

Worker Participation Agreements:

A guide to supporting workers to help manage Health & Safety



Introduction

Worker participation is one of the pillars of effective health and safety, it facilitates the inclusion of the 'worker voice' when decisions are being made by an organisation which affects health, safety and wellbeing.

This document is a guide and intended to provide key principles which organisations can consider when developing worker participation agreements (WPA's) to support worker engagement, participation and representation.

Why worker participation?



It is the workers who bear most of the brunt of poor health and safety practices through injury and illness and therefore their concerns and ideas should influence the way work is designed and carried out.

Workers also have a deep understanding of the work that they do, including nuances that may elude managers and health and safety specialists. Workers understand "work as done" rather than simply "work as imagined" and this understanding of actual practices is essential to understanding risks and how to eliminate or control them.

By developing strong worker participation, organisations gain several benefits that combine to reduce the likelihood and severity of accidents:

			
Access to authentic information as to how "work is done" enables leaders to make informed decisions.	Improved worker 'buy-in', being more invested in the role thus taking more responsibility.	Improved workplace culture, mental health, and therefore staff retention lowering attrition costs (hiring, training etc.).	Improved process efficiency and therefore production.

Worker participation is sometimes divided into *direct* participation mechanisms where a manager or officer directly engages with workers (such as all up meetings, walking the floor, toolbox talks) and *indirect* or *representative* participation mechanisms where the workers choose a person to act on their behalf (often with special training and status like a health and safety or union representative).

Direct participation is often a way for leaders to demonstrate their commitment; leader buy-in is another of the pillars of effective health and safety. While direct participation is useful to demonstrate leadership, the evidence shows that indirect representative participation has a much greater impact on improving on health and safety outcomes.

This evidence is why the Health and Safety at Work Act requires worker engagement and participation and requires representation if the workers ask for it. Often the template for this participation is set in the worker participation agreement.

What is a worker participation agreement?:



A worker participation agreement (WPA) is a foundational agreement between an organisation and representatives of its workers (unions and health and safety representatives (H&S Reps)).

It is usually signed by the Chief Executive of the organisation and representatives of the unions with membership in the organisation.

The WPA supports compliance with the Health and Safety at Work Act 2015 (particularly Part 3: Worker engagement, participation and representation and Schedule 2) and the supporting Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016.

It does this by setting out structures and processes to enable an organisation to meet its duties under the Health and Safety at Work Act 2015 to:

- **Engage** with its workers and their representatives about health and safety matters and
- Enable workers and their representatives to **participate** effectively in improving work health and safety.

Often an organisation will meet these duties by introducing systems of **representation** (via unions, H&S Reps and health and safety committees). This may be done either at the request of workers or the organisation.

Why have a worker participation agreement?:



A WPA lays out the rules for health and safety in an organisation in a clear and visible manner. A good WPA sets the tone of the health and safety culture and acts as a quick guide to how worker engagement and participation are done.

The WPA should inform other health and safety policies and protocols.

A WPA will typically set out how health and safety structures (such as H&S Reps' workgroups election process and health and safety committees) work in practice. This gives workers an understanding of where to go to for help or information regarding a health and safety issue.

As an agreement a WPA generates significant buy in from all parties, underpinning and making a reality of health and safety policies and processes.

What are the ingredients of a good worker participation agreement?



We have seen many examples of excellent WPAs and some examples of poor ones. The best WPAs share several common features:

<input checked="" type="checkbox"/> Commitment and authentic intent	<input checked="" type="checkbox"/> Organisational support for H&S Reps
<input checked="" type="checkbox"/> Process, content and agreement	<input checked="" type="checkbox"/> Health and Safety Committee
<input checked="" type="checkbox"/> Comprehensive scope	<input checked="" type="checkbox"/> Workplan and deliverables
<input checked="" type="checkbox"/> Te Tiriti and cultural competency	<input checked="" type="checkbox"/> Issue and dispute resolution
<input checked="" type="checkbox"/> Best practice engagement	<input checked="" type="checkbox"/> Accessibility
<input checked="" type="checkbox"/> H&S Rep role clarity	

Principles

Commitment and authentic intent:

A good WPA comes from all parties' willingness to put in place a foundation that drives a workplace culture that engages with workers and their representatives, involves them in decision-making and listens, and responds to their ideas and suggestions.

Process, content and agreement:

A good worker participation agreement will usually be negotiated or renegotiated in good faith by the organisation and representatives of the unions active in the workplace. They will engage with H&S Reps and wider workforce on the content to ensure it is right before signing off. A worker participation agreement will usually be reviewed at least every three years.

Comprehensive scope:

The Health and Safety at Work Act 2015 shifted the focus of health and safety from employees to all people who undertake work on behalf of an organisation. This includes contractors, subcontractors and some types of volunteers. A good WPA will include mechanisms to give voice to and engage with these workers as well. The Health and Safety at Work Act 2015 also recognises unions and H&S Reps as the representative voice of workers in relation to health and safety and so a WPA should also recognise and promote the respective roles of H&S Reps and unions. A comprehensive WPA is also better and more accessible than splitting content between a WPA and a health and safety procedures document.

Te Tiriti and cultural competency:

Te Tiriti o Waitangi principles should be honoured and Te ao Māori approaches to health and safety should be supported and promoted by the WPA. In addition, the structures and processes should account for the wider ethnic and cultural make-up of the workforce, including in relation to information, training and dispute resolution.

Best Practice engagement:

A good WPA sets out how an organisation will engage with its workers and their representatives on an issue with health and safety implications. This engagement should be proactive and meet the principles of natural justice and wherever possible give workers and their representatives' opportunities to be part of the decision-making processes. It is worth considering a commitment towards good faith engagement (as that term is understood in the Employment Relations Act 2000; a duty to be open, communicative and honest).

H&S Rep role clarity:

An H&S Rep's main function is to act and advocate on behalf of their fellow workers health and safety interests. The GHSL and PSA have worked on H&S Rep role clarity. It is also important that an organisation understands their responsibilities towards H&S Reps and the protections for H&S Reps undertaking their work and this should be recorded in the WPA.

Organisational support for H&S Reps

H&S Reps are entitled to be paid for the time they spend undertaking their H&S Rep duties and the most common concern raised by H&S Reps surveyed nationally is that they are not provided adequate release time to undertake their role. A good WPA will set out minimum entitlements to paid time (such as one or two shifts a month dedicated to H&S Rep duties). H&S Reps who are undertaking significant additional work that takes them beyond their usual contracted hours, such as major projects or H&S Committee work, should also be paid for the additional time worked.

H&S Reps are also entitled to two days' paid training per year and to choose their training opportunity in consultation with the organisation. It's quite normal for the WPA to set out a preference as to training providers but H&S Reps are entitled to look more widely for appropriate training which covers content suitable to their role and the organisation is expected to give genuine consideration to any request to use an alternative provider. H&S Reps must also be given adequate access to resources like office space, printing, and visibility on noticeboards and the intranet.

Health and Safety Committee (H&S Committee):

Large organisations (like most Public Sector agencies) often have multiple worksites and a diverse range of occupations within the workforce. It is common to have a system of health and safety committees at the local, regional and national level with the membership agreed to by both the organisation and the workers. These should include facility for union involvement at each level. A WPA can help to set out the respective responsibilities of the committees at each level and how they will interact to ensure issues are resolved at the most appropriate level. Some WPAs even usefully attach template terms of reference and agendas for the committees. It is important for organisations to understand the rules around health and safety committees and a WPA can usefully record these. Some of the most important are that:

- At least half of the health and safety committee must be workers or worker representatives not nominated by the organisation.
- The health and safety committee should be made up of people from different backgrounds, roles, knowledge and seniority.
- The committee must meet at least quarterly or more often if required.
- The organisation must appoint one person who has been authorised to make health and safety decisions on behalf of the organisation.

Workplan and deliverables:

A good WPA sets out a workplan relating to health and safety engagement with regular deliverables and accountabilities. Typical items might include a H&S Rep election cycle, a health and safety training plan for the organisation and a plan for reviewing the WPA itself.

Issue and dispute resolution:

It is helpful to set out processes for workers and their representatives to address health and safety issues. These processes should include H&S Reps and H & S Committees issuing recommendations, workers' rights to cease work, and trained H&S Reps' ability to issue provisional improvement notices or direct workers in their workgroup to cease unsafe work, along with other dispute resolution mechanisms.

Accessibility:

Everyone inside the organisation should be aware of the WPA, its intent and purpose, and able to easily locate it along with other related information (such as lists of health and safety representatives, health and safety committee minutes, and so on). The WPA should also be written to avoid jargon and be clear and straightforward. Workers facing particular barriers to access (such as language or disability) should be considered.

