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Version Control

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8/2/2016	New Policy		Roger Winzenberg
1/6/2018	New policy template	New policy template	Karen Philpot
4/12/2019	Policy Review	Expiry of Policy	National WHS Committee
1/10/2020	Policy name change	New name	Pam Stone

1. Introduction

The Work Health and Safety Management Arrangements (the Guide) have been developed in accordance with the *Work Health and Safety Act 2011(Cth)* (the WHS Act).

The Guide is designed to:

- achieve compliance with the WHS Act
- to provide a principles based approach to safety management that recognises the responsibility and duties imposed on a person to ensure risks are managed appropriately
- ensure continuing improvements in work health and safety performance so that DVA can provide the safest possible workplace for its workers and maximise health and wellbeing.

2. Purpose

The Guide provides for:

- enabling effective discussion about health, safety and wellbeing, either directly with managers or through worker representatives, developing and promoting measures to protect workers' health, safety and wellbeing at work
- informing workers about the WHS arrangements
- providing adequate mechanisms for reviewing the effectiveness of the management of health and safety arrangements
- providing for dispute resolution
- establishing WHS Committees and describing how Committees are constituted and operate
- establishing Work Groups and Health and Safety Representatives.

3. Definitions

For the purposes of the Guide, the following definitions apply:

Cessation of unsafe work	The WHS Act provides that a worker may cease or refuse to carry out work if the worker has a reasonable concern that to carry out the work would expose them to a serious risk to their health or safety emanating from an immediate or imminent exposure to a hazard.
Consultation	Sharing of information, discussing issues and giving reasonable opportunity for workers to express views and for due consideration to these issues and views before a decision is made. Sections 47 - 49 of the WHS Act provide further detail.
Due Diligence	The scope of an officer's duty is directly related to the influential nature of their position. A high standard requires persistent examination and care to ensure that the resources and systems of the PCBU are adequate to comply with the duty of care required

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	<p>under the WHS Act. This also requires officers to ensure that delegations are working effectively. Where the officer relies on the expertise of a manager or other person, that expertise must be verified and the reliance must be reasonable.</p> <p>The intention of the positive duty on Officers is to ensure engagement and leadership by officers in WHS management, better providing for sustainability and improvement in WHS performance.</p>
DVA	Department of Veterans' Affairs. Unless otherwise stated, a reference to DVA also includes Open Arms, Veterans Review Board and the Office of Australian War Graves and the Repatriation Medical Authority.
Health and Safety Representative (HSR)	A worker elected or selected by the members of the Work Group to which they belong, to represent the health and safety interests of that specific group of workers. There will be at least one HSR for every WG in DVA, but the number of HSRs will be determined in consultation with the members of the Work Group.
Inspector	A member of the staff of Comcare, the WHS Regulator.
Location	Offices where DVA has workers, within or outside Australia.
Manager/Supervisor	A person in charge of an organisational unit (i.e. Division, Branch, Section, work unit or other organisational component).
Near Miss	An unplanned event that did not result in injury, illness, or damage – but had the potential to do so.
Notifiable Incident	An incident involving the death of a person, serious injury or illness of a person, or a dangerous incident. Refer to sections 35, 36 and 37 of the WHS Act for the full list.
Officer	<p>Senior DVA employees who make or participate in making decisions which affect the whole or a substantial part of DVA's business. All SES, Deputy Commissioners and some EL2s.</p> <ul style="list-style-type: none"> ▪ The Secretary (as Secretary of DVA, President of the Repatriation Commission and Chair of Military Rehabilitation and Compensation Commission) ▪ Commissioner (in capacity performing functions within DVA, the Services Commissioner of the Repatriation Commission and Commissioner of the Military Rehabilitation and Compensation Commission) ▪ Deputy President ▪ Deputy Secretaries ▪ Chief Health Officer ▪ National Manager Open Arms ▪ First Assistant Secretaries

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	<ul style="list-style-type: none">▪ Assistant Secretaries▪ Deputy Commissioners▪ Director Office of Australian War Graves▪ Assistant Secretary with responsibility for Specialist Medical Review Council▪ Registrar Repatriation Medical Authority▪ Principal Member Veterans' Review Board
Other persons	<p>Any other person(s) who may be put at risk by the conduct in a work activity that arises out of the business or undertaking of the PCBU. This may include:</p> <ul style="list-style-type: none">▪ Visitors▪ Guests▪ Event participants on sites for which DVA has responsibility
Person Conducting a Business or Undertaking (PCBU)	<p>The body with the primary duty of care for workplace health and safety.</p> <p>This means:</p> <ul style="list-style-type: none">▪ Department of Veterans' Affairs▪ Repatriation Commission (RC)▪ Military Rehabilitation and Compensation Commission (MRCC)▪ Office of Australian War Graves▪ Veterans' Review Board (VRB)▪ Repatriation Medical Authority (RMA)▪ Specialist Medical Review Council (SMRC)▪ Veterans' Children Education Board (VCE Board)▪ Australian War Memorial (which makes its own Guide)
Primary Duty of Care	<p>Section 19(1) of the WHS Act requires that a PCBU must ensure, as far as is reasonably practicable, the health and safety of:</p> <ul style="list-style-type: none">▪ workers engaged, or caused to be engaged by the person▪ workers whose activities in carrying out work are influenced or directed by the person▪ while workers are at work in the business or undertaking▪ other persons in the workplace.
Quorum for a Committee meeting	<p>The majority of the members of the Committee, which must include at least:</p> <ul style="list-style-type: none">• the Chair and

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	<ul style="list-style-type: none"> • one management representative and • half the workers' representatives (ie not selected by the PCBU).
Reasonably Practicable	<p>What is, or was at a particular time, reasonably able to be done by a duty holder to ensure health and safety, taking into account and weighing up all relevant matters including:</p> <ul style="list-style-type: none"> ▪ the likelihood of the relevant hazards or risk occurring ▪ the degree of harm that might result from the hazard or risk ▪ what the person knows about the hazard or risk and the ways of eliminating or minimising the risk ▪ the availability and suitability of ways to eliminate or minimise the risk.
Senior Manager	A Manager with the title of Deputy Commissioner, First Assistant Secretary, Assistant Secretary, and Director Office of Australian War Graves or other title as determined by the Secretary.
Staff Representatives	Staff elected by the workers in each location to represent them on the WHS location committee and the national WHS Committee.
Stakeholder	Bodies DVA would expect to involve in consultation regarding WHS and HSMAs and may include cemetery authorities, property owners/property managers/landlords, event organisers, and those who have control over workplace environments where DVA workers may be deemed as workers to another PCBU and which may have an influence on DVA worker safety.
Union	An employee organisation that is registered, or taken to be registered under the <i>Fair Work Act 2009</i> .
Union right of entry	The WHS Act confers rights on a person who holds an office in, or is an employee of, a union to enter workplaces and exercise certain powers while at those workplaces.
WHS	Work Health and Safety
WHS entry permit	A permit issued under Part 7 or the equivalent Part of a corresponding WHS law. A WHS entry permit holder may enter a workplace for the purpose of inquiring into a suspected contravention of the WHS Act that relates to or affects a relevant worker.
Worker	<p>A person who carries out works in any capacity for the Department of Veterans' Affairs, including:</p> <ul style="list-style-type: none"> ▪ employees ▪ contractors ▪ subcontractors

- employees of a contractor's subcontractor
- employees of a labour hire company assigned to work in DVA
- outworkers
- apprentices or trainees
- students gaining work experience
- volunteers

Work Group	A group of workers who share similar WHS concerns and similar work conditions.
Worker Representative	A registered organisation of workers, or an association, of which the worker is a member, being a worker who is qualified to be such a member by virtue of the work the worker performs as a worker for DVA.
Workplace	<p>A worker is at their workplace whenever they are engaged in work for DVA, within or outside Australia.</p> <p>It is not restricted by a building, vehicle or other structure.</p>

4. Variation

DVA and its workers acknowledge that this Guide may need to be varied to take into account changes to statutory requirements and obligations, best practice approaches and Departmental structural changes.

The national WHS Committee shall consider and recommend any proposed variation to the Guide and make recommendations to the PCBU via the People & Culture Committee.

5. Legal Framework

The Department, as a PCBU, and its workers shall abide by the obligations stated in the following relevant legislation.

[Work Health and Safety Act 2011](#) (the WHS Act)

The WHS Act applies to businesses or undertakings conducted by the Commonwealth, their workers and workplaces wherever they happen to be, including conducting activities overseas - for example, Commemorative events.

[Work Health and Safety Regulations 2011](#) (the WHS Regulations)

The Regulations complement and support the general duties under the WHS act by setting out mandatory obligations on specific matters. The Regulations adopt technical materials such as Australian Standards and other documents that set out detailed specifications and guidance on safe ways of undertaking particular types of work. Breaches of the Regulations may result in a criminal offence. A duty imposed on a person under a provision of these Regulations does not limit or affect any duty the person has under the WHS Act.

[Work Health and Safety Codes of Practice 2011](#) (the Codes)

The Codes provide practical guidance to duty holders on meeting obligations under the WHS Act and WHS Regulations. Courts may use the WHS Code as a guide in determining what is reasonably practicable in the circumstances to which the WHS Code relates. In most cases, following an approved WHS Code would achieve compliance with the WHS Act for the particular subject matter in that WHS Code.

[Safety, Rehabilitation and Compensation Act 1988](#) (the SRC Act)

The SRC Act provides a workers' compensation and injury management scheme with a strong focus on workplace rehabilitation and return to work programs for injured or ill employees.

This Guide must be read in conjunction with the WHS Act.

Nothing contained in the Guide shall prohibit DVA from complying with the requirements of the above acts or other relevant legislation.

DVA also recognises other state and territory legislation may also impact on complying with this Guide.

6. Consultative Framework

The WHS Act imposes an obligation on the PCBU to consult with workers, as far as is reasonably practicable, about matters affecting or likely to affect their health and safety at work.

DVA's commitment to communicating and consulting with workers on workplace issues is outlined in the clauses 10-17 of the *DVA Enterprise Agreement 2019 - 2022*. The Guide aims to foster cooperative consultative relationships between workers and DVA as the PCBU to determine reasonable and practicable steps to ensure the health, safety and welfare of workers.

DVA is committed to consultation in relation to the health and safety of its workers. To do this, DVA will:

- ensure that workers are represented on WHS committees
- ensure that representatives have access to facilities and adequate time to enable them to represent and communicate with workers. HSRs are able to participate in these forums, if they wish, as outlined in the legislation
- provide workers with access to information about WHS issues in DVA including promulgating information on the intranet and via the mechanisms of WHS committees and appropriately constituted WGs and HSRs, to enable workers to participate actively in the WHS issues
- monitor DVA's health and safety performance
- ensure appropriate procedures for consultation, communication and dispute resolution.

7. Responsibilities of the Person Conducting a Business or Undertaking (PCBU)

DVA, as the PCBU has responsibility for implementing the requirements of the WHS Act. DVA recognises that it has a legal responsibility to comply with WHS legislation to provide a healthy and safe workplace and working methods.

In sections 20 - 26 and 70 - 74 the WHS Act impose an over-riding and positive duty on Officers to exercise Due Diligence to ensure compliance with the WHS Act and to ensure that the health and safety of all workers is protected whilst at work.

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To achieve this DVA will:

- take all reasonably practicable steps to safeguard workers from injury and disease and from any risks in conditions of employment
- implement measures to safeguard the health and safety of visitors, contractors and their workers, in those areas over which DVA has control
- develop, resource and implement WHS strategies and related policies
- provide adequate resources to enable workers to carry out their work in a safe manner and without detriment to their health or the health and safety of their colleagues and other persons
- review workplaces and work practices to reduce the incidence of workplace injury or illness to workers
- consult so far as reasonably practicable with other PCBUs or persons who have a duty in regard to a work health and safety matter
- encourage workers to participate in health and safety within their workplaces
- ensure line managers and supervisors are responsible and accountable for minimising the incidence of work related injury and illness and responding quickly to health and safety issues in their sphere of responsibility
- monitor and evaluate the effectiveness of its WHS management systems.

7.1 Responsibilities and Duties of Officers

Officers are deemed to have a level of influence in the business or undertaking that allows them to provide for and sustain the resources and procedures necessary for effective management of WHS.

They have the ability to determine the boundaries within which the PCBU operates and the overall approach of the PCBU in relation to the management of workplace health and safety.

The Officers' role and responsibilities are articulated in the WHS Act, i.e. they must exercise due diligence to ensure that DVA complies with its duties and obligations.

Due diligence describes a positive duty to exercise care. It covers a range of governance decisions and management actions that seek to prevent injury or illness from occurring in the workplace. It includes taking reasonable steps in relation to:

- acquiring and keeping up to date knowledge of WHS matters
- gaining an understanding of the nature of operations, and the hazards and risks associated with those operations
- ensuring the reporting of all accidents, incidents and dangerous occurrences (including near misses) as required in sections 35-39 of the WHS Act
- ensuring the PCBU has available and appropriate resources and processes to enable hazards to be identified and risks eliminated or minimised
- ensuring the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way
- ensuring the PCBU has, and implements, processes for complying with duties or obligations under the WHS Act.

[The DVA Work Health Safety Guidelines for Officers](#) provide a range of tools and resources for decision making, recording and reporting on health and safety.

More information can be found in the section for [Officers](#) on the Comcare website and [Interpretive Guideline – model WHS Act – the meaning of health and safety duty of an officer under s27](#) on the Safe Work Australia website.

7.2 Responsibilities and Duties of Managers and Supervisors

Managers and Supervisors have a crucial role in managing WHS in DVA by providing appropriate systems and practices to minimise risk of illness or injury. Managers must take all reasonably practicable steps to protect the health and safety at work of all workers, in line with their obligations as defined in the WHS Act and to ensure that appropriate steps are taken to deal with incidents and to eliminate or minimise the cause.

Managers can demonstrate leadership and commitment by:

- integrating WHS policies, guidelines and corporate strategies into everyday workplace practices
- ensuring all workers are aware of their obligations as stated in the Guide, policy and relevant legislation and that they are provided with relevant WHS information, instruction and training (including induction training)
- using WHS structures and safety management systems and ensuring the provision of appropriate resources for these structures
- monitoring the health and safety of workers at work and the condition of the workplaces under their management control including the provision of appropriate first aid services, maintenance of appropriate records and information on workers' health and safety
- fostering a cooperative consultative relationship with workers and staff representatives in resolving WHS issues and promoting awareness of WHS
- undertaking relevant WHS training to enable them to meet their responsibilities for the management of WHS in the workplace
- defining the WHS training needs of their section and arranging for necessary information to perform their duties in a safe way in consultation with workers
- ensuring the reporting and recording of all accidents, incidents and dangerous occurrences (including near misses) as required in sections 35-39 of the WHS Act
- actively encouraging workers to work in a way that minimises the risk of injuries
- lead comprehensive hazard identification inspections of their workplaces
- applying risk management processes to identify, assess, control, monitor and review WHS risks.

7.3 Responsibilities and Duties of Workers

All workers play an active role in the prevention of work-related accidents, injuries and illnesses. All workers must report work-related injuries, illnesses, possible hazards, WHS incidents and near misses immediately to their supervisor and may also inform their HSR.

Workers will:

- cooperate with and assist DVA to meet its WHS obligations
- work in accordance with agreed safety management systems and apply safe work practices
- report and monitor workplace health and safety matters

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- take all reasonably practicable steps to ensure their workplaces are maintained in a healthy and safe manner
- participate in health and safety training, use safety equipment as required and comply with safe systems of work
- contribute to the review of workplaces and work practices to reduce the incidence of workplace injury or illness

7.4 Responsibilities of Contractors

A contractor, sub contractor or self-employed person are defined as 'workers' under the WHS Act if they carry out work in any capacity for DVA. They are required to:

- comply with the requirements of the WHS legislation
- have in place any work health and safety policies and programs required under State or Territory safety legislation
- consult with DVA about safety matters and comply with DVA policies
- work safely and include the safety of DVA employees and visitors in their safety plans.

7.5 Duties of Other Persons at the Workplace

Other persons at a workplace such as visitors or members of the public, have a duty to take reasonable care for their own health and safety:

- Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons
- Comply, so far as the person is reasonably able, with any reasonable instruction that is given by the PCBU to allow them to comply with the WHS Act.

7.6 Duties in Relation to Employees of a Labour Hire Company Assigned to Work in DVA

DVA, as the host PCBU shares responsibility and primary duty of care with the labour hire PCBU to ensure, so far as is reasonably practicable, the health and safety of labour hire workers engaged by or caused to be engaged by them, or whose activities are influenced or directed by the PCBU.

Duty holders cannot contract out or transfer their WHS obligations to another person.

All duty holders must consult, cooperate and coordinate with each other so far as is reasonably practicable and are required to be proactive in managing hazards and risks.

The DVA PCBU, Officers, Managers and Supervisors have the same health and safety duties to labour hire workers as they have to other workers.

7.7 Responsibilities of Employees of a Labour Hire Company Assigned to Work in DVA

Labour hire staff are responsible for adhering to this Guide, all DVA WHS policies and guides and raising WHS issues with the labour hire PCBU and DVA.

8. Risk Management

Hazard identification, risk management and provision of an effective guide to day to day WHS practices are among the most important elements of this Guide.

Risk must be managed in the workplace in a manner that ensures the requirements set out by the WHS Act for the PCBU and the Officers are met.

The DVA [Risk Management Framework](#) will be used in identifying, assessing and managing potential WHS risk.

Managers, Supervisors, HSRs, WHS Committees and workers will work cooperatively to ensure that risk management principles are employed effectively in the management of potential WHS issues. Effective risk management measures will eliminate or reduce the incidence of illness and injury and identify opportunities for improved comfort and safety at work.

Managers will apply risk management processes to:

- all DVA's work processes and practices
- refurbishment
- any changes to work processes, practices or workloads
- the acquisition and operation of workplace equipment
- the purchase, storage and use of any new chemicals
- definition of WHS training needs of the workers, then the delivery of the required training
- the reporting of all accidents, incidents and dangerous occurrences (including near misses) as required in sections 35-39 of the WHS Act
- working in a way that minimises the risk of injuries
- comprehensive hazard identification inspections of the DVA workplaces.

This will include informing and seeking advice and assistance from the most appropriate sources available (e.g. People Services Branch, HSRs or external consultants) at the initial planning phase in order to minimise risk and eliminate unnecessary expenditure on unsuitable equipment.

9. Workplace Consultative Structures

DVA is committed to consulting with workers and their representatives. DVA will provide a consultative structure in accordance with the WHS Act and agreement with workers, WGs, HSRs and WHS Committees.

All parties will consult about the management of all workplace health and safety issues.

Risk management processes will be followed to ensure the consideration of the impact of any work process changes will have on workers' health and safety.

This commitment is also contained in the DVA WHS Policy.

Effective communication and consultation with relevant stakeholders is key to ensuring:

- workers are given a reasonable opportunity to express their views, raise WHS issues in relation to a matter and that their views are taken into account by DVA

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- Officers and workers are aware of their WHS responsibilities including duty of care requirements
- knowledge and information is shared regarding current and future WHS issues
- improved decision making.

Consultation is required in relation to the following health and safety matters:

- when identifying hazards and assessing risks to health and safety arising from the work carried out or to be carried out by DVA
- when making decisions about ways to eliminate or minimise those risks
- when making decisions about the adequacy of facilities for the welfare of workers
- when proposing changes that may affect the health and safety of workers
- when making decisions about the procedures for consulting with workers, resolving WHS issues in the workplace, monitoring the conditions in any workplace under the control of DVA, or providing information and training for workers.

9.1 WHS Committees

In accordance with the provisions of sections 75 - 79 of the WHS Act, national and location WHS Committees will be established. The Committees will provide the forum for consultation and communication with workers and their representatives. At least half of the members of the Committee must be workers not nominated by the PCBU.

Committees must be manageable in size and they will operate by consensus. The main functions of the Committee are to:

- support DVA in meeting its WHS obligations
- promote and support safe work practices
- promote and support worker participation in WHS processes.

Relevant training may be provided to WHS Committee members to assist them to exercise their duties.

HSRs may participate in WHS Committees as a member. Where there is more than one HSR, they may elect one or more HSRs to participate in the Committee.

DVA HSRs may select one or more of their group to participate in the national WHS Committee.

9.1.1 Operational Arrangements for WHS Committees

The following rules of operation will apply to WHS Committees:

Recommendations and decision making for work health, safety policy shall be made on the basis of best practice.

The Committee will meet at least every three months. Members of the committees will attend the majority of meetings each year to ensure consistency in leadership, participation, representation and decision making.

Worker Representatives in Committees are encouraged to report issues relating to risks and safety of workers. With the approval of the Committee and their Manager, they may be released from duty

for a period of time to explore the issue. Representatives should report back to the Committee on their findings within seven days of raising the issue.

Agendas should be issued seven days prior to the scheduled meeting and include any pre-reading. It is expected that all members will be prepared for discussion at the scheduled meeting.

The meeting can be held only if there is a quorum.

The People Services Branch will provide a secretariat for the committee. Minutes of meetings, including action items, will be issued as soon as possible after the meeting. Minutes will be published on the intranet to be accessible to all workers.

Other information regarding the operation of the WHS Committees is contained in the Terms of Reference.

9.2 Work Groups

The WHS Act allows for WGs to be established to represent the needs and interests of workers.

WGs should be established in consultation with Managers and workers taking into account:

- the number of workers who do similar work
- type of work performed
- nature of the risks to health and safety where each type of work is performed.

There is no minimum or maximum size to a WG but it should be of a size to enable workers to participate in improving health and safety.

The establishment of WGs will be managed by consultation with all affected workers in that workplace.

The following principles provide guidance for establishing WGs:

- all workers will be included in a WG
- a WG will be established in any site where there are workers of DVA
- workers will be grouped in a way that most effectively and conveniently enables their interests to be represented
- generally a WG will be formed of 100–150 people dependent upon the nature of the work, the risk profile of the work and the location of the workers
- smaller WGs may be established when both DVA and the affected workers agree to this.

9.3 Health and Safety Representatives

HSRs have an important role in representing the health and safety interests of workers to management. HSRs will be selected by workers in their WGs. Selection of HSRs will be via a process consistent with the WHS Regulations.

Each WG will have at least one HSR (and a Deputy HSR if required). The WHS Act does not limit the number of HSRs and deputy HSRs for each work group. There can be as many elected HSRs and deputy HSRs, as is agreed after consultation.

If an HSR leaves their WG permanently the position of HSR in that WG is considered vacant and a suitable replacement must be selected. In most short-term situations, a Deputy HSR will fill in for any HSR leave.

HSRs are to undertake accredited training within three months of selection in order to exercise the full range of powers and functions under the WHS Act.

DVA recognises that HSRs have powers and functions as prescribed in the WHS Act, specifically for developing, implementing and reviewing health and safety measures in the workplace, facilitating consultation between management and workers and reporting on inspections and investigations of health and safety matters to management.

HSRs will be permitted to take reasonable time from their normal work duties required to fulfil their health and safety duties and responsibilities.

9.3.1 Skills and Attributes

The role of the HSR is a specialist task and requires a person with particular skills and attributes including:

- ability and commitment to communicate and work cooperatively with all levels of workers, management and worker representatives
- negotiation and conflict resolution skills
- ability to acquire knowledge of health and safety principles
- ability to identify potential risks and hazards associated with the WG
- ability to learn risk management principles and apply them to a health and safety context
- ability to understand the WHS legislation, this Guide and relevant DVA policies and procedures.

9.3.2 Roles

In addition to HSRs exercising their powers under section 68 and 69 of the WHS Act, they have the following functions and additional accountabilities:

- cooperating with workers, management and other relevant parties to protect the health and safety of DVA workers
- consulting with workers in the WG about their health and safety and representing their interests in having a safe and healthy work environment in consultation with management
- using risk management principles when assessing possible hazards and risks arising from change initiatives or from current work practices and discussing these with management
- participating in regular workplace inspections and working with Managers to identify issues of WHS concern
- undertaking regular workplace inspections of their own WG, and reporting any WHS concerns to the relevant Manager and the appropriate location Senior Management Group
- actively communicating, consulting and cooperating with their location WHS Committee regarding all identified hazards
- investigating complaints made by workers of the WG concerning health and safety.

9.3.3 Term of Office

The term of office for HSRs will be three years from the date of election or selection.

9.3.4 Training Requirements

DVA is committed to developing its HSRs to ensure that they have the necessary knowledge to perform their role to the best of their ability. DVA will ensure that all HSRs are trained as described in section 72 of the WHS Act.

All HSRs must attend the following training:

- initial 5 day course, within 3 months of selection
- one day refresher training each year
- any other training as agreed between the HSR and PCBU.

HSRs cannot exercise the full range of powers under the WHS Act unless they have completed the prescribed training.

9.3.5 Elections and Handover HSMAs

The following principles apply when selecting HSRs for each WG:

- an agreed number of workers in each WG can be elected into the position of HSR
- a number of deputy HSRs can also be elected, if required
- newly elected HSRs will be provided with a 'handover' by the outgoing HSR
- the incoming HSR can seek support and assistance from People Services Branch and the WHS Committee as required
- HSRs will provide notification of any extended leave as soon as practicable to People Services Branch to enable the selection of a suitable replacement

For further information, please refer to the [Comcare](#) website.

9.3.6 Administrative Support

People Services Branch will provide the administrative support required for the establishment of the WGs and the selections of the HSRs.

Elections will be run once every three years, or as required, by the WGs or People Services Branch.

9.3.7 Assisting other Health and Safety Representatives

HSRs may provide assistance outside their WG in the following circumstances, and according to section 69 of the WHS Act:

- if HSR intervention is required that relates to a WG within a workplace and the selected HSR for that WG is unavailable
- if an emergency arises in a workplace where the HSR for the WG is unavailable
- if the HSR is asked by a member of the other WG to assist.

Where these circumstances arise, People Services Branch will be the primary point of liaison and they will ensure that the WG is informed of the HSR undertaking the intervention. The HSR undertaking the intervention shall report to the selected HSR and People Services Branch as soon as possible as to the issues and action taken.

9.3.8 Consultation with WHS Committees

HSRs may attend and actively participate in the WHS committee. If there is more than one HSR in a workplace, those representatives may choose 1 or more of their number (who consent) to be members of the Committee.

HSRs are to identify health and safety issues within their WG prior to attending the meetings. HSRs must communicate any decisions made at the meeting to members of their WG, and any other affected WG.

The HSRs will represent workers in consultation with the WHS Committee and management for the development, implementation and review of measures to ensure the health and safety of the workers.

9.3.9 Provisional Improvement Notices

Consultation between management, workers, HSRs, and WHS committees will be the primary means to resolve WHS issues.

Should an HSR believe, on reasonable grounds, that a person:

- is breaching a provision of the WHS Act or the regulations, or
- has breached a provision of the WHS Act or the regulations and is likely to breach that provision again, and
- if it is a breach that affects or may affect one or more workers included in the WG, the HSR must enter into consultations with the person supervising the work performed by the workers in the WG in an attempt to reach agreement on rectifying the issue.

If the HSR believes that agreement is not reached within a reasonable time, the HSR may place a provisional improvement notice (PIN) on the person responsible for this issue. It is, however, critically important that the HSR attempts to resolve the issue in a consultative manner with the responsible manager before using the PIN process. [Sections 90 – 102 of the WHS Act](#) provide details.

The flowchart at Attachment A provides guidance on the consultative processes to be followed. Attachment B outlines the processes for a disputed PIN process.

9.3.10 Health and Safety Representatives' Networks

An HSR network may be implemented to enable:

- communication and peer support amongst HSRs, for discussion of identified work health and safety issues related to the working environment and work practices
- discussion of issues tabled at WHS Committee meetings
- HSRs to carry out their role in the WHS Committees.

The HSR network will be sponsored by the WHS Committee and will include all HSRs. This network will be convened by an HSR nominated by the WHS Committee and agreed by the HSRs.

The convenor of the network shall:

- arrange meetings as required, and solicit from participants any discussion items
- record and circulate outcomes of the discussions to all HSRs and committee members
- arrange for urgent discussion of issues if required

- ensure consultation occurs as appropriate.

9.3.11 Additional Powers and Functions of Health and Safety Representatives

The following duties may also be undertaken by the HSRs:

- inspect the whole or any part of the workplace at any time on a regular (at least annually) basis with the participation of the local manager in the WG where the inspection is being carried out
- report findings of the inspections to PSB and the WHS Committee if there is no immediate action required. If an issue requires urgent attention, the relevant manager or organisational unit (e.g. PSB or Property) must be informed promptly
- prepare for and attend HSRs network meetings
- liaise with the members of their WG and ensure they are included in consultation processes
- ensure comments from members of their WG are fed back to the appropriate forum/committee
- disseminate health and safety information to their WG
- follow up on incidents that occur within their WG, including investigating potential hazards
- examine the causes of the hazards and any incidents that may occur; and
- liaise with other HSRs on a needs basis.

It is recognised that in some instances more time may be required when dealing with specific issues and Comcare investigations. In such situations it is expected that the HSRs will negotiate any time required with their manager.

HSRs are not liable for any acts or omissions that are undertaken in good faith, and there is nothing in the WHS Act that imposes or should be taken to impose a duty on an HSR in that capacity.

9.3.12 Facilities for Representatives

HSRs and WHS Committee representatives will have access to the time, resources and facilities required to perform their role.

Facilities available to HSRs and representatives will include access to interview/meeting rooms, print and photocopying facilities, access to notice boards, and access to appropriate equipment to investigate and report on safety hazards, risk identification and mitigation.

It is not intended that dedicated facilities will be provided to any HSR, or other Representative.

9.3.13 HSR Reporting Lines

If an HSR represents a number of business lines within their WG, they will report to the senior managers from each business line, with respect to matters arising within their WG.

10. Issue Resolution Procedures

DVA's commitment to communicating and consulting with workers on workplace issues is contained in the current Enterprise Agreement. This Guide continues to foster cooperative consultative relationships between workers and DVA for determining reasonable and practicable steps to secure

the health, safety and welfare of workers at work. Consultation between management, workers, HSRs and WHS committees will be the means to resolve WHS issues that arise in the workplace.

In the first instance any WHS issues will be referred to the relevant manager for immediate resolution. Managers will consult with workers and, where necessary, People Services Branch and/or HSRs to determine appropriate action. If the manager cannot provide a solution or come to an agreement with workers, then the matter should be referred to an HSR and/or WHS committee. The HSR and/or WHS committee will help identify the most appropriate course of action to resolve the issue. All relevant parties must make reasonable efforts to achieve a timely, final and effective resolution.

The aim of the dispute handling process is to produce outcomes that are fair, equitable, in accordance with sound people management practices, and that have regard to the effectiveness of DVA and the maintenance of good workplace relations. All matters raised will be dealt with as quickly as possible in the belief that early resolution of any dispute is in the best interests of all parties.

The WHS Act provides HSRs the power to issue provisional improvement notices and involve Comcare to assist in matters of WHS disputation. This process should be used where established dispute resolution systems and processes have failed to provide a mutually satisfactory outcome.

A guide for Issue Resolution and Consultation for DVA HSR's is provided at Attachment A.

Issue Resolution Procedures are available under the WHS Act.

The WHS Act provides Issue Resolution Procedures that can be used if the above processes fail to resolve a problem successfully. Details are in [sections 80 – 82 of the WHS Act](#).

11. Right of Entry

A WHS permit entry holder must also hold a current *Fair Work Act 2009* entry permit. Their WHS entry permit and photographic identification must be available at all times for inspection. When there is a suspected workplace WHS contravention, a permit holder is not required to give prior notice. However, as soon as reasonably practicable they must give notice of their entry and the suspected contravention to DVA or the person with management or control of the workplace.

12. Training and Development

DVA will include information about health and safety policy and procedures in induction processes.

DVA will provide accredited training for all HSRs and deputy HSRs within three months of being elected into a WG. DVA may also provide appropriate and timely training for other representatives such as WHS committee members.

DVA will be guided by [Comcare information](#).

The WHS Committee together with People Services Branch will be responsible for arranging accredited training.

13. Dispute Resolution

If a WHS matter cannot be resolved, it is escalated to the next stage of the consultation and dispute resolution procedure, for resolution (see Attachment C).

A matter must be escalated, if it has been unresolved at one level for seven working days.

It should be noted that these escalation processes are to assist HSRs in ensuring matters are appropriately escalated. There may be circumstances that require more urgent action and these issues need to be escalated more promptly.

14. Emergency Situations

Every worker has the right to refuse to perform an unsafe task, or a cease work on a task they believe would expose them to some unreasonable or unnecessary risk of injury.

A worker who believes that they have been asked to perform an unsafe task should bring the matter to the immediate attention of their HSR and manager or supervisor.

If an HSR has reasonable cause to believe that an emergency or immediate threat to workers' health or safety exists, the HSR shall immediately inform the manager/team leader. The manager/team leader will take immediate and appropriate action to assess the situation, and if necessary remove the threat (e.g. contact People and Security or Property).

If there is disagreement concerning the appropriate action, the matter will be referred for immediate consideration by the next senior manager. In the meantime, work will be halted or the area evacuated pending consideration. If there is still disagreement, the issue will be referred to Comcare Australia as a matter of urgency. If work ceases because of an emergency, management will, wherever practicable, direct the workers to carry out suitable alternate work.

It should be noted that if the emergency falls under the jurisdiction of an appropriately authorised fire warden (e.g. in the case of fire or other emergency requiring evacuation), then the warden will take control of the situation.

If the manager/team leader cannot be contacted immediately, or if the emergency or threat is of such a nature that there is no time to contact the manager/team leader, the HSR will direct the worker(s) to evacuate or cease work in a safe manner. The HSR is then to inform an appropriate manager/team leader and the site leader of that action as soon as practicable.

Work will not resume until DVA management and the HSR are satisfied that there is no longer any unacceptable level of risk to the health and safety of staff. If agreement cannot be reached, immediate resolution of the matter will be sought from Comcare Australia.

15. Reporting Arrangements

The WHS Committee will provide any recommendations regarding WHS initiatives to the People & Culture Committee, for their endorsement, as the WHS Committee is not a decision making forum.

WHS Committees will provide reporting on their activity by agenda and minutes being accessible via their intranet page.

16 References

[The Work Health and Safety Act 2011 \(Cth\)](#)

[The Work Health and Safety Regulations 2011](#)

[The Work Health and Safety Codes of Practice 2015](#)

[Safety, Rehabilitation and Compensation Act 1988](#)

WORK HEALTH AND SAFETY MANAGEMENT ARRANGEMENTS

[Comcare Risk Management Principles and Model](#)

[Comcare Health and Safety Representative Information](#)

[Comcare Guide to Incident Notification](#)

[Comcare Health and Safety Representative Handbook](#)

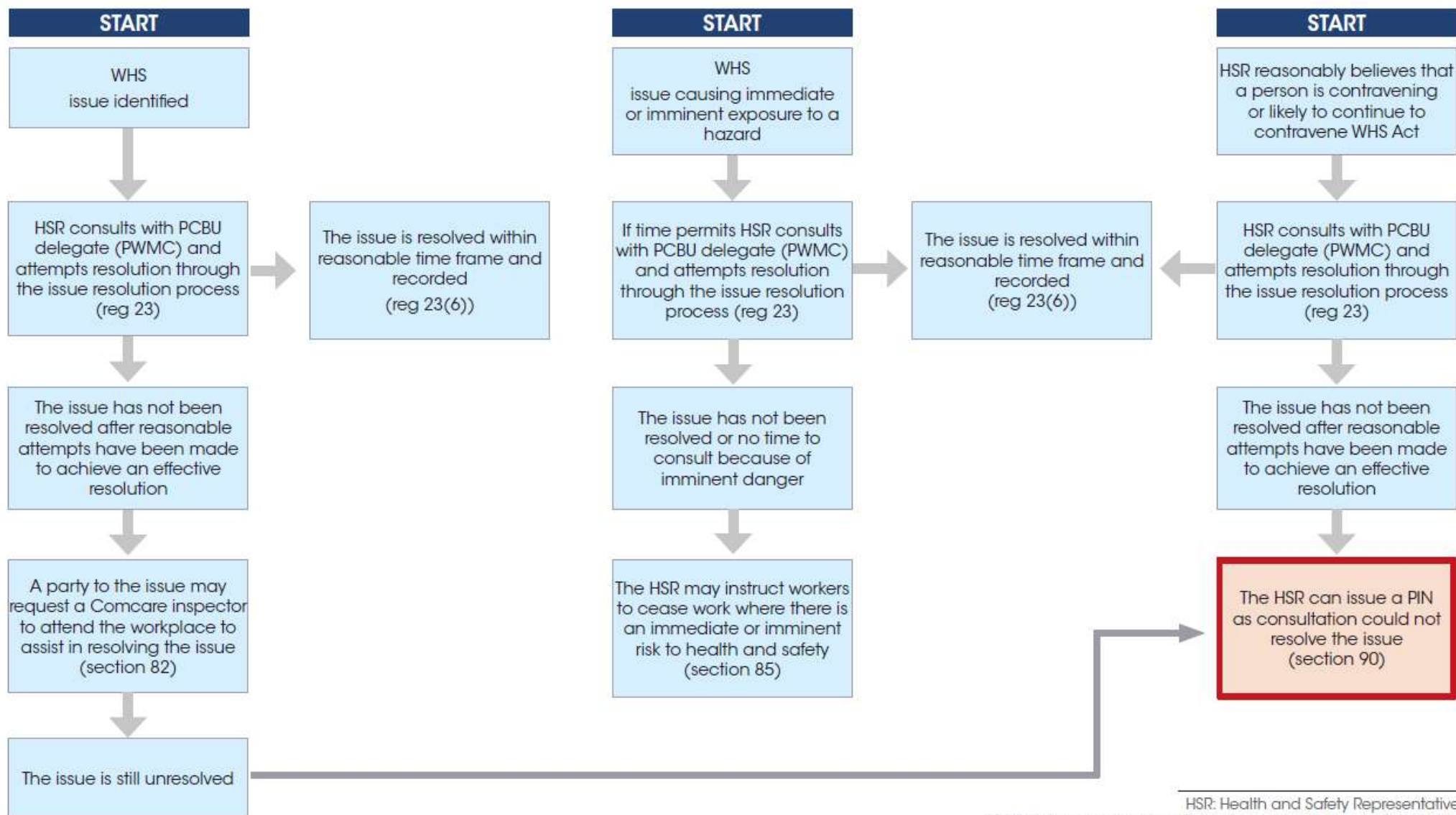
[Safe Work Australia website](#)

[Safe Work Australia – Labour hire](#)

HEALTH AND SAFETY ISSUE RESOLUTION PROCESS FOR HSRs

This flowchart has been designed to help HSRs with the resolution of serious workplace issues that cannot be addressed on the spot. It is designed to make it easier to determine what actions/consultation you must undertake and, if an issue is not resolved, whether you have undertaken all the relevant actions prior to issuing a PIN.

NOTE: Prepared by Comcare for HSRs who are appointed under the *Work Health & Safety Act 2011* (Cth) and have undertaken five day accredited HSR training course. Without this training HSRs cannot issue a Provisional Improvement Notice (PIN) or instruct workers to cease work over a safety issue.



HSR: Health and Safety Representative
PCBU: Person conducting a business or undertaking (s 5 WHS Act)
PVMC: Person with management or control of a workplace (s 20 WHS Act)