

WHS Issue Resolution Procedure

1. Introduction

There may be times when a work health and safety (WHS) issue remains unresolved after reasonable efforts to achieve a timely, final, and effective resolution. The DCS WHS Issue Resolution Procedure sets out the steps to resolve a WHS issue, providing a clear pathway to achieve a reasonably practicable outcome.

This procedure is consistent with the NSW Work Health and Safety legislation and the DCS policy framework.

The WHS Issue Resolution Procedure, supports the *DCS WHS Consultation and Communication Procedure* and the *DCS Incident and Hazard Reporting Procedure* (in draft).

1.1 Objective

To outline the pathways to manage unresolved WHS issues efficiently and effectively and ensure effective communication throughout.

1.2 Scope

This procedure applies to all divisions and business units in the DCS portfolio.

All workers and managers must follow this procedure for WHS issue resolution at DCS.

Nothing in this procedure prevents a worker from bringing a WHS issue to the attention of the worker's health and safety representative (HSR) or the Regulator.

Should there be any potential conflict between legislation and this Procedure, legislation shall take priority over this Procedure.

1.3 Responsibilities

Executive Leadership Groups (Chiefs, CEOs, Executive Directors, Directors):

Take reasonable steps to:

- Ensure DCS complies with the legislative requirements in relation to WHS issue resolution.
- Ensure there are processes in place to consult with workers and resolve WHS issues.
- Undertake reasonable efforts to achieve a timely, final, and effective resolution.
- Participate and actively seek outcomes in the WHS issue resolution process.
- Oversee the implementation of this procedure to their area of control.
- Advise and follow the *DCS WHS Issue Resolution Procedure* for unresolved WHS issues.

- Apply the hierarchy of controls when resolving WHS issues.
- Ensure records of decisions made during the WHS issue resolution process are kept and stored.

Managers and People Leaders

Managers and People Leaders have the same responsibilities as workers and to:

- Review mySafety incident and hazard reports, undertake the mySafety investigation steps and review or implement controls applying the hierarchy of controls.
- Advise and follow the DCS WHS Issue Resolution Procedure for unresolved WHS issues.
- Make reasonable efforts to achieve a timely, final, and effective resolution.
- Participate and actively seek outcomes in the WHS issue resolution process.
- Complete the WHS issue resolution form when required as per the pathways outlined in this procedure.
- Consult with relevant parties on WHS matters, including workers, health and safety representative(s) (HSRs) and / or health and safety committee members and other parties.
- Keep and store records of decisions made during the WHS issue resolution process, including the steps taken to resolve the issue.
- Communicate the resolution outcome to all parties as required.

Workers

- Report WHS incidents and hazards in mySafety.
- Participate in the review of reported hazards and incidents to seek a resolution and outcome.
- Take reasonable care of yourself and not do anything that would affect the health and safety of others at work.
- Comply, so far as is reasonably practicable, with any reasonable instruction that is given by DCS, its divisions or agencies.
- Co-operate with any reasonable policy or procedure of DCS, its divisions or agencies.

HSR / WHS Committee

- Work with people leaders and workers to resolve WHS issues.
- Follow the issue resolution pathways.
- Communicate with the relevant parties when requested to represent your workgroup.
- Inform people leaders when the control measures from WHS issue resolution have not been actioned for more than three months.

DCS Safety and Wellbeing team

- Provide advice to divisions and business units on the WHS issue resolution process, hierarchy of controls and WHS legislative requirements.
- Provide support to people leaders for hazard assessment and incident investigation.
- Participate in the triage of mySafety hazards and incidents.
- Facilitate and assist divisions and agencies to resolve issues in the WHS issue resolution process.

- Maintain the DCS issue resolution register
- Keep and store records of decisions made during the WHS issue resolution process as required in the issue resolution pathways.

2. WHS Issue Resolution

2.1 What is WHS Issue Resolution?

WHS Issue Resolution occurs after a reported WHS issue is discussed and remains unresolved at the workplace.

This means that the parties have discussed the issue in detail, consulted with appropriate representatives and an attempt to resolve the matter has occurred before progressing to the WHS Issue Resolution process as outlined in this procedure.

An issue could be:

- a hazard
- an incident
- a concern
- interim measures to control a WHS issue
- proposed controls to address a hazard or incident
- proposed time to resolve a matter.

The WHS Act defines the parties to an issue as:

- the person conducting the business or undertaking or the person's representative,
- if the issue involves more than one business or undertaking, the person conducting each business or undertaking or the person's representative,
- if the worker or workers affected by the issue are in a work group, the health and safety representative for that work group or his or her representative,
- if the worker or workers affected by the issue are not in a work group, the worker or workers or their representative.

2.2 What should happen before WHS Issue Resolution

Prior to WHS issue resolution, a hazard or incident report must be raised with your manager and reported in mySafety to provide people leaders with an opportunity to resolve the matter. Refer to the *DCS Incident and Hazard Reporting Procedure*.

The incident or hazard report raised in mySafety must be discussed between the worker and their people leader to resolve the matter. Outcomes of the discussion and any implemented WHS controls must be documented in mySafety.

When a work health and safety hazard or incident report is reported in mySafety, it can be discussed with, and consultation can occur with the following WHS representatives (but not limited to):

- health and safety representatives (HSRs),
- health and safety committee (HSC)

- representatives of the parties
- your local WHS team
- DCS Safety and Wellbeing advisors

If the issue remains unresolved then either party may progress the issue WHS Issue Resolution process.

Note: If you wish to report an incident **confidentially or anonymously**, report to the DCS Integrity Hotline on 1800 718 509 or you can reach out to your [HR Business Partner](#).

2.3 Principles of WHS Issue Resolution

In resolving the issue, the parties must take into consideration:

- The degree and immediacy of the risk to workers to other persons and
- The number and location of workers and other persons affected by the issue and
- The measures, both temporary and permanent, that must be implemented to resolve the issue and
- Who will be responsible for implementing the resolution measures.

The outcome of the resolution must be:

- documented, and
- provided to all parties and
- a record of the resolution must be kept in line with the DCS Records Management Policy.

Decision making

It is a requirement for people leaders who can make decisions about the WHS issue, such as an Executive Leader (director or above), to attend the meetings to ensure reasonable efforts are made to resolve the issue.

WHS Issue Resolution meetings will involve discussions about control implementation, associated costs, impacts to workers and others and impacts to other parts of DCS.

Reasonably practicable

The WHS legislation identifies that a workplace must always try to eliminate any health and safety risks in the workplace so far as is reasonably practicable.

When determining what is reasonably practicable, the following must be considered:

- the likelihood of the hazard or risk occurring
- the degree of harm that might result from the hazard or risk
- what you know or reasonably ought to know about the hazard or the risk and the ways of eliminating or minimising the hazard or risk
- the availability and suitability of ways to eliminate or minimise the risk
- after assessing the risk, whether the costs associated to minimise the risk are grossly disproportionate to the risk.

Hierarchy of controls

In addition to reasonably practicable, when resolving WHS incidents, hazards and issues, the level of controls must be considered.

The hierarchy of controls identifies the steps to follow to effectively manage hazard and risks in the workplace, with elimination being the most effective and PPE being the least effective. There may be times when a combination of controls will be identified and assessed to minimise the risk(s) where a single control is not satisfactory.

Control Type	Example
1. Elimination	Remove the hazard, e.g., taking a hazardous piece of equipment out of service.
2. Substitution	Minimising by substituting with something with a lesser risk e.g., substituting a hazardous substance with a non-hazardous substance.
3. Isolation	Isolating or enclosing the hazard to prevent a person being exposed to a risk e.g., using a guard or barrier.
4. Engineering	Redesign a process or piece of equipment to make it less hazardous.
5. Administrative	Adopting safe work practices or providing appropriate training, instruction, or information e.g., WHS procedures, job rotation
6. Personal Protective Equipment	The use of personal protective equipment could include using gloves, glasses, earmuffs, aprons, safety footwear, dust masks.

Building/ Facility issues

If the WHS issue concerns building facilities, the procedure for reporting of property matters should be followed. If the matter remains unresolved and is a risk to work health and safety, the manager/ people leader should raise the issue to DCS Workplace Services for resolution. If the issue remains unresolved after the parties have discussed the matter, the WHS issue resolution process should be followed.

WHS Issues involving contractors

All parties including contractors and sub-contractors are responsible for managing WHS issues as they arise. Where an identified issue is in a DCS controlled area the DCS contract manager should be informed. The DCS contract manager should consult and work in collaboration with contractors, the contractors PCBU, HSR's and relevant DCS Business Units and HSR's to find an agreed resolution. If the contractor (or a subcontractor) appears to have breached its contract with DCS (or a related agency), the DCS contract manager should take steps to ensure contract compliance.

3. The WHS Issue Resolution Process

When a WHS issue remains unresolved after working through the mySafety, and Incident and Hazard Reporting process, the matter may progress to the DCS WHS Issue Resolution process as outlined in figure 1 below.

Any party to the issue can commence the WHS issue resolution procedure by informing the other parties.

3.1 Pathways:

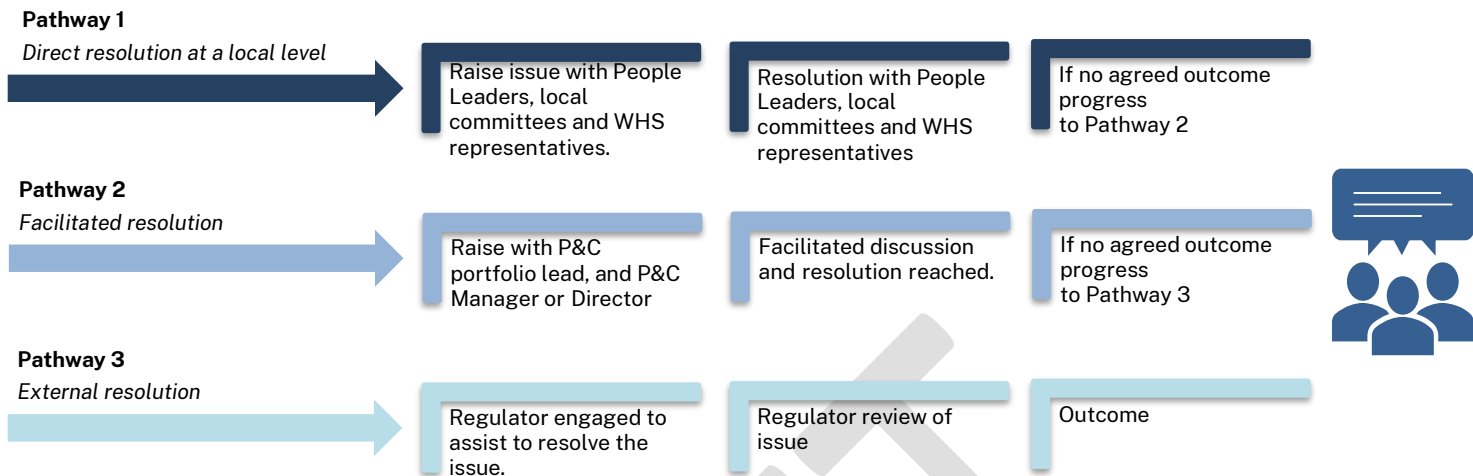


Figure 1: WHS Issue Resolution pathways

3.1.1 Pathway 1 – Direct resolution at local level

Pathway 1 commences if the WHS issue is not resolved within your work area with your manager / people leader after submitting a mySafety report and following the DCS Incident and Hazard Reporting Procedure.

In Pathway 1 people leaders (manager to executive directors) in your area pursue a resolution with the assistance of WHS representatives as listed in section 2.2.

Some divisions may have other local issue resolution processes in place such as joint consultative committees. Where these local arrangements exist, the issue should be raised, and reasonable efforts made to resolve the issue.

Any party can progress the issue to pathway 1.

Steps

- Step 1: The parties agree there is an issue and agree to meet and discuss the nature and the scope, with the aim to resolve. The involvement of WHS representative and relevant subject matter experts on the issue may need to be considered. The meeting discussions and any outcome(s) should be documented in meeting minutes and be distributed to each party.
- Step 2: Decisions made at the meeting must be documented in mySafety. This could include adding the meeting minutes to mySafety.
- Step 3: Additional meetings may need to occur to continue the resolution and reach an outcome. If additional meetings occur, an executive leader must attend to make decision about the issue.
- Step 4: Decisions made at the additional meetings must be:
 - documented in meeting minutes and

- distributed to each party, and
- added to the mySafety report and
- a record kept in accordance with the DCS Record Management Policy.

Step 5: If the issue is resolved, outcomes of the resolution must be:

- documented in a written agreement, and
- provided to all parties, and
- added to the mySafety report, and
- a record kept in accordance with the DCS Record Management Policy.

Note: Emails about the issue may also be sent between parties. The emails must be kept and recorded with the issue. To ensure emails have the correct classification please ensure to follow the NSW Government Information Classification, Labelling and Handling Guidelines.

3.1.2 Pathway 2 - Facilitated resolution with DCS

Pathway 2 commences:

- if the WHS issue is not resolved after pathway 1 and
- the parties undertook reasonable efforts to achieve a timely, final, and effective resolution in pathway 1.

In Pathway 2 the issue is raised and discussed with:

- the parties and
- DCS People and Culture leaders such as the Safety and Wellbeing Manager, People Services Director, and
- the Executives of the area where the issue is or has occurred.

Steps

- Step 1: Complete the WHS Issue Resolution form and send to the DCS Safety and Wellbeing team safetyandwellbeing@customerservice.nsw.gov.au
- Step 2: Once the DCS Safety and Wellbeing team receives the issue resolution form, the portfolio lead for the divisions will contact the relevant people leaders, including executives and provide the details of the issue and the attempts to resolve the issue.
- Step 3: The parties have agreed there is an issue to resolve. The parties review the information available and the DCS Safety and Wellbeing team will facilitate a meeting with the parties to discuss the nature and the scope.
- Step 4: The parties meet to discuss the issue, with the aim to resolve the issue. To ensure decision making about the issue, executive leaders (director or above) for the parties must attend. The involvement of WHS representatives and subject matter experts on the issue may need to be considered.
- Step 5: Decisions made at the meeting must be:
- documented in meeting minutes and

- distributed to each party, and
- added to the mySafety report and
- a record kept in accordance with the DCS Record Management Policy.

Step 6: Additional meetings may need to occur to continue the resolution and reach an outcome. Executive leaders must attend the additional meetings to ensure decisions can be made about the issue.

Step 7: Decisions made at the additional meetings must be:

- documented in meeting minutes and
- distributed to each party, and
- added to the mySafety report and
- a record kept in accordance with the DCS Record Management Policy.

Step 8: If the issue is resolved, outcomes of the resolution must be:

- documented in a written agreement and
- provided to all parties, and
- added to the mySafety report, and
- a record kept in accordance with the DCS Record Management Policy.

Note: Emails about the issue may also be sent between parties. The emails must be kept and recorded with the issue. To ensure emails have the correct classification please ensure to follow the NSW Government Information Classification, Labelling and Handling Guidelines.

3.1.3 Pathway 3 – External Resolution

The internal issue resolution process is developed to utilize the knowledge and resources within DCS, and support from HSRs, HSCs, DCS Safety and Wellbeing team and Executives to reach an outcome.

However, if the issue remains unresolved after pathway 1 and 2, and if the issue has not been resolved after reasonable efforts have been made to achieve an effective resolution of the issue any party to the issue (e.g., worker, manager, director, HSR, HSC) can refer the issue to the regulator for resolution by inspector.

The person who refers the matter to the Regulator must notify all parties by email and document this in mySafety and in line with the DCS Records Management Policy.

When an inspector enters the workplace, they may exercise any of their compliance powers under the WHS Act, including providing advice, investigating contraventions, or issuing notices.

Important Notes:

1. that nothing in this procedure prevents a worker from bringing a WHS to the attention of the worker's health and safety representative or the Regulator.
2. a request to the Regulator does not prevent a worker exercising the right to cease work (the HSR must have completed the HSR external training course to exercise this)

3. a request to the Regulator does not prevent a HSR from issuing a PIN or direction (the HSR must have completed the HSR external training course to exercise this)

It should be noted that the NSW Work Health and Safety Regulator is the Secretary of DCS and SafeWork NSW employs workers at DCS. The process for notifying the Regulator remains the same as outlined above. However, the inspector appointed will be from another authority, to ensure impartiality. Currently the NSW Resources Regulator is appointed for this purpose when the issue concerns DCS.

4. Monitor and Review

DCS divisions and business units should maintain and regularly review the WHS Risk Register to ensure that no WHS issues remain unresolved.

WHS Issue Resolution submissions received by the DCS Safety and Wellbeing team will be tracked, monitored, and reviewed on the WHS Issue Resolution Register.

People leaders are responsible for monitoring the progress of agreed actions, presenting reports on the status of the action, and raising any unresolved issues to the relevant Executive Director.

People leaders should review mySafety reports and where the area has a health and safety committee (HSC), the minutes of the committee meetings to identify any trends or issues that may require a response from management.

This standard will be reviewed every 2 years or as triggered by relevant internal or external changes.

It may be reviewed earlier in response to post-implementation feedback from Business Units.

5. Training

All workers should be informed about this procedure.

People leaders and other identified workers should be provided with appropriate information and training regarding hazard identified and risk management and their role in the issue resolution process.

6. Further Guidance

DCS WHS Consultation and Communication Procedure

DCS Incident and Hazard Reporting Procedure (draft)

DCS Records Management Policy

[NSW Government Information Classification, Labelling and Handling Guidelines.](#)

7. Document Control

Version	Status	Date	Prepared By	Comments
1.0	Draft	18 June 2024	Senior Advisor Safety and Wellbeing, People and Culture	Draft for consultation. Replaces DFSI WHS Issue Resolution Procedure WHSMS 1.008 V2.3 June 2015.
2.0	[Choose Status]	[Click here to enter a Date]	[Click here to enter Name]	[Click here to enter Comments]
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