



# JOINT WORK SITE HEALTH & SAFETY COMMITTEE TERMS OF REFERENCE GUIDELINES

ALBERTA UNION OF PROVINCIAL EMPLOYEES



AUPE  
OCCUPATIONAL  
HEALTH & SAFETY  
COMMITTEE



## WHAT ARE TERMS OF REFERENCE?

Terms of Reference (TOR), also known as Rules of Procedure, are a critical and legally required component of a health and safety committee. They provide the framework that guides the committee members in how to carry out their duties in their particular workplace. In a way, they are like a mini collective agreement for the health and safety committee. A TOR document is required under the Alberta Occupational Health and Safety Legislation, OH&S Code- Part 13.

## WHAT SHOULD THEY COVER?

The Terms of Reference must, at a minimum, fulfil the requirements of the province's Act, Regulation and Code. This usually includes the process that will be used to comply with all the legal requirements and duties of the committee, such as conducting meetings, inspections, and submitting recommendations to resolve health and safety concerns. However, to ensure a well functioning committee, comprehensive rules should go beyond the basic legal requirements. While the legislation will establish what your committee does, your Terms of Reference establish how your committee will fulfill this mandate.

### What should be included in a TOR?

There are many elements that make up a successful Terms of Reference document. Elements in a TOR document cannot create standards below the requirements found in the Alberta Occupational Health and Safety legislation, or in some cases for our members, the Canada Labour Code. Here is a list of elements that you may want covered in a TOR for your committee, in no specific order of importance:

#### **Mission Statement/Purpose Statement**

A mission statement is much like a preamble. It sets the expectations and goals of the committee, making it clear what the purpose and function of the committee will be. While a mission statement is not required, you may find it useful to create one, setting the tone for the committee.

#### **Membership/Composition of the Committee**

Here you should indicate what the membership to the committee will look like, length of time each committee member will serve on the committee (one year minimum), how vacancies on the committee will be addressed, and whether there can be guests/visitors/advisors attending meetings (non-committee members do not have a voice in decision making and are there for information purposes only). It should also address processes for selections of employer and worker representative co-chairs, and how long each co-chair will serve in that position.

Section 22 of the OH&S Act outlines that a committee must consist of a minimum of 4 people, half of which are not affiliated with management. It also outlines that, where unionized workers exist in a facility, only the union representing those workers can be the ones to appoint their members to the committee through that unions selection process. Non-union workers must elect their representative to the committee through selection process completed by those workers. The employer appoints management representatives. The TOR should also identify how the secretary position will be filled.

There are specific requirements for quorum of an OH&S committee meeting. The requirements are that at least half of the committee must be present, and out of those in attendance, at least half must be worker representatives. If you do not meet the requirements for quorum, then your meeting is not an official meeting and no business can be completed.

#### **Functions of the Committee**

Within this element, you would list the functions/duties/roles of the committee. There are duties outlined within the OH&S Act and what you choose to list here, should meet and/or build upon the requirements found under Section 19 of the OH&S Act, which lists:

- The receipt, consideration and disposition of concerns and complaints respecting the health and safety of workers;
- Participation in the identification of hazards to workers or other persons arising out of or in connection with activities at the work site;
- The development and promotion of measures to protect the health and safety of persons at the work site and checking the effectiveness of such measures;
- Cooperation with an officer exercising duties under the act, the regulations and the OH&S code;
- The development and promotion of programs for education and information concerning health and safety;

- The making of recommendations to the employer, prime contractor or owner respecting the health and safety of workers;
- The inspection of the work site at regular intervals; (part 13 of the OH&S code specifies the work site shall be inspected at least once before each quarterly meeting);
- The participation in investigations of serious injuries and incidents at the work site in accordance with section 40;
- The maintenance of records in connection with the receipt and disposition of concerns and complaints and the attendance to other matters relating to the duties of the committee;
- Such other duties as may be specified in this act, the regulations and the OH&S code.

#### **Member Responsibilities**

Here is where you list responsibilities of members on the committee. Examples of member responsibilities include but are not limited to:

- Being a positive role model for health, safety and wellness at the work site;
- Attend required training to assist your role as a OH&S committee representative;
- Attendance at joint work site health and safety committee meetings;
- Participate in OH&S committee business and duties as required by the committee;
- Be prepared for all committee meetings, having reviewed all necessary material. Review and preparation are considered to be committee related business;
- Where possible and where supported, work towards consensus based decisions. Consensus is achieved without a formal voting process, meaning discussion based decision making;
- Be prepared to participate in inspections, OH&S investigations, and work refusal investigations as required;
- Any requirement found within the OH&S act, regulations, and code, or as required by an OH&S officer.

#### **Entitlement of Committee Members**

As a committee member, legislation now specifies time allotted for members to be able to fulfil their required duties and roles. You may want to reinforce this in the TOR document, making it clear that, as a member, you are permitted time to complete the requirements.

Section 30 specifies what is considered to be committee work, and how this work should be dealt with by way of compensation. Section 30 states:

- 30(1) A member of a joint work site health and safety committee or a health and safety representative is entitled to take the following time away from the member's or the representative's regular duties:
- (a) The period of time that the committee or representative determines is necessary to prepare for each committee meeting or meeting with the employer or prime contractor as applicable;
  - (b) The time required to attend each meeting of the committee, or with the employer or prime contractor, as applicable;
  - (c) The time required to attend health and safety training, as approved by the committee and the employer, or by the representative's employer;
  - (d) Such time as the committee or representative determines is necessary to carry out the member's or the representative's duties as a committee member or representative under this act, the regulations and the OH&S code.
- (2) A member of a joint work site health and safety committee or a health and safety representative is deemed to be at work during the times described in subsection (1) and is entitled to be paid for those times by the member's or the representative's employer at the member's or representative's applicable rate of pay.

Under Section 25 of the OH&S Act, committee co-chairs or assigned designates may be required to accompany an OH&S Officer during inspections. As well, Section 40 of the OH&S Act outlines that a committee must be a participant in serious incident investigations, meaning a committee member is entitled to be a part of that investigation.

Under Section 31 of the OH&S Act, during a work refusal investigation process, a worker co-chair or worker committee member must be involved.

### **Administrative Processes**

Within this element of the TOR, you should be listing things, which are of high importance to the function of the committee. Examples are:

- Scheduling of meetings. Under the OH&S act, the first meeting must be held within 10 days of the committee being established, and quarterly throughout the year. Any committee can decide to add more meetings throughout the year, but you cannot set meetings below the quarterly requirement;
- Process for minutes and how to approve those minutes, along with where the minutes will be posted/kept. Minutes must be posted at the work site no later than 7 days following the meeting- this can include electronic posting so long as everyone at the work site has access to review them;
- You should also be identifying processes for submission of agenda items and when the agenda and other related documentation would be sent out to all committee members so they can prepare for the meeting;
- You should also note the requirement of quorum, and that without quorum, business cannot be transacted and the meeting is not considered to be valid. According to the OH&S act quorum is met when at least half the committee is present, and out of those present, half are worker representatives;
- If the committee wishes to allow guests/visitors/advisors into the meeting, you should outline permission processes such as co-chairs must be notified;
- Required by Part 3 of the OH&S Act, a committee must identify a dispute resolution process in the event consensus decision-making cannot be achieved. You should be including this process into the terms of reference. You may wish to review your collective Agreement and identify if one currently exists. If you do have a process identified in the Collective Agreement, you should indicate this process in the TOR. If you do not have a process, collaborate with your committee on a process. The OH&S Act specifies for issue resolution:

- 21(1) If the joint work site health and safety committee or health and safety representative brings a health and safety matter to the attention of the employer, self employed person or prime contractor, and makes recommendations to remedy the matter,
  - (a) If the matter can be resolved by the employer, self employed person or prime contractor within 30 days, the employer, self employed person or prime contractor shall do so and inform the committee or representative,
  - (b) If the matter cannot be resolved by the employer, self employed person or prime contractor within 30 days, the employer, self employed person or prime contractor shall respond in writing, stating how the concern will be addressed and when the concern will be addressed, including
    - (i) A timetable for implementing changes to address the matter, and
    - (ii) Any interim control measures that the employer, self-employed person or prime contractor will implement to address the matter, or
  - (c) If the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns, the employer, self-employed person or prime contractor shall give reasons why the employer, self-employed person or prime contractor disagrees with any recommendations or does not accept or believe there are any health and safety concerns.
- (2) Where the parties cannot resolve a problem or address a concern after the provision of written reasons by the employer, self employed person or prime contractor under subsection (1), the employer, self employed person, prime contractor, joint work site health and safety committee, a member of the joint work site health and safety committee or the health and safety representative may refer the matter to an officer.
- (3) Nothing in this section limits the right of a worker to refer a health and safety concern directly to an officer.

### **Training for Committee Members**

As a committee member, you are entitled to training to assist you in your role. You may want to include this entitlement in your TOR document, as it will act as a further reminder of professional development for all committee members. Section 29 of the OH&S Act states:

- 29(1) Where a joint work site health and safety committee is established, an employer or prime contractor, as applicable, shall ensure that the co-chairs of the committee receive training respecting the duties and functions of a committee.

- (2) Where a health and safety representative is designated, an employer shall ensure that the representative receives training respecting the duties and functions of a representative.
- (3) Where a member of a joint work site health and safety committee or a health and safety representative gives reasonable notice, an employer shall permit the member or representative to take time away from the member's or the representative's regular duties to attend health and safety training programs, seminars or courses of instruction.
- (4) The amount of time allowed annually for training under subsections (1), (2) and (3) is the greater of
  - (a) 16 hours, or
  - (b) the number of hours the worker normally works during 2 shifts.

#### **Review and Approval of the Terms of Reference**

At the very end, you should be including information such as how often the TOR will be reviewed, as well as signature spots for both the worker co-chair and management co-chair. Some TORs are reviewed annually, some every two years. As a committee you should decide what is best for you. As an example, you may wish to indicate "These terms of reference can be reviewed and amended at any time with the agreement of both co-chairs, but must be reviewed at least annually."

#### **General OHS Committee Reminders**

The work site health and safety committee is established to ensure that health and safety related concerns impacting all workers at the work site are properly addressed. The committee is meant to be a part of the internal responsibility system and where required, make recommendations to the employer to assist in the resolution of concerns/incidents. When making recommendations, a consensus-based approach is recommended, one that does not require physical voting. Physical voting is not the preferred method as it may lead to positions being taken by parties to the committee, and does not allow for the facilitation of full discussion on the topic. By coming to consensus based on discussion and dialogue, once everyone supports the recommendation, it is placed to the employer for final resolution. If the employer decides not to follow the recommendation, any committee member may refer the matter to an OHS Officer. Remember, also required for all joint work site health and safety committees, is the posting of committee membership listings at the work site. It is recommended that, as a committee, you establish where the membership listing will be posted, and what contact information is put on the listing. It is recommended that you place work contact information (work email and phone number if applicable) on the posting, rather than your personal contact information. Membership listings must be posted in conspicuous (clearly visible) locations so that all workers know how to contact the committee.



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