

OHS Issue Resolution Procedure

Section 1 - Background and Purpose

(1) These Procedures are intended to facilitate resolution of health and safety issues where they are unable to be resolved at the local level. The Procedures describe the arrangements on how those issues are to be resolved. These procedures do not apply to the reporting of incidents, for which separate procedures apply.

(2) Attempts must be made to resolve all health and safety issues with local management in the first instance, by reporting health and safety issues as follows:

- a. Employees: With their supervisor or manager
- b. Students: With their course coordinator or head of school
- c. Contractors: With their contract manager or project coordinator

(3) Where the issue is unable to be resolved at the local management level, the employee should notify their HSR who will raise the issue with the Employer Representative. If there is no elected HSR the employees should nominate a representative to discuss the issue with the Employer Representative.

(4) The purpose of these Procedures is to inform managers and employees of their obligations in resolving issues relating to workplace health and safety issues and to provide practical guidance in the resolution of health and safety issues which cannot be resolved at the local level.

Section 2 - Scope

(5) Refer to the OHS Policy.

Section 3 - Policy Statement

(6) Refer to the OHS Policy.

Section 4 - Procedure

Responsibilities

(7) All parties to the issue must attempt to resolve the issue in consultation with persons affected by the issue within reasonable time.

(8) Employer Representatives must:

- a. Have an understanding of the issue resolution procedure and have an understanding of the Occupational Health and Safety Act and the Occupational Health and Safety Regulations.

(9) When a dispute occurs the Employer Representative (or nominee) must:

- a. Notify affected employees, Health and Safety Representatives (HSRs) for the designated work group, and the area health and safety consultative committee as to whether they intend to participate in the resolution of an issue or to nominate an Employer Representative, who will participate in the resolution. In this case the name and the position title of the nominated Employer Representative is to be advised.
- b. Follow these procedures in resolving the issue to the fullest extent possible
- c. Document and communicate the outcome of the resolution of an issue to all affected parties.

(10) Health and Safety Representatives / Employee Representatives must:

- a. Represent the employees, students or contractors affected by the health and safety issue.
- b. Only act on behalf of the employees, students or contractors affected by an issue.
- c. In consultation with the Employer Representative, participate in the resolution of the issue.

Notification of Issue

(11) The employee, student or contractor (or a competent person or organisation of employees who is assisting them) raising a health and safety issue must inform the Health and Safety Representative for the relevant Designated Work Group (DWG) and may also notify the Employer Representative. If there is no HSR for the workplace, employees within the DWG may nominate one or more employees in the DWG to act on their behalf, or may nominate a HSR from another DWG.

(12) The HSR / Employee Representative must report the issue to the Employer Representative, and may notify La Trobe Health & Safety. If the Employer Representative is not available, the senior manager employed by the University in the organisational unit where the issue has arisen is deemed to be the Employer Representative for the purpose of attempting to resolve the health and safety issue. The Employer Representative must acknowledge the notification of the issue to the HSR.

(13) The Employer Representative must inform La Trobe Health & Safety of notification of a health and safety issue. If the issue concerns work which is considered to be a high risk, the Manager, La Trobe Health & Safety should be consulted immediately.

Resolving an Issue

(14) Matters to be taken into consideration. When resolving an issue, regard must be given to:

- a. The number and location of employees affected by the issue.
- b. Whether appropriate temporary measures are possible or can be achieved with reasonable practicability.
- c. The time that may elapse before the issue is permanently resolved.
- d. Who on behalf of the employer will be responsible for performing and overseeing any action agreed necessary to resolve the issue (on behalf of the employer).

(15) How these issues are managed must be covered in the final documentation as described in clauses 20 and 21.

(16) The Employer Representative must:

- a. Notify employees (including any competent person or organisation of employees that is assisting them), the HSR and health and safety consultative committee of the organisational group as to whether the Employer Representative of the DWG intends to participate in the resolution personally or nominate an Employer Representative. If a representative other than the Employer Representative for the DWG is to be nominated,

employees must be informed of the name and position title of this person.

- b. Notify La Trobe Health and Safety Unit.
- c. Within two working days where practicable, communicate with the HSR / Employee Representative and a competent person or an organisation of employees who is assisting an employee and within five working days or sooner if the nature of the risk or hazard warrants it, meet with HSR. Alternatively, the Employer Representative must communicate what actions are or will be taken to resolve the issue to these parties. At all stages in the issue resolution process the Employer Representative should be available to meet with the HSR / Employee Representative when required.
- d. Ensure that all meetings and outcomes are recorded and documented (this can be another person by agreement). To avoid doubt, any meeting should be accurately documented in a contemporaneous fashion.
- e. Inform persons affected by the issue of the outcome of resolution or of any interim arrangements until the issue is resolved. These arrangements should identify the persons responsible and agreed timelines for actions.
- f. Ensure as soon as is reasonably possible after resolution of an issue, that details of any written or oral agreement between parties is brought to the attention of all persons and the HSR affected by the issue (including any competent person or organisation of employees who is assisting them) and be forwarded to the relevant Health and Safety Consultative Committee. The communication should be documented in a manner, form and language that are agreed by all parties to be appropriate.

Assistance of External Parties

(17) At any stage in the resolution of an issue, a party may seek the assistance of any relevant organisation of employees or of employers to assist the parties to resolve the issue.

(18) If within a reasonable time there is still no resolution, any of the parties attempting to resolve the issue, may ask WorkSafe Victoria to arrange for an inspector to attend the University and enquire into the issue.

Communication and Documentation

(19) As soon as is reasonably practicable after resolution, the employer must ensure that details of any written or oral agreement between the parties are brought to the attention of employees affected by the issue (and any competent person or organisation of employees who is assisting them) and this report will be forwarded to the University Planning and Resources Committee via La Trobe Health & Safety and any Health and Safety Consultative Committee affected by the issue.

(20) The report about the issue and resolution of that issue must be documented by the employer representative (or another person by agreement with the HSR or Employee Representative) and will include the following details:

- a. Matters to be taken into consideration (as outlined in clauses 14 to 17).
- b. Health and Safety Representative:
- c. Employer Representative:
- d. Other parties involved in the resolution:
- e. Description of Issue:
- f. Agreed outcome which includes any follow up action required by a specific date:
- g. Date of agreement.

Provisional Improvement Notice (PIN)

(21) An elected Health and Safety Representative or Deputy Health and Safety Representative may issue a Provisional Improvement Notice (PIN) requiring a person to remedy a contravention of a provision of the OHS Act (s60) or Regulations if they believe on reasonable grounds that the person:

- a. is contravening a provision of the OHS Act or Regulations; or
- b. has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated

(22) Any such PIN must be specific and must:

- a. State the belief and the grounds for the belief for issuing the notice;
- b. Specify the provision of the OHS Act or the Regulations that has or is likely to be contravened; and
- c. Specify a day by which the contravention must be remedied.

(23) Any Employer Representative or person to whom a PIN is issued must provide La Trobe Health and Safety a copy of the PIN within 24 hours.

(24) If an HSR issues a PIN to a person other than an Employer Representative, the HSR must also provide La Trobe Health & Safety a copy of the PIN within 24 hours.

(25) Within seven days of the issuing of a PIN, WorkSafe Victoria can be asked to arrange for an inspector to attend the workplace and enquire into the subject of the PIN.

(26) PIN Notices must be displayed in a prominent area related to the issue.

Direction to Cease Work

(27) If an issue concerning health and safety arises at the University or from the conduct of the undertaking of an employer and the issue concerns work which involves an immediate threat or safety of any person and given the nature of the threat and degree of risk, it is not appropriate to adopt the resolution process set out above, the employer or the HSR for the designated work group in relation to which the issue has arisen (or, if they are not available, a HSR from another designated workgroup), may after discussion between them, direct that the work is to cease.

(28) If a direction to cease work is made, WorkSafe Victoria may be asked to arrange for an inspector to attend the workplace and enquire into the issue.

Section 5 - Definitions

(29) For the purpose of this Procedure:

- a. Designated Work Group (DWG): A group of employees determined on the basis of location; type of work; number of employees, the nature of hazards at the workplace and of overtime or shift working arrangements.
- b. Employee Representative: If there is no health and safety representative for the workplace, employees within the relevant DWG may nominate one or more employees in the DWG to act as an Employee Representative on their behalf for the purpose of resolving an OHS issue, or an HSR from another designated work group.
- c. Employer Representative: The nomination of employer representatives for purposes of issue resolution under Section 73 of the Act 2014 (Resolution of health and safety issues) be based on Head of School or Divisional Director in the case of Schools or Divisions, or where an employer representative is not readily identifiable, the College General Managers or Vice-President (Administration) as appropriate.
- d. Health and Safety Issue: Health and safety issues may include a number of concerns – for example, the detection of a potential workplace hazard, the desire to establish a DWG, the identification of a health and safety breach, the proposed introduction of new plant/equipment.
- e. Health and Safety Representative: An employee elected by members of a designated work group to be the

group's health and safety representative. Issue A point in question or dispute concerning health and safety between employees and the Employer Representative for the designated work group.

- f. Organisational Group: Faculty or Division of the University.
- g. Organisation of employees: Means a Union
- h. Provisional Improvement Notice (PIN): A notice issued to a person by a Safety Representative or Deputy Health and Safety Representative in accordance with the OHS Act 2004 which requires the person to remedy a contravention or likely contravention of the Act.
- i. Reasonable time: Reasonable time will vary dependent upon the circumstances, the issue in the workplace and/or the immediacy in any given case on risk, but should not normally be longer than a period of one week for relatively minor matters and two to three weeks for more complex concerns.