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**Mary Bluett
President**



'Participation and consultation are the most effective ways to securing health and safety improvements at work.'

Dear Health and Safety Representative

On behalf of the members of the AEU may I take this opportunity to thank you for taking on the role of Health and Safety Representative.

As a Health and Safety Representative you are uniquely placed to make a real difference to the working lives of your colleagues.

Statistics show that unionised workplaces are safer workplaces because active, effective and involved Health and Safety Representatives help create and maintain safer and healthier workplaces.

This booklet has been developed to support you in your efforts and contains a range of information designed to ensure that you know how to find out about your rights under the Occupational Health and Safety Act 2004 and the resources that are available to you.

Once again I would like to pass on my thanks for your ongoing support and invaluable efforts on behalf of colleagues. As a Health and Safety Representative you will have the full support of the AEU behind you, so please do not hesitate to contact us.

With best wishes,

Mary Bluett

President
AEU Victorian Branch

WELCOME

Being a Health and Safety Representative

The union movement has a proud history of campaigning for improvements in the health and safety of working people and in the legislation which sets out the rights and responsibilities that govern health and safety in the workplace.

The AEU is committed to working to improve the health and safety of all those involved in education by supporting Health and Safety Representatives as the key players in representing the interests of members on health and safety issues.

Health and Safety Representatives play a vital role in protecting the health and safety of staff by ensuring that employers meet their obligations under the Occupational Health and Safety Act. They act as watchdogs and advocates for their colleagues. They are not required to physically remove or repair hazards, neither are they required to have all the answers. They cannot be held liable for incidents and accidents that occur—that liability rests with the employer.

They do have a range of powers and responsibilities that the Act gives them to undertake the role with confidence and support and to make a real difference to people's lives.

A union relies on strong organised sub-branches and trained confident Health and Safety Representatives to defend members' interests.

HEALTHY



Janet Marshall
HSR Support Officer

'Health and Safety Representatives are uniquely placed to make a real difference to people's lives.'

The Legal Framework

The objects of the 2004 Act are:

- (a) to secure the health, safety and welfare of employees and other persons at work
- (b) to eliminate, at the source, risks to the health, safety or welfare of employees and other persons at work
- (c) to ensure that the health and safety of members of the public is not placed at risk by the conduct of undertakings by employers and self-employed persons
- (d) to provide for the involvement of employees, employers, and organisations representing those persons, in the formulation and implementation of health, safety and welfare standards

The Act sets out very clearly the duties, rights and responsibilities of all parties and the consequences of breaching or ignoring those duties.

The sections governing the appointment of Health and Safety Representatives (HSRs) and their statutory rights and functions are set out in Part 7 Division 4. This includes deputy HSRs.

Designated Work Groups

The provisions relating to Designated Work Groups are contained in Part 7 Divisions 1-3.

Any workplace can establish a Designated Work Group. This is not mandatory but it has to happen if it is requested. Any workplace can decide to establish a DWG. In most cases there will be one DWG for the workplace, but in multi campus workplaces, it may be appropriate to have one DWG for each site.

A DWG is the first step in the process of ensuring that there is proper representation for all staff on Health and Safety issues. In order for staff to have a voice to ensure that their concerns and views are recognised within a proper legal framework, staff should establish one or more DWG in their workplace and elect representatives for each DWG to represent their interests in discussions with those who hold management responsibility for health and safety.

The composition of the DWG is for negotiation between the employer and the employees but normally all staff would be part of the DWG.

Under the new Act, the principle of representation through a DWG remains and in some respects is strengthened through greater flexibility, for example by including the provision of Deputy HSRs.

RIGHTS

Electing a Health and Safety Representative

The Health and Safety Representatives and Deputy HSR should be seen as key Sub-Branch Officers who, while having a specific area of responsibility, will work with and through the sub-branch to represent its members and other staff.

Members of the DWG may elect one or more members of the group to be the Health and Safety Representatives. All employees are entitled to vote in the election for the HSR. ***The Act does not require that the Health and Safety Representative is an AEU member, but it would be preferable for this to be the case.***

The law is very clear that this is a post that can ONLY be filled by someone who has been chosen by members of the Designated Work Group to represent them. To avoid any potential clash of interests it is important to ensure that Health and Safety Representatives are properly elected to represent their DWG and that the Principal/Manager makes the decision about who takes on the role of Management OHS Nominee to represent the employer.

Members of the Designated Work Group are entitled to elect one of their members to be their Health and Safety Representative. If one HSR is to be elected and there is only one nomination, there doesn't have to be a ballot, that person is deemed to be the HSR. Nominations can be invited either at a staff meeting where all staff are entitled to be present, or by posting the nomination form on the notice board and inviting nominations. If there is only one person willing to stand, then the Principal or Manager simply needs to be informed in writing who that person is.

Under the OHS Act 2004 the representation of staff is strengthened by the provision for additional representation. The members of the Designated Work Group can determine by negotiation the number of Health and Safety Representatives they wish to have—which must be at least one. The new Act also includes the provision of a Deputy HSR which the DWG would be entitled to elect.



Meredith Peace
Deputy President

'Union involvement and participation will mean better outcomes and improvements in health, safety and well-being.'

There are a number of benefits in also having a deputy HSR:

- a local person who knows the environment with whom the HSR can discuss issues
- representation if the HSR is absent (eg. on leave, at camp)
- for succession planning purposes in the event that the HSR changes locations or resigns.

PARTICIPATION

The AEU is a union committed to improving health and safety at work.



Brian Henderson
Branch Secretary

'The AEU sub-branch has a vital role in ensuring the health and safety of members.'

The Role of the Health and Safety Representative

Once elected, the HSR acts on behalf of the DWG and is entitled:

- a) to inspect any part of the workplace where DWG members work
- b) to accompany a WorkSafe inspector during their inspection
- c) to request the establishment of a Health and Safety Committee
- d) to be present at any interview between an inspector and an employee who requests their support
- e) to bring in outside assistance
- f) to issue a Provisional Improvement Notice after consultation with the person to whom the notice is to be issued
- g) to have access to information held by the employer relating to actual or potential hazards and the health and safety of employees (but not personal information unless the employee consents)
- h) to take time off work to perform their functions
- i) to take time off work to attend approved training courses
- j) to order that work shall cease, after consultation, in the event of an immediate threat or danger
- k) not to be dismissed or otherwise discriminated against simply because they are carrying out their role

SAFE

The OHS Act sets out very clearly the rights and responsibilities that the Health and Safety Representative has, but from time to time these can be confused with the duties that the Management OHS Nominee has in law.

The following table is a summary of the differences between the two roles.

HEALTH AND SAFETY REPRESENTATIVE	MANAGEMENT OH&S NOMINEE
Called the Health and Safety Representative or HSR.	May be called Health and Safety Officer/Manager/Adviser/Co-ordinator in individual schools and centres but NOT Representative to avoid confusion with the HSR.
Elected by members of the Designated Work Group.	Nominated by the Principal/Manager.
Represents all members of the Designated Work Group.	Represents the employer.
Has a major role to play in bringing health and safety issues to the attention of the employer.	Is responsible for ensuring compliance with the Occupational Health and Safety Act 2004.
May be any member of staff but should not be member of the principal class (schools) or senior manager (centres).	Should be the Principal/Manager or Assistant Principal/Manager.
Not required to physically repair or remove hazards or to have all the answers on health and safety matters.	Is responsible for organising repairs and removing hazards and ensuring that safety procedures and regulations are followed.
Is entitled to attend an accredited 5 day training course with time off work to attend, as well as annual refresher training.	Should be sufficiently competent to fulfil role, but no requirement to achieve this through training, so no entitlement.
Is entitled to appropriate paid time off work to undertake role.	Undertakes role as part of management responsibilities. No entitlement under the Act to specific paid time off.
Has prescribed rights and powers under the Act but no duties.	Has no specific rights or powers under the Act but a range of duties and liabilities as outlined in the Act.
May issue a Provisional Improvement Notice after consultation with the Principal/Manager.	May receive a PIN and need to act on it or appeal against it, but cannot issue a PIN.
Cannot be directed to undertake any task relating to health and safety, but can be required to consult with the Principal/Manager before undertaking certain activities.	Required to consult with the HSR on a range of activities (eg. changes to workplace arrangements, inspections, investigations etc.)
No liability for health and safety in the workplace as no duties imposed under the Act.	Liable for health and safety in the role of Principal/Manager or representative of Principal/Manager.

Gillian Robertson
Deputy Branch Secretary



'The AEU is a union committed to improving health and safety at work.'

RESPONSIBILITIES

Health and Safety Committees and the Consultative Process

In every workplace there should be a mechanism for discussing and resolving issues concerning Health and Safety but this can take a variety of forms depending on the nature of the school.

The introduction of the school based consultative arrangements arising from the Victorian Government Schools Agreement may provide a useful mechanism. This model would only be appropriate where there are good relationships and there can be a guarantee that Health and Safety will be a standing agenda item. Alternatively schools may prefer to establish a Health and Safety Committee in accordance with the provisions of the OH&S Act.

At any time, in consultation with DWG members, an HSR can request that a Health and Safety Committee be set up.

This is a formal structure for discussing and resolving health and safety issues. It consists of an equal number of representatives of employees and management and must be established within 3 months if the Health and Safety Representative requests it.

Employer Responsibilities

Once an HSR has been elected, the Employer must:

- a) permit access to information relating to hazards or potential hazards that are under their control
- b) permit the HSR to be present at any interview concerning the health and safety of the employees
- c) consult the DWG on any changes that affect their health and safety
- d) allow the HSR to take time off with pay where it is necessary for them to perform their functions and to attend approved training courses
- e) provide such other facilities and assistance as necessary

Legal liability

Newly appointed Health and Safety Representatives sometimes worry that the wide range of functions which they are entitled to take on must also impose some legal health and safety duties upon them which go beyond those of other employees.

THIS IS NOT THE CASE.

Section 58 (3) specifically states that nothing in the Act or regulations imposes, or is taken to impose, a function or duty on an HSR while acting in that capacity.

In other words because Health and Safety Representatives have no duties under the Act (only powers), they cannot be held legally liable for failing to exercise those duties.

The only liabilities they have are those which are imposed on all employees relating to the duties imposed by the Act in Section 25. This section relates to the general duty of care placed on all employees to take reasonable care for their own health and safety and that of colleagues and to co-operate with the employer on health and safety provisions in the workplace.

Total responsibility and liability for failure to comply with the Act and regulations lies with the employer. In schools, depending on the circumstances that occur, this could be the DoE centrally, the Principal and/or the school council.



Justin Mullaly
Vice President Secondary

'A union relies on strong organised sub-branches and trained confident Health and Safety Reps to defend members' interests.'

Training

The AEU strongly encourages Health and Safety Representatives and Deputy HSRs to attend an approved five-day training course as soon as possible after election in order that they can exercise their powers effectively. **Approved initial training for the HSR is an entitlement under the OHS Act and it is for the HSR to choose the course they wish to attend.** You should inform your Principal/Manager which course you wish to attend at least 14 days before the course is due to start.

The Victorian Trades Hall Council (VTHC) conducts an approved course. The course provides information and a framework for the HSR to effectively undertake their functions under the OHS Act. It also provides the basis to learn new skills in health and safety, communication and negotiation as well as the opportunity to share experience with other HSRs. **If you are being urged to attend a course run by any other provider, please contact the AEU for advice.**

The programme for future courses is available through the AEU website. Please be aware that some of the courses are general and open to all groups while some are designed specifically to meet the needs of those in education. Please check this when registering if you have a strong preference.

Follow up training sessions are available

Carolyn Clancy Vice President Primary



'Improving health and safety is a win for everyone in the workplace.'

through VTHC on specific topics as well as for HSRs who wish to refresh their knowledge and expertise. HSRs and Deputy HSRs are entitled under the OHS Act to attend a one-day refresher course each year after the initial 5-day course.

The cost of training and associated CRT costs are one of the rights of the Health and Safety Representative as outlined in Section 67 of the Act.

Schools should contact the Regional Office to discuss current funding arrangements for the training element. The CRT costs are met from the school's CRT budget. If this causes difficulties for the CRT budget, then the school can request assistance from the Region's contingency budget. **No-one should be prevented from attending the training on financial grounds.** Workplaces experiencing difficulty with this should contact the AEU for advice.

**Participation and consultation
are the most effective ways
of securing health and safety
improvements at work.**

NEGOTIATION

ORGANISERS

Collective campaigning on H&S

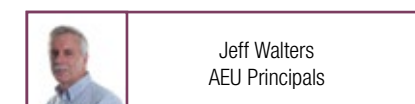
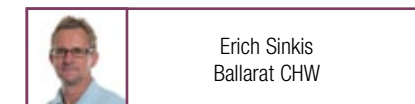
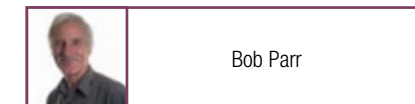
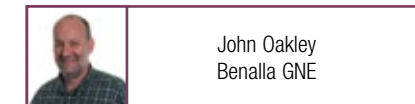
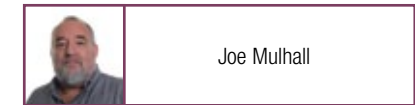
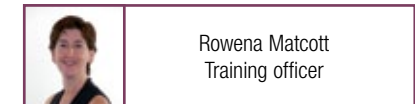
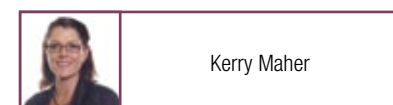
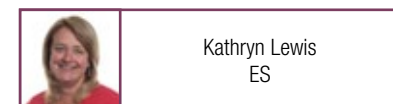
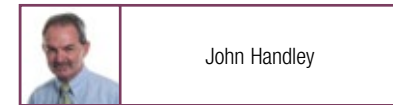
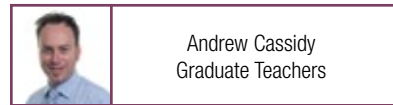
The strength of the union movement lies in its ability to bring about changes through the active participation of union members. Improving health and safety at work is an issue for all members, not just the responsibility of the Health and Safety Representative.

Campaigning around health and safety issues at local, regional and state-wide levels helps to raise the awareness of the staff involved as well as others affected by the issue. It also has enormous potential for creating wider campaigning networks —for example with parents.

Improving health and safety in the workplace is a win for everyone, so remember to publicise and celebrate your successes so that others can share them and learn from them.

For help with campaigning issues, contact your local organiser.

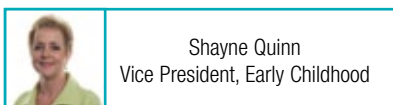
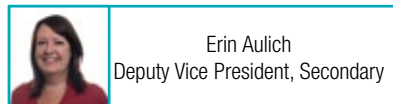
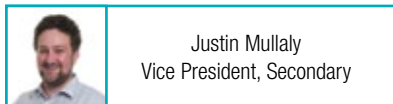
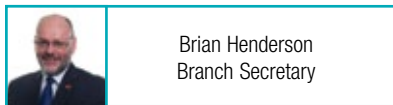
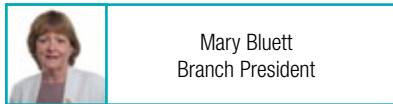
Organisers have responsibility for workplace and regional organisation. They support and advise members on general industrial and professional issues, including occupational health and safety. Each organiser is linked to a geographical patch and supports the schools in that area. Additionally, organisers have areas of specific expertise which they share with colleagues.



SUPPORT

LEADERSHIP

The Leadership team provides the strategic and operational focus for the organisation and is responsible for central decision making on all aspects of the Union's work.

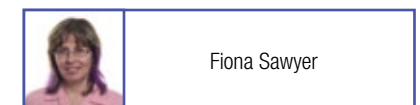
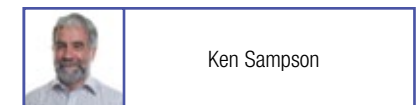
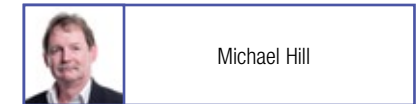



MEMBER SERVICES UNIT

The Membership Services Unit provides telephone advice and support on a wide range of issues including occupational health and safety. Any member of the Union can contact the MSU who will either resolve the issue on the spot, or refer the member if a more specific response is required.

Greg Barclay
Deputy Vice President, TAP

'Raising the profile of health and safety among members will help to bring about significant change.'



STRENGTH

Step by step guide for new Health & Safety Representatives

1. Notify your principal / manager that you have been elected
2. Contact the AEU to get a copy of the AEU Reps Kit & subscribe to the AEU e-newsletter
3. Check the availability of an accredited 5 day training course with the Victorian Trades Hall Council (tel: **9662 3511**)
4. For representatives in schools, subscribe to the Department newsletter "Well Aware" (register on www.eduweb.vic.gov.au/hrweb/ohs/docs/subscriberlist.rtf)
5. For all representatives, subscribe to the public sector e-newsletter from WorkSafe "Making It Public" (register at www.worksafe.vic.gov.au/wps/connect/WorkSafe/Home/Safety+and+Prevention)
6. Arrange a time with your principal / manager or, where management responsibility has been delegated, with the Management OH&S person to:
 - talk about your role
 - advise him / her of your planned training course
 - obtain a copy of any school / centre policy & other written material on health & safety
 - ascertain what arrangements are in place : 1. for staff to be consulted on health & safety, 2. to report and record incidents or health & safety concerns, and 3. to undertake regular inspections
 - advise him / her of your proposed meeting with staff
 - ensure you have access to the internet so that you can access the AEU and other relevant websites for support materials.
7. Arrange a meeting with staff to:
 - ensure they understand your role – it is to represent them not to fix things; that is the responsibility of management
 - if no consultation process exists, discuss what process they would like for consultation & then submit a proposal to the Management OH&S person
 - establish a mechanism whereby staff can raise any health & safety concerns with you
 - establish how you are going to report back to staff from whatever consultation process is in place and on any concerns raised with you.

All this may take some time, depending on what you inherited from your predecessor. However, if you can work your way through the above steps, you will have a good framework and access to some of the more detailed information and support available.

GUIDANCE

Incident reporting

You have rights to a safe workplace. Every employer is required to keep an injury register. Every incident that occurs at a workplace, in which a person is injured or experiences illness, must be entered in the injury register.

The location of the register must be known to all staff and it must be available at any reasonable time for any staff member to enter details of an injury or illness resulting from an incident at work.

The minimum details required for the incident record are:

- name of injured staff member
- date of birth
- address
- time & date of incident
- location of incident
- cause of injury
- nature of injury
- name of witness(es), if any
- date of entry of incident in register.

Under Part 5 of the Occupational Health & Safety Act 2004 employers have a duty to notify certain types of incidents. For information on this requirement, refer to the Guide to Incident Notification which can be found on the Worksafe web site under the section 'Getting More Information'.

In addition, any incident that occurs in a workplace but no injury results, should also be recorded, regardless of how minor the incident.

The incident record is an integral part of any successful system of reducing workplace hazards and risks. It provides:

- valuable information about potential causes of injury and illness
- proof that an injured person has actually suffered an illness or injury at work for the facilitation of compensation claims
- specific incident trends, such as manual handling or occupational violence, that may be occurring

- an opportunity to identify plant or substances that require investigation
- an opportunity to identify training needs for all levels of staff.

Note that the Health & Safety Representative has a right to access the incident register as part of their role while recognising that the privacy of staff members should be respected.

As an alternative to completing the injury register, staff can lodge an incident report form. A copy should be retained by the staff member and a copy may be given to the HSR.

**Workplace assault
is not just your
problem but also
your employer's.
You have rights to
a safe workplace.**

Support material
is featured in the
AEU News and on
the AEU website at
www.aeuvic.asn.au

INFORMATION

Ongoing Information

The AEU has a number of mechanisms in place, or in train, to provide ongoing support to Health and Safety Representatives (HSRs). They include:

- the 'Safety Matters' column in every edition of the *AEU News* which provides information on issues to all members
- an e-newsletter to HSRs on issues and events twice per term
- the development and facilitation of local networks of HSRs as a way of sharing information and supporting each other
- the inclusion in the HSR page on the AEU website of good OH&S practice.

To enable us to keep you informed, please ensure we have your current home address and email address. Also please let us know if you wish to host a HSR network meeting (all you need to do is provide a room) or if you think you have a good policy or procedure that we could share with others.

Shayne Quinn
Vice President
Early Childhood



'The health and well-being of AEU members is central to the AEU's work.'

AEU resources available

As well as support from the MSU and Organisers, Health and Safety Representatives can access a range of other support through the AEU.

The AEU has a number of specialist officers who can be contacted at the AEU's head office:

Women's Officer: Barb Jennings

Training Officer: Rowena Matcott

Research and Industrial Officer: John Graham

Members are welcome to use the facilities of the **AEU library** which is located on the ground floor of the AEU building.

The **Information Services** team can help with information related queries.

The **AEU website** has a health and safety section, as well as a dedicated Health and Safety Reps only area.

www.aeuvic.asn.au

Further advice and support for Health and Safety Representatives is available from Janet Marshall or Bob Maguire, **Health and Safety Representative Support Officers** on **(03) 9417 2822**. Email Janet.Marshall@aeuvic.asn.au or Bob.Maguire@aeuvic.asn.au.

There are a number of **AEU publications** which can be obtained from MSU on request. They are listed on the Health and Safety Representatives' Area of the OHS section of the AEU website.

Other resources

Useful website addresses:

www.ohsrep.org.au

www.worksafe.vic.gov.au

www.actu.labor.net.au

www.eduweb.vic.gov.au/hrweb and follow the links through Safety, Health & Wellbeing.

RESOURCES

