



INFORMATION SHEET

Provisional improvement notices (PINs) and direction to stop unsafe work

An elected health and safety representative (HSR) has powers under the *Work Health and Safety Act 2020* (WHS Act) to issue PINs and stop unsafe work.

What is a PIN?

A PIN is a written notice a trained HSR can issue to a person, requiring them to address a work health and safety (WHS) issue.

An HSR can issue a PIN if they reasonably believe:

- there is a contravention of the WHS legislation occurring, or
- a contravention of the WHS legislation has occurred and the HSR believes it will be repeated.

Consultation

An HSR must consult with the person about the WHS issue before they issue a PIN, and:

- provide information, either verbally or in writing, about the WHS issue
- consider their views on the issue
- give them reasonable time to fix the WHS issue.

Consultation has taken place even if:

- the person does not respond
- there is no agreement on the WHS issue, or how to fix it.

While the HSR does not have to consult with the affected workers before they issue a PIN, consulting will help them to better represent the workers in their work group.

Issuing a PIN

Note: A PIN has a due date of at least 8 days. If the WHS issue is serious or urgent, the HSR can take immediate action by contacting WorkSafe or directing workers to stop unsafe work.

An HSR can only issue a PIN if they have completed an approved HSR training course. HSRs who completed training under the Occupational Safety and Health Act 1984 also meet this requirement.

PINs can only be issued by the HSR (or deputy HSR) of the affected work group, unless the HSR and deputy HSR of another work group are not available and:

- there is a serious risk to health or safety emanating from an immediate or imminent exposure to a hazard that affects another work group, or
- a member of another work group asks for help.

If an HSR misuses their power to issue a PIN (e.g. to harm an employer rather than fix an unsafe situation) they can be disqualified from being an HSR.

The PIN should be issued to the duty holder who is best able to fix the WHS issue. Depending on who is contravening the WHS legislation, this could be the person conducting a business or undertaking (PCBU, that can be an organisation or individual), a host employer, labour hire company, officer, worker or person with management or control of the workplace. If the PIN is issued to a worker, the worker should give their PCBU a copy.

A PIN cannot be issued to a trading name or business name. The legal entity should be used, such as the name of a person, a company, a government department or an incorporated entity.

PINs should:

- be in writing (a template is available on the WorkSafe website)
- state why the HSR believes there is a contravention of the WHS legislation (or previous contravention that they believe will be continued)
- identify the section of the WHS Act or Regulations being contravened
- be given to the person (or their representative) responsible for the contravention
- specify a time limit of at least eight days for the WHS issue to be fixed.

A PIN may include recommendations suggesting how the WHS issue can be fixed.

If there is more than one contravention of the WHS legislation, a separate PIN must be issued for each.

The HSR can cancel a PIN at any time by giving written notice.

An HSR can make minor changes to the PIN after it is issued to include more information or correct errors. If there are minor errors in a PIN, it is still valid unless the error is likely to cause substantial injustice.

An HSR must not issue a PIN if a WorkSafe inspector has reviewed the matter and issued (or decided not to issue) an improvement or prohibition notice.

Complying with a PIN

The person issued with a PIN must:

- display the PIN in a prominent place at the workplace
- fix the WHS issue before the due date (unless they request a review).

A PIN must not be removed, damaged or defaced until the WHS issue has been fixed, or an inspector has reviewed the matter.

Reviewing a PIN

The person issued with a PIN, or their PCBU if they are a worker, can ask the regulator to appoint a WorkSafe inspector to review the PIN. This request must be made within seven days. A review form is available on the DMIRS website. An inspector will then review the PIN.

The PIN is suspended while the inspector reviews the issue. The inspector will then confirm, cancel or change the PIN. If the inspector confirms or changes the PIN it becomes an improvement notice.

Stopping unsafe work

Workers

The law gives workers the right to stop unsafe work if they have a reasonable concern that they (or someone else) would be exposed to a serious and immediate WHS risk.

If a worker stops unsafe work without informing their HSR they must notify the PCBU as soon as possible, and can be given suitable alternative work until they can return to their normal duties.

Health and safety representatives

An HSR can direct one or more of the workers in their work group to stop unsafe work. The HSR must have completed an HSR course approved by the Work Health and Safety Commission.

Workers instructed to stop unsafe work can be given suitable alternative work until they return to their normal duties.

If there is reasonable time to consult, before directing workers to stop work the HSR must consult with the PCBU, and follow the workplace's issue resolution procedure (or the default procedure in the WHS Regulations).

If there is no reasonable time to consult, the HSR can direct workers to immediately stop work.

The HSR must consult with the PCBU as soon as practicable after directing workers stop unsafe work.

Workers in another work group

An HSR can direct workers in another work group to stop unsafe work if the HSR and deputy HSR of the other work group are not available and:

- there is a serious or immediate WHS risk that affects another work group, or
- a member of another work group asks for help.

PCBUs

A PCBU can give a worker who has stopped unsafe work alternative work as long as it is safe and appropriate for the worker.

Resolving issues

HSRs, PCBUs and workers can ask the regulator to appoint a WorkSafe inspector to help resolve an issue where workers stop unsafe work.

Need more information?

Contact WorkSafe on 1300 307 877 or safety@dmirs.wa.gov.au