



Department of **Local Government,
Industry Regulation and Safety**



Health and safety representative (HSR) handbook



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Foreword

Congratulations on being elected as a health and safety representative under the *Work Health and Safety Act 2020* (WHS Act). Health and safety representatives, known as HSRs, play a key role in ensuring healthier and safer workplaces.

HSRs are a vital communication link between the person conducting a business or undertaking (PCBU) and the workers of the work group you represent.

You have been chosen to represent your colleagues in matters of work health and safety (WHS). Your role is to help identify, communicate, and respond to health and safety issues within the work group you are elected to represent.

Using this handbook

This handbook is designed as a guide for HSRs to help you understand how to perform your functions and exercise your powers and is not a substitute for the WHS legislation:

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

Work Health and Safety (Mines) Regulations 2022

Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022

The WHS legislation can be downloaded from www.legislation.wa.gov.au

Key concepts in the WHS legislation are referenced throughout the handbook. A reference to WHS Regulations refers to both the Work Health and Safety (General) Regulations 2022 and the Work Health and Safety (Mines) Regulations 2022.

A reference to the WHS PAGEO Regulations refers to the Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022.



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Introduction

Why health and safety representatives are important

The WHS Act provides for fair and effective workplace representation, consultation, cooperation and issue resolution to promote the continual improvement of WHS practices and outcomes in workplaces.

Through these provisions, the WHS Act emphasises and encourages PCBUs and workers to talk to each other about WHS matters and to work together to solve identified WHS issues, particularly via the elected HSRs and health and safety committees (HSCs).

Great things happen when HSRs, workers, managers and PCBUs work as a team to improve WHS conditions. The aim is that all workers come home healthy and safe.

The efforts and commitment of HSRs is acknowledged for continuing to drive the reduction of workplace injury and disease rates in Western Australia.

The role of a health and safety representative

The HSR has a key role in workplace WHS communication. In this role HSRs:

- represent members of their work group in a professional and timely manner
- raise and discuss WHS issues and concerns directly affecting workers in the work group that the HSR represents
- actively engage with the PCBU and their representatives, such as managers and directors to enable practicable solutions
- make it easier for workers to raise WHS concerns and ideas, especially as some workers feel more comfortable speaking to an HSR rather than going directly to management.

It is important to ensure that workers have access to their HSR either directly (face-to-face) or indirectly (via email or telephone). HSRs should encourage members of their work group to ask questions about WHS concerns and report problems.

Workers benefit from having HSR representation because:

- the HSR is likely to understand workers' views and concerns
- the HSR who has attended an approved HSR training course can exercise certain powers and functions
- having a coordinated and formal approach to raising ideas and concerns with the PCBU about WHS matters can have a greater impact.

HSRs are not expected to be experts on WHS matters and are not responsible for solving health and safety problems in the workplace. Remember, the PCBU has the primary duty of care to make sure WHS hazards are eliminated or controlled, so far as is reasonably practicable.

In carrying out the HSR functions you may encounter a broad range of WHS matters like:

- alcohol and drugs
- asbestos
- bullying and harassment
- electrical safety
- fatigue
- hazardous chemicals
- human factors
- manual tasks
- noise and vibration
- plant and machinery
- silica and dust related matters
- stress
- violence and aggression
- working at height
- working in heat.

Powers and functions

Powers and functions of health and safety representatives

The responsibility for providing a healthy and safe workplace rests with the PCBU. It is important to note that although an HSR has powers and functions, nothing in the WHS Act imposes or is taken to impose a duty on an HSR in that capacity.

WHS Act s. 68

Powers and functions of health and safety representatives

The WHS Act provides the trained HSR with specific powers to carry out a number of important WHS functions for the work group that they were elected to represent.

The HSR is to use their powers appropriately, in good faith, and only in relation to WHS matters.

HSRs have powers and functions to:

- represent the workers in the work group the HSR was elected to represent
- monitor the measures taken within the work group by the PCBU or the PCBU's representatives, to comply with the WHS Act
- investigate complaints from work group members about WHS
- inquire into anything that appears to be a WHS risk to workers, arising from the conduct of the business or undertaking.

Details of the HSR's powers and functions are discussed in more detail throughout this handbook and include:

- inspecting the workplace of the work group:
 - after giving reasonable notice to the PCBU
 - without notice, in the event of an incident or any situation involving a serious risk to the health or safety of a person from an immediate or imminent exposure to a hazard
- accompanying a WorkSafe inspector while they carry out inspection of any part of the work group's workplace. WorkSafe inspectors must, as soon as practicable after entering a workplace, take reasonable steps to notify the relevant PCBU and HSRs of their entry and its purpose
- attending interviews with one or more workers in the work group with the PCBU and or a WorkSafe inspector. Such interviews might occur for example, after a WHS incident, to discuss safe return to work procedures or for WHS issue resolution. Before attending any interview, the HSR must gain consent from the workers involved and the interview must be about WHS matters

- making a request of the PCBU to establish a Health and Safety Committee (HSC)
- receiving information concerning the work group's health and safety
- requesting the assistance of any person
- in some circumstances, directing a worker in the work group to cease unsafe work
- issuing a provisional improvement notice (PIN)
- in some circumstances, request the review a control measure required under the WHS Regulations.

If the HSR identifies, or is informed of, a WHS matter that is not considered to be compliant with the WHS legislation, the HSR may investigate the matter and then consult with the PCBU or senior managers about the matter. The PCBU or their representatives are required to discuss the concerns of the HSR.

It is up to the HSR to decide when they will exercise their powers and perform their functions (there is no mandatory obligations on HSRs to do so).

Powers and functions of a deputy health and safety representative

WHS Act s. 67

Deputy health and safety representatives

It is not always possible for the HSR to be present and available to represent the work group. For example, an HSR may be away from work through illness, on leave, working an irregular shift, temporarily out of the office or at a meeting.

During HSR absences, the deputy HSR effectively becomes the HSR.

If the deputy HSR has been elected, and has completed an approved HSR training course, then they may issue a PIN or direct a work group member to cease unsafe work.

An elected deputy HSR has the same entitlement to training and refresher training as an HSR.

Personal liability

WHS Act s. 66

Immunity of health and safety representatives

The WHS Act gives protections to HSRs that are elected in accordance with its provisions.

An elected HSR cannot be prosecuted under the WHS Act for anything arising from having performed or failed to perform, in good faith any function related to their position as an HSR.

Acting in good faith involves carrying out the HSR powers and functions with honest and sincere intentions and beliefs.

However, HSRs have the same WHS responsibilities and duties as any other worker.

Can an HSR use work time to perform their functions and powers?

WHS Act s. 70(2)&(3)

General obligations of PCBU to health and safety representatives

The PCBU must allow an HSR to spend such time as reasonably necessary to carry out the HSR functions, powers and attend HSC meetings.

The time to perform the HSR role varies between workplaces and work groups.

The HSR and the PCBU should consult and agree on the time needed and should consider the:

- type of work, or proposed work to be carried out
- level of risk involved in the work
- effectiveness of risk controls
- individual needs of individual workers in the work group, for example, workers with disability, temporary ill health, injury or who communicate in different languages
- attendance at meetings, like HSC meetings, work group meetings and meetings with people assisting the HSR
- size and complexity of the workplace and work group
- number of HSRs in the workplace and in the work group.

Representing other work groups

WHS Act s. 69

Powers and functions generally limited to the particular work group

The HSRs powers and functions are generally limited to the work group they were elected for. However, HSRs may exercise their WHS powers and functions to represent another work group when:

- there is a serious risk to health or safety from an immediate or imminent exposure to a hazard that affects or may affect a member of another work group
- a member of another work group asks the HSR for assistance.

This applies if, after reasonable inquiry, the other work group's HSR or deputy HSR is either unavailable, has not been elected or has not completed approved HSR training.

Workplace inspections

WHS Act s. 68(2)

The health and safety representative may inspect the workplace or any part of the workplace at which a worker in the work group works

Workplace inspections play an important part in ensuring workplace safety. A safe workplace is more easily achieved when managers, supervisors, workers and HSRs, can identify potential problems and work together to eliminate the hazard or consider practicable solutions to control the risks.

After giving 'reasonable notice' to the PCBU, the HSR may inspect any part of the workplace where members of the work group work. In most cases, 24 hours' notice should be given to the PCBU prior to an inspection. 'Reasonable notice' depends on the specific circumstances of each case, and on what the PCBU and HSR jointly consider to be reasonable.

However, an HSR may immediately carry out an inspection without providing notice when there is an incident or situation involving the immediate and serious risk to members of the work group or any other person in that part of the workplace.

Types of inspections include:

- regular inspections of the workplace
- regular inspections of particular activities or processes
- specific inspections arising from complaints or concerns by members of the work group
- inspections before and following substantial change to the workplace (for example, to plant or work processes)
- inspections after an incident or injury.

Individual workplaces and work processes determine what type, and how often, HSR inspections should be carried out. High risk industries and workplaces with frequent changes are likely to need more inspections.

Visual inspections of work processes, equipment, machinery or substance handling procedures can identify WHS risks during inspections.

HSRs may choose to conduct inspections alone, or jointly with the PCBU or the PCBU representative. During work group inspections, HSRs may discuss any WHS issues with the workers in the work group.

HSRs and the PCBU may resolve any WHS matter at the time it was identified. If it is not practicable to resolve the hazard identified during the inspection, further consultation should occur as to how the hazard can be eliminated or controlled.

When can an HSR ask for a control measure to be reviewed?

WHS Regulations r. 38(4)

WHS PAGEO Regulations r. 112(4)

A health and safety representative for workers at a workplace may request a review of a control measure

An HSR may request that the PCBU reviews a control measure if the HSR reasonably believes:

- the control measure implemented is not controlling the risk
- a workplace change occurs which is likely to result in a new or different WHS risk that the control measure may not control
- a new relevant hazard or risk is identified
- the results of consultation indicate a review is necessary.

Remember, the HSR can request the review if the circumstances affect, or may affect, the health and safety of the work group members.

Accessing workplace information

WHS Act s. 70 (c)(d)

General obligations of the person conducting business or undertaking

The PCBU must provide the HSR with access to information about the hazards and risks that the work group members may be exposed to. For example:

- information relating to work related incidents or disease, like statistical records from an injury register
- an asbestos register and asbestos management plan, which a person with management or control of a workplace must provide to the HSR at any time
- WHS policies and procedures, including safe work method statements
- safety data sheets for the chemicals used in the workplace
- technical specifications for equipment regarding noise, vibration or radiation emission
- results of occupational hygiene measurements, including dust levels, noise levels or chemical fumes
- reports on work health and safety matters, including reports prepared by consultants for the PCBU
- minutes of HSC meetings
- information provided by manufacturers and suppliers about plant, equipment or substances at the workplace
- health monitoring information that does not contain personal or medical information about a worker.

An HSR may choose to exercise their power to inquire into a work related risk that could affect the health and safety of their work group. For example, if there are concerns regarding the safe operation of forklift trucks in the workplace, the HSR may ask the person with management or control of the workplace to allow the HSR to inspect the training and high risk work licence records of all workers who operate forklift trucks.

HSRs are not allowed to access any personal or medical information concerning a worker without the worker's consent, unless the information:

- does not identify the worker
- could not reasonably be expected to lead to the identification of the worker.



Getting assistance

Who can assist an HSR?

WHS Act s. 68(2)(g)

The health and safety representative may whenever necessary request the assistance of any person

An HSR can request the assistance of any person. This may be a person with additional knowledge of work health and safety, either within the workplace for example another HSR or someone who does not work at the business or undertaking for example a health and safety consultant or a union official.

For example, an HSR may require assistance about:

- how to perform inspections at the workplace
- technical advice to deal with a particular hazard or WHS matter
- how to negotiate agreed WHS procedures.

A PCBU is not required to pay the person who provides assistance.

When can a person assisting an HSR access the workplace?

WHS Act s. 68(3A)

Person assisting a health and safety representative

If it is necessary for the person providing assistance to the HSR to access the workplace, the HSR must give at least 24 hours' but not more than 14 days' notice of the proposed access to the PCBU and the person with management or control of the workplace.

A PCBU can refuse access to the person assisting an HSR if:

- they have reasonable grounds to do so. For example if the person assisting has previously acted improperly at the workplace by intentionally and unreasonably delaying, hindering or obstructing any person, disrupting work or otherwise acting in an improper manner
- the HSR failed to give notice of the assistant's entry to the PCBU and the person with management control of the workplace.

If a person assisting the HSR has not been granted access to the workplace, the HSR may ask the regulator to appoint a WorkSafe inspector to assist in resolving the matter. In this situation, the WorkSafe inspector assists the parties to reach agreement and makes sure the provisions set out in the WHS Act are understood. However, the WorkSafe inspector is not able to make a decision regarding the right of access.

What information must be included in a notice of entry?

WHS Regulations r. 20A

WHS PAGEO Regulations r. 15

Notice of entry for person assisting health and safety representative

A notice of entry for the HSR assistant must be in writing and include the:

- full name and address of the HSR giving the notice
- full name and address of the assistant
- name and address of the workplace to be entered
- date of the proposed entry
- a statement of the reasons why the HSR considers it necessary for the assistant to enter the workplace.

If the person assisting the HSR is the holder of an industrial relations (IR) entry authority the notice must also include:

- the name of the union the assistant represents or represented
- a declaration by the assistant stating that an IR entry authority held by the assistant:
 - has not been revoked
 - has not been suspended
 - is not disqualified from holding an IR entry authority.

Assistance may also be provided by a WHS entry permit holder issued under WHS law from another jurisdiction. In these instances, the notice must include a declaration on the currency of the permit.

Provisional improvement notices

WHS Act Part 5, Division 7

Provisional improvement notices

A provisional improvement notice (PIN) can be issued by an HSR requiring a person to address a health and safety concern in the workplace. A 'person' may be a body corporate, an unincorporated association, a partnership, or an individual.

An example of a PIN is in [Appendix 3](#).

In order to issue a PIN, an HSR or deputy HSR must have completed the approved HSR training course accredited by the Work Health and Safety Commission (WHSC).

Once trained, an HSR may issue a PIN if they reasonably believe that a person is contravening or has contravened a provision of the WHS Act in circumstances that make it likely that the contravention will continue or be repeated.

An HSR may issue a PIN requiring the person to:

- remedy the contravention
- prevent a likely contravention from occurring
- remedy the things or operations causing the contravention or likely contravention.

A contravention that could continue or be repeated may include:

- excessive noise levels in the workplace
- an ongoing requirement to manually lift heavy objects
- regular exposure to hazardous chemicals that are used in the workplace
- unguarded machines
- lack of consultation on work health and safety matters.

Consultation before issuing a PIN

Before issuing a PIN, the HSR must consult the person they believe is contravening the provision in the WHS legislation. This means that the HSR should:

- provide information, either verbally or in writing, to the person about fixing the alleged contravention or activities causing the contravention. At this point the HSR does not need to specify which part of the WHS legislation the issue relates to (though they can do so if they wish)

- allow the person an opportunity to express their views and give them adequate time to fix the contravention
- take into account the views of the person before issuing the PIN.

Consultation can be said to have occurred even if:

- the person does not respond to the HSR in a reasonable time or at all
- there is no agreement between the HSR and the person. The person does not have to agree that there is, or is likely to be, a contravention or agree on how to fix the matter.

HSR tip: Keep a written record of the consultation that occurred prior to issuing the PIN.

Examples:

- *Management of Widget Makers informed workers that stock order deliveries of 100 bags of 1,000 widgets is to be changed. Instead, the stock order will now be 100 bags of 10,000 widgets being delivered. This change in stock orders may increase workers exposure to risks of injury from the increase of manual tasks. HSR informed management of the likelihood of increased risk of injury and wants to discuss the stock order change before it is finalised. Management informed the HSR that the stock order is a business decision, and no consultation is required. Widget Makers has failed to consult with workers about the change that is likely to affect worker health and safety. In this example a PIN would state that the HSR believes the WHS Act, Section 47 - the duty to consult workers, has been contravened.*
- *Client service officers working in a government department are required to inform members of the public (clients) about the cancellation of services such as welfare payments in face-to-face discussions. Workers are regularly exposed to risk of injury through verbal and physical violence from clients when explaining the cancellation of services. Workers are required to sit down in front of clients and explain why services are being cancelled without protective measures like physical barriers. Despite repeated requests from the HSR to the Director and the issues being raised with the health and safety committee, the department has failed to, so far as is reasonably practicable, implement control measures to eliminate or minimise psychosocial risks to workers associated with violence and aggression. The issue is unresolved, so the HSR issues a PIN to the Director. In this example a PIN would state that the HSR believes there is contravention of the WHS General Regulations 55D.*

Who can be issued with a PIN?

A PIN may be issued to any person who owes a duty under WHS laws. This can include a PCBU (either an organisation or an individual person) or other duty holders such as workers, officers and other persons at the workplace. A PCBU could be a body corporate, unincorporated association, partnership or an individual. Therefore, the 'person' doesn't necessarily have to be in the workplace; the PCBU could also be a designer, manufacturer or supplier of plant, substances or structures.

It is important that the PIN is issued to the duty holder who has responsibility for the contravention specified in the PIN. The HSR may issue a PIN to the PCBU and serve it on the supervisor who has control of the workplace. The supervisor must bring the PIN to the attention of the PCBU, who has an obligation to remedy the contravention.

The duty holder should be clearly identified on the PIN so that there can be no confusion as to whom it is addressed and is expected to comply with its requirements.

How can a PIN be given to a person?

WHS Act s. 95 and s. 209

Issue of provisional improvement notice

A PIN can be given to a person:

- by delivering it personally or sending it by post, facsimile or electronic transmission to their usual or last known home or business address
- by leaving it for the person, at their usual or last known home or business, with a person who appears to be over 16 years old and appears to work or reside there
- by leaving it for the person at the workplace to which the notice relates, with a person who is or appears to be a person with management or control of the workplace.

PINs are often issued to the corporation and physically given to the management representative that the HSR has consulted with at the workplace.

What information should be included in a PIN?

WHS Act s. 92

Contents of provisional improvement notice

A PIN must:

- contain information about the contravention
- identify the person (can be an organisation or individual) who the HSR believes
 - is contravening a provision in the WHS Act
 - has contravened a provision of the WHS Act and it is likely that the contravention will continue or be repeated
- state the provision the HSR believes is being, or has been, contravened
- contain a brief outline of how the provision is being, or has been, contravened
- state the date by which the contravention or likely contravention is required to be remedied. This date must be at least 8 days after the PIN is issued.

A PIN may include recommendations about:

- how the contravention can be remedied
- how to prevent a likely contravention
- matters or activities causing the contravention or likely contravention.

A PIN may include recommendations that refer to an approved code of practice and offer a choice of ways the contravention can be remedied.

It is not an offence to fail to comply with the recommendations provided in a PIN.

Remember: HSRs cannot issue a provisional improvement notice unless they have completed the approved HSR training.

Due date for PIN

To calculate when the PIN is due, the HSR should not include the date of issue in the calculation. This will allow the person to whom the PIN is issued sufficient time to request a review within 7 days after it is issued. In addition, it is advisable that the due date does not fall on a Saturday, Sunday or public holiday.

Display of the PIN

WHS Act s. 97

Display of provisional improvement notice

As soon as it is practicable, the person issued with a PIN must display a copy of the PIN in a prominent place at the workplace. This should be accessible and noticeable and where workers or other persons affected by the PIN will come across it in the normal course of events and be able to examine it. An example may be the lunchroom, front door or other prominent place.

The HSR should also keep a copy of the PIN for their own records.

Making changes to a PIN

WHS Act s. 94

Minor changes to provisional improvement notice

An HSR can make minor changes to a PIN for any of the following reasons:

- for clarification, such as simplifying language or removing jargon
- to correct errors or references
- to reflect changes of address or other circumstances.

A PIN is still valid if it sufficiently identifies the duty holder that the PIN is issued to, even if the correct name of the organisation or person has not been used. For example, a PIN is not considered invalid if the name of a person contains a spelling mistake or the formal name of the organisation has not been used.

A PIN is not automatically invalid because of a formal defect or irregularity in the notice unless that defect or irregularity causes or is likely to cause substantial injustice.

Examples of when a defect or irregularity could cause a substantial injustice include:

- where the PIN states the wrong provision that is believed to have been contravened
- where the PIN refers to a matter that is not related to the health and safety contravention.

If an HSR becomes aware that they have issued a PIN that might be invalid, they should cancel the PIN and issue a new one where appropriate.

Can an HSR cancel a PIN?

WHS Act s. 96

Health and safety representative may cancel provisional improvement notice

An HSR may cancel a PIN at any time by providing a written notice to the person that the PIN was issued to. An HSR may choose to cancel a PIN after receiving further information or further advice on the legislative requirements surrounding the WHS issue.

A valid PIN does not need to be cancelled once it has been complied with.

Must a PIN be complied with?

WHS Act s. 99

Offence to contravene a provisional improvement notice

The person who has been issued with the PIN must comply with the notice within the specified time unless a WorkSafe inspector has been requested to review the PIN.

An HSR can contact WorkSafe for assistance if they consider that the person to whom they validly issued the PIN has not remedied the contravention listed in the PIN.

Can a PIN be reviewed by a WorkSafe inspector?

WHS Act s. 100

Request for review of provisional improvement notice

The person issued with a PIN, or a worker, or PCBU, can ask the regulator to appoint a WorkSafe inspector to review the PIN. This request must be made within 7 days from the day the PIN was issued and the HSR must be informed of the request as soon as practicable.

The review request must be submitted to the review.officer@lgirs.wa.gov.au

The WorkSafe inspector must, as soon as practicable, review the PIN and inquire into the surrounding circumstances of the PIN. The WorkSafe inspector can review a PIN even if the compliance period has expired.

If a request for a PIN review is made and the HSR has been informed or all reasonable steps have been taken to inform the HSR, then the PIN and its instructions are delayed and the time limit for compliance ceases to apply until the WorkSafe inspector completes the review.

How does an inspector review a PIN?

WHS Act s. 101

Inspector to review notice

To review the PIN, the WorkSafe inspector seeks information from the issuing HSR and the person who was issued the PIN. The WorkSafe inspector may consider why the PIN was issued, whether the PIN was correctly issued and the matters being disputed.

After the PIN is reviewed the WorkSafe inspector must either:

- confirm the PIN
- confirm the PIN with changes
- cancel the PIN.

Confirming the PIN, with or without changes, is taken to be an improvement notice that has been issued by the WorkSafe inspector under the WHS Act. An improvement notice requires a person to remedy a contravention, but it is issued directly from the WorkSafe inspector.

Once the WorkSafe inspector has reached a decision, a copy of the decision must be provided to the person who requested the review, and to the HSR who issued the PIN.

If the person issued with the PIN, the HSR who issued the PIN, an affected worker, another affected HSR or a PCBU does not agree with the decision, they can request the regulator to review the decision.

Why would an inspector cancel a PIN?

The WorkSafe inspector will cancel the PIN if they find that it was not valid because one of the essential requirements has not been met. For example:

- the HSR has not completed the approved HSR training
- the HSR did not consult with the relevant person before issuing the PIN
- the PIN does not state how the WHS Act or WHS Regulations is being or has been contravened
- there is insufficient evidence to support a reasonable belief that a person is contravening or has contravened a provision and it is likely that the contravention will continue or be repeated.

A WorkSafe inspector may cancel a PIN if after regarding all the circumstances, they consider cancellation is correct or the preferable decision.

What to do if the WHS issue remains unresolved

If a PIN has been cancelled by the WorkSafe inspector and the HSR (or anyone else) considers that the WHS issue that was the subject of the PIN is unresolved, the following options may apply.

- A request to the regulator can be made to review the inspector's decision to cancel the PIN by the person issued with the PIN, the HSR who issued the PIN, an affected worker or another affected HSR or a PCBU.
- If a PIN is cancelled because it is considered invalid, an HSR may decide to issue a new valid PIN with the error or omission corrected and with consideration of the reasons given to cancel the original PIN.

Remember: HSRs cannot issue a provisional improvement notice unless they have completed the approved HSR training.

The inspector may exercise their compliance powers to resolve the issue

If the WorkSafe inspector cancels a PIN this does not mean that the WHS issue or concern is dismissed. If the matter remains unresolved, the inspector can work with the HSR and any other relevant parties to resolve the issue or take enforcement action.

HSRs and others are encouraged to ask WorkSafe inspectors if they are still concerned after a PIN has been cancelled.

If WorkSafe inspectors consider that a WHS risk remains, being either the same issue covered in the PIN or a different WHS risk, they may:

- provide information and advice about how the matters could be remedied
- investigate possible contraventions of the WHS Act or WHS Regulations by making inquiries, carrying out inspections and examining any matter
- issue an improvement notice or prohibition notice.

Ceasing unsafe work

WHS Act s. 84

Right of worker to cease unsafe work

A worker can refuse to carry out work, or stop the work they are doing, if they reasonably believe the work would expose them, or any other person, to a serious WHS risk arising from an immediate or imminent exposure to a hazard.

However, police officers cannot cease unsafe work if stopping the work adversely affects a covert or dangerous police operation.

When can an HSR direct a worker to cease work?

WHS Act s. 85

Health and safety representative may direct that unsafe work cease

An HSR who has completed the HSR training has the power to direct workers in the work group to cease work if the HSR has reasonable concern that the work would expose workers or others to a serious WHS risk, arising from an immediate or imminent exposure to a hazard.

A single direction to cease work may be given to an individual worker, a group of workers, or all workers in the work group the HSR was elected to represent.

Before issuing a direction to cease work, an HSR must first attempt to have the matter resolved by both consulting the relevant PCBU and via the workplace WHS issue resolution process.

However, the HSR can direct the cease work without consultation in cases where the risk is so serious, immediate or imminent that consultation is not reasonable before giving such direction. In these situations, the HSR must carry out the consultation with the PCBU as soon as practicable after giving the direction to cease work.

An HSR must always inform the PCBU of any direction to cease unsafe work given by them to workers.

The WHS issue resolution process may involve:

- following an agreed workplace issue resolution procedure or, if there is no agreed procedure, the default procedure outlined in the WHS laws ([refer to Resolving WHS issues](#)).
- issuing a PIN
- contacting WorkSafe on 1300 307 877.

An HSR cannot direct a worker to cease work if doing so would, or could adversely affect a covert or dangerous operation undertaken by a police officer.

Remember: An HSR or deputy HSR cannot direct workers to cease work unless they have completed the approved HSR training.

Can an inspector assist in the matter?

Yes. The PCBU, the HSR or the worker can ask the regulator to appoint a WorkSafe inspector to assist in resolving the issue at the workplace.

Resolving WHS issues

WHS Act Part 5 Division 5

WHS Regulations Chapter 2, Part 2.2

Issue resolution

An 'issue' is any WHS concern that remains unresolved at the workplace. For example, an issue could include a difference in opinion on whether something is a potential risk or whether a control measure is adequate. Other issues may involve the ways workers are consulted or participate in health and safety decisions.

Provisions in the WHS Act aim to resolve issues in a timely way and avoid further dispute, recurrences or similar issues. The intention is to resolve issues 'once and for all' or to the extent possible in the circumstances.

The WHS Act encourages PCBUs and their workers to agree on a WHS issue resolution procedure (agreed procedure).

If there are no agreed procedures, the default issue resolution procedure (default procedure) in the WHS Regulations must be followed.

If there is a WHS issue to be resolved at the workplace, the parties once informed of the issue must meet or communicate with each other to attempt to resolve it.

The following are parties to an issue:

- the PCBU involved
- the PCBU's representative who is not an HSR but has appropriate level of seniority and has sufficient competency
- any worker affected
- any representative of the worker or workers affected (including an HSR).

What is the agreed procedure for issue resolution?

WHS Regulations r. 22

WHS PAGEO Regulations r. 17

Agreed procedures: minimum requirements

The best way to resolve WHS issues at the workplace is for the parties to put in place an 'agreed procedure'.

An 'agreed procedure' must meet the following criteria:

- minimum requirements provided in the 'default procedure'
- be set out in writing, with records kept including when and by whom it was agreed
- communicated to all workers affected by the agreed procedure
- be agreed after genuine consultation between the PCBU, the HSR and workers
- not be imposed by one party or the other or arise out of a flawed process for reaching agreement, for example:
 - where only a select group of workers were involved in developing the procedure
 - where agreement is reached through an unrepresentative process, for example not all HSRs, HSC members or all relevant workers and their representatives were able to participate in the agreement process
- outline the process or steps for resolving issues, not just set out what the outcome would be in specified circumstances
- relate to WHS issues and not be a procedure existing solely for other work purposes, such as a grievance or complaint procedure, unless such a procedure is agreed by all parties to be utilised as the 'agreed procedure'
- be consistent with the WHS Act, including recognising all the functions and powers of an HSR.

What is a default issue resolution procedure?

WHS Regulations r. 23

WHS PAGEO Regulations r. 18

Default procedure

The WHS legislation set out the default procedure for issue resolution. Any party to an issue can commence the default procedure by informing the other relevant parties the nature and scope of the WHS issue to be resolved.

In attempting to resolve the issue, the default procedure requires the parties to consider:

- the degree and immediacy of the risk to workers or others affected by the issue
- the number and location of workers and others
- the measures, temporary and permanent, that must be implemented to resolve the issue
- who will be responsible for implementing the resolution measures.

What happens after an issue has been resolved?

If the WHS issue is resolved, details of the issue and the resolution must be set out in a written agreement, if any party to the issue requests this.

If a written agreement is prepared:

- all parties to the issue must be satisfied that it accurately reflects the resolution
- the agreement must be provided to all people involved with the issue and, if requested, to the HSC at the workplace.

At any stage in the issue resolution process, a worker can still bring a WHS issue to the attention of their HSR.

What if the issue is not resolved?

If reasonable efforts have been made to resolve an issue and it remains unresolved, any party to the issue can ask the regulator to appoint a WorkSafe inspector to assist at the workplace.

There does not have to be agreement at the workplace about whether reasonable efforts have been made to resolve the issue in order to request a WorkSafe inspector to assist. As long as one party considers that reasonable efforts have not been made, an inspector's attendance can be requested. If the regulator considers that a reasonable effort has been made to resolve the issue, the request for an inspector to assist can be refused.

The WorkSafe inspector's role is to assist in resolving the WHS issue. An inspector could exercise their powers under the WHS Act, including providing advice, investigating contraventions or issuing an improvement notice. The WorkSafe inspector's decision is considered to be a resolution of the issue agreed by the parties.

At any time during the process, or if a request to the regulator is made, a worker is still entitled to exercise their right to cease work, or an HSR can issue a PIN or a direction to cease work under the appropriate circumstances.



Election of health and safety representatives

WHS Act Part 5, Division 3, Subdivision 4

Election of health and safety representatives

HSRs and deputy HSRs must be elected by members of the work group they will represent. All workers in a work group must be provided with every reasonable opportunity to nominate HSRs and vote in the election.

Workers from the work group determine how an election is to be conducted, if one is needed. Any PCBUs must be informed of the election date as soon as practicable after the date has been decided. Members of the work group and relevant PCBUs must be informed of the election outcome.

The election process may be informal, for example with a show of hands. Alternatively, it may involve a more formal process such as the use of ballots. If the majority of workers in the work group agree, the election may be conducted with the assistance of a union or other organisation or person.

If there is more than one work group, a separate process to elect HSRs for each work group is needed.

What is a work group?

WHS Act ss. 51-54

Negotiations and determination of work groups

WHS Regulations r. 16

WHS PAGEO Regulations r. 10

Negotiations for and determination of work groups

HSRs are elected by groups of workers (called work groups) to represent them and act on their behalf in relation to WHS matters.

Work groups are decided through negotiation and agreement between a PCBU and workers. Unique circumstances should be considered, like the size of the workplace or work site, the nature of work, common and known WHS risks and hazards, work specialisations, and whether work groups should be established across multiple businesses or undertakings.

Once work groups have been set they should remain unchanged, unless the HSR or the PCBU negotiate a variation, for example, due to workforce changes or an organisational restructure.

A work group may consist of all workers at a workplace, or be split into multiple work groups where workers share similar work conditions or are exposed to similar risks and hazards. For example, all workers on night shift.

When deciding on a work group, regard must be given for the HSR to be readily accessible to each worker in the work group. This enables workers to consult their elected HSR directly or indirectly to express WHS concerns. This could mean having face-to-face conversations or consultation via email or text. It is beneficial to make sure workers and HSRs have as much opportunity for direct face-to-face contact as possible.

Is an election always needed to vote for an HSR?

No. If the number of candidates nominated for election equals the number of vacancies in the work group, the candidates are deemed to be 'elected' and no election is needed.

Who is eligible to stand for election to be an HSR?

To be eligible for election, a worker must be a member of the work group they will represent and must not be currently disqualified from being an HSR.

A work group member may nominate themselves to stand for election.

Can a manager be an HSR?

A worker with management responsibilities can be an HSR if they are a work group member who is elected by the workers of that work group.

However, it is important to understand that the HSR role is to represent workers in health and safety matters and not to fix health and safety problems in the workplace. Although managers, supervisors and team leaders are workers with the right to have their work health and safety interests represented, they often have specific health and safety duties they are required to carry out in their management role. A manager who is also an HSR may therefore be placed in a difficult position. For example, they may be the person with whom a work health and safety concern is raised (as the HSR), and at the same time be the person who, at least initially, has a responsibility on behalf of the PCBU to respond to that concern.

Can more than one HSR represent a work group?

If everyone involved in the negotiations agrees, more than one HSR may be elected for a work group and the HSRs may perform their roles at the same time. This is beneficial when large numbers of workers perform similar work, or there are work shifts.

Who can vote in an election?

All members of the work group are entitled to vote in an election including contractors and other workers.

What is the role of a PCBU in an election?

The PCBU must provide any resources, facilities and assistance that are reasonably necessary to enable elections to be conducted. For example providing access to printing resources so election notices can be displayed in the workplace or access to a meeting room or to the internet.

The PCBU must not unreasonably delay the election of an HSR and cannot simply appoint an HSR.

How long is the term of office for an HSR?

WHS Act s. 64

Term of office of health and safety representative

The term of office can be up to 3 years. If an HSR is re-elected, another term of office would begin.

However, they cease to be an HSR:

- if they resign as an HSR by giving the PCBU written notice
- if they no longer work in the work group
- if they are disqualified from acting as an HSR, and when
- if the majority of work group members (half the number plus one) decide that the HSR should no longer represent the work group.

This applies equally to deputy HSRs.

How can an HSR be removed from office?

WHS Regulations r. 20

WHS PAGEO Regulations r. 14

Removal of health and safety representatives

An HSR is removed from office when the majority of the work group sign a written declaration that the HSR should no longer represent them. A nominated member of the work group must, as soon as practicable, inform the HSR and relevant PCBU and take reasonable steps to inform all members of the work group.

Disqualification of health and safety representatives

WHS Act s. 65

Disqualification of health and safety representatives

An application for disqualification can be made to the Work Health and Safety Tribunal (WHS Tribunal) if an HSR has:

- exercised a power or performed a function as an HSR for an improper purpose
- used or disclosed any information they acquired as an HSR for a purpose other than in connection with the role of HSR.

For example, a PCBU may apply to disqualify an HSR if the HSR issued a direction to cease work where, in the PCBU's view, the HSR did not have a reasonable concern that the work could pose a serious health and safety risk to a member of their work group.

The WHS Tribunal has the discretion to disqualify the HSR indefinitely or for a specified period of time. A person's disqualification would prohibit them from being eligible for election as an HSR during the period of disqualification.

Any person can apply to disqualify an HSR if they have been adversely affected by the exercise of a power or performance of an HSR or how the HSR has used or disclosed information they obtained as an HSR.

Are HSRs immune from prosecution under the WHS Act?

WHS Act s. 66

Immunity of health and safety representatives

An HSR is not held personally liable and cannot be prosecuted for anything done or omitted to be done in good faith:

- when exercising a power or performing a function under the WHS Act
- in the reasonable belief that the thing done or omitted to be done was authorised under the WHS Act.

Acting in good faith involves carrying out HSR powers and functions with honest and sincere intentions or beliefs.

HSRs also have duties as workers under the WHS Act. If a worker is elected as an HSR, they continue to have the same duties as other workers and must:

- take reasonable care for their own health and safety
- take reasonable care not to adversely affect the health and safety of others
- comply with any reasonable instructions given by the PCBU to allow it to comply with its duties
- cooperate with any reasonable policy or procedure relating to health and safety at the workplace.

Obligations of a person conducting a business or undertaking

WHS Act Part 5, Division 3, Subdivision 6

Obligations of persons conducting business or undertaking to health and safety representatives

PCBUs must support HSRs by:

- consulting with HSRs, so far as is reasonably practicable
- allowing HSRs access to information on the hazards affecting the workers' WHS in the work group
- allowing an HSR to be present during WHS interviews between a group of workers, if one or more work group members consent
- permitting the person assisting an HSR to have access to the work group's workplace
- providing any resources, facilities, assistance and time reasonably necessary to enable HSRs to perform their powers and carry out their functions
- ensuring HSRs are not disadvantaged for taking on the role of HSR
- permitting an HSR to accompany an inspector during an inspection of any part of the workplace.

Keeping a list of HSRs

WHS Act s. 74

List of health and safety representatives

Keeping an up to date list of HSRs and deputy HSRs enables workers to readily access them or contact them if a WHS issue arises.

A PCBU must ensure that:

- a list of each HSR and deputy HSR (if any) is prepared and kept up to date
- the up to date copy of the list is displayed at a principal place of business and at any other workplace that is appropriate to the relevant work group(s). The list should be displayed in a central location, such as a notice board or on the workplace intranet.

What resources, facilities and assistance does an HSR need?

A PCBU must provide any resources, facilities and assistance that are reasonably necessary to enable an HSR to exercise their powers and carry out their functions.

What is reasonable will depend on a range of factors, including the nature of the work and the working environment, the workplace hazards and the composition of the work group.

Resources, facilities and assistance may include access to:

- a private room, desk and chair for WHS discussions or interviews
- a computer, internet and email
- facilities for photocopying and filing, including a lockable filing cabinet and shelves
- a room for work group meetings
- relevant technical equipment, for example, a noise meter
- the use of notice boards
- if required, transport or travel expenses to commute between workplaces.

Where the workplace already has computers and internet connections, the PCBU should provide an HSR, in paid time, with reasonable access to such facilities for WHS related purposes.

To facilitate HSR consultation, an HSR should be provided with a workplace email address to enable them to receive and send emails, subject to the workplace email policy.

What if there are no computer or internet facilities available in the workplace?

There is no requirement for a PCBU to install computer services if they do not already exist in the workplace. In such circumstances, an HSR may, in paid work time, obtain health and safety related information or publications from a number of sources, including:

- hard copy information or guidance located at the workplace
- WorkSafe's contact centre telephone 1300 307 877
- WorkSafe's Community Education Officers by email at communityeducationofficers@lgirs.wa.gov.au
- public libraries.

If an HSR is required to leave the workplace for the purpose of accessing health and safety information resources, they must seek prior agreement from management.

HSR training

WHS Act s. 72
Obligation to train health and safety representatives
WHS Regulations r. 21
WHS PAGEO Regulations r. 16
Training for health and safety representatives

To exercise all their powers and functions, HSRs and deputy HSRs must attend a 5-day initial training course approved by the WHS Commission.

An HSR can issue PINs and direct work to cease after completing the approved HSR training.

Are HSRs and deputy HSRs entitled to work health and safety training?

If an HSR has made a request, the PCBU must allow them to attend an approved HSR training course as soon as practicable within 3 months after the request is made.

HSRs and deputy HSRs are entitled to attend an initial training course of up to 5 days and to attend up to one day's refresher training each year. The first refresher training can commence one year after the initial training.

The course of training in work health and safety must be:

- approved by the WHS Commission
- chosen by the HSR.

HSRs are entitled to choose a course of training in work health and safety approved by the WHS Commission. An HSR may choose to consult with the PCBU (e.g. seeking views on suitability of courses) or seek advice (e.g. from worker representatives) when choosing the course of training. An HSR will need to reach agreement with the PCBU on time off for attendance and the reasonable costs of the training course. If the HSR and the PCBU cannot reach agreement on these matters, either party may ask a WorkSafe inspector for assistance.

Issues that might be considered when an HSR choose a course include:

- timing of attendance – the sooner an HSR attends training after being elected, the more effective they will be in performing the role
- cost of courses, where prices differ substantially
- costs of attendance for remotely located workplaces including travel and accommodation expenses. In such circumstances, the arrangements that would apply for any other work-related professional development course will determine what is reasonable
- the relevance of any hazard-specific course to the work group
- the total number of workers requiring training.

Refresher training

If an HSR or a deputy HSR is re-elected in the same work group and have already participated in the initial HSR training, they do not have an entitlement to take time off work with pay to attend the initial training course again. An HSR is, however, entitled to attend up to one day's refresher training, approved by the WHS Commission, each year following the completion of the initial training course.

In addition, the HSR and PCBU may agree that the HSR attend or receive further training not prescribed in the WHS legislation. This may include attending a conference on WHS.

Should an HSR be paid normal salary for the days they attend training?

HSR training is part of normal work-related activity. HSRs are entitled to receive their normal or expected earnings during course attendance.

Normal or expected earnings include pay entitlements relating to shift work, regular overtime, higher duties, allowances or penalty rates that would have applied had the HSR been at work.

If an HSR has been granted time off work to attend HSR training, the PCBU must pay them the amount they would be entitled to receive when performing their normal duties.

There are circumstances in which HSRs may need to attend a course that is being conducted outside their normal working hours. For example, this might apply when an HSR:

- normally works 2 days a week and attends the initial training course which runs on consecutive days beyond their normal workdays
- have a rostered day off during the course
- have a shift that does not overlap or overlaps only marginally with the course's hours.

All time spent at a course by an HSR, including casual workers elected as HSRs, must be treated by the PCBU as time at work.

The PCBU should consider changing rosters or shifts to accommodate an HSR who attends training. If it is necessary for the HSR to work hours in excess of the normal weekly hours, additional hours must be compensated in the same manner as other additional hours are treated.

Who pays if an HSR represents workers from more than one business or undertaking?

WHS Act s. 73

Obligations to share costs if multiple businesses or undertakings

If an HSR represents a work group with workers from more than one business or undertaking, the PCBUs must equally share the cost of the HSRs exercising their powers and functions, course fees and other reasonable costs. The PCBUs may also agree to share costs in different proportions. For example, where most of the work carried out by the HSR is for one business or undertaking, that PCBU could pay the majority of HSR-related costs.

At any time, the PCBUs can negotiate and agree to change how costs are shared.

Discrimination

WHS Act Part 6

Discriminatory, coercive and misleading conduct

The WHS Act prohibits a PCBU from discriminating against a worker, or threatening to discriminate, for example by dismissing a worker or treating a worker less favourably because that worker is, has been or will be an HSR, deputy HSR or a member of an HSC.

Examples of discriminatory conduct include:

- dismissing a worker
- terminating a contract for services with a worker
- treating a worker differently from others
- not hiring someone
- changing a worker's position to their detriment.

The WHS Act prohibits requesting, instructing, inducing, encouraging, authorising or assisting another person to discriminate against a worker on these grounds.

If an HSR feels they are being discriminated against in their role as an HSR, they should contact WorkSafe for advice and assistance.

Appendix 1 - Glossary

Term	Description
Another work group	Another work group of workers carrying out work for: • a business or undertaking that relates to HSR's work group • any other business or undertaking if any of the workers in the work group carry out work at the same workplace as any of the workers in the HSR's work group
Control measure	In relation to a risk to health and safety, a measure to eliminate or minimise the risk
Deputy health and safety representative (deputy HSR)	A worker who has been elected by their work group under the WHS Act to represent them on health and safety matters when the elected HSR is unavailable due to absence or any other reason
Duty holder	Any person who owes a work health and safety duty under the WHS Act including a person conducting a business or undertaking, a designer, manufacturer, importer, supplier, installer of products or plant used at work (upstream), officer, WHS service provider or a worker
Hazard	A situation or thing that has the potential to harm a person. Hazards at work may include: noisy machinery, a moving forklift, chemicals, electricity, working at heights, a repetitive job, bullying and violence at the workplace
Health and safety committee (HSC)	A consultative body established under the WHS Act. The committee's functions include facilitating cooperation between workers and the PCBU to ensure workers' health and safety at work, and assisting to develop WHS standards, rules and procedures for the workplace
Health and safety representative (HSR)	A worker who has been elected by their work group under the WHS Act to represent them on health and safety matters
IR entry authority	An authority issued under the <i>Industrial Relations Act 1979</i> Part II Division 2G or a permit issued under the <i>Fair Work Act 2009</i> (Cth) section 512
May	'May' indicates an optional course of action
Must	'Must' indicates a legal requirement exists that must be complied with

Person conducting a business or undertaking (PCBU)	A PCBU is an umbrella concept, which intends to capture all types of working arrangements or relationships. A PCBU includes a: • company • unincorporated body or association • WHS service provider • sole trader or self-employed person. Individuals who are in a partnership that is conducting a business will individually and collectively be a PCBU A volunteer association (defined under the WHS Act) or elected members of a local authority will not be a PCBU
WHS PAGEO Regulations	Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022
WHS Regulations	In this handbook, a reference to WHS Regulations refers to both the Work Health and Safety (General) Regulations 2022 and the Work Health and Safety (Mines) Regulations 2022
Work Health and Safety Tribunal (WHS Tribunal)	The WHS Tribunal is established under the WHS Act and is constituted by a Commissioner of the Industrial Relations Commission. It assists in the resolution of certain workplace health and safety matters under Western Australia's WHS laws
Work group	A group of workers established to facilitate the representation of workers by one or more HSR. A work group may be all workers at a workplace but it may also be appropriate to split a workplace into multiple work groups where workers share similar work conditions or are exposed to similar risks and hazards. For example, all workers on night shift
Worker	Any person who carries out work for a person conducting a business or undertaking, including work as an employee, contractor or subcontractor (or their employee), self-employed person, outworker, apprentice or trainee, work experience student, employee of a labour hire company placed with a 'host employer' or a volunteer
Workplace	Any place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. This may include offices, factories, shops, construction sites, vehicles, ships, aircraft or other mobile structures on land or water

Appendix 2 – Further information and support

WorkSafe has a variety of resources to assist HSRs in undertaking their role. To access information on our website please visit hsrmatters.safetyline.wa.gov.au/. The list of approved HSR training providers can be found at hsrmatters.safetyline.wa.gov.au/rtos/.

HSRs and PCBUs can contact WorkSafe on 1300 307 877 or via email to communityeducationofficers@lgirs.wa.gov.au for queries relating to the functions of an HSR.

Relevant legislation

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

Work Health and Safety (Mines) Regulations 2022

Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022

The following approved codes of practice can be found on the WorkSafe website: www.lgirs.wa.gov.au/worksafe

Abrasive blasting

Confined spaces

Construction work

Demolition work

First aid in the workplace

Hazardous manual tasks

How to manage and control asbestos in the workplace

How to manage work health and safety risks

How to safely remove asbestos

Labelling of workplace hazardous chemicals

Managing noise and preventing hearing loss at work

Managing risks of hazardous chemicals in the workplace

Managing risks in stevedoring

Managing risks of plant in the workplace

Managing the risk of falls at the workplace

Managing the risk of falls in housing construction

Managing the risks of respirable crystalline silica from engineered stone in the workplace

Managing the work environment and facilities

Mine safety management system

Preparation of safety data sheets for hazardous chemicals

Psychosocial hazards in the workplace

Safe design of structures

Spray painting and powder coating

Violence and aggression at work

Welding processes

Workplace health and safety consultation, cooperation and coordination

Workplace behaviour

Other resources

Health and safety representative powers, functions and rights

Provisional improvement notices (PINs) and direction to stop unsafe work

Worker representation and participation guide

Appendix 3 - Example PIN



Department of Local Government,
Industry Regulation and Safety



Provisional Improvement Notice

This Provisional Improvement Notice (PIN) is issued under section 90 of the *Work Health and Safety Act 2020* (WHS Act).

This PIN requires the duty holder to whom it is issued to remedy a contravention, prevent a likely contravention from occurring or remedy the things or operations causing the contravention or likely contravention of the WHS Act or the associated WHS Regulations.

Section 97 requires that the person to whom a PIN is issued must as soon as practicable display a copy of the PIN in a prominent place at or near the workplace at which work is carried out that is affected by the PIN.

1. Health and safety representative (HSR)

First name	Jane	Last name	Smith
Telephone	0400000000		
Name and location/s of work groups	Widget sorters – Main Office		

EXAMPLE PIN ONLY

If unsure HSRs can call WorkSafe WA for PIN writing assistance (ask for a Duty Inspector), and/or call their Union Office.

2. PIN issued to:

Name of duty holder	Widget Makers Pty Ltd
Street address	199 Adelaide Terrace
Suburb	Perth
State or Territory	WA
Postcode	6000

3. PIN given to:
(if PIN is given to someone on behalf of the duty holder)

First name	Jonathan	Last name	Winters
Position	Director Operations		
Telephone	0400000001		

WHS-00045 (20220407)

For enquiries: Telephone 1300 307 877 / Email: review.officer@lgiris.wa.gov.au
Page 1 of 4

4. Details of contravention

Select one breach only – if there is more than one contravention use separate PINs.

Site Location

I Jane Smith reasonably believe
(HSR Name)

on 10/10/2023 at 0930
Date Time
that you (select one option only):

Option (a) ☐ are contravening a provision of the WHS Act or WHS Regulations

or:

Option (b) ☐ have contravened a provision WHS Act or WHS Regulations in circumstances that make it likely that the contravention will continue or be repeated.

The provision contravened or being contravened:

☒ Work Health and Safety Act 2020, Section 47

☐ Work Health and Safety (General) Regulations 2022, Regulation _

☐ Work Health and Safety (Mines) Regulations 2022, Regulation _

☐ Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022, Regulation _

Brief description of how the provision is being or has been contravened:

I was informed during a meeting that widget Makers Pty Ltd have changed their stock ordering process. The ordering process currently involves 100 bags of 1000 widgets being delivered. Management informed workers the ordering process will now involve 100 bags of 10000 widgets being delivered. This change in ordering widgets may increase workers exposure to risks of injury from the increase of manual tasks. Health and Safety Representatives informed Management that this may increase risk of injury and want to discuss this change further before it is finalised.

(continued on next page)

(continued from previous page)

The business then informed the HSRs this is a business decision, and no consultation is required. Widget Makers has failed to consult with workers on this change in process that is likely to have an effect on worker health and safety. It is reasonably practicable to consult as we have agreed procedures for how to consult on work health and safety matters.

(Note for HSR: The description should briefly address each element of the provision that the HSR believes is being or has been contravened. If there is not enough space please attach another page.)

(Optional)

In accordance with section 93(1) of the WHS Act, I recommend the following measures be taken to remedy or prevent the contravention or likely contravention:

Pause the change so we can identify the risks and discuss if there will be any need for additional control measures.

5. HSR requirements

Provide details of consultation with duty holder:

Concerns raised in meeting 10 October 2023 where Widget Makers has informed change is to occur. When asked to consult, the employer has stated it is a business decision and consultation is not required.

HSR to confirm they have completed training required by section 90(4) of the WHS Act.

☒ Yes

6. Compliance

Date PIN issued	Date compliance with PIN required	Signature of HSR
23/10/2023	15/11/2023 (minimum of 8 days after PIN issued)	Jane Smith

INFORMATION

The *Work Health and Safety Act 2020* is available at www.legislation.wa.gov.au

a)	HSR to consult before issuing PIN	The HSR must not issue a PIN unless the HSR has first consulted the person (s. 90(3) of the <i>Work Health and Safety Act 2020</i> (WHS Act).
b)	HSR issuing PIN must be trained	An HSR cannot issue a PIN unless the HSR has completed training if required under a section 90(4) of the WHS Act.
c)	Failure to comply is an offence	Failure to comply with this PIN within the specified period may constitute an offence under s.99 of the WHS Act, which could attract a penalty of up to \$55,000 for an individual or \$285,000 for a body corporate.
d)	Display of PIN	This PIN, or a copy of it, must be displayed in a prominent place at or near the workplace affected by the notice (s. 97 of the WHS Act). Failure to do so may constitute an offence, which could attract a penalty of up to \$5,500 for an individual and \$30,000 for a body corporate. A person must not intentionally remove, destroy, damage or deface a PIN that is displayed. Damaging the PIN (etc.) or failure to display the PIN are offences that may attract a penalty which could attract a penalty of up to \$5,500 for an individual and \$30,000 for a body corporate.
e)	Changes to the PIN	A health and safety representative may make minor changes to a PIN for clarification; or to correct errors or references; or to reflect changes of address or other circumstances (s. 94 of the WHS Act).
f)	Cancelling a PIN	The health and safety representative may at any time cancel a PIN issued to a person by written notice given to that person (s. 96 of the WHS Act).
g)	Review	Under the s. 100 of the WHS Act, an eligible person may apply for a review of a PIN within 7 days of issue date. If an eligible person wishes to dispute the PIN, they can contact the regulator at review.officer@lgirs.wa.gov.au and request an inspector to review the PIN. This must be done within seven days of the 'Date of issue' of the PIN. As part of the PIN review request, a copy of the original PIN should be included. The inspector will review and inquire into the circumstances that are the subject of the PIN up to and after the compliance date for the PIN has expired. An inspector can confirm, confirm with changes or cancel the PIN. A copy of a decision by an inspector must be given to the applicant for the PIN review and the HSR who issued the PIN. If the PIN is confirmed (with or without changes), the PIN is taken to be an improvement notice issued by the inspector. For further information go to www.lgirs.wa.gov.au
h)	Further information	Please see sections 90-102 of the WHS Act or contact WorkSafe on Telephone 1300 307 877.

Notes

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