

Health & Safety Reps

Your voice counts

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Dear Health and Safety Representative

On behalf of AEU members I thank you for taking on the role of Health and Safety Representative.

HSRs are uniquely placed to make a real difference to the working lives of their colleagues.

Statistics show that, with effective and involved Health and Safety Representatives, unionised workplaces are safer.

This booklet contains information to ensure that you know how to find out about your rights under the Occupational Health and Safety Act 2004 and the resources available to you.

As a Health and Safety Representative you have the full support of the AEU. Do not hesitate to contact us for help and advice.

With best wishes,

A handwritten signature in black ink that reads "MPeace". The letters are cursive and fluid, with the "M" and "P" being particularly prominent.

Meredith Peace

President

AEU Victorian Branch

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, including workplace health and safety legislation.

Health and Safety Representatives play a vital role in protecting the health and safety of education 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 remove or fix hazards. They cannot be held liable for incidents and accidents that occur — that liability rests with employers. The act gives Health and Safety Representatives responsibilities and powers to carry out their job with confidence and support and to make a difference to people's lives.



Meredith Peace

President

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

The legal framework

The Occupational Health and Safety Act 2004 sets out the duties, rights and responsibilities of all parties in the workplace and the consequences of breaching or ignoring those duties.

The objectives of the Act are:

- a. To secure the health, safety and welfare of employees and others at work
- b. To eliminate, at the source, risks to the health, safety or welfare of employees and others at work
- c. To ensure that the health and safety of members of the public is not placed at risk by the conduct of employers and self-employed people
- d. To involve employees, employers and organisations representing them in the formulation and implementation of health, safety and welfare standards.

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



Meaghan Flack
OHS organiser

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

Designated Work Groups

Any workplace can establish a Designated Work Group. It is not mandatory but must be established if requested. In multi-site workplaces it may be appropriate to have one DWG at each site. DWGs ensure staff representation on health and safety issues.

DWG members may elect one or more people to be Health and Safety Representatives. Employers and employees can negotiate the composition of DWGs but normally all staff are part of the DWG.

The provisions relating to DWGs are contained in Part 7 Divisions 1-3 of the Act.



Justin Mullaly

Deputy president

“Union involvement and participation will mean better outcomes and improvements in health, safety and wellbeing.”



Erin Aulich

Branch secretary

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

Electing a Health and Safety Representative

The Health and Safety Representative and Deputy HSR are important sub-branch officers.

All employees are entitled to vote in the election for the HSR. **The Act does not require that the Health and Safety Representative be an AEU member, but it is preferable.**

Only DWG members can select a HSR. Ensure that they are properly elected to represent their DWG and that the principal/manager decides who will be management's OHS representative.

No ballot is required if there is only one nomination for one HSR position. Nominations can be sought at a staff meeting or by posting the nomination form on a staff notice board. If only one person nominates, the principal or manager needs to be informed in writing who that person is.

There are several benefits to having a deputy HSR. Deputies can support the HSR, act in their absence or fill in for them should they resign.

Make sure that the election decision is dated and recorded.

The role of the Health and Safety Representative

The HSR acts on behalf of the DWG and is entitled to:

- a. Inspect any part of the workplace where DWG members work
- b. Accompany a WorkSafe inspector during their inspection
- c. Request the establishment of a Health and Safety Committee
- d. Be present at any interview between an inspector and an employee who requests their support
- e. Bring in outside assistance
- f. Issue a Provisional Improvement Notice after consultation with the person to whom the notice is to be issued
- g. 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. Take time off work to perform their functions
- i. Take time off work to attend approved training courses
- j. Order that work shall cease, after consultation, in the event of an immediate threat or danger
- k. Not be dismissed or otherwise discriminated against for carrying out their role.

The OHS Act clearly sets out the rights and responsibilities of the Health and Safety Representative. These are sometimes confused with the legal obligations of the management OHS nominee.



The following table summarises the differences between the elected HSR and management OH&S officer.

Health and Safety Representative	Management OH&S Nominee
Called the Health and Safety Representative (HSR).	May be called health and safety officer/manager/ adviser/coordinator but NOT representative to avoid confusion with the HSR.
Elected by members of the Designated Work Group (DWG).	Nominated by the principal/manager.
Represents all members of the DWG.	Represents the employer.
Has important role 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 a member of the principal class (schools) or senior manager (centres).	Should be the principal/manager or assistant principal/manager.
Is not required to physically repair or remove hazards or solve health and safety issues.	Is responsible for organising repairs and removing hazards and ensuring that safety procedures and regulations are followed.
Is entitled to attend an accredited five-day training course and annual refresher training.	Should be sufficiently competent to fulfil role. No entitlement to training.
Is entitled to appropriate, paid, time off work to undertake role.	Undertakes role as part of management responsibilities.
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.
May issue a Provisional Improvement Notice after consultation with the principal/manager.	May receive a PIN and must 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 (for example, changes to workplace arrangements, inspections and investigations)
No liability for health and safety in the workplace as no duties imposed under the Act.	Liable for health and safety as principal/manager or representative of principal/manager.



Martel Menz

Deputy secretary

"A well trained HSR is an empowered representative for their DWG. All HSRs should access approved training and refresher courses."

Health and Safety Committees and the consultative process

Every workplace should have a process for discussing and resolving health and safety issues.

Workplace-based consultative arrangements may provide a useful mechanism but this model would only be appropriate where good relationships exist and where health and safety is a standing agenda item. Alternatively, workplaces can establish a Health and Safety Committee in accordance with the OH&S Act.

A HSR, in consultation with DWG members, can request the formation of a Health and Safety Committee.

They consist of equal numbers of employer and employee representatives and must be established within three months of the HSR's request.

Duty of employers to consult:

(s35) Consult with employees when:

- (a) identifying or assessing hazards or risks
- (b) making decisions about control measures
- (c) making decisions about adequacy of facilities for the welfare of employees
- (d) making decisions about procedures for:
 - resolving OHS issues
 - consulting with employees
 - monitoring the health of employees
 - providing information and training
- (e) determining the membership of any health & safety committee
- (f) proposing changes that may affect the health and safety of employees workplace plant, substances or other things conduct of the work performed

(s36) Consultation requires sharing of information, reasonable opportunity to express views and taking views into account

Tip

It is important for HSRs to be part of any visit by a Worksafe inspector to your workplace. If this does not occur, request to see the site visit paperwork and follow up with a call to the relevant inspector.

Legal liability



Newly-appointed HSRs sometimes worry that the job will make them legally vulnerable. This is not the case. Section 58 (3) says that nothing in the Act imposes, or is taken to impose, a function or duty on an HSR. Because the Act imposes no duties and only powers on HSR, they cannot be liable for failing to exercise those duties.

The only liabilities they face, under Section 25 of the Act, are those imposed on all employees. This section relates to the general duty of care placed on all employees for their own health and safety and that of colleagues and to cooperate with their employer on health and safety issues in the workplace.

Responsibility for complying with the Act lies with the employer. Depending on the circumstances, the employer is the Department of Education, the principal and/or school council.

It is illegal to discriminate against anyone exercising an OHS right (Section 78 a to e).



Marino D'Ortenzio

Vice president, secondary

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

Training

Approved training for beginning HSRs is an entitlement under the OHS Act. It is recommended that HSRs and deputies attend an approved five-day training course soon after their election. They can choose their course. You should inform your principal/manager of the course you wish to attend at least 14 days before the course starts.

The Victorian Trades Hall Council runs approved courses. **Contact the AEU for advice if you are considering attending a course run by other providers.** The Trades Hall program is available at www.ohsrep.org.au/training. Some courses are general and others are education-focused. If you have a preference for one or the other check with organisers when booking. Subsequent training and refresher courses are also available from Trades Hall. HSRs and their deputies are entitled to attend one-day refresher courses each year after the initial five-day course. Call the AEU if you have trouble accessing training. **No one should be prevented from attending training courses on financial grounds.**



Elaine Gillespie

Vice president, TAFE & adult provision

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



Collective campaigning on health and safety

Improving health and safety at work is the responsibility of all union members, not just the Health and Safety Representative. Improving health and safety in the workplace is a victory for everyone, so remember to publicise and celebrate your successes so that others can learn from them. **For help with campaigning, contact your local organiser.**

“The health and wellbeing of AEU members is central to the AEU’s work.”

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

Guide for new Health & Safety Representatives

1. Notify your principal/manager that you have been elected
2. Inform the AEU of your election and subscribe to the AEU e-newsletter (www.aeuvic.asn.au/subscribe).
3. Check the availability of an accredited five day training course with the Victorian Trades Hall Council (www.ohsrep.org.au/training or call **9662 3511**).
4. Subscribe to the Trades Hall OHS newsletter, *SafetyNet*, at www.ohsrep.org.au.
5. Arrange a meeting with your principal/manager or, where responsibility has been delegated, with the management OH&S person to:
 - Talk about your role - use the HSR/HSO information sheet on page 7
 - Advise him/her of your planned training course
 - Obtain a copy of any school/centre policy and other written health and safety material
 - Ascertain what arrangements are in place for staff to be consulted on health and safety; to report and record incidents or health and safety concerns; to undertake regular inspections
 - Advise him/her of your proposed meeting with staff
 - Ensure you have internet access so that you can go to the AEU and other relevant websites for support materials.
6. Arrange a meeting with staff or time at the staff meeting to:
 - Ensure they understand your role as a representative, and that fixing problems is management's responsibility - use the HSR/HSO information sheet on page 7
 - If no consultation process exists, discuss what process staff would like and submit a proposal to the management OH&S person
 - Establish a mechanism whereby staff can raise any health and safety concerns with you
 - Establish how you will report back to staff.

Once you work your way through the above steps you will have established a good framework and good resources for the job. Depending on the system you inherited, all this may take some time.

Incident reporting

You have rights to a safe workplace. Every employer is required to have a system for recording injuries, incidents and near misses. Every incident that occurs at a workplace, whether an injury or illness, must be entered in the injury register. EduSafe in schools is an online reporting system for staff and captures physical and psychological incidents and injuries.

The system for reporting must be known to all staff and it must be available at any reasonable time for any staff member to register 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 and 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 on the Worksafe Authority website at www.worksafe.vic.gov.au.

Any incident that occurs in a workplace should be recorded, regardless of how minor it is.

The incident record is an integral part of a 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 suffered an illness or injury at work
- Proof of incident trends, such as manual handling or occupational violence
- An opportunity to identify plant or substances that require investigation
- An opportunity to identify training needs for staff.

The Health and 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.



Resources

Ongoing information

The AEU provides support to Health and Safety Representatives including:

- The Safety Matters column in every edition of ***AEU News***
- Local networks of HSRs for support and information sharing
- A HSR page in the OHS section of the AEU website (www.aeuvic.asn.au/hsr).

Please ensure we have your current home address and email address. Let us know if you wish to host a HSR network meeting (all you need to do is provide a room) or if you have a good policy or procedure that we could share with others.

AEU support

As well as seeking support from the Member Support Centre and organisers, Health and Safety Representatives can access a range of other support through the AEU.

Meaghan Flack is the AEU OHS organiser; call her on **(03) 9417 2822** or email Meaghan.Flack@aeuvic.asn.au.



Contact list

AEU Victorian Branch — www.aeuvic.asn.au

Phone: (03) 9417 2822

Meaghan Flack OHS organiser

Email: Meaghan.Flack@aeuvic.asn.au

WorkSafe Victoria — www.worksafe.vic.gov.au

Phone: 1800 136 089

info@worksafe.vic.gov.au

Incident notification

Phone: 13 23 60





Victorian Trades Hall Council — www.vthc.org.au

Phone: (03) 9659 3511

VTHC Health and Safety Reps — www.ohsrep.org.au

Subscribe to its fortnightly email, SafetyNet Journal

Department of Education + Training — www.education.vic.gov.au

Marsh OHS advisory service

Phone: 1300 074 715

Email: safety@edumail.vic.gov.au

Employee Assistance Program

Phone: 1300 361 008

Australian Council of Trade Unions — www.actu.org.au

Safe at work campaign

Website: www.safeatwork.org.au



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