
	<h1>Frequently Asked Question</h1>				
Ref: FAQ 002:05		Safety Representative Elections and Role			
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Note:	<i>This information/advice has been issued in response to frequently asked questions around specific topics and may not cover all issues arising, should you require more specific advice please contact the Help Desk. The management of any occupational health and safety issue(s) remains the responsibility of local management.</i>				

How are Safety Representatives' appointed?

Section 25 (1) of the Safety, Health and Welfare at Work Act, 2005 entitles employees to decide on, select and appoint a safety representative or, by agreement with their employer, more than one safety representative to represent them in consultations with the employer on matters of safety, health and welfare at the place of work.

A safety representative does not have any duties, as opposed to functions, under the 2005 Act other than those that apply to employees generally.

What is the overall function of the Safety Representative? (Sections 25 (2) (a) and 25 (4))

A safety representative may consult with, and make representations to, the employer on safety, health and welfare matters relating to the employees in the place of work. The employer must consider these representations, and act on them if necessary.

The intention of these consultations is to prevent accidents and ill-health, highlight problems, and identify means of overcoming them. Consultations are particularly important when changes are taking place, for example when a safety statement or safety and health plan is being drawn up, or new technology or work processes, including new substances, are being introduced. They also have a part to play in dealing with long-established work practices and hazards.

Can a Safety Representative carry out inspections? (Section 25 (2) (a))

Safety representatives, after giving reasonable notice to the employer, have the right to inspect the whole or part of a workplace that they represent at a frequency or on a schedule agreed between them and the employer, based on the nature and extent of the hazards. A safety representative also has the right to inspect immediately where an accident or dangerous occurrence has taken place, or where there is an imminent danger or risk to the safety, health and welfare of any person.

How often are inspections necessary? (Section 25 (3))

The appropriate frequency will depend on various factors. These include:

- size of workplace
- nature and range of work activities and work locations
- nature and range of hazards and risks
- changing hazards and risks.

The frequency of inspections must be agreed with the employer. An employer must not unreasonably refuse this agreement. It may not be practical to conduct a single inspection of a large workplace, or for one safety representative to carry out the entire inspection. In such circumstances, the employer and safety representative can agree a plan for undertaking inspections on a unit, department, or for different safety representatives to inspect distinct locations within the workplace.

How long should an inspection take to complete?

There is no standard duration. The time required will vary according to the circumstances. A place of work with relatively low-level risks may be inspected adequately in a single session, while a place with a high-risk level will take longer.

Risk factors may vary in different locations in the same workplace, which would require necessary inspections of different frequency and duration.

What type of inspection is required?

Inspections can take various forms. Some common types of inspections are:

- 1) Safety tours: general inspection of the whole workplace
- 2) Safety sampling: systematic sampling of particularly dangerous activities, processes or work areas
- 3) Safety surveys: general inspections of particularly dangerous activities, processes or areas, e.g. the office, catering department or stores, etc.
- 4) Reviews of safety and health documents: risk assessments, parts of the safety statement or safe operating procedures.

These types of inspection can be carried out either separately or in any combination. The safety representative can consult the employer on the most suitable method when and type of inspection.

Who can accompany the safety representative?

To make the inspection more meaningful and to help ensure that the necessary improvements are made, the safety representative may be accompanied by the employer or employer's representative during inspections. Following inspection, the safety representative should have the opportunity to discuss safety and health matters in confidence with the employees that he or she represents.

What can a Safety Representative investigate? (Sections 25 (2) (b))

A safety representative may investigate accidents and dangerous occurrences in the place of work to find out the causes and help identify any remedial or preventive measures necessary.

However, a safety representative must not interfere with anything at the scene of an accident. The safety representative cannot obstruct any person with statutory obligations, including a Health and Safety Authority Inspector, from doing anything required of them under occupational safety and health legislation.

Investigations may include visual examinations and speaking to people who have relevant information, but physical evidence must not be disturbed before an inspector has had the opportunity to see it.

What else can a safety representative do? (Section 25 (2) (c) to (j))

A safety representative may also:

- Accompany an inspector carrying out an inspection under Section 64 of the 2005 Act, other than the investigation of an accident or dangerous occurrence (although this may be allowed at the discretion of the Inspector)
- At the discretion of the inspector, and when the employee concerned so requests, be present when the inspector interviews the employee about an accident or dangerous occurrence at a place of work
- Make representations to the employer on safety, health and welfare issues/matters at the place of work
- Make verbal or written representations to inspectors, including matters about the investigation of accidents or dangerous occurrences
- Receive advice and information from Inspectors in relation to safety, health and welfare at the place of work
- Consult and liaise with other safety representatives appointed in the same undertaking, whether or not they work in the same place of work, in different places of work under the control of the employer or at different times at the place of work (for example, safety representatives on different shifts).

How will a safety representative know that an HSA Inspector is attending his or her workplace to carry out an inspection? (Section 25 (6))

The employer is required to inform the safety representative that an inspection is taking place. If the representative is not available, the inspector will make every effort to consult with one of the safety committee members, where one operates in a particular workplace.

What kind of information must the employer give to a safety representative? (Section 8, Section 9 (1) to (3))

Under Section 8 of the 2005 Act, an employer has the duty to provide “information, instruction, training and supervision necessary to ensure, so far as is reasonably practicable, the safety, health, and welfare at work of his or her employees” (including safety representatives).

Section 9 (1) further specifies the type of information that must be supplied to all employees. In addition, Section 9 (3) provides that safety representatives must have access to information on: risk

assessments prepared under Section 19 of the 2005 Act, information on reportable accidents, occupational illnesses and dangerous occurrences.

Whenever an employer writes to a Health and Safety Authority Inspector confirming compliance with an Improvement or Prohibition Notice served upon him or her, the employer must copy this confirmation to the safety representative.

The information made available to safety representatives will enable them to fulfil their functions properly and play an informed part in preventing accidents and ill-health and promoting safety and health. The type of information will vary according to the hazards and risks involved.

Safety representatives should be supplied with relevant technical information about hazards, risks and precautions connected with articles or substances used in the workplace they represent. Examples of such information include safety data sheets, relevant instruction manuals, or information (including revisions), supplied by a designer, manufacturer, importer or supplier about any article or substance which is under review from a safety and health perspective.

Safety representatives should also be given adequate information about the workplace, the systems of work and any changes in either that would affect existing risks or precautions, including:

- any reports commissioned by the employer relating to occupational safety, health and welfare in the workplace
- information on occupational accidents and ill-health at the place of work.
- Collective data on the results of any relevant health assessments carried out (without identifying any individual).

In addition, where the particular review requires it, the employer would be expected to supply information about:

- appropriate precautions,
- safeguards (such as permit-to-work systems),
- measures to be taken in emergencies, including the names of employees with designated emergency duties, etc, which are currently in place or which should be provided to minimise the risks to safety and health arising from hazards at work.

Are there limitations to the information a safety representative is entitled to receive from their employer?

Since a properly informed safety representative can play an important role in preventing accidents and ill-health, it is in the employer's interest to ensure that safety representatives are supplied with all relevant information. However, there are some limited exceptions.

An employer should not supply:

- Any information which he or she could not disclose without contravening a legal prohibition
- Any information relating to an individual without his or her consent
- Any information which, for reasons other than its effect on safety, health and welfare at work, could cause significant damage to the organisation
- Any information obtained by the employer which could affect his or her legal position in taking or defending any legal proceedings.

The confidentiality rules that apply to any workplace apply to any information provided to safety representatives under the Safety, Health & Welfare at Work Act, 2005.

What kind of information can a safety representative get from an Inspector? (Section 76)

Any employee, including the safety representative, can obtain two kinds of information from Health and Safety Authority Inspectors:

- Factual information to do with safety and health in that particular place of work
- Information about any action the inspector has taken or proposes to take in connection with the place (e.g. whenever the inspector serves an Improvement Direction, Improvement Notice or Prohibition Notice, he or she must provide a copy to the safety representative and in turn inform the representative whenever any of these enforcement actions are withdrawn)
- The inspector must also give this information to the employer.

What is the difference between information provided by the employer and information supplied by the inspector?

While the employer has a duty to provide the kind of information necessary for safety and health at work, the inspector is expected to supply information that the employer would not be in a position to supply, e.g. results of measurements, sampling or assessment carried out by the inspector.

What training should a Safety Representative have? - (Section 25 (5) (a))

It is essential that safety representatives have the knowledge and skills necessary to perform their function effectively. They should be knowledgeable enough about safety and health matters to make a positive contribution to safety and health at work.

Training courses for safety representatives are provided by your employer through local arrangements. Participation in a course offering the agreed syllabus will provide training on safety representatives' functions in general. Employers are responsible for training safety representatives on the specific hazards and safe systems of work in their own workplaces.

Attendance at the approved 3-day Safety Representatives training, periodic refreshers and attendance at our newly established national forum would be the minimum general safety representative training and education necessary for most representatives (though the local manager may identify additional training/educational needs through the training needs assessment/risk assessment process).

No safety representative should be charged for the cost of necessary Health and Safety training.

Could a safety representative lose pay during training or when carrying out his or her functions? - (Section 25 (5))

Section 25 (5) of the 2005 Act requires employers to allow safety representatives reasonable time off from work, without loss of earnings, to acquire knowledge that will enable them to function effectively. This also applies to time taken to carry out these functions.

The safety representative must be given such time off from his or her work as is reasonable having regard to all the circumstances, without loss of remuneration, to carry out their functions. It would clearly appear that in spirit the law requires that volunteers for the role of Safety Representative should not be disadvantaged or penalised for taking on this beneficial role.

How many Safety Representatives should there be?

Section 25 (1) entitles employees to decide on, select and appoint a safety representative or, by agreement with their employer, more than one safety representative to represent them in consultations with the employer on matters of safety, health and welfare at the place of work. Factors to be considered when determining the number of safety representatives selected include:

- The number of employees to be represented
- The nature of the work and the relative degree of risk
- The operation of shift work
- The existence of many workplaces under the employer's control spread over many locations.
- The constituency of the employees to be represented, including variations between different occupations and distinct locations within the place of work.

What if a single safety representative cannot fulfil adequately all the functions under the 2005 Act?

In some situations, as set out above, a single safety representative would be unable to perform effectively all the functions under the 2005 Act. In these cases the safety committee can also assist in the consultation process. Employer and employees should agree on how many safety representatives are necessary in particular circumstances.

How are Safety Representatives selected and what are is their period of office?

To select a safety representative, employees may use the normal process for selecting employee representatives within their organisation or they may ballot all employees. If a selection process does not already exist, one will have to be devised. The safety representative chosen must be available to represent all employees.

As a general rule, safety representatives should have been employed for about two years, either by their present employer or in similar employment. They should understand the role intended for them under the 2005 Act.

No specific term of office is laid down in the 2005 Act. However, to benefit from knowledge acquired and training received during the period, a term of office of about three years is appropriate. There should, however, be provision for review by the employees, perhaps on an annual basis. At the end of a term of office the outgoing safety representative is eligible for re-selection.

Do Safety Representatives keep records?

Safety representatives may maintain records of any safety and health matter found to be unsatisfactory, whether discovered during an inspection or not. Safety representatives should also record inspections even when nothing untoward has been found. A note should be kept of relevant information supplied by the employer.

Keeping records will help safety representatives to check whether remedial measures have been implemented and to monitor the effectiveness of such measures.

What facilities should a Safety Representative have?

The safety representative will need reasonable facilities from the employer to consult with employees and to prepare any submission or reports. Such facilities include, for example, a meeting room, or access to up-to-date safety and health information and published guidance.

How can effective consultation and participation take place?

In accordance with Section 26 of the Safety, Health and Welfare at Work Act, 2005, the Employer must consult with their employees about establishing arrangements to secure co-operation on safety, health and welfare in the workplace. Employees also have the right to make representations to and consult their employer on matters relating to their safety, health and welfare at work.

Effective consultation & participation takes place namely in the form of a Health & Safety Committee with clearly defined terms of reference.

What is the membership of a typical Health and Safety Committee?

Where a Health & Safety Committee has been established by local management it must include balanced representation of management, staff and safety representatives. This Committee would typically include sample representation from across an organisation/service and would also include representation from the higher risk areas. The numbers of members on a Committee needs to be enough to facilitate a workable group.

As appropriate, in some services, the role and function of the Health & Safety Committee may be incorporated and clearly defined in the terms of reference of team meetings.

As previously described all Safety Representatives must have received appropriate training to fulfil their role.

There is no legal requirement to have a Health and Safety Advisor present at Health & Safety Committee meetings.

If further advice is required this can be accessed through the HSE Health and Safety Helpdesk details below.



For further information regarding Safety committee Terms of Reference please refer to HSE Guideline document on the [Safety Consultation and the Selection/Election of Safety Representatives](#).