

Health, Safety and Environment Management System

HSE-PRO-010 HSE Consultation and Participation Procedure

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1 Intent

This procedure provides guidance for fair and effective workplace representation and for collaborative consultation, cooperation and issue resolution in relation to work health and safety.

Worker consultation and participation is an important part of James Cook University's (JCU) strategy to eliminate and prevent occupational injury and illnesses.

2 Scope

This HSE Consultation and Participation Procedure applies to all persons who undertake JCU related activities and who are employed or engaged by the University or affiliated with the University in any capacity as a Worker or an Officer as defined by the *Work Health and Safety Act 2011* (Qld) (the Act).

This Procedure does not apply to Others (visitors and students not performing work experience or paid or unpaid work) and JCU Controlled Entities.

3 Definitions

Term	Definition
A person conducting a business or undertaking (PCBU)	A business or an undertaking that is either conducted alone or with others, whether or not for profit or gain. A PCBU can be but is not limited to: <ul style="list-style-type: none">• a sole trader (for example a self-employed person)• a partnership• a company
Health and Safety Representative (HSR)	A Worker who has been elected by a work group to represent them on health and safety issues.
Officer	A person who makes decisions, or participates in making decisions that affect the whole or a substantial part of a business or undertaking or has the capacity to significantly affect the financial standing of the business or undertaking. A person is not considered an Officer under the Work Health and Safety Act 2011 (Qld), if they are only responsible for implementing or executing those decisions. Holders of the following JCU positions are considered Officers: <ol style="list-style-type: none">1. Members of Council2. University Executive, Pro Vice Chancellors, Directors and Deans
Official of a union	A person who holds an office in, or is an employee of, a union
Others	Visitors to a JCU controlled site / campus and students not performing work experience or paid or unpaid work.

Reasonably Practicable	<p>That which is, or was at a particular time, reasonably able to be done 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 hazard or the risk concerned occurring • the degree of harm that might result from the hazard or the risk • what the person concerned knows, or ought reasonably to know, about the hazard or risk, and ways of eliminating or minimising the risk • the availability and suitability of ways to eliminate or minimise the risk • after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
Worker	<p>A person who carries out work in any capacity for JCU, and includes working as:</p> <ul style="list-style-type: none"> • an employee • a volunteer • an apprentice or trainee • a student gaining work experience (paid or unpaid) • a contractor or subcontractor and their employees • labour hire company employees assigned to work for JCU.
Work Group	A group of Workers who share a similar work situation
Workplace	A workplace is the place where work is carried out for JCU and includes any place where a Worker goes, or is likely to be, while at work.

4 Duty, Obligations and Responsibilities

4.1 James Cook University

JCU must, so far as reasonably practicable, consult with Workers who carry out work for the University and who are directly affected, or likely to be directly affected, by a health and safety matter.

In addition, JCU must, so far as reasonably practicable, consult, cooperate and coordinate activities with all other persons conducting a business or undertaking (PCBU) and their Workers on shared work health and safety matters.

To facilitate health and safety information flow and representation, JCU has assigned consultation responsibilities to designated roles and committees across the University. Refer to [HSE-PRO-008 HSE Responsibility Procedure](#) for more information.

4.2 Health, Safety and Environment Unit

The Health, Safety and Environment (HSE) Unit is responsible for:

- maintaining the approved issue resolution process in consultation with Workers
- coordinating Health and Safety Representative (HSR) elections if requested by the Workers
- coordinating negotiations for the determination of work group structure if requested by the Workers
- maintaining a current list of HSRs at JCU and providing this information to the JCU community
- coordinating HSR training when requested by an HSR
- work with HSRs in a reciprocal way to enable the HSR to carry out their role
- providing Officers with work health and safety reports and information to support the management of health and safety
- advising the Health Safety and Environment Advisory Committee (HSEAC) on safety related matters.

4.3 PCBUs that share duties under the Act

PCBUs must so far as reasonably practicable, consult, cooperate and coordinate activities with JCU and its Workers on any shared work health and safety matter.

5 When to Consult

JCU is required under the Act to consult with its Workers when:

- identifying hazards, assessing risks and deciding on measures to control those risks
- making decisions about the adequacy of facilities for the welfare of Workers
- planning to make changes that may affect Workers' work health and safety
- making decisions about the procedures for:
 - resolving work health and safety issues
 - consulting with Workers on work health and safety
 - monitoring Workers' health and workplace conditions
 - providing information and training.

6 How to Consult

When consulting with Workers on a work health and safety matter, JCU is to:

- allow Workers a reasonable opportunity to raise work health and safety issues relating to the matter, express their views and contribute to the decision-making process in relation to the matter
- share relevant information about the health and safety matter with its Workers
- take into account the views of its Workers, and
- advise the Workers that were consulted of the outcome of the consultation in a timely way.

If consensus or agreement cannot be reached between Management and Workers about the way consultation will occur at JCU, the HSE Unit will provide recommendations to the

Health, Safety and Environment Advisory Committee (HSEAC) for consideration and determination.

7 Health and Safety Representatives

A HSR is a member of a work group who has been elected to represent the health and safety interests of the work group.

The role of an HSR is to represent the Workers in consultation forums with management, and in the investigation and resolution of health and safety incidents or issues. The HSR is a conduit for the flow of information between Management and Workers.

HSRs can consult with Management on work health and safety requirements by:

- raising work health and safety issues to Management on behalf of Workers using the agreed issue resolution process as outlined in the HSE-INFO-003 Information about Work Health and Safety Issue Resolution Information Sheet
- improving communication and awareness of work health and safety requirements
- assisting with the investigation of work health and safety issues or incidents
- when trained, issue Provisional Improvement Notices (PIN) as per the agreed JCU issue resolution process and the Act.

A HSR must not:

- exercise a power or perform a function as a HSR for an improper purpose
- use or disclose any information he or she has acquired as a HSR for a purpose other than in connection with the role of HSR.

A HSR is not personally liable for anything done or omitted to be done in good faith:

- in exercising a power under the Act, or
- in the reasonable belief that the thing was done or omitted to be done in exercising power under the Act.

The HSE Unit must provide a list of current HSRs on the HSE website.

7.1 Election of HSR

Any Worker belonging to a JCU work group can ask JCU to facilitate the conduct of an election for HSRs to represent them.

If a request is made for the election of an HSR, JCU will start negotiations in accordance with the HSE-INFO-005 Election of Health and Safety Representative Information Sheet.

If the number of HSR candidates for a work group equals the number of HSR vacancies, the election need not be conducted. In this instance, each candidate is to be taken to have been elected as a HSR for the work group.

The term of office for a HSR is three years.

If a HSR does not wish to continue in the role, they must notify the HSE Unit immediately in writing using the HSE-PRO-010b HSR Resignation Form.

7.2 Work Groups

The JCU workforce is divided into work groups according to Division, Directorate or College. The HSR role represents their work group on health and safety matters.

The number of HSRs needed to adequately represent the work group is determined through consultation, negotiation and agreement between the Workers and Management.

Generally, a HSR should only act for their work group. However, if there is a serious risk to the health or safety of Workers from an immediate hazard or if assistance is requested in the absence of a HSR from another work group, the HSR may represent the other work group.

A list of these work groups and the number of HSRs per work group is published on the JCU HSE website.

The composition of the work groups may be changed. If this is requested, the HSE Unit will coordinate negotiations between the members of the work group and Management to determine the best structure for representation.

7.3 Eligibility to Stand for Election to be a HSR

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

A work group member may nominate themselves or another member of the work group to stand for election.

A Worker who has management responsibilities can be an HSR if they are a member of a work group and are elected by the Workers of that work group to be an HSR. However, the nominee must understand that the HSR role is to represent the Workers in health and safety matters. The nominee with management responsibilities must disclose to the HSE Unit any foreseeable conflict of interest that may arise when fulfilling the functions of an HSR. The HSE Unit will negotiate with the nominee and the relevant senior staff member of the area to determine the most appropriate outcome for the work group.

7.4 HSR Powers and Functions

An HSR is entitled to:

- inspect the workplace within the HSR's area of representation
- accompany an inspector during an inspection of the workplace
- with consent of one or more Workers, be present at an interview concerning work health and safety matters or when being interviewed following an incident
- request assistance of any person
- monitor the measures taken by JCU in compliance the Act in relation to Workers in the work group
- be told by JCU of any workplace incidents

- advise JCU of the results and recommendations following workplace incident reviews and offer to provide feedback or comments to an incident investigation
- direct Workers to cease unsafe work or issue Provisional Improvement Notices when appropriately trained to do so
- be consulted by JCU on proposed changes to the workplace, plant or substances
- help resolve work health and safety issues and create a strong safety culture within JCU
- report issues that may affect health and safety at the workplace in accordance with the agreed issue resolution process
- attend appropriate training courses arranged by the HSE Unit
- exercise these entitlements during normal working hours.

7.5 Entitlements of Workers

Workers are entitled to:

- elect an HSR
- request the formation of a formal health and safety consultative process (work group)
- cease unsafe work, without affect to continuity of engagement if the Worker has not unreasonably failed to comply with a direction to carry out suitable alternative work as per the section titled [cease work requirements](#)
- have health and safety issues resolved in accordance with the agreed issue resolution process
- not be discriminated against for raising health and safety issues
- access to the minutes of the Divisional Safety Meetings.

A Worker who ceases work is to inform JCU as soon as practicable of the cessation of work and to remain available to carry out suitable alternative work.

7.6 Training

To issue a PIN (refer to section 7.7) or direct a person to cease unsafe work, the HSR must attend approved training.

It is recommended that all HSRs undertake a Workplace Health and Safety Queensland approved training course to qualify them to exercise full powers of the role.

The HSE Unit is responsible for coordinating all HSR training.

HSRs are entitled to an allowance on evidence of completion of the five day HSR training course.

7.7 Provisional Improvement Notices

A Provisional Improvement Notice (PIN) is a written direction from an elected HSR to the University requiring them to fix a workplace health and safety issue. A HSR cannot issue a PIN if an inspector has already issued an improvement or prohibition notice relation to the same matter.

Only elected HSRs who have successfully completed the Workplace Health and Safety Queensland approved training course can issue a PIN.

A PIN should only be used if agreement to fix the problem cannot be reached through the normal consultation process. See the subsequent section titled [Managing Work Health and Safety Issues](#).

7.8 Directing Workers to Cease Unsafe Work

If an HSR has a reasonable concern that carrying out work would expose a Worker to serious health and safety risk, the HSR may direct a Worker to cease work. However, only elected HSRs who have successfully completed the Workplace Health and Safety Queensland approved training course can direct a person to cease unsafe work.

Before directing a Worker to cease work, the HSR must first attempt to resolve the matter using the process outlined in the HSE-INFO-003 Information about Work Health and Safety Issue Resolution Information Sheet.

However, if the risk is so serious and immediate that it is not reasonable to consult first, the HSR must inform JCU of any direction given to the Worker when it was not possible to consult first by contacting the HSE Unit as soon as practicable after giving the direction.

7.9 JCU obligations to HSRs

JCU is to:

- consult with HSR so far as is reasonably practicable on work health and safety matters for a work group
- confer with HSR for a work group whenever reasonably requested by the HSR for the purpose of ensuring health and safety of workers in that work group
- allow HSR for the work group to have access to information that the person has relating to hazards and risks at the workplace affecting the work group and health and safety of Workers in the work group
- with consent of a Worker that the HSR represents allow HSR to be present at an interview concerning work health and safety between the worker, an inspector or JCU or their representative
- provide any resources, facilities and assistance to a HSR for the work group that are reasonably necessary or prescribed under a regulation to enable the HSR to exercise his or her power or perform his or her functions
- allow a person assisting a HSR for the work group to have access to the workplace if that is necessary to enable the assistance to be provided
- permit a HSR for the workgroup to accompany an inspector during an inspection of any part of the workplace where a worker in the work group works
- provide any other assistance to the HSR for the workgroup that may be required under a regulation.

JCU is to also allow a HSR to spend the time reasonably necessary to undertake his or her powers and perform their functions.

Any time a HSR spends for the purpose of exercising powers or functions must be with the pay that they would otherwise be entitled to receive for performing their normal duties during that period.

In relation to these obligations, JCU:

- must not allow a HSR to have access to any personal or medical information concerning a Worker without the Workers consent unless the information is in a form that does not identify the worker and could not reasonably be expected to lead to the identification of the Worker
- is not required to give financial assistance to a HSR for the purpose of the assistance
- is not required to allow a person assisting a HSR for a work group to have access to the workplace if the assistant has had their permit revoked or during any period that the assistants permit is suspended or the assistant is disqualified from holding the permit
- may refuse on reasonable grounds to grant access to the workplace to a person assisting the HSR for a work group. If access is refused to a person assisting the HSR the HSR may ask the regulator to appoint an inspector to assist in resolving the matter.

8 Cease work requirements

If a Worker ceases unsafe work, JCU may direct the Worker to carry out suitable alternative work at the same or another workplace until the Worker can resume normal duties. In this instance the alternative work must be safe and appropriate for the Worker to carry out.

9 Consulting with Other PCBUs that share duties under the Act

Consultation extends to all Workers not just employees. This means JCU must consult, cooperate, and coordinate activities with other PCBUs that have overlapping work health and safety duties. Duty holders with which the University shares work health and safety duties include, but are not limited to:

- Student placement hosts
- Principal contractors
- Contractors
- Labour hire organisations
- Controlled entities.

This duty is in addition to the primary duty of care imposed as PCBUs. [HSE-PRO-008 HSE Responsibility Procedure](#) outlines these responsibilities at JCU.

JCU must work with other duty holders in a proactive and reciprocal way. This allows all risks associated with an activity that duty holders are involved in, to be eliminated or minimised so far as is reasonably practicable.

The method(s) of consultation will vary depending on the circumstances. The method(s) of consultation is to be determined and agreed to by both JCU and the other duty holder.

Examples of consultation methods include:

- raising a work health and safety issue directly with the other PCBU involved
- toolbox talks
- informal safety inspections of construction sites
- contract start-up meetings
- standing work health and safety agenda item at periodic performance meetings.

Each duty holder must share information in a timely manner and cooperate to meet health and safety obligations. This means JCU and other PCBUs should:

- not obstruct communication
- respond to reasonable requests from other duty holders to assist them in meeting their duty.

10 Health and Safety Consultative Process

JCU has tailored a structure that enables effective two-way vertical consultation between Officers and Workers. The process and structure is outlined in the following paragraphs.

10.1 Divisional Safety Meetings

Under the current structure, every Division must hold quarterly Divisional Safety Meetings.

The purpose of the Divisional Safety Meetings is to enable consultation and participation of staff and management by providing a forum for HSRs and Workers to raise longer-term, more complex health and safety issues with management.

This is done by:

- staff or their representative escalating work health and safety issues for resolution in accordance with the agreed issue resolution process
- management passing on important work health and safety information to the Division and discussing any proposed changes to the workplace that may impact on Worker's health and safety
- the HSE Unit providing work health and safety related information and data to the Divisional senior management to support and improve work health and safety functions.

The quarterly Divisional Safety Meetings form part of the relevant Divisional Executive Management Team Meeting.

Attendance at the meeting is encouraged but not compulsory.

Participants must be given at least three weeks' notice of an upcoming Divisional Safety Meeting and be given reasonable time to attend the meeting.

Outstanding actions that are not resolved at the time of the Divisional Safety Meeting must be documented and an action plan created for timely resolution. Action plans are to be approved by the Meeting Chair. Outstanding actions are tabled at the next Divisional Safety Meeting.

Any issues identified in the meeting as requiring escalation to the Health, Safety and Environment Advisory Committee (HSEAC) should be reported to the Chair HSEAC immediately following the finalisation of the minutes to ensure timely consideration / action by HSEAC.

10.2 Health, Safety and Environment Advisory Committee (HSEAC)

The role of HSEAC is to provide an advisory function to the Vice Chancellor on matters relating to health and safety at JCU. The HSEAC is made up of representatives from the various Divisions, safety representatives from the HSE Unit with the Deputy Vice Chancellor, Services and Resources as the Chairperson.

10.3 Health, Safety and Environment Advisory Committee Sub-Committees

There are three sub-committees of the Health, Safety and Environment Advisory Committee (HSEAC):

- University Radiation Safety Sub-Committee
- University Boating and Diving Sub-Committee
- University Institutional Biosafety Committee

The sub-committees have an advisory function to the HSEAC.

10.4 Health, Safety and Environment Committee of Council

The purpose of the Committee is to consider and advise the Council on strategic governance issues relating to health and safety, in particular, consider and advise Council on the University's compliance with its obligations under the Act.

11 Managing Work Health and Safety Issues

If a work health and safety issue is identified, JCU and the other parties must make reasonable efforts to achieve a timely, final and effective resolution of the issue in accordance with the Work Health and Safety Issue Resolution Information Sheet.

12 WHS Entry Permit Holders

The Act allows an official of a union who holds a WHS entry permit and a *Fair Work Act 2009* (Cth) permit to enter workplaces to:

- inquire into suspected work health and safety contraventions that affect or relate to relevant Workers
- inspect employee records or information held by another person, or
- consult and advise relevant Workers who wish to participate in the discussions about work health and safety matters.

13 Related Documents, Legislation and Other Resources

13.1 Related Documents and Other Resources

Procedure	HSE-PRO-008 Responsibilities Procedure
Guideline	HSE-GUI-001 HSE Document Management Guideline
Further Information	HSE-INFO-001 HSR Information Sheet
	HSE-INFO-003 Work Health and Safety Issue Resolution Information Sheet
	HSE-INFO-005 Election of a HSR Information Sheet
Forms	HSE-PRO-010a JCU HSR Nomination Form
	HSE-PRO-010b JCU HSR Resignation Form

13.2 Regulatory Authorities and Other Relevant Entities

Workplace Health and Safety Queensland

13.3 Related Legislation, Codes of Practice and Standards

Legislation	Work Health and Safety (Qld) 2011 Work Health and Safety Regulation (Qld) 2011
Standards	Not applicable
Codes of Practice	Work Health and Safety Consultation, Co-operation and Co-ordination Code of Practice (Qld)

14 Administration

NOTE: Printed copies of this procedure are uncontrolled, and currency can only be assured at the time of printing.

14.1 Approval Details

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Implementation Date - the date the procedure was published in the Policy Library and is the date the procedure takes effect

Version	Approval date	Implementation date	Details	Author
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Keywords	Consultation participation
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Consultation Committee	Health, Safety and Environment Advisory Committee (HSEAC)
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