must make it clear that the order has been given under Section 36 of the Act. The HSR must then consult with the relevant Manager/Supervisor as soon as possible after the order to stop unsafe work.

The order to stop work will remain in force until the HSR is satisfied that adequate measures have been taken to protect the worker's health and safety.

Payment of workers during cessation of unsafe work

While unsafe work has been stopped, employees may be given suitable alternative work. If other work is not available, workers are entitled to be paid so they do not suffer a loss of income.

If there is a dispute, payment will be made if the inspector determines that there was either an immediate threat to health and safety or that the HSR reasonably believed there was a threat.

A review committee may refer any further disputes about payment to the President of the Industrial Court for determination.

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CONSULTATION (Continued)

Raising Health and Safety Issues (Continued)

Attendance by an inspector at the workplace

Either the University or HSR may ask an inspector to visit the workplace to help resolve the problem. The inspector must attend within one working day in the metropolitan area and two working days elsewhere. The stop work order must remain in force until the inspector has visited.

The HSR is entitled to accompany the inspector during the inspection. The inspector can take any appropriate action to help solve the problem and may issue a Prohibition or Improvement Notice. The person required to comply with the Improvement Notice must complete and return the statement of compliance to the Department within five days of remedying the situation.

If the inspector issues an Improvement or Prohibition Notice, the employer must give a copy of the Notice to the relevant HSR, advise the workers in the area and display the Notice. The HSR, any worker or the employer can make an appeal against the Notice. The appeal must be made to the President of the Industrial Court within 14 days.

Appeal against inspector's decision

A HSR, the employer or any worker who is affected and dissatisfied with the action taken by an inspector in relation to an order to stop unsafe work, can appeal to the President of the Industrial Court.

Further information

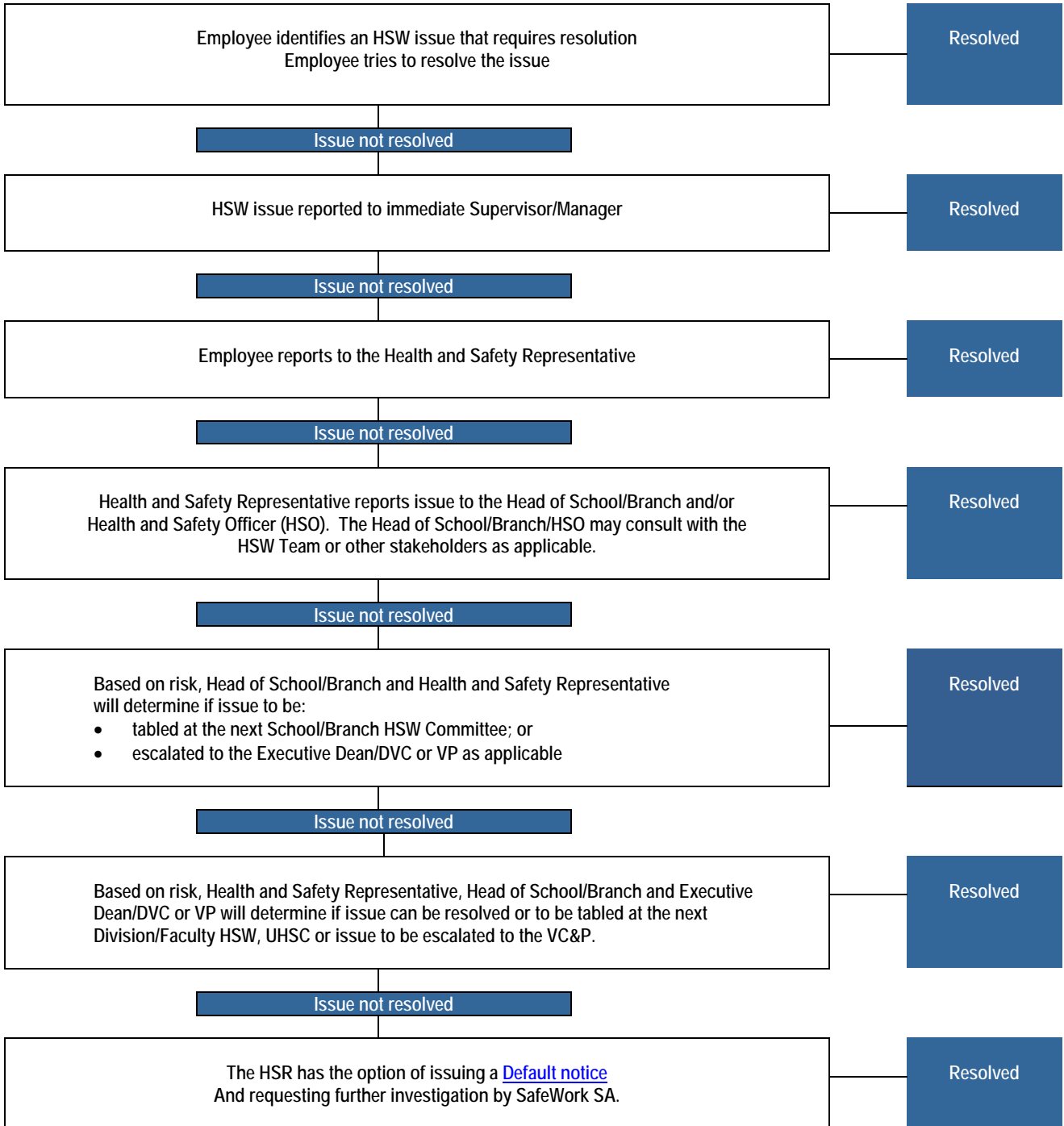
See the SafeWork SA website
<http://www.safework.sa.gov>.

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HSW Resolution Flowchart



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