

Consulting employees on health and safety policy

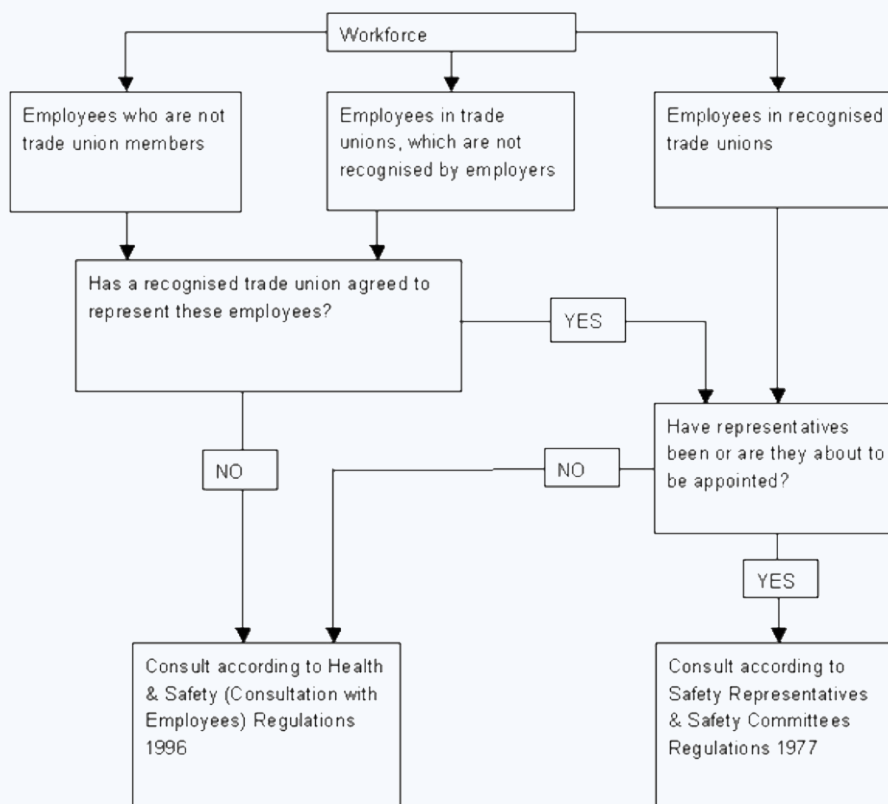
Legislation

The law sets out how you must consult your employees in different situations and the different choices you have to make. There are two sets of general regulations about your duty to consult your workforce about health and safety.

The Safety Representatives and Safety Committees Regulations 1977 in workplaces where trade unions are recognised for collective bargaining purposes.

The Health and Safety (Consultation with Employees) Regulations 1996 in workplaces where employees are not in a trade union.

These regulations apply to most workplaces. The flow chart below shows the relationship between the two sets of regulations and how they affect you and your workforce.



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Purpose of the regulations

These regulations are designed to enable you and your employees to work together:

- To develop, maintain and promote measures that ensure health and safety at work; and
- To check the effectiveness of such measures.

You may only have to consult under one set of regulations, or you may have to consult under both, depending on circumstances.

The presence of a union health and safety representative does not prevent managers from communicating directly with the workforce as a whole. Managers remain responsible for managing health and safety in the workplace and should consult the workforce as necessary.

Disagreements

If you and your employees disagree about the interpretation of these regulations, you should first use your usual procedure for resolving employment relations disputes. You may find it helpful to involve the **Arbitration and Conciliation Service (Acas)**.

However, health and safety inspectors (from the Health and Safety Executive (HSE) and local authorities) can enforce the failure to comply with legal duties on procedural matters. They will decide what action to take in line with **HSE's Enforcement Policy Statement**.

Existing consultation

Depending on the circumstances within your workplace, you may need to consult one set of regulations, or both. Where you already have existing consultation arrangements that satisfy health and safety law, there is no requirement to change them.

However, you may want to review arrangements on a regular basis to ensure that they continue to be the best for your organisation. Please note: some workers who are self-employed are still classed as employees under health and safety law.

Why should I consult employees?

Consulting with employees can have real benefits for your business, including:

- Increased productivity – businesses with good workforce involvement in health and safety tend to have a better productivity rate.
- A healthier and safer workplace – your employees can help you to identify hazards, assess risks and develop ways to control or remove risks.
- Better decisions about health and safety – they are based on the input and experience of a range of people, including employees who have extensive knowledge about their own job and the business.
- A stronger commitment to implementing decisions or actions – as employees have been actively involved in reaching these decisions.

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What must I consult about?

You must consult with employees or their representatives about the following:

- The introduction of any measure which may substantially affect their health and safety at work, e.g. the introduction of new equipment or new systems of work, such as the speed of a process line or shift-work arrangements.
- Arrangements for getting competent people to help them comply with health and safety laws. A competent person is someone who has the necessary knowledge, skills and experience to help an employer meet the requirements of health and safety law.
- The information you must give your employees on the risks and dangers arising from their work, measures to reduce or remove these risks and what employees should do if they are exposed to a risk.
- The planning and organisation of health and safety training, and the health and safety consequences of introducing new technology. To achieve this, you must provide the information necessary to allow employees or their representatives to participate fully and effectively in the consultation.

Consultation involves not only giving information to employees but also listening to them and taking account of what they say before making any health and safety decisions. The law does not state when you must consult, or for how long, but in practice, you must allow enough time for your employees to consider the matters being raised and provide them with informed responses.

An employee can apply to an employment tribunal if they feel they have been penalized for taking part in consultation.

Safety representatives

If at least 2 health and safety representatives request, in writing, that a safety committee be formed within the workplace, you must establish such a committee within 3 months of the request. Consultation does not remove your right to manage. You will still make the final decision. But talking to your employees is an important part of successfully managing health and safety.

Appointed representatives must be given the paid time necessary to carry out their functions, including training (plus associated costs) along with the facilities and any assistance required to carry out their role.

Noncompliance with the regulations

If you do not comply with the regulations, you will be committing an offence. Health and safety inspectors from the Health and Safety Executive and local authorities may enforce the regulations where there is no evidence of consultation.

Health and Safety Executive guidance

L146 Consulting workers on health and safety gives the law and guidance on how to consult and involve employees and their representatives on health and safety matters at work under the Safety Representatives and Safety Committees Regulations 1977 (as amended) and the Health and Safety (Consultation with Employees) Regulations 1996 (as amended). It explains the relationship between the two sets of regulations and how they affect you and your workforce; in some workplaces you may have to consult under both sets of regulations.

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Indg232 Consulting employees on health and safety is aimed at employers and discusses what they need to do to ensure they are complying with the law.

HSG263 Involving your workforce in health and safety is mainly aimed at medium to large employers. It will help them in their legal duty to consult and involve their employees on health and safety matters. Small businesses may find the guidance helpful, particularly the case studies. Employees, their health and safety representatives and trade unions may also find the guide useful.

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The information in this Fact Sheet has been assembled and interpreted to give truck owners and users basic guidance on frequently asked questions. Further important information will be given in the quoted reference documents. Responsibility for meeting the safety obligations discussed rests with the employer, and the UKMHA will not accept liability for any problem arising as a result of the content of this document. Technical Bulletins, containing more detailed information and updated as appropriate, are made available free to members of the **UKMHA SAFE USER GROUP**.

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