

GUIDE

Setting up a Workplace Safety and Health Committee (or Worker Representative)



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GUIDE

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INTRODUCTION

Manitoba's approach to workplace safety and health legislation is based on the simple idea that everyone in the workplace shares responsibility for safety and health.

Under *The Workplace Safety and Health Act* (the Act), employers, supervisors and workers all have duties to help keep the workplace safe. Even though everyone in the workplace shares responsibility for safety and health, those with authority, such as employers and supervisors, have greater responsibility because they have more control over what goes on in the workplace.

This system of shared duties is called the internal responsibility system.

In order for the internal responsibility system to work effectively, it is very important that workers are involved in decisions that affect their safety and health. Involving workers has been proven to reduce injuries and illnesses in the workplace.

The best way to involve workers in safety and health matters is to have a workplace safety and health committee or worker representative. This provides a formal system of involving workers in identifying hazards in the workplace, investigating incidents, resolving complaints and more.

This Guide will show you how to set up a workplace safety and health committee or worker representative in your workplace. As a result, your workplace will be a safer place to work!



WHEN IS A COMMITTEE OR REPRESENTATIVE REQUIRED?

*To determine the number of workers in your workplace, take the average number of full time and part time workers present during each working day over the last 12 months. For seasonal workplaces, take the average number of full time and part time workers present during each working day over the duration of the project

When is a safety and health committee required?

A safety and health committee is required in all workplaces that have 20* or more workers.

When is a worker representative required?

In all workplaces that have between five and 19* workers, a worker representative must be designated.

Are there any exceptions?

The only exception to the above requirements is that a committee is not required on a construction project site or seasonal workplace if the project or seasonal work is expected to last 90 days or less. If the project or seasonal work is expected to last more than 90 days and 20 or more workers will be involved, then the employer/prime contractor must establish a committee for the project or seasonal work. Also, the director of the Workplace Safety and Health Branch (WSH), a branch of the provincial government, may issue a written order permitting an employer to establish one committee for more than one workplace or require an employer to establish more than one committee for a workplace.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 40 (1), 40 (2), 40(3), 40(4)



CHOOSING COMMITTEE MEMBERS OR REPRESENTATIVES

How many members must a committee have?

How are members chosen?

A safety and health committee is required in all workplaces that have 20* or more workers.

Each committee must have at least four, but not more than 12 members.

To determine the exact number of committee members, the employer must consult with the union(s) that represents the workers, or if there is no union, with the workers themselves.

At least half of the committee members – the “worker members” – must represent workers who are not associated with the management of the workplace (e.g., the number of committee members representing management – the “employer members” – must not exceed those representing workers).

Worker members of the committee must be appointed in accordance with the constitution of the union. If there is no union, they are to be elected by the workers they represent.

The employer may not influence the election of the worker members. Any disputes regarding the election process may be referred to a safety and health officer of the WSH.

Selection of co-chairs

Each committee must have two co-chairpersons. A management co-chair is chosen by the employer members on the committee and the worker co-chair is chosen by the worker members.

Terms of office

Committee members are elected to two-year terms (or a length set out in the union constitution). Members may continue to hold office until reappointed or re-elected, or until a replacement is appointed or elected.

How are worker representatives chosen?

Worker representatives are chosen in the same way that committee members are. They must be appointed in accordance with the constitution of the union. If there is no union, they are to be elected by the workers they represent.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 40 (8)

Workplace Safety and Health Regulation MR 217/2006 – Parts 3.2(1), 3.2(2)

MEETINGS AND OTHER ADMINISTRATIVE DETAILS

Committees must meet regularly in order to discuss safety and health issues in their workplaces. The main function of meetings is to talk about hazards that have been identified and try to come up with recommendations on ways to eliminate or control those hazards.

How often do committees have to meet?

In order to carry out its duties, a committee must have meetings at least once every three months. The first meeting must be within one month after the committee is established.

Committee members must be given at least three days notice that a meeting will be taking place.

In workplaces with a worker representative, employers must meet with the representative regularly. As with committees, they must meet at least once every 90 days.

Committee co-chairs or worker representatives can call special meetings to deal with urgent matters.

Do all committee members have to be present for a meeting?

No. If some members cannot attend a meeting, the meeting can still take place. However, in order for the committee to make decisions so that any actions can move forward, there must be a quorum. This means at least half of the worker members and half of the employer members must be present. Members not able to attend the meeting can have someone attend in their place in order to meet the quorum. A person replacing an employer member can be chosen by the employer. A person replacing a worker member must be chosen by the other worker members on the committee.

Can I have a guest at a meeting?

The Act makes no mention of a “guest” or anyone other than an employer or worker member of the committee attending a committee meeting.

Anyone, other than an employer or worker member of the committee, who attends a committee meeting, must do so on the invitation of the entire committee. Committees are encouraged to incorporate provisions into their rules of procedure that outline the process for inviting guests to meetings, including timelines for advising the co-chairs and other considerations.

Rules of procedure

All committees must establish certain rules of procedure, including:

- how often the committee will meet and where the meeting will take place
- procedures to be followed when a meeting needs to be rescheduled (e.g., amount of notice required)
- rules respecting the conduct of committee meetings
- other matters as the committee considers necessary. See sample rules of procedure at: safemanitoba.com.



Minutes of meetings

Committees must record minutes of each meeting. Minutes are a record of what went on at the meeting. Mainly, they will detail any workplace hazards that were discussed during the meeting and recommendations that were made to address those hazards. They should also include some administrative information, such as the date of the meeting and a list of members who were present.

Additional requirements for minutes:

- Minutes must be recorded in a format that is legible and acceptable to WSH. A sample of a minutes form is available at: safemanitoba.com.
- Minutes must be signed by both co-chairpersons, or designates who have attended the meeting on their behalf and posted on the safety and health bulletin board in a conspicuous location at the workplace.
- Minutes must be kept on file at the workplace for at least 10 years.

Bulletin board

Employers must provide a bulletin board in a prominent place in the workplace that is exclusively for the use of committee members or worker safety and health representatives. The bulletin board must contain the following information:

- the name of each committee member (or the worker representative) and the date that his or her term expires
- scheduled dates of committee meetings (or meetings with worker representative)
- the agenda for each meeting
- copies of minutes of each safety and health committee meeting, signed by the co-chairs or their designates who have attended the meeting on their behalf
- any orders or other documentation required to be posted by WSH.



Are committee members and worker representatives paid for time spent at meetings?

Yes. Committee members and representatives are entitled to take time off from their regular work in order to carry out their duties and must be paid their regular or premium pay, as applicable. Duties of a safety and health committee for which wages are to be paid include:

- preparing for meetings (one hour)
- attending meetings
- attending required safety and health training
- carrying out other assigned duties of a committee member or representative.
- Failure to pay wages or benefits to a worker performing the duties of a safety and health committee member or representative is considered a reprisal. To learn more about workers' safety and health rights see Bulletin 231: *Worker Rights and Responsibilities* at: safemanitoba.com.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 40 (1), 40(7), 40(11), 40(12), 41(6), 41(7), 42(2)

Workplace Safety and Health Regulation MR 217/2006 – Parts 3.3(1), 3.3(3), 3.5, 3.6(1), 3.6(2), 3.6(3), 3.7(1), 3.7(2), 3.11(1), 3.11(2)



THE ROLE OF COMMITTEES AND REPRESENTATIVES

What do safety and health committees and representatives do?

Safety and health committees and representatives play a major role in a workplace's internal responsibility system. In this role, there are a number of duties and functions that committees and representatives must fulfill to help prevent injuries and illness.

Under the Act, safety and health committees and representatives have a number of duties to help keep the workplace safe. These duties include:

- receive and follow-up on concerns and complaints regarding the safety and health of workers
- help identify safety and health risks in the workplace
- help the employer develop and promote measures to protect workers and check on the effectiveness of those measures
- co-operate with workplace safety and health officers
- help develop programs, provide education and information about safety and health in the workplace
- make recommendations to employers or prime contractors regarding the safety and health of workers
- inspect the workplace at regular intervals (inspections must take place before each regularly scheduled meeting)
- participate in investigations of incidents and dangerous occurrences
- maintain records regarding concerns, complaints and other matters regarding safety and health
- other duties as specified in the Act or ***Workplace Safety and Health Regulation*** (the Regulation).

In addition, safety and health committees and representatives typically perform a number of other functions, including:

- help the employer assess the effectiveness of each aspect of the internal responsibility system
- help the employer with development of policies, plans and programs
- help the employer provide orientation to new and inexperienced workers
- help the employer plan worker training
- communicate with workers
- help develop strategic safety and health plans.



SUMMARY

The role of safety and health committees and representatives is to monitor the effectiveness of the internal responsibility system in the workplace, make recommendations to the employer and assist in the prevention of injuries and illness.

It is important to recognize that, even though committees and representatives have these duties, the employer is still ultimately responsible for safety and health in the workplace.

Safety and health committees and representatives are not meant to be enforcers of safety and health in the workplace. The employer is responsible for making sure the internal responsibility system exists, controlling hazards and ensuring compliance with the legislation.

A safety-conscious employer will support the efforts of the committee or representative. The employer must provide adequate resources, time and training to help the committee or representative function effectively.

The employer may delegate responsibilities to the committee; but, the committee or representative is not expected to be a safety and health officer or enforce safety and health rules. The committee's or representative's role is to advise and assist, not assume managerial responsibilities for safety and health at the workplace.

The committee or representative cannot assume any of the legal obligations, duties or responsibilities of either the employer or employees.

The committee or representative should not be involved in disciplinary matters. Maintaining compliance and adequate levels of safety and health at work is the responsibility of the employer, managers and supervisors.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 40(10), 40(11), 41(5), 41(6), 41(8), 40(13)



PARTICIPATION IN INSPECTIONS AND INVESTIGATIONS

Inspections

Inspecting the entire workplace at regular intervals is one of the key duties of the committee or representative. For committee members, this means the entire workplace must be inspected at least once every 90 days. For representatives, this means the entire workplace must be inspected at regular intervals, as determined by a risk assessment. The size of the workplace, type of activities, number of workers, etc., would be some of the factors that would be taken into consideration by the employer and the representative when determining the frequency of inspections.

An inspection is a planned walkthrough of the workplace to identify safety or health hazards that may be present. An inspection may examine a selected work area or particular hazard, certain types of machinery, tools or equipment, or specific work practices.

Regular inspections have been shown to reduce injuries and illnesses and to improve the internal responsibility system. As noted earlier, committees and representatives should plan to inspect the workplace shortly before scheduled meetings.

In addition to providing the training, resources and time needed to carry out the duties of a committee member/worker representative, the employer can help the committee members/worker representatives plan and schedule inspections and assist with the development of inspections checklists.

Committees or representatives must also be allowed to accompany a safety and health officer who is conducting an inspection (if the officer requests it) and be paid for it.



INVESTIGATIONS

Incident investigations

“Serious Incidents” as defined in Part 2 of the Regulation must be reported immediately to WSH. The employer is responsible for conducting an investigation into all of these “serious incidents” regardless of whether or not WSH conducts an investigation.

The co-chairs of the safety and health committee (or the worker representative) must be involved in the investigation of “serious incidents”, as well as any other incident “that injures a person, and results in the person requiring medical treatment, or that had the potential to cause a serious incident”.

Effective incident investigations will identify direct and indirect causes of incidents and will not focus on fault-finding, but rather on fact-finding, with the aim of preventing similar incidents.

The employer and committee or representative should prepare a plan for investigating incidents. The plan should include the necessary procedures, personnel and resources required to conduct an investigation.

A written report must be prepared of each “incident investigation”. The co-chairs (or worker representative) must be involved in the preparation of these written reports.

In addition to conducting their own investigations, committees or representatives must accompany a safety and health officer during an investigation if the officer requests it.



RIGHT TO REFUSE INVESTIGATIONS

What is the right to refuse?

Under the Act, you have the right to refuse any task you have reasonable grounds to believe will cause immediate and serious, or long term effects on your safety and health, or the safety and health of others. A work refusal is initiated by the worker.

What are the steps involved?

1. Report immediately to your supervisor, or to any other person in charge at the workplace, giving your reasons for refusing to work. At this point, the refusing worker and supervisor must attempt to resolve the concern.

If the employer resolves the matter to your satisfaction, go back to work.

2. Here's what to do if you still believe the work is dangerous. If the supervisor and worker cannot resolve the issue, someone must inspect the dangerous condition. That inspection may be done by the supervisor, the worker and one of the following:
 - worker co-chairperson of the safety and health committee
 - committee member who represents workers
 - worker representative, if there is no committee.

The refusing worker can be assigned alternate work during the investigation. After conducting the inspection, an alternate worker may be reassigned to the refused work. Before the employer or supervisor reassigns the job, the alternate worker must be advised of the first worker's refusal in writing, the reasons for the refusal, the right to refuse and why the task does not present a safety and health risk. If possible, the refusing worker must also inform the alternate worker directly of his or her reasons for refusing the work.



What to do if the dangerous condition is not remedied after the inspection

Those present during the inspection in STEP 2 may notify a WSH safety and health officer of the refusal to work and the reasons for it. The officer will investigate the matter and decide whether the job situation or the task the worker has refused constitutes a danger to the safety or health of the worker or any other worker or person at the workplace.

The officer will provide a written decision to:

- the refusing worker
- each co-chairperson of the safety and health committee, or the worker representative
- the employer.

Anyone directly affected by an officer's decision may appeal it to the director of WSH. The director will make a decision about the appeal and provide a written explanation for that decision. The decision of the director may be appealed to the Manitoba Labour Board.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 37(1)-(6), 38, 40 (10), 43(1), 43(3), 43(4), 43(6)
Workplace Safety and Health Regulation MR 217/2006 – Part 2.6, 2.9(2), 2.9(3)



Employer responsibilities and safety and health committees and representatives

Diligent employers take the lead in supporting the committee or representative to function effectively. To do this an employer must provide:

- **Workplace safety and health training for each member of the committee (or worker representative)** – The employer must allow each member of the committee (or worker representative) to take the greater of 16 hours, or the number of hours the worker normally works during two shifts, to attend workplace safety and health training programs, seminars or courses of instruction. During training, the employer must also ensure committee members (or worker representative) are paid at the regular rate of pay for the greater of the course hours or the number of hours the worker normally works during two shifts.
- **Training to fulfill duties** – The employer or prime contractor must ensure that committee members and worker representatives are trained to competently fulfill their duties as members of the committee or as a representative.

Competently trained committee members demonstrate an employer's commitment to workplace safety and health and provide guidance to workers and employers on safety and health matters.

Competent training includes knowledge of safety and health rights, roles and responsibilities, as well as knowledge of any of the tasks that may be required of a safety and health representative.

Both worker and employer safety and health committee members must be competently trained to perform their duties.

- **Information** – The employer is expected to provide the committee with information that is necessary to identify and control any existing or potential hazards. The employer must also ensure that the co-chairpersons/worker representative receive material sent from WSH.
- **Time** – Committee members or representatives will need adequate work time to carry out their duties (at no loss in pay or benefits).
- **Assistance to the committee or representative to inspect the workplace regularly** – The employer must support the committee or representative in conducting regular inspections of the entire workplace (a minimum of every 90 days) and discuss concerns with workers. These inspections must be conducted jointly by the employer and worker representatives.
- **Assistance to the committee or representative in conducting investigations** – The employer is expected to help the committee investigate and report on incidents.
- **Responding to recommendations from the committee (worker representative)** – If an employer receives written recommendations from the committee or representative to control hazards that may pose a danger, the employer must respond to the committee or representative in writing no later than 30 days after receiving the recommendations, including short and long-term control measures used to address the recommendation.

- **Providing access to records** – The employer must allow the committee or representative to review records, logs and books the employer may keep as required by the Regulation 217/2006 Part 2 Section 3.12.
- **Ensuring the committee or representative has the support of managers and supervisors** – This is critical to the success of the committee or representative.

LEGISLATIVE REFERENCES:

The Workplace Safety and Health Act W210 – Sections 41.2, 44(1)

Workplace Safety and Health Regulation MR 217/2006 – Part 3.12, 3.13

ADDITIONAL INFORMATION

Additional information about workplace safety and health committees and representatives, or other matters involving workplace safety and health can be found at: safemanitoba.com or by contacting:

SAFE Work Manitoba

Winnipeg 204-957-SAFE (7233)

Outside Winnipeg 1-855-957-SAFE (7233)

Email: information@safeworkmanitoba.ca





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