

OHS CONSULTATION AT THE UNIVERSITY OF WESTERN SYDNEY – THE RATIONALE

The following provides information on:

- The legislative requirements for OHS Consultation in New South Wales.
- The objective of OHS Consultation.
- The “duty to consult”.
- Establishing OHS Consultation arrangements.
- The approach taken to OHS Consultation at the University of Western Sydney.
- The advantages and disadvantages of the University’s approach to OHS Consultation.
- A diagrammatic representation of the University’s approach to OHS Consultation.

1. Legislative Requirements for OHS Consultation in New South Wales.

The NSW OHS Act 2000 and OHS Regulation 2001 imposes a “duty of care” on all employers to “ensure the health, safety and welfare at work” of all the employees and others who work at or visit their premises. The Act and Regulation also imposes on all employers a “duty to consult” with their employees, and others, on matters affecting their “health safety and welfare at [the employers] work”. The Regulation requires the employer to establish OHS “consultative arrangements”.

Objectives of OHS Consultation

The objectives of any consultation arrangements are to:

- Enable an organisation’s employees to contribute to the decisions affecting their health, safety and welfare at work.
- Ensure that there is meaningful and effective consultation with employees about matters that may affect their health, safety and welfare.
- Achieve reduced workplace injury and illness by involving employees in developing and implementing safer and better ways of working.

The Duty to Consult in NSW

Under OHS legislation in NSW, all organisations must provide and maintain, in all areas of their operations and workplaces, a forum for employees to regularly discuss and consult on occupational health and safety matters that may affect them. It is through consultation, that the organisation becomes more aware of the hazards and OHS issues experienced by employees, and employees are able to contribute their ideas about how to solve health and safety problems.

NSW legislation requires that managers and supervisors consult with employees:

- When changes that may affect employees health and safety are proposed to the:
 - premises where people work.
 - systems or methods of work.
 - plant used for work.
 - substances used for work.
- When assessing risks to employees health and safety arising from their work or when the assessment of those risks is reviewed.
- When deciding what measures should be taken to eliminate or control those risks.
- When introducing or altering the procedures for monitoring risks.
- When decisions are made about the adequacy of facilities for the welfare of employees and when proposed changes to premises may affect the welfare of employees.

Managers and supervisors are to seek the views of employees before decisions are made about the resolution of OHS and welfare issues at their workplace. Employers are obliged to ensure that the issues and recommendations raised as part of OHS consultation are responded to within specified time frames and that the agreed actions are incorporated into the employers system for managing OHS.

Establishing Consultation Arrangements

Employers need to ensure that consultative arrangements, as required by OH&S legislation, are established and take the form of one or more of the following:

- The establishment of one or more OHS Committees and/or,
- the election of one or more OHS Representatives and/or,
- other arrangements agreed by the organisation and its employees.

In determining which consultative arrangement best enables the organisation to meet its consultative requirements the following criteria must be met:

- The arrangement must provide for the employer and employee to share relevant information that has implications for health and safety.
- Where employee Representatives are involved, the arrangement must allow sufficient time for them to gather the views of the employees they represent from their workgroup.
- The arrangement must ensure that employees' views will be considered by the employer and will be taken into account, prior to decisions being made.
- The arrangement must consider how effective and meaningful consultation will be undertaken with employees from non-English speaking backgrounds.
- An OHS Representative must receive the required legislated training.

Workgroups - a workgroup is a group of employees represented by a particular OH&S Committee or OHS Representative. Workgroups are to be determined so that an OHS Committee and/or OHS Representative is able to:

- Effectively represent the employees in each work area.
- Undertake regular, meaningful communication with the employees in the workgroup.

The diversity of employees and their work must be taken into account when determining workgroups. The following must be considered:

- The hours of work of employees, including the representation of employees on shift work.
- The pattern of work of employees, including the representation of part-time, seasonal or short-term employees.
- The number and grouping of employees.
- The geographic location where employees work, including the representation of employees in dispersed locations such as child care.
- The different types of work performed by employees and the different levels of responsibility.
- The attributes of employees, including gender, ethnicity, age and special needs.
- The nature of the hazards.
- The interaction of employees with the employees of other employers (including contractors, labour hire, suppliers' employees).

OHS Committee - The purpose of an OHS committee is bring together employee and employer Representatives to collectively discuss and develop ways of improving the system for managing safety. A committee is a cooperative approach between the employer and its employees and ensures retention of OHS knowledge within the workplace.

The establishment and composition of an OHS committee must comply with the following requirements:

- The employee Representatives on a committee must be elected by the employees in the relevant workgroup, which the committee represents.
Employee Representatives for a committee are to be elected:
 - In a manner that is consistent with recognised democratic principles. (Elections may be conducted by a Federal or State industrial organisation of employees if the employees concerned request the organisation to conduct the election.)
 - For a period of 2 years. (A person elected as an employee Representative on a committee is eligible for re-election for a further term.)
- The chairperson of a committee is to be an employee Representative.
- The number of employer Representatives on a committee must not exceed the number of elected employee Representatives on the committee.
- A person is not eligible to be an employer Representative on an OHS committee, unless the person has authority to act on behalf of the organisation in regard to occupational health and safety matters.
- The employer must ensure that employer representatives on an OHS Committee participate in the work of the Committee on a regular basis, e.g. attends or is represented at every meeting of the OHS Committee.

OHS Representatives - The purpose of an OHS Representative is to provide a direct point of contact for individual employees about OHS matters and to represent employee interests when management raises OHS matters.

The establishment of OHS Representatives must comply with the following requirements:

- The OHS Representative must be elected by the employees in the relevant workgroup the person represents.
- The election must be conducted in a manner that is consistent with recognised democratic principles. (The election may be conducted by a Federal or State industrial organisation of employees if the employees concerned request the organisation to conduct the election).
- An OHS Representative is elected for a period of 2 years. (A person elected as an OHS Representative is eligible for re-election, for a further term.)

Other Agreed Arrangements - Different consultation arrangements may be necessary in some workplaces of the University due to the diverse working arrangements that exist across the organisation. For example, employers of small work groups geographically distant from the main site may arrange to consult directly with their employees on a one to one basis and through OHS meetings.

Where “Other Agreed Arrangements” for consultation are to be established the manager for the workgroup must consult employees in relation to:

- Meetings between the employer and employees.
- How communication with employees will be undertaken.
- The function and role of the persons involved.
- Training of the persons involved.
- The procedure for resolving OHS issues.
- The role of any relevant union.

The role of participants in “Other Agreed Arrangements” should include:

- Identifying and implementing solutions that will improve the University’s system for managing health and safety, e.g. through the use of hazard identification, risk assessment and risk control.
- Keeping under review the measures taken to ensure the health, safety and welfare of those at work.

2. The Approach to OHS Consultation at UWS.

At UWS Divisions are independently responsible for implementing their own consultation arrangements and OHS&R management plans under the guidance of the Vice Chancellor's Advisory Committee in its role as "UWS Executive OHS&R Committee".

This has the advantage of making the Divisions responsible for establishing their own mix of consultation approaches which best reflects their operating areas (Colleges, Schools, Departments and Entities) and geographic locations. They are also responsible for determining, funding and implementing their own OHS&R management plans. effectiveness will be critical to effective OHS&R management. is set out below.

Each Division is required to report bi-monthly on OHS consultation matters to the UWS Executive OHS&R Committee.

The role of the Executive OHS&R Committee is to:

- Provide a combined collective wisdom on the management of OHS&R within the University.
- Act as the principal advisor to the Vice Chancellor and Board of Trustees on OHS&R management and the deployment of OHS&R strategy throughout the University.
- Provide both guidance and decisions on OHS&R to the Divisions on behalf of the University.
- Monitor OHS&R performance within the Divisions.
- Make recommendations and provide reports on OHS&R to the Vice Chancellor and the Board of Trustees.

The UWS Executive OHS&R Committee is chaired by the Vice Chancellor and is made up as follows:

- Deans of Colleges or Representatives
- Head of each Division or Representative
- Head of Capital Works & Facilities or Representative
- OHS&R Manager or Representative
- Bio-Safety / Radiation Safety Committee Representative
- Student Association Representative
- Entity Representative as required
- Union appointed representatives if required.

Each College, School, Department and Entity is required to report monthly to their Divisions so that the Divisions can consider these reports as part of their regular business management meetings. The Divisions will then send a formal report on their OHS&R performance to the UWS Executive OHS&R Committee every two months.

The UWS Executive OHS&R Committee will, for its part, meet every two months to consider the OHS&R reports and issues from the Divisions. The Committee will then prepare and submit a report to the next scheduled formal meeting of the Board of Trustees.

Decisions, outcomes, actions and recommendations on Divisional and UWS OHS&R matters from the formal meetings of the UWS OHS&R Executive Committee and the Board of Trustees will then be communicated to the heads of Divisions on a regular basis.

This management structure for OHS&R at UWS includes the activities of the OHS&R Unit and the Bio Safety and Radiation Safety Committee. The OHS&R Unit will be required to provide OHS&R advice at the operating level to Divisions, Colleges, Schools, Departments and Entities. The Unit will also be represented on the UWS Executive OHS&R Committee and will provide a perspective on Divisional OHS&R performance and the implementation of strategies and plans. The Bio Safety and Radiation Safety Committee will report direct to the Vice Chancellor and Board of Trustees, but where its activities impact on OHS management in the Divisions it will provide information and reports to the UWS Executive OHS&R Committee.

The advantages and disadvantages of the approach to OHS consultation at UWS are summarised in the table below.

ADVANTAGES	DISADVANTAGES
<p>Simple structure for responsibility and accountability</p> <ul style="list-style-type: none"> Each Division, College, School, Department and Entity is directly responsible and accountable for their management of OHS&R. This is in accordance with management accountability as stated in OHS Act and Regulation. 	
<p>OHS management flexibility</p> <ul style="list-style-type: none"> Each Division, College, School, Department and Entity can choose the combination of consultation mechanisms which best suits their operating structure and culture. 	<ul style="list-style-type: none"> Some of the operations of each Division, College, School, Department and Entity are spread over numerous geographic locations, which may necessitate the use of “other agreed [consultation] arrangements”. Ensuring their effectiveness will be critical to effective OHS&R management.
<p>OHS&R Management Plans</p> <ul style="list-style-type: none"> Each Division, College, School, Department and Entity can match its chosen consultation arrangements directly to its OHS&R Management Plan. This will provide significantly improved OHS&R communication and decision making. 	
<p>Greater transparency of OHS&R management</p> <ul style="list-style-type: none"> UWS Executive can more easily see the actions of safety management in each Division, College, School, Department and Entity and their linkage to achieving the UWS OHS&R strategy. UWS Executive is much better informed about OHS&R management, achievements and issues throughout the University. 	

