



Handbook



Safety and health representatives

under the *Mines Safety and Inspection Act 1994*

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Foreword

Congratulations on being elected as a safety and health representative under the *Mines Safety and Inspection Act 1994*. Safety and health representatives are without a doubt the ambassadors of safety in the workplace.

You have been chosen to represent your workmates in matters of occupational safety and health. Your important role is to help identify, communicate and respond to safety and health issues within your workplace.

Keep this handbook close at hand as a day-to-day ready reference guide. Other sources of more detailed information are listed at the back of the handbook.

Remember:

Safety and health representatives are not safety and health officers or coordinators and they are not responsible for solving safety and health problems in the workplace. That's still up to the employer. But the safety and health representative is an important link between employers and employees.

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Why safety and health representatives are important

It makes sense for employers and employees to talk to each other about safety at work.

Safety and health representatives can make a difference.

A safety and health representative is the key to communication by making it easier to exchange ideas and concerns about safety between employers and employees.

Safety and health representatives raise and discuss safety issues and concerns with employers and/or managers so they can work together and arrive at solutions to make the workplace safe.

Employees sometimes feel more comfortable using their safety and health representatives to raise an issue or present an idea about occupational safety and health than going directly to management.

When everyone works together as a team, great things can happen, such as improving work conditions and keeping people safe. You can tell when you walk into a workplace that operates this way – employees feel involved, people are more committed to working safely, the working environment is happier, people want to work harder, productivity is higher, and there are less accidents and injuries.

The *Mines Safety and Inspection Act 1994* encourages employers and employees to talk to each other about safety matters and work together, particularly through elected safety and health representatives and occupational safety and health committees.

The commitment and efforts of safety and health representatives have helped reduce occupational injury and disease rates in Western Australia in recent years.

The Act and framework of occupational safety and health law

The *Mines Safety and Inspection Act 1994* is a valuable tool for safety and health representatives.

The Act describes the duties, functions and responsibilities of all people who play some part in the safety and health of people at work. It promotes consultation and cooperation between the relevant parties about safety in mining workplaces.

The Act also places significant legal duties on individuals, known as the “general duty of care”. A general duty of care applies to all people at workplaces to take care of their own safety and to take care of others’ safety.

Together with the Act, the following information makes up the framework of occupational safety and health law. You will need access to the Act and some of the documents listed below. As part of the legal obligation to support safety and health representatives, your employer must make them available if requested.

- **Mines Safety and Inspection Regulations 1995**

The regulations set minimum requirements for specific hazards and work practices in mining operations.

- **Codes of practice**

These provide strategies to assist workplaces to comply with occupational safety and health laws in Western Australia

- **Guidelines and guidance notes**

These cover a broad range of issues, hazards and topics relevant to workplaces.

- **National codes of practice, national standards and the Australian Standards**

These establish national guidelines and minimum standards across Australia.

Notification

The *Mines Safety and Inspection Act 1994* requires the person conducting the election for a safety and health representative to advise the person elected, the employer and the State Mining Engineer of the result. Notification forms are available from the Resources Safety website.

Upon receipt of the election notification, a resources package is sent to the newly elected representative. The representative is also added to Resources Safety's mailing list to receive future safety and health information and *Resources Safety Matters* magazines.

“The Act provides an important and necessary protection for safety and health representatives elected in accordance with the Act. You cannot be sued for damages for anything arising from having performed, or failed to perform, any function related to your position as a safety and health representative. However, you do have the same responsibilities and general duties of care as any other employee.”

Training

Once elected as a safety and health representative, you have the right to attend an accredited course within 12 months of being elected. However, to enable you to fulfil all of your functions, you should try to enrol in an accredited introductory training course within the first three to six months of being elected.

Safety and health representatives who have previously completed an accredited introductory course are not required to complete the course again, but may attend training to refresh or update their knowledge if they wish to do so following re-election or at the employer's recommendation.

In mining, you are free to choose, within reasonable limits, which training course to attend. This choice should be made from the list of accredited providers on the Resources Safety website in consultation with your employer and any other relevant parties at the workplace, such as the safety and health committee or a relevant union.

Completion of the introductory safety and health representatives course with the addition of a work-based project gives you the option to have your training recognised as a *Certificate III in Occupational Safety and Health* within the vocational education and training system. This option is entirely voluntary. If interested, talk to your training provider when you get to the course.

Your functions as a safety and health representative

Under the Act, a safety and health representative has the necessary powers to carry out a number of very important functions in the workplace areas that they are elected to represent.

This could be for one workplace, more than one workplace, an area of the workplace or a workforce group, such as a particular shift roster.

Function	Comment
<p>To regularly inspect the workplace areas you were elected to represent at agreed times and frequency.</p>	<p>You can make an inspection with prior notice every 30 days; however, wherever possible, you and your employer should agree on the number and type of workplace inspections to be carried out.</p> <p>Types of inspections may include:</p> <ul style="list-style-type: none"> • regular general inspections • regular inspections of particular activities, processes or areas • inspections arising from employees' complaints • inspections after substantial changes to the workplace • inspections after an accident or dangerous incident. <p>After an inspection, you should report to the employer about any safety and health issue identified during the inspection. The report should be in writing, although hazards needing quick action should be verbally reported immediately.</p> <p>You should also inform employees about any workplace hazards and potential risks identified during the inspection.</p> <p>Checklists can be a useful tool when carrying out workplace inspections. Checklists should be developed in consultation with your employer. <i>The First Step</i>, a WorkSafe publication, has checklists that may be useful as a starting point. A fixed checklist of items can be limiting, so keep it open-ended.</p> <p>You should discuss the completed checklist with the employer and safety and health committee (if there is one) to help identify solutions to hazards identified.</p> <p>As a safety and health representative, you may accompany an inspector on an inspection of your workplace, if requested by the inspector.</p>

Function	Comment
<p>To immediately investigate the scene and details of any accident, dangerous incident or risk of serious injury or harm to any person.</p>	<p>After an accident or dangerous incident, the employer should take immediate steps to prevent the incident happening again.</p> <p>The employer must notify you immediately after an accident or dangerous incident. Depending on the situation, you may choose to investigate on your own or agree to a joint investigation with the employer.</p> <p>Examples of dangerous incidents that you may need to investigate include:</p> <ul style="list-style-type: none"> • an incident that could have caused fatal or serious injuries • a falling object landing close to an employee • failure of a sling or lifting device • uncontrolled release of a hazardous chemical or substance • spillage resulting from failed valves, connections or hoses • failure of plant or equipment • collapse of a building or structure. <p>Safety and health issues identified by safety representatives should be raised with the employer according to the steps agreed upon.</p> <p>Under the <i>Mines Safety and Inspection Act 1994</i>, the scene of a serious accident is off limits until the relevant person gives the all clear.</p>
<p>To keep up to date with workplace safety and health information provided by the employer and liaise with government and other bodies.</p>	<p>The employer has a duty to make safety and health information available to you. You can also liaise directly with Resources Safety or other organisations to find out more about safety matters.</p>
<p>To report hazards in the workplace to the employer.</p>	<p>You must report any hazard or potential hazard to your employer or your employer's representative. You could recognise a hazard or find out about a hazard before management becomes aware of it.</p>
<p>To refer any matters that you think should be considered by the committee, where there is a safety and health committee for the workplace.</p>	<p>You have an important role in identifying matters that should be considered by the safety and health committee.</p>
<p>To consult and cooperate with the employer on safety and health matters.</p>	<p>You must consult and cooperate with management on all safety and health matters relevant to the work area and employees you represent.</p>
<p>To liaise with employers and employees about safety and health matters.</p>	<p>You have a responsibility to advise management of the views of the employees you represent. To do this effectively you should discuss the matter with the employees and reach a common view, if possible, before meeting with the employer. You also have an important role in passing on information about safety and health matters to the employees that you represent.</p>

Provisional improvement notices

A provisional improvement notice (PIN) is a notice issued by an elected and qualified safety and health representative about a safety and health issue in the workplace.

A PIN is similar to an improvement notice issued by an inspector. Your power to issue a PIN improves your effectiveness as a safety and health representative. However, there is no requirement for you to issue a PIN if you choose not to.

Qualified to issue PINs

Before being able to issue a PIN, you must be qualified. Being qualified means you have completed the accredited introductory safety and health representative training course, which includes a section about PINs.

Before you issue a PIN

Before you can issue a PIN you must do the following:

- be of the opinion that the person is breaching, or has breached either a provision of the relevant Act or regulation, and the circumstances make it likely that the breach will continue or be repeated
- have consulted with the person who will receive the PIN, and another safety and health representative at the workplace (if you are able to do so)
- ensure you only issue the PIN for the workplace/s you are elected to represent (or where there is at least one worker you were elected to represent).

Who can be issued with a PIN?

You can issue a PIN to anyone who has a duty of care under the Act. This includes public bodies, companies, associations, employees, employers, principal contractors, host employers and anyone for whom someone else does work. If a PIN is issued to an employee, the employee must give a copy to their employer (e.g. for a mine, the mine manager).

You cannot issue a PIN to a trading or a registered business name. Rather it must be issued to individuals or the corporations carrying out the business.

How to issue a PIN

The PIN must be in writing and specify:

- your opinion that there is a breach of the relevant Act, and this breach is likely to continue or be repeated
- the reasons for your opinion
- the provisions of the Act or regulation you consider are being breached
- the date when the breach is to be remedied (you must allow **more than seven days** from the day the PIN is issued)
- a brief summary of the right to have the notice reviewed by an inspector.

To assist, Resources Safety has produced a PIN pro forma that may be used. It can be downloaded from the Resources Safety website or contact Resources Safety.

Right of review

Recipients must comply with the PIN by the remedy date stated on the PIN, or they may seek to have it reviewed before the remedy date elapses. Failure to comply is an offence under the Acts.

A request for an inspector to review a PIN must be made in writing to Resources Safety. The PIN is suspended to allow time for review. The inspector may affirm the PIN, modify the PIN or cancel the PIN. If the inspector affirms, or affirms and modifies, the PIN it has the effect of becoming an improvement notice issued by an inspector.

Keeping records

Keeping records of tasks related to your functions is an important part of being a safety and health representative. These may include:

- daily diary of safety and health events
- monthly planner for inspections, meetings and follow-up
- copies of issued PINs
- list of job procedures for hazard identification and risk analyses
- photographs of relevant plant and equipment
- reports of your inspections
- interviews with employees
- copies of agendas and minutes of employee meetings and safety and health committee meetings
- hazard information relevant to the workplaces or workgroup for which you were elected.

Employer's duties to representatives

The Act encourages employers to work with you as a safety and health representative and set out duties for your employer to support you.

These employer duties are to:

- make safety and health information available in relation to hazards, plant, substances used, the systems of work and the safety and health of the employees at the workplace

Note: Safety and health information includes information such as material safety data sheets (MSDS) for any hazardous substances used in their workplace, accident investigation reports or accident summaries, details of notices issued by inspectors, results of testing such as noise levels or atmospheric testing and statistical information. However, there are exceptions. Employers are not required to provide representatives with employees' personal medical information without consent, nor are they required to disclose trade secrets

- allow you to be present at any interview on safety and health between the employer (or the employer's representative) and an employee, whenever the employee requests
- consult with you on any changes in the workplace that may affect employees' safety and health
- notify you of any accidents or dangerous incidents
- allow you to take time off work, with pay, to perform your functions and attend accredited training courses
- pay for course fees and associated costs for you to attend accredited introductory training
- provide assistance and access to facilities to help you carry out your functions (e.g. access to a desk, telephone, typing and photocopying facilities, storage, use of a meeting room and notice boards).

If a Resources Safety inspector visits your workplace, your employer or employer's representative, once notified of the visit, must advise you and any other safety and health representatives of the inspector's visit.

Discrimination

Under the Act, it is an offence for an employer or prospective employer to disadvantage somebody because that person:

- is or has been a safety and health representative or a member of a safety and health committee
- performs or has performed any function as a safety and health representative or committee member
- gives or has given assistance to an inspector, safety and health representative or committee member
- makes or has made a complaint about workplace safety and health to the employer, a fellow employee, inspector, safety and health representative or committee member.

A safety and health representative who has been disadvantaged may have grounds to lodge a claim with the Occupational Safety and Health Tribunal. The tribunal may order reinstatement and/or compensation.

Safety and health committees

A safety and health committee can be established if any employee requests a committee, or the employer decides to establish one. The State Mining Engineer can direct the appointment of a committee.

Each workplace can choose the best committee structure to suit its operation. For example, a small exploration company might have one committee across several sites. A large earth-moving contractor, however, might choose to have one committee with several subcommittees, one for each mining operation.

Workplaces can also choose the composition of their occupational safety and health committee provided the safety and health committee is made up of half or more employee representatives. The committee may include elected safety and health representatives and also may have other employees elected by the employees to represent them. Other members can be employers and/or the employer representatives.

The functions of a safety and health committee are to:

- enable and assist consultation and cooperation between employers and employees
- help to initiate, develop and implement safety and health measures

- keep informed about safety and health standards in similar workplaces
- make recommendations on safety and health rules, programs, measures and procedures
- ensure information on hazards is kept where it is readily accessible
- consider and make recommendations about changes that may affect the safety and health of employees
- consider matters referred to it by safety and health representatives
- perform other functions prescribed in the regulations or given to the committee, with its consent, by the employer.

With regard to workplace safety and health, the committee may deal with:

- policy development
- monitoring programs
- emergency procedures
- training and supervision
- trends in accident and illness reports
- resolution of safety and health issues.

Resolution of issues

The best way to resolve safety and health issues is for the parties in the workplace to agree on procedures that help to resolve the issues before they become disputes.

The Act requires employers, safety and health representatives and employees to resolve safety and health issues by following relevant procedures for the workplace. If no procedures have been developed, then the procedures in the regulations must be followed. If the issue cannot be resolved and there is both a safety and health representative and a safety and health committee, the safety and health representative must refer the issue to the committee for resolution.

If an issue remains unresolved, either the employer or a safety and health representative may request an inspector to attend the workplace. Inspectors only become involved after they have satisfied themselves that an attempt has been made to resolve the matter at the workplace as required by the Act.

Inspectors can issue improvement or prohibition notices or take whatever action they consider appropriate under the Act. Alternatively, an inspector may decide that no action is required.

Right to refuse unsafe work

The Act allows employees to refuse work if they have reasonable grounds to believe the work is dangerous and there is an immediate risk of serious injury or harm to themselves or others in the workplace. The employer and the safety and health representative must be notified.

Employees do not need the employer's permission to leave the work area if they risk imminent and serious harm by remaining. The employer can give employees other work to do away from the danger.

The matter has to be resolved by the employer and the safety representative or committee, or employees, just like other safety and health issues. If these people cannot resolve the matter, they may then request an inspector to attend the workplace.

If there are any unresolved problems related to pay or benefits, an employee or the employer can refer the case to the Occupational Safety and Health Tribunal.

Disentitled employee

A disentitled employee is an employee who leaves the workplace without authorisation or refuses to undertake alternative work. It is an offence to pay a disentitled employee or for a disentitled employee to receive benefits where the employee:

- does not have reasonable grounds to believe that to continue to work would expose him or her or any other person to the risk of imminent and serious injury or harm
- leaves the workplace without the employer's authority
- refuses alternative work
- refuses to work on the grounds that another employee refuses to work.

Disqualification of safety and health representatives

The Occupational Safety and Health Tribunal can disqualify a safety and health representative. As a safety and health representative you can be disqualified if:

- you are found to have acted with the intention of harming your employer or your employer's business
- you use or disclose information obtained from your employer not connected with your functions under the Act as a safety

and health representative, with the intention of harming your employer or your employer's business

- you have failed to adequately perform your functions under the Act.

Note: The misuse of PINs may meet one or more of the above criteria.

Information and support

Resources Safety provides a variety of publications to assist in the prevention of work-related injury and disease, including codes of practice and guidelines.

All publications are available on the Resources Safety website or contact Resources Safety at RSDComms@dmp.wa.gov.au for printed copies. A wide range of safety and health general information, solutions to work safety problems and interactive educational services are also available online.

A safety and health representative page has been set up for you to find relevant information quickly and easily at www.dmp.wa.gov.au/ResourcesSafety

Queries relating to the functions of a safety and health representative can be directed to mineshreps@dmp.wa.gov.au

The WorkSafe library at 1260 Hay Street, West Perth, is open to the public and is also a great source of occupational safety and health information.



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