

Guideline/Protocol/Procedure

Health and Safety Representative's Guidance

Name	Health and Safety Representative's Guidance
Summary	The purpose of this document is to provide information about how to exercise your powers as a HSR under the Safety Representatives and Safety Committees Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996 and your role. This guidance is also a valuable resource for other stakeholders who need to understand your role.
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Message from the Health and Safety Manager

Welcome to your new role as a health and safety representative or representative of employee safety

Thank you for taking the time to make a difference at your workplace, improving work health and safety. While everyone in the Golden Jubilee Foundation (GJF) has a role to play in making them safer and healthier, the Board recognises the special importance of your role by giving you powers and rights. You can help your workmates and colleagues participate effectively in decisions about their health and safety at work.

You're their voice to senior management about issues that need resolution. You provide the vital communication link between staff and management making communication and consultation easier.

Workplace health and safety law allows you to raise and resolve work health and safety issues with your employer or to take issues further if necessary. You will be able to direct unsafe work to cease if necessary. This means you can and should keep an eye on what is happening at your workplace to make sure everyone is fulfilling their duties.

It's important to be well trained for this important role. Your initial course of training is a foundation. The law ensures that you can take paid time off work to attend work health and safety training. Be sure to take this up and be on top of the latest developments.

At the GJF, our work is to help you be as effective as possible in representing workers at your workplace and preventing workplace harm. This handbook provides you with guidance in your role and to help others understand it better.

Congratulations on your selection. I wish you well in your role helping keep our workplace healthy and safe.

David Wilson
Health and Safety Manager

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INTRODUCTION

You are probably wondering what you will do as a health and safety representative (HSR). If you ask others in your workplace you will get a variety of responses.

You are not the person responsible for health and safety in your workplace nor are you expected to be an expert on workplace health and safety (H&S) issues. Your role is to represent workers in your work group/department and monitor that the group/department is ensuring health and safety standards.

You will find that effective consultation is one of the most important skills you will need in your role.

PURPOSE AND SCOPE

The purpose of this handbook is to provide information about how to exercise your powers as a HSR under the *Safety Representatives and Safety Committees Regulations 1977* and the *Health and Safety (Consultation with Employees) Regulations 1996* and your role. The handbook is also a valuable resource for other stakeholders who need to understand your role.

This handbook is not a substitute for the legislation and is not intended to override or replace existing agreements between employers, workers and their representatives.

LEGISLATIVE FRAMEWORK

The Health and Safety at Work etc Act (HSWA) provides the legal framework for regulating the health and safety of workers and workplaces. Its aim is to protect the health and safety of all workers.

Health and safety representatives have functions given by law. Employers have to consult employees either directly or through appointed or elected representatives, on health and safety matters.

If you are a trade union-appointed health and safety representative, your functions are set out in The Safety Representatives and Safety Committees Regulations 1977

If you are a representative of employee safety, your functions are set out in the Health and Safety (Consultation with Employees) Regulations 1996.

Some parts of our organisation have employees that are members of recognised trade unions and others that are not. We therefore, consult under both sets of regulations:

Although by law health and safety representatives appointed by trade unions have more functions than representatives elected by employees, we are happy to extend the functions to our elected representatives as long as you're in agreement.

As we consult with many representatives, the most effective way for us to do this is through a structured forum, namely our health and safety committee.

Joint involvement leads to joint problem solving. As we have both union-appointed representatives and employee-elected health and safety representatives, it is good practice to consult together about health and safety matters which affect the employees you represent.

Worker involvement on health and safety is simply a two-way process where you and your employees:

- talk to one another
- listen to one another's concerns
- raise concerns and solve problems together
- seek and share views and information
- discuss issues in good time
- consider what everyone has to say
- make decisions together

Business benefits

Talking to, listening to and involving employees helps to:

- make our workplace healthier and safer
- improve performance
- raise standards

Key words

The key words in worker involvement are:

- trust
- respect
- co-operation
- joint problem solving.

Worker involvement does not have to be complicated

Experience of representatives

Normally, trade unions will write to tell you who the appointed health and safety representative is, and make it clear which groups of employees the representative is representing. An appointed representative should usually have worked for you for the previous two years, or had at least two years experience doing similar work. This is to ensure they will have a level of knowledge that allows them to make a responsible and practical contribution to the health and safety effort.

There may also be times when it is not practical to appoint a representative with two years' experience in your organisation or in the job therefore discretion will be used.

In such cases, trade unions will appoint the most appropriate representatives, taking their experience and skills into account.

Electing representatives

You only need to have elections for your employees to elect their representative(s) if you:

- do not have trade union-appointed safety representatives;
- decide not to consult your employees individually; or
- have more than one employee volunteer to be a representative for the same group or constituency of employees.

The election of health and safety representatives does not need to be difficult, but it does need to be considered, planned, practical, fair and open

Contact the Health and Safety Manager for more information if required.

FUNCTION AND POWERS OF HEALTH AND SAFETY REPRESENTATIVES

THE ROLE OF A HSR

Section 2 part 6 & 7 of the HSW Act provides for workers to be consulted and represented through HSRs and health and safety committees (HSC).

As a HSR you have been elected by members of your work group to represent them in health and safety matters. Your role is not to 'fix' health and safety problems in the workplace nor are you expected to be an expert on workplace H&S issues. Managers, supervisors and team leaders are also workers with the right to have their H&S interests represented. They often also have specific health and safety duties that they are required to carry out in their management role.

Although supervisors are the main point of contact for workers to raise H&S issues or concerns, HSRs can represent H&S issues on behalf of workers. 'Representing workers' will therefore often require you to actively communicate and engage in consultation with managers on a range of matters directly affecting the work group, such as identified hazards, risk control measures and issue resolution. The types of issues or concerns you may encounter include:

- > Unsafe work practices
- > Unguarded machines
- > Fall hazards
- > Excessive keyboard use
- > Temperature issues (hot/cold, usually in office environments)
- > Housekeeping
- > Bullying.

It is important to ensure that workers have appropriate and convenient access to you either directly (face-to-face conversations) or indirectly (consultation via email or telephone)—and that the communication process is an open one. You should encourage members of your work group to ask questions about health and safety, to raise concerns, report problems, and be part of the problem solving process.

If you identify a health and safety issue and you believe there is non-compliance of the legislation, you need to engage in consultation. This will normally be your team leader, supervisor, manager etc. They are obliged to discuss your concerns with you. The legislative process emphasises the resolution of issues through consultation.

Workers benefit from having HSR representation because:

- > You are likely to understand their views and concerns
- > A HSR who has attended approved training can exercise certain powers and functions outlined under legislation whilst representing your work group
- > having a coordinated and formal approach to raising ideas and concerns can have a greater impact.

Being a member of the HSC will complement your role as it will allow you to be involved in the management of workplace H&S across the whole workforce, rather than just your particular work group.

POWERS OF A HSR

The primary responsibility for providing a healthy and safe workplace rests with the Board. As a HSR, you have a major role to play in representing members of your work group and bringing issues to the attention

of the appropriate people.

As a HSR your role is to promote the health and safety of the workers in your work group. Powers and functions given to you under the HSW etc Act enable you to effectively represent the interests of workers and contribute to work health and safety matters. Broadly your powers extend to:

- > inspecting the workplace of members of your work group
 - if there has been a recent incident or situation involving a serious risk to a person’s health or safety to any person from an immediate or imminent exposure to a hazard
 - after giving the employer reasonable notice of the inspection
- > accompanying an inspector during an inspection of the workplace
- > representing the members of the work group in health and safety consultations with the employer
- > making a request to the regulator, that an inspector attend a workplace and assist where a work health and safety issue has not been resolved after reasonable efforts (as parties to the issue can also do this)
- > requesting the establishment of a HSC

Although a HSR has the ability to exercise certain powers and functions, you can choose when to exercise them. The HSW etc Act does not impose mandatory obligations or duties on HSRs to use their powers or carry out the functions of a HSR.

In addition to exercising your powers on behalf of your work group, you may also exercise your powers and functions for another work group if that group’s HSR (and any deputy HSR)—after reasonable inquiry—is unavailable, and also if:

- > there is a serious risk to health or safety from an immediate or imminent exposure to a hazard that affects or may affect a member of the other work group
- > a member of the other work group asks for your assistance.

The amount of time necessary for you to effectively perform your role as a HSR will vary between departments. Your manager must allow you to spend a reasonable amount of time necessary to carry out your HSR functions and powers. You should consult with your Manager and agree on how much time may be needed to perform any anticipated powers and functions. When agreeing on how much time you will need to fulfil your role, parties should consider:

- > The type of work or proposed work in the workplace
- > The level of risk involved in the work
- > The effectiveness of the risk controls
- > The individual needs of workers in your work group relevant to their health and safety—for example, people who have disabilities or who communicate in different languages
- > Attendance at meetings—for example, HSC meetings, work group meetings and meetings with people providing assistance
- > The size and complexity of the work group
- > The size and complexity of the workplace
- > The number of HSRs in the workplace and in the work group
- > The complexity of the H&S management system

As a HSR you should:

- > represent members of your work group in a professional, timely and ethical manner
- > use your powers appropriately and only in relation to H&S matters
- > ensure any action taken while exercising your powers is not taken with the intention of causing harm.

WORKPLACE INSPECTIONS

After giving reasonable notice to the employer you may, at any time, inspect any part of the workplace where members of your work group work. What is 'reasonable notice' will depend on the circumstances in any given case, and on what the employer and HSR jointly consider to be reasonable. Where a normal schedule of inspections has been agreed to, you should confirm with the area to be inspected to ensure arrangements are in place for the inspection. However, you may immediately inspect the workplace without providing notice to the employer in the event of an immediate and serious risk to health or safety emanating from a hazard in any part of the workplace where members of your work group work. The threat may be one that affects a member of the work group or any other person in that part of the workplace.

Workplace inspections can take various forms, including:

- > Regular inspections of the workplace
- > Regular inspections of particular activities or processes
- > Specific inspections arising from complaints or concerns by members of the work group
- > Inspections before and after substantial change to the workplace—for example, to plant or work processes
- > Inspections after an incident or injury.

You may choose to conduct inspections on your own or jointly with a management representative. As an elected HSR, you are entitled during any inspection to discuss health and safety issues with the workers in your work group.

Following a workplace inspection you may request the relevant manager to review a control measure if required. Such cases may be related to the following:

- > The control measure is not effective in controlling the risk it was implemented to control
- > A change occurs at the workplace that could present a new or different health and safety risk that the existing control measure may not effectively control
- > A new relevant hazard or risk is identified
- > The results of consultation indicate a review is necessary.

As a HSR you can only request the review if the above circumstances affects or may affect the health and safety of a member of your own work group.

The request should be made in the first instance by consulting the relevant department manager and discussing the issue with them. You should explain the reasons why you believe a control measure is or may not be effective in the circumstances.

GETTING ASSISTANCE TO FULFIL YOUR ROLE

As a HSR you have the power to request the assistance of any person in order to fulfill the requirements of your role. This may be a person with additional knowledge of H&S either within the workplace (for example, another HSR or H&S Manager) or someone who does not work at the business (for example, a health and safety consultant or a union official).

The aim of this power is to enable you to access independent advice if this is required to assist in carrying out your powers and functions. For example, you may require:

- > Advice on how to perform inspections at the workplace
- > Technical advice on dealing with a particular hazard or issue
- > Advice on how to negotiate on workplace H&S issues.

ACCESSING INFORMATION

Under legislation we must allow you, as a HSR, to access information in relation to your role. Generally you may request access to:

- > Information relating to any incident or occupational disease, including any statistical records—for example, the adverse incident database.
- > Safety data sheets for the chemicals that are used in the workplace
- > Technical specifications for equipment regarding noise, vibration or radiation emission
- > Reports on workplace H&S matters—including reports prepared by consultants for the employer
- > Minutes of HSC meetings
- > Any documentation relating to the H&S management system of the organisation including plans, policies, procedures, fact sheets
- > Information provided by manufacturers for personal protective equipment (PPE)
- > Information received from manufacturers and suppliers about plant, equipment or substances at the workplace
- > Health surveillance information that does not contain personal or medical information about a worker.

You may choose to exercise your power to inquire into a work-related risk that could affect the health and safety of your work group.

It is important to note however that you are not allowed access to any personal or medical information concerning a worker without the worker's consent, unless the information:

- > does not identify the worker
- > could not reasonably be expected to lead to the identification of the worker.

PERSONAL LIABILITY

As a HSR you are not personally liable for anything done or omitted in good faith when exercising a power or performing a function under the HSW Act—or in the reasonable belief that your actions were authorised under the HSW Act.

DUTIES OF THE EMPLOYER

RESOURCES, FACILITIES AND ASSISTANCE

We will provide any resources, facilities and assistance that are reasonably necessary to enable you to carry out your functions and exercise powers as a HSR.

What is reasonable in the particular circumstances will depend on a range of factors, including the nature of the work and the working environment, the workplace hazards and the composition of the work group.

Resources, facilities and assistance may include:

- > Access to a private room, desk and chairs for discussions or interviews
- > Facilities for filing, including a lockable filing cabinet and shelves
- > Access to a telephone, internet and email
- > Access to photocopying facilities
- > Access to a room for work group meetings
- > The use of notice boards

As a HSR you should not be disadvantaged for taking on this important health and safety role. When you are exercising your powers or performing any of the functions that legislation sets out, we must ensure that you are paid the same amount that you would be entitled to receive for performing your normal duties. Payment should include any allowances to which you are otherwise entitled such as shift work, overtime, higher duties allowance or penalty rates.

This requirement also includes paid time off to attend HSR training. Training is part of normal work-related activity and as such you are entitled to receive your normal/expected earnings during course attendance.

TRAINING FOR HSRS

Training for the role of HSR is not mandatory however you are encouraged to take up this training entitlement to provide you with the skills and knowledge to perform your role effectively.

Such training can be provided on request from the Health and Safety Manager.

DISCRIMINATION

The HSW Act prohibits an employer from discriminating against a worker, for example by dismissing a worker or treating a worker less favourably because that worker is, has been or will be a HSR, deputy HSR or a member of a HSC.

The HSW Act also prohibits requesting, instructing, inducing, encouraging, authorising or assisting another person to discriminate against a worker on these grounds.

CAN A HSR BE DISQUALIFIED?

Yes—As a HSR you can be disqualified if you have exercised your power as a HSR for an improper purpose or misused information acquired as a HSR for a purpose unconnected with your HSR role. You can also be removed from the position if the majority of the work group elects to have you (the HSR) removed.

ISSUE RESOLUTION

WHO IS INVOLVED IN RESOLVING WHS ISSUES?

An 'issue' is any concern about health and safety at the workplace that remains unresolved after consultation with the affected workers, HSRs and the relevant manager has occurred. For example, an issue could include a difference in opinion on whether something is a potential risk to health and safety or whether a particular control measure is adequate. Other issues may involve the means by which workers are consulted or participate in health and safety decisions.

If the issue involves workers of a particular work group which you represent, then we are required to consult with you regarding resolution of the issue.

WHAT IS THE PROCESS FOR RESOLVING ISSUES?

If a workplace H&S matter remains unresolved after discussion between the relevant parties then it becomes an issue subject to the Board's standard internal issue resolution process.

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.

WHAT IF THE ISSUE IS UNRESOLVED?

If reasonable efforts have been made to resolve an issue and it remains unresolved, any party to the issue can ask the Health and Safety Manager and /or union officials to assist. There does not have to be agreement about whether reasonable efforts have been made to resolve the issue in order for additional assistance to be requested. As long as one party considers that reasonable efforts have been made additional help can be requested.

The H&S Manager's role is to assist in resolving the issue.

WHAT IF THERE ARE MULTIPLE HSRs IN A WORK GROUP AND THEY DO NOT AGREE?

Where agreement cannot be reached by multiple HSRs in a single work group, consultation needs to take place between the HSRs and the workers in the work group. Where a majority of the work group indicates preference for a particular course of action, the HSRs should collectively adopt and advocate for that course of action. The Health and Safety Committee may be consulted following discussion with the Health and Safety Manager. During this process any HSR may call on assistance of any person including a union official to assist the work group to arrive at a position.

FURTHER INFORMATION

Please refer to the health and safety section of the intranet or Share Point for further information on Health and Safety Policies, procedures, guidance documents and general H&S updates.

CONTACT DETAILS

For more information please contact David Wilson on extension 5015 or alternatively via email david.wilson@gjnh.scot.nhs.uk