1. Introduction and Scope

This guideline is designed to

- Further explain the UNSW HS337 Consultation Procedure
- Define the different consultation arrangements in place at UNSW
- Ensure UNSW's consultation arrangements comply with the requirements of the Work Health and Safety Act 2011 (WHS Act) and WHS Regulation 2011
- Provide guidance on how to resolve health and safety issues/concerns when they are raised by workers or visitors in the workplace
- Define when consultation is required in the workplace

This guideline applies to all UNSW Faculties and Divisions in NSW and ACT.

2. Definitions

Worker: a worker is the person who carries out work in any capacity for a person conducting a business or undertaking (PCBU), including work as: an employee, contractor or subcontractor, an employee of a contractor or subcontractor, or an employee of a labour hire
company assigned to work for a PCBU, an outworker, an apprentice or trainee, a student gaining work experience, volunteer.

**Workplace:** is a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work.

**Workgroup:** means a group of workers formed by negotiation and agreement that meets certain diversity of representation criteria outlined in the Work Health and Safety Regulation 2011.

Furthermore the workgroup:

(a) most effectively and conveniently enables the interests of the workers, in relation to work health and safety, to be represented, and

(b) has regard to the need for a health and safety representative for the work group to be readily accessible to each worker in the work group.

**Person conducting a Business or Undertaking (PCBU):** is an individual or organization that conducts a business or undertaking including body corporate, unincorporated bodies or associations, partnerships and business franchises. The PCBU arranges, directs or influences work to be done or contributes something towards the work being down. There may be multiple businesses or undertakings and therefore multiple PCBUs involved in the work at the same location.

**Consultation:** HS consultation involves the sharing of relevant HS information between the UNSW (as a PCBU) and workers, and UNSW and other PCBUs. Consultation includes giving workers the opportunity to express their views, valuing these views and allowing them to contribute to the resolution of HS issues.

**Health & Safety Committee (HSC):** is a group which includes workers elected by a workgroup, Health and Safety Representatives (if they agree) and representatives of the PCBUs within the workgroup that is a forum for consultation on work, health and safety issues and assists in the development and review of health and safety policies and procedures for the workplace.

**Health & Safety Representative (HSR):** an HSR is a worker who has been elected by a work group (of which they are a member) to represent them on health and safety issues.

### 3. Guideline

#### 3.1 When consultation is required

Consultation is required when:

(a) Identifying hazards and assessing risks arising from the work carried out or to be carried out

(b) Making decisions about ways to eliminate or minimize those risks

(c) Making decisions on the adequacy of facilities for the welfare of workers

(d) Proposing changes that may affect the health and safety of workers. This may include any changes to the workplace such as building renovations maintenance work, or minor works.

(e) There are any proposed changes to the work environment, processes, practices or purchasing decisions that impact on workers’ health and safety.

(f) Making decisions about procedures for consulting with workers; resolving health or safety issues; monitoring health of your workers; monitoring the conditions at the workplace and providing information and training for your workers

(g) Changing workgroups or consultation arrangements

(h) Consultation on training requirements for the workgroup
(i) Assistance with the development, implementation and review of procedures for the identification of hazards and assessment and control of risks.

3.2 Informal consultation

The worker’s supervisor should be the first contact person for reporting any health and safety incidents, hazards or issues. In addition, all workers are encouraged to report any health and safety incidents, hazards or concerns in the workplace using UNSW’s online reporting system. For more information on reporting hazards and incidents, refer to UNSW’s Guide to reporting Hazards and Incidents.

The supervisor will communicate with the worker, and ensure that appropriate corrective actions are put in place to resolve the health and safety concern.

The worker or supervisor may choose to escalate a health or safety issue or concern using the formal consultation mechanism.

Supervisors should also use informal consultation to communicate messages from management. Health and safety should be a standing item at operational meetings to ensure both workers and managers have an opportunity to discuss health and safety matters.

3.3 Formal consultation

3.3.1 Setting up formal consultation

The below information describes how to set up consultation arrangements for a new workplace, or if a worker requests the election of a Health and Safety Representative (HSR). Management needs to consult with workers to decide on how consultation will occur.

Firstly workgroups are determined, then workers have the option of electing one or more HSRs for their workgroup. Furthermore, HSRs and workers can decide if they wish to establish a Health and Safety Committee (HSC) that covers their workgroup.

a) Establishing workgroups

Within an area (e.g. a school / unit) workgroups are formed by negotiation and agreement by a majority of the members of the workgroup (including workers and management).

The purpose of the negotiation is to determine;

- The number and composition of work groups to consult with.
- The number of HSRs and deputy HSRs to be elected (this will depend on the hours worked, different site locations, the level of risk involved);
- The workplace or workplaces to which the work groups will apply;
- The businesses or undertakings to which the work groups will apply

To establish a work group, the PCBU/management must:

- Take all reasonable steps to commence negotiations with the workers within 14 days after a worker makes the request;
- Negotiate with a worker’s representative (such as union official) if a worker asks you to do so
- Notify the workers of the outcome of the negotiations and of any work groups determined by agreement as soon as practicable after negotiations are complete

Workers are encouraged to provide feedback as to whether they agree with the proposed “workgroups”, by sending an email to a nominated management representative by a specified date, indicating if they “agree with the proposed workgroups”. If “no response” is received by email from the majority of workers by the specified date, it will be assumed that the majority of workers agree with the proposed workgroups.

b) Electing Health and Safety Representatives

HSRs are workers who have been elected by their workgroup, to represent their health and safety interests. Management needs to call for nominations from the agreed workgroups. If more than one person is nominated, an election needs to be held. The term of office can be up to 3 years, with the option for the HSR to be re-elected if they agree to be nominated again.

Management will ensure that HSRs are provided with the time and resources required to fulfill their duties as a HSR.

**Elections for HSRs:**

HSRs must be elected by members of the workgroup they will represent. Management needs to consult with workers to determine how an election is to be conducted (if one is needed), and everyone must be informed of the election date as soon as practicable after the date is decided.

The election process may be informal, for example with a show of hands. Alternatively, it may be more formal process such as the use of ballots. If the majority of workers in a work group agree, the election may be conducted with the assistance of a union or other organisation or person.

Management must inform all workers of the outcomes of elections. Once a HSR is elected they must complete the UNSW 2-day HS Consultation training course. To register for this training, the HSR needs to log into myUNSW to find out the training courses dates.

Note: If the management representative has already completed UNSW’s “Health & Safety for Supervisors” training course, they are not required to complete UNSW’s 2-day HS Consultation training course.

If a workplace needs help with setting up their consultation arrangements, the Manager of the work unit should contact their Faculty or Divisional HS Coordinator.

**Powers and functions of a HSR:**

Under Section 68 of the WHS Act 2011, the powers and functions of a HSR are:

- To represent the workers in the work group in matters relating to work, health and safety,
- To monitor the measures taken in relation to the WHS Act for the health and safety of workers in the work group
- To investigate complaints from members of the work group relating to health and safety,
• To inquire into anything that appears to be a risk to the health or safety of workers in the work group, arising from the conduct of the business or undertaking.

These powers and functions are generally limited to the particular workgroup they represent. Section 69 of the WHS Act 2011 states “A health and safety representative for a work group may exercise the powers and perform functions under this Act only in relation to matters that affect or may affect, workers in that group.”

**HSRs with additional powers:**

After being elected, a HSR is given the option of obtaining *additional powers* which entitles them to:

• Direct unsafe work within their workgroup to stop when they have a reasonable concern that carrying out the work would expose a worker to serious risk
• Issue a Provisional Improvement Notice (PIN) when they reasonably believe there is a contravention of the Act. A PIN is a notice issued to a person requiring them to address a health and safety concern in the workplace.

To obtain these additional powers, the HSR must complete a 5 day Workcover approved HSR training course and a 1 day refresher course each year during their term of office. This is in addition to the UNSW 2 day HS Consultation Training.

If a HSR would like to do this training, they need to contact their Faculty/Division’s HS Co-Ordinator to find a suitable training provider. Then they need to discuss this with their Manager to decide on a convenient time to do this training. Any HSR who completes this training needs to send a copy of their training certificate to UNSW’s Health & Safety Manager.

The names of any HSRs who have completed the approved HSR training which entitles them to exercise these additional powers, must be communicated to the state regulator (e.g. in NSW this is Workcover NSW) and displayed in the workplace. This notification will be done by UNSW’s Health & Safety Manager.

c) Establishing a Health and Safety Committee

A new HSC must be established if requested by at least five workers or if any HSR requests it. A HSC is made up of HSRs who have been elected by their peers to represent their workgroup. At UNSW, all HSRs are strongly encouraged to become members of the area’s HSC.

HSCs also have representatives of the PCBU/Management, who have the authority to help make decisions about health and safety.

Each HSC needs to develop its own procedures for organising and conducting meetings. This can be done using the template *HS 634 L3 HS Consultation Committee Constitution*.

**Powers and functions of a HSC:**

Under Section 77 of the WHS Act 2011, the powers and functions of a HSC are:
(a) to facilitate co-operation between the person conducting a business or undertaking and workers in instigating, developing and carrying out measures designed to ensure the workers’ health and safety at work, and
(b) to assist in developing standards, rules and procedures relating to health and safety that are to be followed or complied with at the workplace, and
(c) any other functions prescribed by the regulations or agreed between the person conducting the business or undertaking and the committee.

Some workgroups may decide that they do not need to have a HSC, so they may request to have a HSR to represent them independently, or they may decide to adopt ‘other agreed arrangements (see (d) below).

d) Other agreed arrangements

An alternative to the formal consultation mechanisms above is “other agreed arrangements”. This is where workers and management establish alternative consultation arrangements which suits their unit/area. These arrangements must be negotiated and agreed by all parties. Options could include:

- Direct communication between workers and supervisor/s to formally discuss health and safety issues
- Team meetings where health and safety is discussed formally.
- A variation of the established L3 H&S Committee structure at UNSW. E.g. A combination of the HSRs & L3 H&S Committee structure.
- Toolbox talks

These arrangements may be suitable for workers such as contractors, volunteers or small or low risk work groups such as faculty office staff or staff belonging to one of UNSW’s childcare centre’s. This may be because the risks in the school/unit have been determined as “low-risk” (e.g. office-based environments), or there is only a small number of staff in the workgroup.

The arrangements for consultation including the names of WHS representatives and committee members (where relevant) must be communicated to all staff e.g. via email, displayed on HS notice-boards, via local school /work unit websites etc.

(e) Agreement on proposed consultation arrangements

Whichever method of consultation is proposed, (e.g. HSRs, H&S Committee, or “Other agreed arrangements”), management needs to communicate the details of these arrangements to all workers, and ask workers for feedback as to whether they agree with the proposed consultation arrangements, by sending their feedback to the nominated management representative. This can be done by a range of communication means including email, whereby workers are asked to respond by a specified date. If “no response” is received by email by the majority of the workers by the specified date, it will be assumed that the majority of the workers agree with the proposed consultation arrangements.

3.3.2 UNSW Health and Safety Meeting Structures

At UNSW there are well established Health and Safety Representatives and Health and Safety Committees, these operate at two levels:

Level 3 – Health and Safety Committee and HSR

These committees operate at a school or department level and are made up of different work groups. Commonly each work group has elected a representative (i.e. HSR), to represent them on health and safety issues. At UNSW, HSRs are strongly encouraged to be part of the HSC, (although the WHS legislation does not make this mandatory).
At least half of the members of the committee must be workers who are not nominated by management.

The committee membership should also include the Head of School/Department, or a senior manager who has been nominated to attend on behalf of the Head of School/Department. This person must have the appropriate authority to make decisions about health and safety.

The purpose of the L3 HSC is to discuss health and safety issues/concerns raised in the local area (e.g. school/unit level). This would include discussion of any proposed changes to the workplace that may impact on worker's health and safety. Any concerns that cannot be resolved by the staff member’s direct supervisor or their HSR, can be raised at this committee.

A record of HSC meetings should be kept and corrective actions recorded. The “HS635 Level 3 HS Committee Agenda Template” can assist with maintaining meeting agendas. While meeting minutes should be recorded and distributed to the work group electronically.

For more information on the functions of HSCs, and procedures for organizing and conducting meetings, refer to: “HS634 L3 HS Consultation Committee Constitution.”

Compliance checklist for Level 3 HSCs
To ensure L3 HSCs are meeting the legislative, they need to complete the “HS 632 L3 Health & Safety Committee Compliance Checklist” annually. This checklist may also be completed in preparation for an audit. Any ‘actions required’ after completing checklist, need to documented at the next L3 HSC meeting, with a due date for completing the actions.

Level 2 – Two options are available:

(i) Faculty/Divisional Executive Management Meeting

The Faculty/Divisional HS Co-ordinator attends a quarterly Faculty/Divisional Executive Management Meeting, and presents a summary of health and safety statistics and issues relevant to the entire Faculty/Division to the senior management team. Any issues that cannot be resolved by local area supervisors, can be raised by the Head of School/Department Manager during these Management Committee meetings. This group is chaired by the Dean or Division Manager.

(ii) L2 Faculty/Division Executive Management Meeting Including HSRs

The L2 Faculty/Divisional HSC may be made up of the Chairpersons of each of the L3 HSCs or a workgroup representative, and the relevant management representative for the workgroup (e.g. Head of School/Department). For example, the Chairperson for the L3 School of Civil Engineering committee and the Head of School would attend the Faculty of Engineering L2 HSC.

This committee’s role is to discuss issues that have may have an impact on staff across the whole faculty/division, and to review hazards, incidents and outstanding corrective actions for the whole Faculty/Division. Any issues that cannot be resolved by the L3 HSC, may be raised at this meeting.

Level 1 – UNSW Health and Safety Strategic Planning Committee

This committee is chaired by the Vice Chancellor. Its role is to:
• Establish and monitor health and safety objectives within UNSW’s HS Strategic Plan
• Ensure UNSW implements an effective Health and Safety Management system (HSMS)
• Address any H&S issues raised that affect the University Community as a whole

4. Consulting with other PCBU

UNSW has relationships with a number of PCBU both on and off the campus. Appropriate consultation arrangements with these organisations will be discussed and agreed upon by all parties.

There may also be situations where UNSW needs to engage contractors, sub-contractors, labour hire workers to carry out specific projects or tasks. In these situations, UNSW will discuss and negotiate with these workers, as to their preferred method/s of consultation with UNSW. The different options available for consultation will be included in the engagement contract documentation with these parties. Examples may include: toolbox talks, team meetings (where health & safety is an agenda item), face-to-face discussions, cross representation on other committees etc.

5. Compliance with Consultation Procedure

If a worker believes their health and safety concern has not been addressed, they can refer to UNSW’s HS338 HS Issue Resolution Procedure, for advice on how to resolve a health and safety issue.

Compliance with this procedure will be examined during internal HS Audits conducted by UNSW. These audits will be conducted according to the UNSW HS308 HSMS Audit Procedure.

6. Review and History

This procedure will be reviewed in accordance with the HSMS Review Procedure. The History can be found in appendix A.

7. Acknowledgements

- Safe Work Australia: Worker Representation and Participation Guide
- Safe Work Australia, Code of Practice: Work health and safety consultation, cooperation and coordination: Code of practice

Appendix A: History

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<td>3 May 2013</td>
<td>3 May 2013</td>
<td>New document</td>
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<td>Director, Human Resources</td>
<td>3 July 2013</td>
<td>3 July 2013</td>
<td>Section 3.3.1 (a) Changed wording to indicate workgroups are formed by agreement by a majority of the members of the workgroup. Section 3.3.1 (a) Added a “no response clause”. Section 3.3.1 (e) Added</td>
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HS339 HS Consultation Guideline
Version: 2.0 Effective 16 March 2016
“Agreement on proposed consultation arrangements.”

Section 3.3.2 – Added text on discussion on changes to the workplace.

Section 4: Added that UNSW will discuss and negotiate with PCBU on what is their preferred method of consultation with UNSW.

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