

# Right of Entry for WHS Permit Holders Guideline

## Section 1 - Purpose and Scope

(1) The [Work Health and Safety Act 2011](#) (WHS Act) provides authorised union officers a right of entry to workplaces in order to do certain things. The purpose of this Guideline is to assist University of Queensland (UQ) staff to understand the role of Work Health and Safety (WHS) entry permit holders and action to be taken if a WHS entry permit holder applies their right to enter a UQ workplace.

(2) This document covers entry to all UQ workplaces at UQ campuses and other locations. This document should be read in conjunction with sections 117 to 151 of the [WHS Act](#) and sections 25 to 31 of the [Work Health and Safety Regulation 2011](#) (WHS Regulation).

## Section 2 - Process and Key Controls

(3) UQ supports the appropriate use of the right of entry provisions under the WHS Act and the entitlements that WHS entry permit holders have according to these arrangements.

(4) UQ must not, without reasonable excuse, refuse or unduly delay entry into a workplace by a WHS entry permit holder who is entitled to enter the workplace.

(5) UQ must not intentionally and unreasonably hinder or obstruct a WHS entry permit holder in entering the workplace or in exercising any rights in the workplace under the WHS Act (for example by requiring workers to advise UQ if they wish to participate in discussions with a permit holder).

## Section 3 - Key Requirements

### Right of Entry

#### Inquire into a Suspected Contravention of the WHS Act

(6) A WHS entry permit holder may enter a workplace to inquire into a suspected contravention of the WHS Act that relates to or may affect a relevant worker if they reasonably suspect one has occurred or is occurring. While at the workplace, they may exercise certain rights in relation to the suspected contravention.

(7) A “notice of entry” must be given to a relevant person conducting a business or undertaking (PCBU) (e.g. Faculty Executive Manager, Director, Deputy Director) and the person with management or control of the workplace (e.g. supervisor, Group Leader) as soon as is reasonably practicable after entry.

(8) However, this does not apply if the notice would:

- a. defeat the purpose of the entry (for example providing notice could result in the destruction, concealment or alteration of relevant evidence); or
- b. unreasonably delay the WHS entry permit holder in an urgent case (for example if the WHS entry permit holder had a reasonable belief that workers were being exposed to a hazard that posed a serious and immediate risk

to their health and safety and it was necessary to warn them).

(9) The notice of entry should outline the suspected contravention.

### **To Inspect Employee Records or Information Held by another Person**

(10) In addition, where the entry permit holder has a reasonable belief of a suspected contravention, they may enter the workplace to inspect and make copies of employee records and other documents that are directly relevant to the suspected contravention, provided the legislative and additional regulatory requirements are fulfilled.

(11) A notice of entry must also include:

- a. so far as is practicable, the particulars of the suspected contravention to which the notice relates;
- b. a description of the employee records and other documents, or of the classes of records and documents, directly relevant to the suspected contravention, that are proposed to be inspected; and
- c. a declaration stating:
  - i. that the union is entitled to represent the industrial interests of a worker who is a member, or eligible to be a member, of that union; and
  - ii. the provision in the union's rules that entitles the union to represent the industrial interests of that worker; and
  - iii. that the suspected contravention relates to, or affects, that worker; and
  - iv. that the records and documents proposed to be inspected relate to that contravention.

(12) Notice must be given to the person from whom the documents at that workplace are requested during usual business hours at least 24 hours before the entry (but not more than 14 days).

### **Consult and Advise Workers**

(13) A WHS entry permit holder may also enter a workplace to consult on WHS matters with, and provide advice on those matters to, one or more relevant workers who wish to participate in the discussions.

(14) Notice must be given to the relevant PCBU (UQ) during usual business hours at that workplace at least 24 hours before the entry (but not more than 14 days).

### **Conditions of Entry**

(15) A WHS entry permit holder must have the WHS Entry Permit and photographic identification and must produce this identification to any person at the workplace upon request.

(16) While at the workplace, the WHS entry permit holder must:

- a. Only enter the area of work where the suspected contravention is carried out by workers or areas where other workers may be directly affected by this work;
- b. Comply with any reasonable workplace requests regarding health and safety; and
- c. Not disclose the identity of workers unless consented to do so.

(17) WHS entry permit holders must enter the workplace during normal hours. Residential areas are excluded. The WHS entry permit holder must notify the Head of Organisational Unit as soon as possible after entering the work area.

### **Rights That May be Exercised by the WHS Entry Permit Holder**

(18) While at a workplace, the WHS entry permit holder may:

- a. Inspect any work system, plant, substance, structure or other thing relevant to the suspected contravention;
- b. Talk to any worker who is entitled to be represented by the union and where the worker wishes to participate;
- c. Consult with the supervisor/manager and/or Head of School about the suspected contravention;
- d. Request to inspect and make copies of any documentation directly relevant to the suspected contravention as long as the documentation is kept at the work place or is accessible from a computer that is kept at the work place. Records do not need to be made available if it breaches Commonwealth or State law; or
- e. Warn any person who they believe is exposed to a serious health or safety risk.

### **Prohibitions Relating to WHS Entry Permit Holders**

(19) A WHS permit holder must not be refused, hindered, delayed or obstructed in entering a workplace by a person in control of that workplace e.g. supervisor/manager.

(20) At the same time, a WHS entry permit holder must not delay, hinder or obstruct any person or disrupt work at the workplace, or act in an improper manner. Permit holders must not disclose unauthorised information collected from the workplace for purposes unrelated to the right of entry.

### **Disputes**

(21) If a dispute arises about the exercise or purported exercise by a WHS entry permit holder of a right of entry under the WHS Act, any party to the dispute may ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.

(22) Work health and safety inspectors have the power to determine whether a WHS entry permit holder has a right to enter the workplace and whether they have complied with notice requirements for the entry. Disputes can also be referred to the [Queensland Industrial Relations Commission](#) to have the matter resolved. However, the referral cannot be made until parties have made reasonable efforts to resolve the dispute, at least 24 hours have passed since an inspector has been requested to assist and the dispute remains unresolved.

(23) The local work area should contact the UQ Health, Safety and Wellness Division (HSW Division) immediately if a dispute arises. If necessary, the UQ HSW Division will contact the regulator.

(24) The UQ HSW Division will also inform the Employee Relations Section of UQ's Human Resources Division.

## **Section 4 - Process for Addressing a WHS Entry Permit Holder**

(25) If approached by a person claiming to be a WHS entry permit holder, the following steps should be taken:

- a. Ask the person to provide their WHS entry permit and photographic identification. The WHS entry permit has effect for a term of three years from the date of issue. A register of WHS entry permit holders is published on the [Queensland Industrial Relations Commission website](#) if unsure.
- b. If the reason for entry is a suspected contravention of the Act, request a copy of the "notice of entry". This notice must outline the suspected contravention.
- c. Contact the person in management and control of the workplace as soon as possible e.g. the Head of School, Institute Director (or their representatives). In cases of a suspected contravention of the Act, it is a requirement for the entry permit holder to provide a notice of the entry to the person in management and control of the workplace.
- d. Contact the local Health, Safety and Wellness Manager/Coordinator to inform them of the entry.
- e. The WHS entry permit holder must comply with any reasonable request by UQ management or the person with

management or control of the workplace regarding any work health and safety requirement that applies to the workplace (e.g. any necessary induction or use of personal protective equipment), and any other legislated requirement.

- f. The WHS entry permit holder is not required to disclose the name of any worker at the workplace, unless the worker has consented.
- g. The Act is silent on whether the WHS entry permit holder should be accompanied by a representative of the PCBU. In most cases, the entry permit holder should be accompanied by a UQ staff member. However, the staff member must not intentionally and unreasonably hinder or obstruct the entry permit holder in entering a workplace or in exercising any entitlements at a workplace. Likewise, the WHS entry permit holder must not intentionally and unreasonably delay, hinder or obstruct any person or disrupt any work at a workplace, or otherwise act in an improper way.

(26) Contact the UQ HSW Division on 3365 2365 as soon as possible after becoming aware of the entry, or after receiving the notice of entry. An advisor from the HSW Division will attend as soon as possible.

(27) The HSW Division will also inform the Employee Relations Section in the Human Resources Division.

## Section 5 - Monitoring, Review and Assurance

(28) The Director, Health Safety and Wellness will report on any entries of WHS entry permit holders on site to the Chief Operating Officer and the University Senior Executive Team and will review the circumstance of the entry. The outcome of the purpose of the entry will be tabled in senior management reports.

(29) The HSW Division will review this document on a regular basis to ensure its relevance to legislation.

## Section 6 - Appendix

### Definitions

Term	Definition
Person conducting a business or undertaking (PCBU)	A business or an undertaking that is either conducted alone or with others, whether or not for profit or gain.
Relevant worker	Is a UQ worker who: <ul style="list-style-type: none"><li>• is a member, or eligible to be a member of a relevant union; and</li><li>• whose industrial interests the relevant union is entitled to represent; and</li><li>• who works at that workplace.</li></ul>

## Status and Details

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