

Safety Representatives' Rights

Unite safety reps have been central to better health and safety at work. This is because union safety reps have specific rights and powers in the workplace which they can use to good effect in making workplaces safe for all. Check out your rights under the Safety Representatives and Safety Committees Regulations 1977 (SRSC) <https://resources.unitetheunion.org/media/843/safety-reps-brown-book.pdf>

What is the legal basis for trade union safety reps?

The Health and Safety at Work Act 1974 (HSWA) Section 2 (4) provides for the appointment by recognised trade unions of safety reps from amongst the employees who “shall represent the employees in consultations with the employers ... and shall have such other functions as may be prescribed . . .”.

Employer's duty to consult safety reps under the HSWA

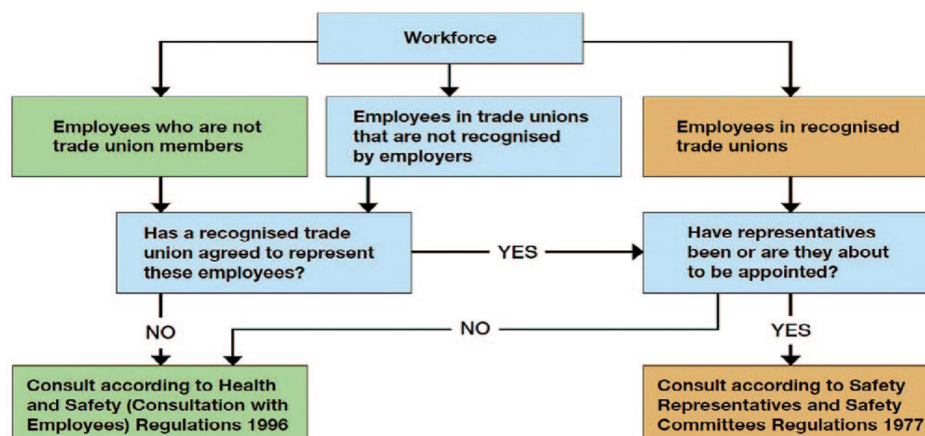
Section 2 (6) HSWA states: “It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and checking on the effectiveness of these measures”.

Section 2(7) of HSWA states: “..it shall be a duty of every employer if requested to do so by the safety representatives.. to establish a safety committee...”

Which health and safety consultation regulations apply?

The law sets out how employees must be consulted in different. There are two sets of health and safety consultation regulations, the Safety Representatives and Safety Committees Regulations 1977, and the Health and Safety (Consultation with Employees) Regulations 1996. The flowchart below shows the relationship between these.

The law on consulting employees about H&S (HSG263 Involving your workforce in health and safety, HSE, 2015)



Safety Reps' rights

- Inspect the workplace regularly. (Regs 4 (1) (e); 5 (1) (2); 6 (1)).
- Investigate employee complaints concerning health and safety issues at work. (Reg 4 (1) (b)).
- Investigate accidents, dangerous occurrences and potential hazards. (Regs 4(1) (b); and 6(1) (2)); and substantial change in working conditions. (Reg 5 (2)).
- Represent workers on health, safety, and welfare matters to their employer. (Reg 4 (1) (c) (d)).
- Inspect health and safety documents. (Reg 7 (1)).
- Receive information from HSE Inspectors. (Reg 4 (1) (g)).
- Establish a joint union-management safety committee. (Reg 9 (1)).
- Attend meetings of the joint health and safety committee. (Reg 4 (1) (h)).
- Receive information from their employer necessary for them to fulfill their functions. (Reg 7 (2)).
- Receive paid time off to exercise these rights and receive training: (Reg 4 (2) Sch. 2).

Employers must consult safety reps: (Reg 4A (1)). Especially about:

- Measures introduced at a workplace that may substantially affect health and safety.
- Arrangements for appointing health & safety competent persons and emergencies.
- Health & safety information required to be provided to employees.
- Health & safety training arrangements for the workforce, such as induction training.
- New technology to be introduced and planned at work, regarding the consequences to health & safety.

Employers are responsible for carrying out suitable and sufficient risk assessments (Reg 3 Management of Health & Safety at Work Regulations 1999) and consulting safety reps about them. (SRSC Guidance Para 38).

Safety committees

An effective joint safety committee can ensure that the employer develops, promotes, reviews and updates their health and safety management systems. There must be a genuine desire on the part of management to tap the knowledge and experience of its employees and an equally genuine desire on the part of the employees to improve the standards of health and safety in the workplace.

It is up to safety reps to decide whether a safety should exist. SRSC Regulation 9 states that an employer must establish a safety committee if two or more safety reps request this in writing – and they must do so within three months of that written request. The employer must consult with the safety reps and the relevant unions as to how the committee will function, and a notice must be posted where it is can be easily read by employees, giving the composition of the committee and the areas it will cover.

Health and safety committees should meet as often as necessary. Many members ensure that this is at least once a month. This will depend on the volume of business, local conditions, the size of the workplace, numbers employed, the kind of work carried out and the degree of inherent risk.

Sufficient time should be allowed during each meeting to ensure full discussion of all business.

The guidance to the SRSC Regs states that the size, shape and terms of reference of a safety committee must depend on discussion and agreement between employers and unions. It recommends that:

- Committees should be compact
- There should be 50/50 management and union representation
- Safety advisers, doctors and other health and safety professionals should be ex-officio members
- Safety committees could also provide a link with the enforcing authorities

Agendas for safety committee meetings should be agreed and circulated in advance of the meeting and could include the following:

- Studying accident, ill health trends, near misses and causes of notifiable occupational diseases
- Making sure that the diversity of the workforce is considered in health and safety management at work – for example are accident and ill health statistics collected separately for men and women? Do risk assessments reflect equality issues such as gender and disability?
- Examining safety inspection and audit reports
- Considering information received from regulators, unions, employer and industry bodies
- Discussing reports from safety representatives
- Developing safe systems of work and safety procedures, including first aid, emergency evacuation procedures and permit to work systems
- Examining the health and safety implications of new legislation and health and safety guidance and their implementation in your workplace
- Examining the health and safety implications of new plant, equipment and processes
- Reviewing the health and safety content of employee training
- Monitoring the effectiveness of the employer's health and safety systems
- Reviewing risk assessments
- Monitoring and reviewing the communication, publicity and profile of H&S within the workplace
- Reviewing the implementation and effectiveness of the employer's health and safety policy.

Access to information

Under SRSC Reg 7 the employer must make available to safety reps the information within the employer's knowledge which is necessary to enable them to fulfil their functions. The SRSC Approved Code of Practice to Regulation 7 provides advice on the sort of information which should be disclosed:

- Information on the plans and performance of the organisation and any changes proposed that may affect H&S
- Technical information about hazards and necessary precautions, including information provided by manufacturers, hygiene measurements, and so on
- Information and statistical records on accidents, dangerous occurrences and notifiable diseases
- Any other information relevant to health and safety at work, such as measures to check the effectiveness of health and safety arrangements (e.g. audit results, consultants' reports, etc.)
- Information on articles and substances issued to home workers.

There are exemptions from disclosure, however, namely:

- information the provision of which would be against the interests of national security
- information the disclosure of which would contravene a prohibition imposed by law
- information relating to individuals, unless their consent has been given (anonymous aggregate figures in defined working areas, however, can be given – on blood lead levels, for example, or degrees of deafness as shown by audiograms, or personal dust levels)

Right to time off

The SRSC Regulation 4(2) requires an employer to permit a safety rep to take such time off with pay during the employee's working hours as is required to perform their various functions and to undergo approved trade union training. Normally, the time off for these activities is decided by negotiation between the employer and either the safety reps or their trade union. If your employer appears unwilling to allow you this right, contact your Unite Regional official immediately.

Training

The SRSC Regulation 4(2) - is clear on the issue of training. It is a function of the safety rep to "undergo such training in aspects of those functions as may be reasonable in all the circumstances". Again, the employer has a legal duty to

allow safety reps time off with pay for their training. The ACoP to the SRSC describes the requirements in more detail. The main points are:

- As soon as possible after their appointment safety reps should be permitted time off with pay to attend basic training facilities approved by the TUC or by the independent trade union which appointed the safety reps
- Further training, similarly approved, should be undertaken where the safety rep has special responsibilities or where such training is necessary to meet changes in circumstances or relevant legislation
- With regard to the length of training required, this cannot be rigidly prescribed.
- A trade union...should inform management of the course it has approved and supply a copy of the syllabus, indicating its contents, if the employer asks for it. It should normally give at least a few weeks' notice (to the employer) of the safety reps it has nominated for attendance
- The number of safety reps attending training courses at any one time should be that which is reasonable in the circumstances.
- Unions and management should endeavour to reach agreement on the appropriate numbers and arrangements and refer any problems which may arise to the relevant agreed procedure.

No legal liability for safety reps carrying out their functions

Under the SRSC Regs, safety reps have a number of legal functions. Reg 4(1) states that these functions do not impose legal duties on safety representatives [over and above their duties as employees].

Resources and facilities for safety reps

Employers must provide safety reps with the resources and facilities to carry out their role. (Reg 4A (2); Reg 5 (3)). ACAS suggest these facilities should include:

- Room with desk and chairs at work, for carrying out interviews and meetings
- Secure facilities for storing documents
- Access to internal and external telephones and word processor (now IT facilities)
- Access to duplicating facilities
- Notice board. Other facilities should include copies of relevant statutes, regulations, Approved Codes of Practice and HSE guidance, copies of safety journals, and legal and international standards that are relevant to the workplace.

In modern workplaces facilities should include:

- Computer access
- Access to typing and copying facilities, and
- In the view of Unite, being given the names of new workers.

Further Information

Unite Health and Safety webpages

<https://resources.unitetheunion.org/unite-at-work-bargaining-support/health-and-safety>

Unite Health and Safety Guide

<https://resources.unitetheunion.org/media/907/Unite-health-and-safety-guide.pdf>

Safety Representative and Safety Committee Regulations

<https://resources.unitetheunion.org/media/843/safety-reps-brown-book.pdf>