

FACT SHEET 29

CONSULTING EMPLOYEES ON HEALTH & SAFETY (H&S)

According to the HSE, employers have a duty to consult with their employees, or their representatives, on H&S matters. This is covered by two different regulations:

- The Safety Representatives and Safety Committees Regulations 1977 in workplaces where trade unions are recognised for collective bargaining purposes

...and:

- The Health and Safety (Consultation with Employees) Regulations 1996 in workplaces where employees are not in a trade union.

Depending on the circumstances within your workplace, you may need to consult one set of regulations, or both.

Where you already have existing consultation arrangements that satisfy H&S law, there is no requirement to change them. However, you may want to review arrangements on a regular basis to ensure that they continue to be the best for your organisation.

Please note: some workers who are self-employed are still classed as employees under H&S law.

Why should I consult employees on H&S?

Consulting with employees can have real benefits for your business, including:

- Increased productivity – businesses with good workforce involvement in health and safety tend to have a better productivity rate
- A healthier and safer workplace – your employees can help you to identify hazards, assess risks and develop ways to control or remove risks
- Better decisions about health and safety – they are based on the input and experience of a range of people, including employees who have extensive knowledge about their own job and the business
- A stronger commitment to implementing decisions or actions – as employees have been actively involved in reaching these decisions

What must I consult about?

You must consult with employees or their representatives about the following:

- The introduction of any measure which may substantially affect their health and safety at work, e.g. the introduction of new equipment or new systems of work, such as the speed of a process line or shift-work arrangements
- Arrangements for getting competent people to help them comply with H&S laws (a competent person is someone who has the necessary knowledge, skills and experience to help an employer meet the requirements of H&S law)
- The information you must give your employees on the risks and dangers arising from their work, measures to reduce or get rid of these risks and what employees should do if they are exposed to a risk
- The planning and organisation of health and safety training; and the H&S consequences of introducing new technology

To achieve this, you must provide the information necessary to allow employees or their representatives to participate fully and effectively in the consultation.

Consultation involves not only giving information to employees but also listening to them and taking account of what they say before making any H&S decisions.

The law does not state when you must consult, or for how long, but in practice, you must allow enough time for your employees to consider the matters being raised and provide them with informed responses. If at least two H&S representatives request, in writing, that a safety committee be formed within the workplace, you must establish such a committee within three months of the request.

Consultation does not remove your right to manage. You will still make the final decision, but talking to your employees is an important part of successfully managing H&S.

Appointed representatives must be given the paid time necessary to carry out their functions, including training (plus associated costs) along with the facilities and any assistance required to carry out their role.

If you do not comply with the regulations, you will be committing an offence. H&S inspectors (from HSE and local authorities) may enforce the regulations where there is no evidence of consultation.

An employee can apply to an employment tribunal if they feel they have been penalized for taking part in consultation.

Further information is available in the following publications which are readily available from HSE Books. You can also contact HSE Books on 01787 881165.

Title: Consulting workers on health and safety
 HSC Code: L146 (Second edition)
 ISBN: 9780717664610
 Price: £13.95

Title: Consulting employees on health and safety: A brief guide to the law
HSC Code: INDG232 (rev1)
ISBN: 978 0 7176 6312 5
Price: Free to download

Title: Involving your workforce in health and safety: Good practice for all workplaces
HSC Code: HSG263
ISBN: 9780717662272
Price: £10.95

The information in this Fact Sheet has been assembled and interpreted to give truck owners and users basic guidance on frequently asked questions. Further important information will be given in the quoted reference documents. Responsibility for meeting the safety obligations discussed rests with the employer, and the FLTA will not accept liability for any problem arising as a result of the content of this document. **Technical Bulletins, containing more detailed information and updated as appropriate, are made available free to members of the FLTA SAFE USER GROUP.**

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