

BULLETIN

Issue Resolution

This bulletin provides guidance for Persons Conducting a Business or Undertaking (PCBU) and workers on the provisions of the [Work Health and Safety \(National Uniform Legislation\) Act](#) (WHS Act) that relate to on the issue resolution obligation in relation health and safety matters. More detailed information and guidance can be found in the approved Code of Practice for [Work Health and Safety Consultation, Co-operation and Co-ordination](#) and the [Worker Representation and Participation Guide](#) which are available on the NT WorkSafe website.

Issue Resolution

The WHS Act sets up a process for resolving work health and safety issues within the workplace. It applies after a work health and safety matter is raised but not resolved to the satisfaction of any party after discussing the matter.

Who are the parties to issue resolution?

The following people are the parties to a work health and safety issue:

- the PCBU with whom the issue has been raised or their representative, for example an employer organisation;
- any other PCBU who is involved in the issue or their representative;
- if the affected workers are in a work group, their Health and Safety Representative (HSR) or the HSR's representative, and
- if there are no HSRs for the affected workers then the affected workers themselves or their representative.

If a PCBU is represented, they must ensure that their representative has, for the purposes of issue resolution, sufficient seniority and competence to act as their representative. The subclause also prohibits a person conducting the business or undertaking from being represented by a HSR. This latter restriction is necessary because HSRs are essentially workers' representatives and representing both sides would constitute a conflict of interest.

Can a Health and Safety Representative be involved?

If a HSR represents any workers who are involved in the issue, the PCBU is required to resolve the issue with the HSR.

How are issues resolved?

If a work health and safety matter remains unresolved after discussion between the parties, it becomes a work health and safety issue subject to the issue resolution process.

Each party and their representative, if any, are required to make reasonable efforts to achieve a timely, final and effective resolution of the issue using the agreed issue resolution procedure or if there is not one, the default procedure prescribed by the [Work Health and Safety \(National Uniform Legislation\) Regulations](#).

The intention is that issues should be resolved as soon as possible to avoid further dispute or a recurrence of the issue or a similar issue, that is, an issue should be resolved 'once and for all' to the extent that is possible in the circumstances.

Each party's representative is entitled to enter the workplace for the purpose of attending discussions with a view to resolving the issue.

The WHS Act provides that all parties must make reasonable efforts to reach an effective resolution.

When can an inspector become involved?

Only after reasonable efforts have been made to resolve the issue can the parties seek the assistance of an inspector. This right arises whether all, some or only one of the parties have made reasonable efforts to have the work health and safety issue resolved. This means that a party's unwillingness to resolve the issue would not prevent an inspector being called in.

The inspector's role is to assist in resolving the issue, which could involve the inspector providing advice or recommendations or exercising any of their compliance powers, for example issuing a notice.

Even if an inspector has been called in to assist with resolving a work health and safety issue, the rights of a worker to cease unsafe work or the right of a HSR to direct that unsafe work cease or issue a Provisional Improvement Notice under the WHS Act remain.

For further information contact NT WorkSafe on 1800 019 115 or go to www.worksafe.nt.gov.au