



Australian Government
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Designated Work Groups and Health and Safety Representatives on worksites with multiple employers

This guidance explores the application of aspects of the Commonwealth occupational health and safety (OHS) legislation on worksites consisting of more than one employer, whether those employers are employers under the Occupational Health and Safety Act 1991 (Commonwealth employers) or employers under the state and territory OHS laws.

This guidance focuses on matters around:

- Designated Work Groups (DWGs); and
- Health and Safety Representatives (HSRs).

In considering this guidance it should be remembered that an employer under the Commonwealth OHS legislation has a general duty of care to employees and people who are contractors (section 16 of the *Occupational Health and Safety Act 1991* – the Act). They also have a duty to third parties at or near a workplace under the employer's control (section 17 of the Act). Employers may also have additional duties imposed on them in regard to persons through the Occupational Health and Safety (Safety Standards) Regulations 1994. For example, employers in control of construction work also have a range of duties to all persons on a construction site (Part 12).

What is a DWG?

DWGs are groups of employees of the same Commonwealth employer who can be represented by a HSR in relation to health and safety matters affecting employees at work. “A **designated work group** means a group of **employees established as a designated work group in accordance with section 24, or that designated work group as varied in accordance with that section, and, in relation to an employer, means such a group that consists entirely of employees of that employer.**”¹

Commonwealth employers include the Commonwealth (that is Commonwealth agencies under the *Public Service Act 1999* and Parliamentary departments under the *Parliamentary Services Act 1999*), Commonwealth authorities, and non-Commonwealth licensees. The Act allows that in circumstances where multiple Commonwealth agencies are co-located then the duties under the Act can be performed jointly², thus for Commonwealth agencies a DWG may consist of employees from a number of agencies. There is no similar provision for Commonwealth authorities and non-Commonwealth licensees, with each authority and each licensee being considered a separate employer.

[1] Occupational Health and Safety Act 1991 Part 1 Section 5

[2] Occupational Health and Safety Act 1991 Part 1 Section 10 (b)

Who is eligible to be in a DWG?

Only employees of the same Commonwealth employer are eligible to be members of a DWG established for the purposes of the Act. The Act does not provide for the employees of other employers, except for Commonwealth agencies and Parliamentary Departments (as noted on the previous page) to be members of a common DWG. The Act does not provide for people who are contractors to be included in DWGs as they are not employees under the Act.

Who is eligible to be a HSR for a DWG?

HSRs that are elected or selected for DWGs represent the employees in their particular DWG for the purposes of the Act. In order to be a HSR, an individual must be an employee included in the DWG that they represent. As the employees of other employers are not part of the DWG they are not eligible to be the HSR for the DWG. People who are contractors are not eligible to be a HSR because they are not employees under the Act, and therefore are unable to exercise the powers of a HSR.

Consulting with other employers and their employees on a worksite

Comcare supports active consultation between employers in worksites with multiple employers, whether those employers are other Commonwealth employers or employers under the state and territory OHS laws. It is good practice for worksites where employers work with other employers to establish mechanisms for co-operation and communication on health and safety matters. These health and safety mechanisms need to be clearly defined and as a matter of best practice should be communicated to the employees of each employer, and to people who are contractors, for example, via induction sessions. This would allow for their input, when required, via mechanisms that still maintain compliance with the Act.

The employees of other employers and people who are contractors may be represented by a person or persons, including HSRs, in respect of health and safety issues. However, such representation is not representation under the Act but a local arrangement between the employers, contractors and employees. Where the person representing the employees of other employers and people who are contractors on health and safety is a HSR under the Act, they are not exercising their powers under the Act, but are fulfilling a role provided for by the local arrangement. It is recognised that issues that may be raised through these arrangements may also be issues that affect employees in the DWG, and in the latter instance, the HSR would be exercising their HSR powers.

If you require further guidance on DWGs and HSRs, additional support can be obtained by contacting the OHS help desk on 1300 366 979 or emailing OHS.help@comcare.gov.au.

Further guidance can also be found on the Comcare website www.comcare.gov.au in the publications:

- OHS Workplace Consultative Arrangements – A Guide to Commonwealth Legislative Provisions (OHS 67)
- Health and Safety Representative Handbook – A guide for HSRs in the Commonwealth jurisdiction (OHS 4)

This guidance material has been prepared using the best information available to Comcare. Any information about legislative obligations or responsibilities included in this material is only applicable to the circumstances described in the material. You should always check the legislation referred to in this material and make your own judgement about what action you may need to take to ensure you have complied with the law