**Duties in relation to consultation, cooperation and coordination**

* Consulting with workers – A person conducting a business or undertaking must consult, so far as is reasonably practicable, with workers who carry out work for the business or undertaking and who are (or are likely to be) directly affected by a health and safety matter.
* Consulting, co-operating and co-ordinating activities with other duty holders – If more than one person has a duty in relation to the same matter, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a duty in relation to the same matter.

**When to consult with workers**

A person conducting a business or undertaking must consult with workers when:

* Identifying hazards and assessing risks arising from the work carried out or to be carried out.
* Making decisions about ways to eliminate or minimize those risks.
* Making decisions about the adequacy of facilities for the welfare of workers.
* Proposing changes that may affect the health or safety of workers.
* Making decisions about procedures for consulting with workers; resolving health or safety issues; monitoring health of workers; monitoring the conditions at the workplace and providing information and training for workers.

**Effective consultation**

Consultation requires that:

* Relevant work health and safety information is shared with workers.
* Workers are given a reasonable opportunity to express their views and to raise health or safety issues.
* Workers are given reasonable opportunity to contribute to the decision making process relating to the health and safety matter.
* The views of workers are taken into account.
* Workers are advised of the outcome of any consultation in a timely manner.

**Agreeing on consultation**

If a person conducting a business or undertaking and the workers have agreed to procedures for consultation, the consultation must be undertaken according to those procedures.

**Consulting using health and safety representatives**

The purpose of negotiations is to determine:

* The number and composition of work groups to be represented by health and safety representatives.
* The number of health and safety representatives and deputy health and safety representatives (if any) to be elected.
* The workplace or workplaces to which the work groups will apply.
* The businesses or undertakings to which the work groups will apply.

To establish a work group, the person conducting the business or undertaking must:

* Take all reasonable steps to commence negotiations with workers within 14 days after a worker makes a request.
* Negotiate with a worker’s representative (such as a union official) if a worker asks the person conducting the business or undertaking to do so.
* Notify the workers of the outcome of the negotiations and of any work groups determined by agreement as soon as is practicable after negotiations are complete.

If negotiations fail, the person conducting the business or undertaking or a work group member can ask the regulator to appoint an inspector to assist negotiations and determine certain matters if negotiations remain unresolved.

**Health and safety committees**

* A person conducting a business or undertaking must establish a health and safety committee within two months after being requested to do so by more than five or more workers, or by a health and safety representative, at the workplace.
* Health and safety representatives may choose to be members of the health and safety committee. In total, at least half of the members of the committee must be workers who are not nominated by management. If agreement about the health and safety committee cannot be reached in reasonable time, either party can ask the regulator to appoint an inspector to decide on the make-up of the health and safety committee, or whether it should be established at all.
* Health and safety committees must meet at least every three months.

**Sharing consultation arrangements with other duty holders**

If there are other contractors or on-hire workers as part of the workforce there is a shared duty of care to these workers as well as consultation duties with the business that provides them. Consult, co-operate and co-ordinate activities with the contractor or on-hire firm to develop shared consultation arrangements with the workers. In doing this, consider the types of issues that may arise where you would need to consult the contractor or on-hire firm and their workers.

**Review of consultation arrangements**

Establish ways to consult on health and safety that suits the workplace. Monitor and review these procedures in consultation with workers and health and safety representatives. An example checklist for things to consider when reviewing consultation arrangements is attached in Appendix A.

**How to consult, co-operate and co-ordinate activities with other duty holders**

There are often situations where more than one business or undertaking operates at a workplace and where people share responsibility for workplace health and safety to varying degrees.

* Where more than one person has a duty for the same matter, each person retains responsibility for their duty in relation to the matter and must discharge the duty to the extent to which the person can influence and control the matter.
* In these situations, each person with the duty must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with all other persons who have a work health or safety duty to the same matter.

**When to consult, co-operate and co-ordinate activities with others**

Commence consultation, co-operation and co-ordinating activities with the other duty holders when becoming aware that they are or will be involved in the work. This will usually be apparent from the circumstances, through contractual arrangements, presence on site or the need for others to be involved in the work.

**Meaning of consultation with other duty holders**

The objective of is to make sure everyone associated with the work has a shared understanding of what risks are, which workers are affected and how the risks will be controlled. The exchange of information will allow the duty holders to work together to plan and manage health and safety.

**Meaning of co-operation**

Co-operation may involve implementing arrangements in accordance with any agreements reached during consultation with other duty holders and involve not acting in a way that may compromise what they are doing for health and safety.

Co-operation also means that, if approached by other duty holders wanting to consult on a health and safety matter, you should:

* Not obstruct communication.
* Respond to reasonable requests from other duty holders to assist them in meeting their duty.

**Meaning of co-ordination**

The co-ordination of activities requires duty holders to work together so that each person can meet their duty of care effectively without any gaps in health and safety protection. Plan and organize activities together with the other duty holders.

Co-ordination of activities may include the scheduling of work activities so that each duty holder carries out their work separately. It may require work to be arranged in a way that will allow for necessary precautions to be in place or pre-conditions met before particular work is done.

**What if another duty holder refuses to consult or co-operate or co-ordinate**

What is reasonably practicable may depend on the level of participation of other duty holders. If there is disagreement to the extent of consultation, co-operation and co-ordination of activities that is required in the circumstances, do not simply accept what would be considered inadequate action by another duty holder. Check that they are aware and what you consider is needed to comply with it, and with health and safety duties that you each have.

**References:**

* WHS Consultation, Co-operation & Co-ordination Code of Practice 2011.
* WHS Act Section 16
* WHS Act Section 46
* WHS Act Section 47
* WHS Act Section 48
* WHS Act Section 49
* WHS Act Section 52
* WHS Act Section 53
* WHS Act Section 54
* WHS Act Section 75
* WHS Act Section 76
* WHS Act Section 78

APPENDIX A CONSULTATION CHECKLIST

