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### Introduction

The Office of Industrial Relations (OIR) has a shared purpose to provide information and services for work health and safety (WHS) and workers' compensation in Queensland. OIR offers a range of regulatory, education, advisory, compliance monitoring and enforcement strategies that engage with workers, businesses and the community to secure healthy, safe and fair work.

As part of the OIR, Workplace Health and Safety Queensland (WHSQ) is the lead government agency responsible for regulating WHS in Queensland. WHSQ's purpose is to improve WHS and reduce the risk of workers being killed, injured or becoming unwell at work. As the regulator, WHSQ enforces WHS laws, investigates work-related fatalities and injuries, prosecutes breaches of legislation and educates duty holders on their legal obligations.

WHSQ's legislative mandate for *worker consultation*, *representation* and *participation* aligns with strong, reliable evidence, demonstrating that effective implementation of these actions is crucial to reducing work-related harm. It is this mandate that drives the development of WHSQ's *Worker Consultation*, *Representation and Participation Strategy* 2024-2027 (this strategy).

This strategy outlines WHSQ's *vision*, *purpose* and *priorities* for promoting effective worker consultation, representation and participation in Queensland. This strategy also identifies key deliverables that will support WHSQ to *secure compliance* and enable duty holders to *ensure compliance* with parts 5-7 of the WHS Act. WHSQ recognises unique challenges exist for small, medium and large businesses across different industry sectors and will use priority planning and horizon scanning to deliver solutions relevant to the current and emerging needs of Queensland.

What does effective worker consultation, representation and participation look like?

Everyone has a role to play. This includes the regulator, PCBUs, workers, HSRs, health and safety committee (HSC) members and WHS entry permit holders.

To understand how everyone contributes, review the



### Strategy at a glance

### **Vision**

Queensland workers are healthy and safe through effective worker consultation, representation and participation at work.



### **Purpose**



**Educate Queensland workers** to understand the legislative requirements relating to worker consultation, HSR elections, their rights to cease unsafe work and their role as a party to issue resolution.



**Enable Queensland PCBUs** to competently demonstrate compliance with their legal duties and obligations for worker consultation using genuine, transparent processes.



**Empower Queensland HSRs** to autonomously and confidently use their legal rights, powers, knowledge and negotiation skills to perform their functions and strengthen their identity as a trusted voice of their work group.



Support the establishment of effective consultation processes to suit the individual needs of Queensland businesses and highlight the importance of cooperation and coordination between duty holders.



**Secure compliance with parts 5-7 of the WHS Act** using a regulatory approach of compliance monitoring, enforcement and advisory functions including education, guidance and support.

### **Priorities**

- **Influence** PCBU and worker attitudes and compliance behaviours to clearly understand the legal provisions and importance of worker consultation, representation and participation.
- **Develop** PCBU and worker capability and commitment to manage WHS risk through effective worker consultation, representation and participation.
- **Build** HSR and HSC capability and confidence to effectively perform their roles and functions under the WHS Act.
- Continually improve WHSQ workforce capability to regulate effectively through the ongoing development of knowledge and understanding of the WHS Act.

### **Key deliverables**

**Enforce** compliance with parts 5-7 of the WHS Act

Investigate serious legislative contraventions

Educate and build capability

Provide advisory

and support services

**Deliver** proactive, targeted interventions

Deliver priority industry networks and forums

Deliver competent, robust regulatory services

Deliver improved regulatory standards



### **Delivering this strategy**

Through a workforce that is capable, engaged and committed to supporting the value of worker consultation, representation and participation, WHSQ will use a range of regulatory approaches to deliver the projected short, medium and long-term outcomes of this strategy.

### **Priority area 1:**

Influence PCBU and worker attitudes and compliance behaviours to clearly understand the legal provisions and importance of worker consultation, representation and participation

Enforce PCBU compliance with parts 5-7 of the WHS Act, targeting requirements to consult with workers and provide the regulator with:

- a list of elected and trained HSRs
- a copy of a provisional improvement notice (PIN) issued to the PCBU by a HSR.

Investigate serious legislative contraventions (where appropriate) via the independent statutory office of the Director of WHS Prosecutions for:

- a PCBU's failure, so far as reasonably practicable, to consult with workers
- a PCBU's failure to comply with a PIN
- discriminatory, coercive or misleading conduct towards a HSR and/or worker in relation to WHS matters.

Educate PCBUs on their obligations under parts 5-7 of the WHS Act, focusing on requirements to:

- consult with workers and their representatives
- facilitate and enable workers to elect HSRs
- enable HSRs and WHS entry permit holders to carry out their functions
- enable all workers to participate in WHS issues that affect them.

Educate workers and improve their understanding of parts 5-7 of the WHS Act, focusing on:

- legislative provisions for worker consultation and electing HSRs
- benefits of HSRs and how to support them
- workers' rights to cease unsafe work and their role as a party to issue resolution.

Administer proactive interventions and strategic communications to encourage the uptake of genuine worker consultation and representation in small, medium and large businesses across priority industry sectors.

Deliver priority industry networks and forums that partner with industry at all levels to support positive work cultures that encourage and enable HSRs and HSCs to carry out their functions, powers and rights effectively.

#### **Short-term outcomes**

PCBUs and workers understand the legislative provisions relative to their legal obligations and how this contributes to effective worker consultation, representation and participation and a positive work culture.

### **Mid-term outcomes**

PCBUs and workers know how to comply with legislative provisions and proactively engage in effective worker consultation, representation and participation in everyday work.

### **Long-term outcomes**

PCBUs systematically manage legislative provisions for effective worker consultation, representation and participation within a positive work culture. Workers systematically contribute to effective worker consultation, representation and participation within a positive work culture.

### **Priority area 2:**

Develop PCBU and worker capability and commitment to manage WHS risk through effective worker consultation, representation and participation

Implement the <u>Injury Prevention and Management (IPaM) program</u> and other state-wide targeted advice, support and education approaches to:

- build PCBU capability and commitment to worker consultation, representation and participation that supports effective, systematic management of WHS
- strengthen senior management commitment to balancing a successful, profitable business with safe and healthy work through inclusive worker consultation, representation, and participation.

Administer proactive interventions and strategic communications designed to:

- build capability of everyone at work in hazard identification and risk management processes that contribute to the effective, systematic management of WHS
- strengthen the understanding of everyone at work in:
  - powers and functions of HSRs under the WHS Act
  - functions of HSCs under the WHS Act
  - importance of other consultative arrangements in managing WHS risk
  - what effective consultation looks like in the absence of HSRs.

Deliver priority industry networks and forums that partner with industry at all levels to build PCBU and worker capability and commitment to managing WHS risk and the linkages to effective worker consultation, representation and participation.

### **Short-term outcomes**

PCBUs and workers understand the role and importance of HSRs, HSCs and other consultative arrangements in managing WHS risk.

### Mid-term outcomes

Everyone at work has the capability to identify hazards and confidently participate in effective worker consultation to manage WHS risk.

### **Long-term outcomes**

PCBUs and line managers are committed to systematically engaging their workers in effective worker consultation to manage WHS risk.

Workers proactively engage in effective worker consultation to manage WHS risk.

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### Delivering this strategy

### **Priority area 3:**

Build HSR and HSC capability and confidence to effectively perform their roles and functions under the WHS Act

#### Administer state-wide targeted advice, support and educational approaches to:

- build the capability and confidence of HSRs and HSC members so they can:
  - proactively contribute to WHS risk management processes and other WHS activities without fear of discriminatory, coercive or misleading conduct
- raise issues and access advice, support and resources from the regulator and associated support services
- lawfully issue PINs (HSR only).
- build the capability and confidence of HSRs and WHS entry permit holders so they can:
  - exercise their powers and perform their functions effectively
  - autonomously act as a party for issue resolution and direct unsafe work to cease
  - foster trusted working relationships with the regulator.
- strengthen engagement between the OIR, trade unions, HSR networks and support services to:
  - encourage ongoing professional development and capacity building opportunities for HSRs
  - promote the importance of the role of external parties supporting worker representation.

### **Short-term outcomes**

#### **HSRs and HSCs:**

- understand their roles and functions
- recognise the value of the regulator and external networks/support services in providing assistance and professional development opportunities.

### **Mid-term outcomes**

#### **HSRs and HSCs:**

- have the skills to perform their role and functions
- know how to raise issues, seek advice/support and obtain resources to carry out their role and function.

### **Long-term outcomes**

#### **HSRs and HSCs:**

- operate autonomously, competently and confidently to undertake their role and functions without fear of victimisation
- have trusted relationships with the regulator and external networks/support services to seek dependable assistance when needed.

### **Priority area 4:**

**Key deliverables** 

Outcomes

Continually improve WHSQ workforce capability to regulate effectively through the ongoing development of knowledge and understanding of the WHS Act

#### Develop contemporary WHSQ workforce capability to confirm the understanding of parts 5-7 of the WHS Act for:

- investigating allegations of discriminatory conduct for a prohibited reason, coercion, inducement or misrepresentation
- taking enforcement action (including prosecution) where there is sufficient evidence and/or seriousness of a legislative contravention.

### Deliver robust regulatory services through a WHSQ workforce that fully understands how to:

- enforce legislative compliance with parts 5-7 of the WHS Act (where appropriate)
- negotiate and adjudicate for positive outcomes when making decisions or resolving issues (in response to requests to the regulator for action)
- review WHS management systems for the effective integration of management commitment and worker consultation, representation and participation
- foster trusted working relationships with PCBUs and HSRs.

Deliver improved regulatory standards for worker consultation, representation and participation that align with contemporary legislative and policy requirements.

Provide advice, information and support for PCBUs and HSRs, considering current and emerging WHS issues and trends.

### **Short-term outcomes**

#### WHSQ workforce:

- understands the legislative provisions of parts 5-7 of the WHS Act and the application of securing compliance
- recognises the value of the changing landscape of legislative review
- understands and appreciates the key role and functions of HSRs in effective worker consultation.

### **Mid-term outcomes**

#### WHSQ workforce:

- is capable and committed to securing compliance with parts 5-7 of the WHS Act
- is committed to adopting contemporary legislative changes
- provides support to PCBUs to help them consult with workers effectively
- provides support to HSRs to enable them to perform their role and functions as required under the WHS Act.

### **Long-term outcomes**

#### WHSQ workforce:

- is a capable, responsive and contemporary regulator, aligned to emerging trends and changes to legislation and internal policy
- creates trusted relationships between the regulator, PCBUs and HSRs to support and assist when needed.

### Informing this strategy

The 2022 review of the WHS Act in Queensland has significantly contributed to the development of this strategy, with carefully considered recommendations driving WHSQ's planned program of work over the next three years. The following strategic drivers have helped inform the development of this strategy.

### Australian Work Health and Safety Strategy 2023-2033

Focusing on embedding good WHS practice in all work, and broadening the understanding of WHS

### WHS Board Five year strategic plan for WHS in Queensland 2019-2023

Lead, promote and enable WHS improvements in Queensland

### Work Health and Safety Act 2011 (Qld) Review (2022)

Government consideration of the recommendations from the WHS Act review

## Queensland Government election commitments (2020)

Ongoing compliance, monitoring and enforcement campaigns

Investigating specific legislative amendments designed to support HSRs

# Model WHS Law Review recommendations (2018)

Multiple recommendations from the Boland review relate to HSRs and consultation

Updating the Code of Practice to include useful scenarios and examples

### WHSQ's Best Practice Review (BPR) recommendations (2017)

Outstanding BPR recommendation 50

Support HSRs and HSCs and encourage industry uptake in priority industry sectors

### **OIR strategic priorities**

Office of Industrial Relations Strategy 2021-2024 Workplace Health and Safety Queensland Priority Plan 2024-2030 Compliance Monitoring and Enforcement Policy (2018)





This strategy aims to be a positive driver of change in knowledge, skills, behaviours and attitudes towards worker consultation, representation and participation in Queensland. To ensure this strategy remains contemporary and continues to educate, enable and empower PCBUs, HSRs and workers, critical data sources will be periodically reviewed and evaluated for outcomes and emerging trends.

WHSQ will closely monitor compliance with parts 5-7 of the WHS Act through enforcement action and advisory activities relative to these provisions. Additional data sources that will be monitored include:

HSR notifications to the regulator

Regulator requests to resolve disputes

Regulator requests to review PINs

Regulator requests for assistance

Complaints relating to parts 5-7 of the WHS Act

PIN notifications to the regulator

Number of advisory services provided

Number of education services provided

Number of trained HSRs

HSR training feedback

Consistent with the Queensland Government's principles of transparency and accountability, this strategy will be evaluated in accordance with the OIR evaluation framework. Analysis and reporting will be regularly undertaken, with outcomes shared with key external stakeholders.

WHSQ acknowledges the importance of stakeholder contribution and will continue to engage and consult with key partners, stakeholders, and industry representatives throughout the life of this strategy.

WHSQ will actively seek input, feedback and buy-in from these stakeholder partnerships to ensure this strategy remains current, flexible and suitable to industry needs. WHSQ's key stakeholders include but are not limited to:



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Workplace Health and Safety Queensland

### Steps to implementation

Over the next three years, alongside our partners and stakeholders, WHSQ will implement our targeted program of work focusing on this strategy's priorities and key deliverables.

WHSQ will progressively build on the outcomes year by year and as this strategy matures, adjustments will be made in line with contemporary work changes. Activities will be implemented by using the tools and resources available under WHSQ's regulatory approach.

### Year 1 – Build on foundations

This strategy's Year 1 action plan identifies specific deliverables primarily driven by the WHSQ workforce. Year 1 will involve building on the foundations that currently exist by focussing on effective regulation and building awareness and capability of legislative obligations. Proactive engagement, consultation and partnerships with industry will be critical to establishing baseline data to inform the future direction of this strategy.

### Year 2 and Year 3 – Shaping the future

Year 2 and 3 deliverables will be informed by stakeholder feedback and regulatory outcomes recognised throughout the course of the previous year. Further consultation will be undertaken with key industry stakeholders to identify deliverables that focus on driving change, creating positive work cultures and support leading practice.

# Governance and reporting

To ensure transparent governance and oversight, WHSQ has established an internal 'Worker Consultation Governance Group' to lead the progress of this strategy's implementation and provide updates to key stakeholders as required. WHSQ is committed to continuous improvement in the capabilities and approaches of the WHSQ workforce and building our resources to be a responsive, modern regulator.

A performance report outlining the activities and achievements against each of the priority areas and deliverables will be developed and presented to key stakeholders with an annual summary published on <a href="WorkSafe.qld.gov.au">WorkSafe.qld.gov.au</a>.



### What effective consultation looks like

### Pre-conditions<sup>1</sup> to effective worker consultation, representation, and participation

Lessons from the literature review show there are certain 'pre-conditions' that need to be in place before effective worker consultation, representation and participation can occur in any type of work, including:

1

#### Strong legislative direction:

This pre-condition refers to the **WHS Act requirements** for worker consultation, representation and participation. The legislation is clear on the importance of parts 5-7 of the WHS Act as it imposes significant obligations on duty holders. It also sets minimum requirements for issue resolution processes and other consultation mechanisms such as HSCs.

2

#### **Effective regulation:**

This relates to the **regulator's ability to secure compliance** through a regulatory approach driven by education, advice, compliance monitoring and enforcement strategies. This pre-condition also requires a capable, engaged and committed WHSQ workforce (i.e. inspectors and advisors) who not only value and support worker consultation, representation and participation, but who can competently secure compliance with provisions under parts 5-7 of the WHS Act.

3

### **Management commitment<sup>2</sup>:**

This refers to managers (at all levels) being committed and supportive of genuine worker consultation, representation and participation arrangements, WHS prevention strategies, **alongside their operational focus** (work output, quality, efficiency etc.). Management's ongoing commitment to each of these elements is essential to operating a successful business and ensuring all workers are:

- safe and healthy
- appropriately consulted and represented
- able to participate in WHS issues that affect them.

4

### Risk management competency:

This pre-condition refers to the capability of **everyone at work** to be skilled in hazard identification and the WHS risk management process. This competency results in increased awareness and cooperation amongst everyone at work to collectively manage the potential of work-related harm. This includes PCBUs, officers, managers, supervisors, HSRs, HSC members, workers, contractors etc.

- 1. D Walters and E Wadsworth, Worker participation in the management of occupational safety and health: qualitative evidence from ESENER-2, European Risk Observatory Overview Report, ISSN:1831-9343, Publications Office of the European Union: European Agency for Safety and Health at Work, Luxembourg, 2017.
- 2. D Walters, T Nichols, J Connor, AC Tasiran and S Cam, The role and effectiveness of safety representatives in influencing workplace health and safety, HSE Research Report 363, HSE Books, Sudbury, 2005, pp 33-48.



### Autonomous<sup>3</sup>, competent and confident worker representation:

This refers to HSRs and other worker representatives being equipped with the **appropriate legislative knowledge, communication skills and technical expertise** to operate effectively without fear of victimisation. Worker representatives operating autonomously display an ability to independently gather and use information to consult strategically and effectively, otherwise known as 'knowledge activism'<sup>4</sup>.



### Support for worker representatives:

To enable effective worker representation, support is required from multiple contributors. This applies equally to internal and external support wherever work is carried out:

- Internal support requires PCBUs, managers, supervisors, including the workers who are being
  represented, to collectively support worker representatives in their roles (irrespective of where work is
  carried out).
- External support requires trade unions, HSR networks and advisory services providing sound, independent guidance and assistance to HSRs and other worker representatives.
- **Regulator support** requires government priority, highlighting effective worker consultation, representation and participation being critical to safe and healthy work. This prioritisation is displayed by WHSQ's commitment to securing compliance with parts 5-7 of the WHS Act through a responsive regulatory approach (note this also aligns to pre-conditions 1 and 2).

### Link to systematic WHS management

The literature identifies a strong link between effective worker consultation, representation and participation and the systematic management of WHS. The combined effort of these six pre-conditions ultimately provides the opportunity for workers to have a voice, be heard and for appropriate action to be taken to reduce the risk of work-related harm.

Fulfilling these six pre-conditions will make significant progress to ensuring effective worker consultation, representation and participation which in turn, contributes to a compliant and sustainable approach to the systematic management of WHS, ultimately leading to improved WHS outcomes.

- D Walters and E Wadsworth, Worker participation in the management of occupational safety and health: qualitative evidence from ESENER-2, European Risk Observatory Overview Report, ISSN:1831-9343, Publications Office of the European Union: European Agency for Safety and Health at Work, Luxembourg, 2017.
- A Hall, A Forest, A. Sears and N Carlan, 'Making a difference: knowledge, activism and worker representation in joint OHS committees', Relations Industrielles / Industrial Relations, 2006, 61(3):408.

These six pre-conditions support a PCBU's WHS obligations and are ethically and economically essential for not only ensuring workers' health and safety, but improving WHS performance.



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### Legislation – what you need to be aware of

In Queensland, there are legislative duties that drive specific worker consultation, representation and participation arrangements between PCBUs and workers. It is important everyone understands these legal requirements.

<u>Part 5 of the WHS Act</u> outlines specific duties and requirements for worker consultation and dispute resolution processes. Key elements to note include:

### Persons Conducting a Business or Undertaking

#### **Duties to**

- Consult, cooperate and coordinate activities between duty holders
- Consult workers
- Provide a copy of a PIN to the regulator

#### **Obligations to HSRs**

- General obligations
- Training HSRs
- Lists of HSRs to be prepared, displayed, kept up to date and provided to the regulator

### **Health and Safety Representatives**

- Requests for election of HSRs
- Work group determination by negotiation and agreement (including for multiple businesses)
- Election processes for HSRs and deputy HSRs
- Powers and functions of HSRs (including issuing PINs)

### **Health and Safety Committees**

- Establishment and functions of HSCs
- PCBU duties relating to HSCs

### Issue resolution

- Parties to an issue and resolution processes
- Referral of issues to the regulator for resolution by an inspector

### Rights to cease or direct cessation of unsafe work

- Right of workers and HSR directions
- · Continuity of engagement of a worker
- Requests to the regulator to appoint an inspector to assist

### **Provisional Improvement Notices**

- Processes for HSRs issuing and writing PINs
- Requirements for the person who is issued a PIN for displaying and complying with PINs
- Requests to the regulator to appoint an inspector to review a PIN
- Decision of the inspector to confirm or cancel a PIN

### WHS disputes

- Unresolved disputes and the involvement of the Queensland Industrial Relations Commission
- Action for settling disputes
- Review of decision made by an inspector

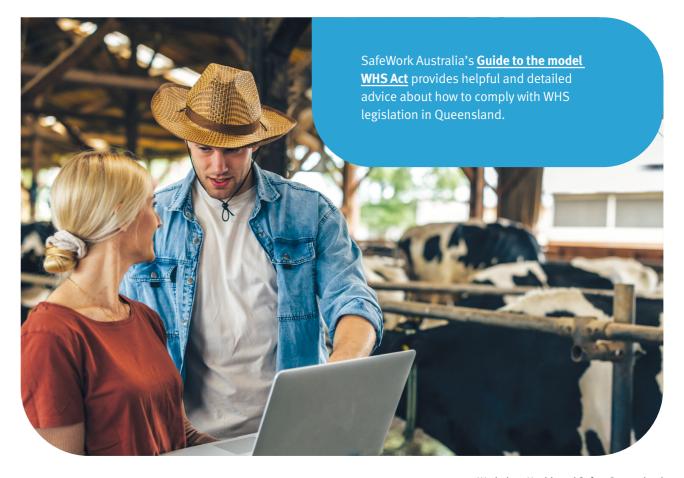
Part 6 of the WHS Act provides for the prohibition of discriminatory, coercive and misleading conduct against workers and others exercising rights, functions and powers under the WHS Act. Part 6 also provides for the criminal and civil proceedings relating to these specific types of conduct. It is important to understand what actions constitute this prohibited conduct to avoid impeding workers, their representatives, and others from exercising their rights and powers, performing their functions and committing an offence. For more information visit WorkSafe.qld.gov.au.

Part 7 of the WHS Act sets out the rights and workplace entry requirements of WHS entry permit holders to inquire into suspected contraventions of the WHS Act. Part 7 also sets out entry requirements of WHS entry permit holders to consult or advise workers on WHS matters. For more information visit WorkSafe.qld.gov.au.

### Chapter 2 of the Work Health and Safety

Regulation 2011 (WHS Regulation) supports the WHS Act with additional requirements set out for work group representation, HSR elections, issue resolution procedures and cessation of unsafe work. Chapter 2, Part 2.4 also sets out requirements for workplace entry by WHS entry permit holders, supporting Part 7 of the WHS Act.

The Work health and safety consultation, cooperation and coordination Code of Practice 2021 provides practical guidance on how to consult effectively and how to facilitate worker representation and participation. The WHS Act requires duty holders to comply with the standards outlined in an approved Code of Practice or follow an equivalent or higher standard than the code requires.



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Workplace Health and Safety Queensland

### **Need more information or support?**

### **Contact WHSQ**

#### Raise a WHS concern

WHSQ provides a **free**, **confidential complaint service** for anyone who wishes to lodge a complaint about WHS or electrical safety issues. This can be done by phone or by completing the online form.

- Phone: 1300 362 128
- Complaint form WHS or Electrical Safety Issue

### Support services and programs

### **HSR** direct

WHSQ provides HSR direct, a **free**, **confidential advisory service** available only to elected and trained HSRs. This service can assist HSRs with any queries they may have in relation to exercising their powers or performing their functions (i.e., writing a PIN, issue resolution, re-election processes).

- Phone: 1300 633 419
- Email: whstraining@oir.qld.gov.au

### HSR Support Service Queensland Council of Unions

For confidential PCBU and worker representative support, contact the QCU HSR Support Service. This service offers support to all appropriately elected and trained HSRs in Queensland on matters relating to consultation, representation and participation.

- Email: info@hsrsupport.org.au
- Web Page: <a href="https://hsrsupport.org.au">https://hsrsupport.org.au</a>
- HSR Facebook Discussion
  - Group: **Qld HSR Discussion Group**

### Injury Prevention and Management (IPaM) program

IPaM is a joint initiative delivered by WHSQ and WorkCover Queensland. It is a **free advisory program** designed to help Queensland businesses develop and implement sustainable WHS and injury management systems.

The IPaM program is available to any Queensland PCBU with a WorkCover Queensland policy, regardless of size or business maturity. Sole traders who are not insured through WorkCover Queensland may also be eligible.

The IPaM program will assign a dedicated IPaM advisor to help PCBUs review their business's WHS and injury management system, assess workplace safety capability and develop their own tailored business improvement plan. **Register your interest**.

### Resources

WHSQ offers the following resources to assist Queensland businesses to make informed decisions about effective worker consultation, representation and participation.



### WorkSafe.qld.gov.au

### Consultation, representation and participation

<u>WorkSafe.qld.gov.au</u> has made it easy for the end user to find what they are looking for by collating information specifically relevant to PCBUs, HSRs, HSCs and work health and safety officers (WHSOs), and on topics such as PINs, WHS disputes and issue resolution.

#### Resources

<u>WorkSafe.qld.gov.au</u> has also collated a range of useful resources such as presentations, guides, templates, case studies, animations and other resources to help with understanding the duties around consultation, representation and participation.

### Health and safety representative portal

Access to the online **HSR portal** makes it easy for PCBUs to meet their obligation to notify the regulator of HSRs and deputy HSRs.

Call the <u>whole of government</u>
<u>translation service</u> to assist with
translating this document into the
language required for your business.
Phone: 1800 512 451

Safe Work Australia offer a range of resources to assist PCBUs to understand their WHS duties to consult with workers, their representatives and other duty holders.



State of Queensland 2024



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