Resolving a WHS Issue

Section 80 of the NSW WHS Act 2011 (the Act) details requirements on all parties to resolve an identified WHS issue. On occasion, a WHS concern or issue may arise in the workplace. This can be an issue that affects a single worker or something that may affect many workers, even across work groups. All people at the workplace need to know how to resolve a WHS issue once identified, to ensure appropriate and timely action and minimise the risks to all persons at the workplace.

The legislation specifies what is required when a WHS issue cannot be resolved after discussion and review with the involved parties. UWS has procedures for resolving a WHS issue, with the aim being to achieve effective, timely and enduring resolutions to WHS matters.

Who is involved in resolving WHS issues?

The parties involved in resolving a WHS issue are likely to include:

- Worker or workers
- PCBU or manager/supervisor representatives of the PCBU
- If the work group affected by the matter has a Health and Safety Representative (HSR) then the HSR can be involved.

Where an issue may involve more than one PCBU, such as a construction site with multiple PCBUs, then consultation, cooperation and coordination between these PCBUs and the all affected workers or their HSRs is required.

Who can identify a WHS issue?

Most commonly WHS issues are identified or raised by workers or managers/supervisors at a workplace. Any person, including workers, visitors or students in a workplace may however identify or report a WHS concern.

What should happen once a WHS issue is identified?

Where a worker identifies a WHS risk and may be uncertain how to resolve this issue the UWS Procedure for Resolving a WHS Issue can be used to determine the appropriate actions. This includes;

- The worker initially raises the WHS issue with their manager or supervisor,
- The manager/supervisor and worker may be able to develop and implement a plan, procedure or process that resolves the WHS issue in consultation with the affected workers,
- If the issue remains unresolved, the worker can seek assistance from a HSR (if their work group has one),
- The worker, HSR and manager/supervisor then attempt to resolve the WHS issue,
• If the issue remains unresolved, or where there is no HSR for the work group, the WHS issue should be referred to the UWS WHS unit for further advice and assistance.

• If the WHS issue remains unresolved after assistance from the UWS WHS unit, any party can commence the UWS WHS Grievance Resolution Process. This requires reasonable time and effort from all involved parties to resolve the WHS issue. Where a WHS issue remains unresolved, the WHS issue can be referred to WorkCover NSW for an inspector to investigate and assist in the resolution. The referral to WorkCover NSW can be made by any of the involved parties.

At any point listed above, the WHS issue may be resolved by the involved parties coming to agreement about a plan, procedure or process that adequately addresses the identified WHS issue. This should be achieved in consultation with the workers affected by the WHS concern. Subsequent steps in the resolution process are not required once a resolution agreement is achieved between the involved parties.

Depending on the nature of the WHS issue, advice or assistance from a range of experts may be required to reach an appropriate and informed resolution between the involved parties.

WorkCover NSW expects parties to consult and make genuine efforts to resolve a WHS issue prior to contacting a WorkCover inspector for assistance.

Workers, including any HSRs, should be informed of the agreed outcomes for resolving the WHS issue.

Where a WHS issue arises that presents an immediate or serious risk to health or safety, then appropriate actions to ensure the health and safety of all persons is required in the first instance and this may include a cease to work. Such actions may be required prior to commencing any of the above steps.

Is any Documentation Needed When Resolving WHS issues?

The NSW WHS Regulation 2011, details that all parties, including workers, should be made aware of the procedures that a PCBU has in place for resolving a WHS issue. At UWS these are located on the OHS web pages (LINK).

The details of a WHS issue and the agreed resolutions should be set out in a written agreement where this is requested by any of the involved parties. A copy of this agreement should be provided to all parties where this request is made.

Where can I go for more information?

• The following websites provide detailed information about the new WHS Act and the changes in legislation.

• You can also contact UWS OHS&IS if you have would like further information.

Related UWS WHS Fact Sheets

• Health and Safety Representatives
• WHS Duties
• Workers