

DESIGNATED WORK GROUP (DWG) & HEALTH AND SAFETY REPRESENTATIVE (HSR) PROCEDURE

SCOPE

The scope of this procedure is where Monash University in Australia is the employer and the members of DWGs are all employees of Monash University in Australia.

PROCEDURE STATEMENT

This procedure aims to fulfill the requirements of the OHS Act 2004 (Vic) in relation to “Part 7 - Representation of Employees” by providing the context for how these requirements are to be undertaken at Monash University.

1. Abbreviations

DWG	Designated Work Group
HSR	Health and Safety Representative and/or Deputy Health and Safety Representative unless explicitly stated otherwise
NTEU	National Tertiary Education Union, who are an example of an Employee Representative group
OHS	Occupational Health and Safety
OH&S	Monash Occupational Health & Safety team, led by the Health, Safety and Wellbeing Manager
RLM	The Relevant Line Manager who encompasses business areas of any affected employees during designated work group (DWG) negotiation. The RLM has the authority to negotiate the formation of a DWG on behalf of the employer.

2. Occupational Health, Safety and Wellbeing (OHS&W) Policy

A Policy must be produced to give direction to the management of OHS at Monash University.

3. General Requirements

The Health, Safety and Wellbeing (OH&S) Manager, must ensure that the interests of the University and its employees are considered during the formation or change to any Designated Work Group (DWG) and that this procedure is followed.

3.1 Staff must not coerce or attempt to coerce any other staff member:

- 3.1.1 To withdraw or prevent, or enter a request to establish a DWG;
- 3.1.2 In the conduct of any negotiations concerning a DWG; or
- 3.1.3 From being included or excluded in any discussion in relation to the formation or cessation of a DWG.

4. Background

Part 7 of the OHS Act 2004 (Vic) includes provisions for staff to establish a DWG. The purpose of a DWG is to represent the interests of employees by electing Health and Safety Representatives (HSRs) who can act as a representative of staff within that DWG on matters that may impact upon their health and/or safety. For more information regarding employee representation please go [here](#).

5. Creation or Modification of a DWG

5.1 Request to create or change a DWG

Any member of a DWG may, at any time, request to negotiate to create or change a DWG by completing a [Formation, Amendment or Closure of DWG form](#). This may include the:

5.1.1 Formation of a new DWG due to a:

- Staff desire for the appointment of an HSR to represent their OHS-related interests; or
- Split to an existing DWG is warranted, because the number of staff per DWG exceeds the capacity of the HSRs to provide adequate representation.

5.1.2 Amendment to a DWG due to:

- Changes in the workplace, which have resulted in the need to adjust a DWG to better represent staff.

5.2 Negotiation to form or change a DWG

5.2.1 Negotiations must be undertaken between any affected staff (including current DWG members and the person who requested the change) and the Relevant Line Manager (RLM), following receipt of a [Formation, Amendment or Closure of DWG form](#). The Health, Safety and Wellbeing (OH&S) Manager, must notify the RLM and confirm that they are willing to facilitate negotiations. As per the requirements in the Occupational Health and Safety Act 2004, the RLM must ensure negotiations are commenced within 14 days following receipt of the Formation, Amendment or Closure of DWG form. If potentially affected staff are identified during negotiations, the Health, Safety and Wellbeing (OH&S) Manager, must be notified by the RLM.

5.2.2 Affected staff and their RLMs must consider and agree regarding:

- How best to group employees at one or more workplaces so that the employees' OHS interests are represented and secured;
- How best to group employees at one or more workplaces so that the HSR will be accessible to each member of the group;
- The number of HSRs and Deputy HSRs (if relevant);
- The term of office of any HSRs (and Deputy HSRs if relevant), to a maximum of 3 years; and
- Whether HSRs may represent independent contractors (e.g. external paid staff) in the DWG.

5.2.3 Agreement upon the types of communication (e.g. staff meeting, specific meeting, email, teleconference call) between staff and the RLM must be established prior to undertaking formal negotiations on the formation of, or amendment to, a DWG. A survey may also be used as a tool to gauge the opinion of the DWG.

5.2.4 The person requesting the DWG formation or the DWG itself may find it beneficial to invite the Monash University Health, Safety and Wellbeing (OH&S) Manager, Principal OHS Consultant or Employee Representative (e.g. NTEU Monash Branch or other) to support the negotiation discussions. It is expected that reasonable notice of this intended attendance is provided to the RLM and staff participating prior to a negotiation meeting.

5.2.5 During these negotiations, any group of the affected staff may choose to select a person, who does not need to be an elected HSR, to represent their interests (for example, if some staff were unable to attend due to other commitments). The RLM must reasonably ensure that any staff affected by a change to a DWG are present or otherwise represented during negotiations.

5.2.6 Negotiations must be completed within a reasonable timeframe. If agreement is not reached, the Regulator may be asked for an Inspector to attend and determine the issues that are unresolved.

5.2.7 As needed, accommodations will be made for people from culturally and/or linguistically diverse backgrounds to participate in the negotiation process.

5.3 Membership of a DWG

5.3.1 The RLM must reasonably ensure that all staff potentially impacted by the formation or amendment of a DWG are given the opportunity to be represented during negotiations. The following factors must be taken into account when determining the DWG grouping:

- The number of employees at the workplace(s);
- The nature of each type of work;
- The number and grouping of employees who perform similar types of work, such as doing the same tasks or working under the same or similar working arrangements (e.g. having the same shift arrangements; the same breaks; being part-time, casual or seasonal; working under the same contract or certified agreement; or having the same job grade);
- The areas at the workplace(s) where each type of work is performed;
- The nature of any hazards;
- Overtime or shift work arrangements; and
- Whether other languages are spoken by the employees.

5.3.2 At Monash University this often translates to:

- Business (organisational) units, i.e. academic/administrative units; or
- Locations, e.g. 30 Research Way (Building 40).

5.4 Confirmation

5.4.1 Once the formation of, or amendment to, any DWG has been agreed upon, a “Request for changes to a DWG form” is submitted by the RLM to the Health, Safety and Wellbeing (OH&S) Manager.

5.4.2 Monash University requires that any staff member may only belong to one DWG at any one time. Once a DWG has been confirmed, the Health, Safety and Wellbeing (OH&S) Manager, shall contact any staff member who may have been included in more than one DWG, to specify their preference.

6. Communicating with a DWG

6.1 Any staff member can request information on, or send a message relating to health and safety to their DWG by contacting their elected HSR in the first instance. In the absence of an HSR, advice can be sought from the Health, Safety and Wellbeing (OH&S) Manager.

6.2 A DWG will be considered inactive if:

- All organisational units within the DWG become inactive and the relevant employees are no longer present; or
- Members agree that the DWG can be considered inactive (e.g. All HSR roles within the DWG are vacant and a HSR has not been elected for a period of greater than six months. In this case, the members of DWG will be contacted regarding their preference). Inactive DWGs will not be listed on the University’s register of active DWGs, however, members of an inactive DWG may request that their DWG is re-activated by completing the [Formation, Amendment or Closure of DWG form](#).

7. Electing HSRs and Deputy HSRs

7.1 HSR Vacancy

7.1.1 The HSR/s and Deputy HSR/s, if applicable, for a DWG are to be elected by the members of the DWG.

7.1.2 All members of the DWG are entitled to participate in the nomination/election process.

7.1.3 Any DWG member may be nominated to be either a HSR or Deputy HSR. Persons are only eligible to be elected as a HSR or Deputy HSR for a DWG if they are a member of the DWG, and have not been disqualified from doing so by the Magistrate’s Court.

7.1.4 Nominees may choose to decline a nomination.

7.1.5 All elected and former HSRs and Deputy HSRs are eligible for nomination, unless they are disqualified from doing so by the Magistrate’s Court.

7.1.6 The DWG members determine the process for receiving nominations, including the duration of the nomination period.

7.1.7 The DWG will be offered assistance to complete their nomination process by Monash University OH&S.

Staff with management responsibilities are not recommended to complete the role of HSR due to the potential conflict of interest when exercising the duties of an HSR.

7.2 HSR Vacancy (in an existing DWG)

7.2.1 If a DWG has a vacancy for either HSRs and/or Deputy HSRs, any member of the DWG may nominate for the vacant role by completing the [HSR Vacancy form](#), as long as they have not been disqualified from doing so by the Magistrate’s Court.

7.2.2 The Health, Safety and Wellbeing (OH&S) Manager, shall notify all members of the DWG of this nomination, the number of HSR and Deputy HSR positions existing in the DWG and the corresponding number of vacancies that exist at that time.

7.2.3 It will be proposed to the DWG that if no other nominations are received for the role within the timeframe nominated, the nominee will be considered elected unopposed in to the vacant role.

7.3 HSR Election

7.3.1 If there are only as many nominations as there are vacancies, those nominees are automatically deemed to be elected HSR/s or elected Deputy HSR/s.

7.3.2 Where more nominations are received than there are vacancies the Health, Safety and Wellbeing (OH&S) Manager shall communicate with members of the DWG regarding their options to hold an election.

7.3.3 The members of the DWG determine how an election is to be conducted, including the method and duration of the election period.

- 7.3.4 The DWG will be offered assistance to complete their elections using a process collaboratively supervised by Monash University OH&S and the NTEU Monash Branch.
- 7.3.5 If the members of the DWG do not reach agreement within a reasonable time, any member may ask the Regulator to arrange for an Inspector to attend. The Inspector may conduct the election or appoint another person to conduct the election.
- 7.3.6 The Health, Safety and Wellbeing (OH&S) Manager must be advised in advance by the DWG, of the selected process for receiving nominations. The Health, Safety and Wellbeing (OH&S) Manager may request evidence that the selected process has been followed, which may include minutes of a meeting (if a show of hands is used) or confirmation of the number of ballots received (if a paper-based system is used).

8. Notice of Change

The Health, Safety and Wellbeing (OH&S) Manager, must advise all affected staff in writing whenever a:

- DWG is formed, amended or closed; and
- HSR or Deputy HSR position is filled or vacated.

9. Powers of HSRs and Obligations of Employers

The powers of HSRs and the obligations of the employer to HSRs are defined by the Occupational Health and Safety Act 2004 (Vic), sections 58-71. Further information is available in the [Employee representation: A comprehensive guide to part 7 of the OHS Act 2004](#).

10. Tenure of HSRs and Deputy HSRs

- 10.1 All elected HSRs and Deputy HSRs have a maximum term of office of 3 years, or less as agreed by their DWG, but may choose to resign prior to this date. OH&S will notify a DWG one month prior to the HSR's completion of their term of office. The HSR ceases to be the elected HSR at the date of the completion of their term of office. The HSR may choose to nominate for a further term of office.

11. Training

- 11.1 Elected HSRs and Deputy HSRs are encouraged to complete the Regulator's approved HSR training course. A complete list of Registered Training Organisations providing the WorkSafe Victoria approved HSR Initial (5 day) OHS training is available on the [Regulator's website](#).
- 11.2 Elected HSRs and Deputy HSRs are also encouraged to participate in an annual refresher course approved by the Regulator.
- 11.3 Prior to attending the above training, HSRs and Deputy HSRs must provide at least 14 days notice to their Manager or Supervisor.

12. Powers of HSRs

- 12.1 Elected Health and Safety Representatives have specific powers set out in the Occupational Health and Safety Act 2004 (Vic), which include:
- Inspect any part of a workplace at which a member of the DWG works at any time after giving reasonable notice to the employer and immediately in the event of an incident or any situation involving an immediate risk to the health or safety of any person;
 - Take photographs or measurements or make sketches or recordings (including audio and video) at any part of a workplace at which a member of the DWG works. Note: there are particular restrictions regarding when this power may be used;
 - Accompany an Inspector during a workplace inspection where a member of their DWG works;
 - Require the establishment of a health and safety committee;
 - Be present at (but not make recordings of) an interview concerning OHS between a DWG member and an Inspector or the DWG member and employer, where the DWG member consents;
 - Issue a provisional improvement notice (PIN), see below; or
 - Issue a direction to cease work after consultation has taken place with the employer.

- 12.2 In the event of an issue being raised in the workplace, HSRs and Deputy HSRs are referred to the [Issue Resolution Procedure](#) in the first instance, which includes raising the issue with Monash OH&S.
- 12.3 If the issue remains unresolved, the HSR has the power to issue a PIN. A PIN is a written direction provided to a Monash University employer representative by an elected HSR (or Deputy in the event that the HSR is unable) to remedy the specified contravention within a specific timeframe. Responsibilities related to the issuing of a PIN are described by the Occupational Health and Safety Act 2004 (Vic), sections 60-63.
- 12.4 Any Monash Employee who received a PIN must notify the Health, Safety and Wellbeing (OH&S) Manager immediately.

DEFINITIONS

Key word	Definition
Employer	Monash University
Regulator	WorkSafe Victoria

GOVERNANCE

Parent policy	OHS&W Policy
Supporting schedules	N/A
Associated procedures	WorkSafe Victoria documents Employee representation: A comprehensive guide to part 7 of the OHS Act 2004 Designated Work Groups
Related Legislation	Occupational Health and Safety Act 2004 (Vic)
Category	Operational
Approval	Chief Operating Officer & Senior Vice-President 10 October 2022
Endorsement	Monash University OHS Committee 15 September 2022
Procedure owner	Health, Safety and Wellbeing Manager
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Content enquiries	ohshelpline@monash.edu

DOCUMENT HISTORY

Version	Date Approved	Changes made to document
1	March 2018	Designated Work Group (DWG) & Health and Safety Representative (HSR) Procedure, v1
2	September 2018	<ol style="list-style-type: none"> 1. Added information on training in section 8.4 2. Clarified rights of HSR to inspect DWG's workplace in section 8.1.3 3. Clarified process for when agreement cannot be reached during DWG negotiations in section 6.4 4. Updated hyperlinks throughout
3	June 2019 (withdrawn)	<ol style="list-style-type: none"> 1. Clarified that members of the DWG can specify the process of voting on candidates for HSR and deputy HSR. 2. Included procedural requirements when HSRs choose to issue provisional improvement notices.
3.1	September 2019	<ol style="list-style-type: none"> 1. Clarified that members of the DWG can specify the process of nominating candidates for HSR and deputy HSR. 2. Clarified that a DWG can request the assistance of the NTEU in relation to the process of holding an election. 3. Re-ordered the sections to bring HSR rights into one section. 4. Created new a section for PINs, removed process that related to HSRs issuing a PIN, and, included requirement to notify OHS upon receipt of a PIN.
3.2	December 2020	<ol style="list-style-type: none"> 1. Refined DWG closure to 'inactive' and moved requirements to the communication section. 2. Adjusted requirements to close align to terminology in Employee representation: A comprehensive guide to part 7 of the OHS Act 2004 3. Further clarified the distinction between notifying of vacancy within a DWG, the steps to call for nominations, and the process to hold an election. 4. Removed details regarding of the powers of an HSR and referred to the requirements of the Occupational Health and Safety Act 2004 (Vic). 5. Updated details to reflect compliance with current OHS legislation.
3.3	July 2021	<ol style="list-style-type: none"> 1. Updated certification logo in footer to ISO 45001 2. Updated OHS Policy under 'Parent Policy' to OHS&W Policy
3.4	July 2022	<ol style="list-style-type: none"> 1. Minor clarifications to ensure compliance with the OHS Act, including removing the requirement for a seconder when nominating for a HSR/Deputy HSR Role (was 7.1.6); removing any suggestion that the RLM must approve the DWG formation (5.5.1); confirmation that the DWG may choose the election method (7.2); notice of change in writing (section 8); removal of flow chart until it can be updated.
4.0	October 2022	<ol style="list-style-type: none"> 1. Updated abbreviations to include NTEU (1.0) 2. Updated to include OHS&W Procedure (2.0) 3. Clarification regarding representation at meetings and catering for persons from culturally and linguistically diverse backgrounds (5.2) 4. HSR Vacancy section reformatted (7.1) and added new section regarding HSR Vacancy in an existing DWG (7.2) 5. HSR election process clarifications (7.3) 6. Notice requirement included to attend training (11.3) 7. Powers of HSRs added (12)