

Refusal of Unsafe Work Process Guide

FOR K-12 PUBLIC EDUCATION - COMPLIANCE



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Instructions

Prior to beginning the investigation into the refusal of unsafe work, review the following sections with the worker initiating the process. Section 3.12 "Procedure for refusal", and 3.13 "No prohibited action" are both taken from the Occupational Health and Safety Regulation guideline published by WorkSafeBC (WSBC).

3.12 Procedure for refusal

3.12 (1) A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.

"Reasonable cause to believe"

The Regulation establishes what is commonly referred to as a "reasonable person test." The test is objective: How would a reasonable person, dispassionate, and fully apprised of the circumstances of the matter, interpret the situation?

A reasonably held belief is generally formed by the worker at the time of the work refusal, based on the relevant and available information at the time, and exercising good faith judgment. Whether or not that reasonably held belief is substantiated will generally be determined after following the steps below and investigating the matter.

"Undue hazard"

The term "undue hazard" incorporates each of the following elements:

- *"Hazard" is defined in section 1.1 of the Regulation to mean "a thing or condition that may expose a person to a risk of injury or occupational disease."*
- *"Risk" is defined in section 1.1 as "a chance of injury or occupational disease."*
- *"Undue" is generally accepted as meaning something that is unwarranted, inappropriate, excessive, or disproportionate.*

Work that may reasonably be perceived as creating an undue hazard includes a thing or condition that may expose a person to an unwarranted, inappropriate, excessive, or disproportionate risk of injury or occupational disease. An undue hazard is something more than unusual or unexpected; however, it would generally be understood as a hazard that creates an unacceptable, unreasonable, or unnecessary health and safety risk to a person at the workplace.

Reasonable cause to believe work creates an undue hazard

The belief that work will create an undue hazard is therefore more than a generalized concern or feeling of uncomfortableness. When a worker refuses work on account of a reasonable belief — in other words an objective reason refusing work as unsafe to the point of presenting an undue hazard — the employer is required to follow the steps set out in the Regulation to resolve the matter.

3.12 (2) A worker who refuses to carry out a work process or operate a tool, appliance or equipment pursuant to subsection (1) must immediately report the circumstances of the unsafe condition to the worker's supervisor or employer.

3.12 (3) A supervisor or employer receiving a report made under subsection (2) must immediately investigate the matter and

- (a) ensure that any unsafe condition is remedied without delay, or
- (b) if, in the supervisor's or employer's opinion, the report is not valid, must so inform the person who made the report.

3.12 (4) If the procedure under subsection (3) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, the supervisor or employer must investigate the matter in the presence of the worker who made the report and in the presence of

- (a) a worker member of the joint committee,
- (b) a worker who is selected by a trade union representing the worker, or
- (c) if there is no joint committee or the worker is not represented by a trade union, any other reasonably available worker selected by the worker.

3.12 (5) If the investigation under subsection (4) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, both the supervisor, or the employer, and the worker must immediately notify an officer, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.

Section 3.12.1 of the Regulation states

If a worker refuses work under section 3.12, the employer must not require or permit another worker to do the refused work unless

- (a) the matter has been resolved under section 3.12(3), (4) or (5), or
- (b) the employer has, in writing, advised the other worker and a person referred to in section 3.12(4)(a), (b) or (c) of all of the following:
 - (i) the refusal;
 - (ii) the unsafe condition reported under section 3.12(2);
 - (iii) the reasons why the work would not create an undue hazard to the health and safety of the other worker or any other person;
 - (iv) the right of the other worker under section 3.12 to refuse unsafe work.

Section 3.13 of the Regulation states:

(1) A worker must not be subject to prohibited action as defined in section 47 of the OHS provisions of the Workers Compensation Act because the worker has acted in compliance with section 3.12 or with an order made by an officer.

(2) Temporary assignment to alternative work at no loss in pay to the worker until the matter in section 3.12 is resolved under section 3.12(3), (4) or (5) is deemed not to constitute prohibited action.

Section 4.19 of the Regulation states:

(1) A worker with a physical or mental impairment which may affect the worker's ability to safely perform assigned work must inform the worker's supervisor or employer of the impairment, and must not knowingly do work where the impairment may create an undue risk to the worker or anyone else.

(2) A worker must not be assigned to activities where a reported or observed impairment may create an undue risk to the worker or anyone else.

Workers exercising their right to refuse unsafe work should be doing so while at the worksite, where they can demonstrate the objectivity of their claim while following this regulated process.

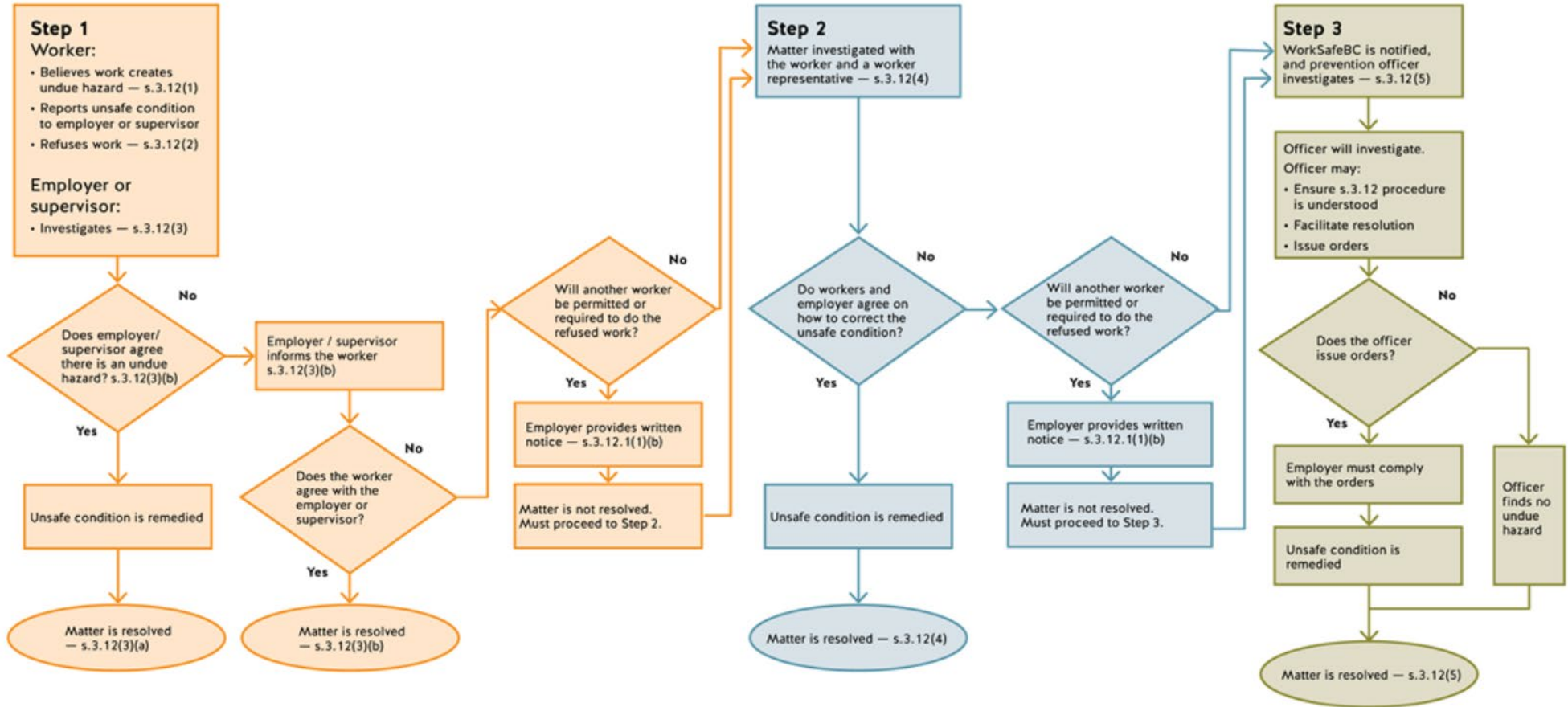
Refusals must be activated by the affected worker and not another worker.

For more information, review the following WorkSafeBC web pages.

<https://www.worksafebc.com/en/health-safety/create-manage/rights-responsibilities/refusing-unsafe-work>

<https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/ohs-regulation/part-03-rights-and-responsibilities#SectionNumber:3.12>

Refusal of unsafe work flow (source WSBC)



Identifying the Lead Reviewer

Reviewer's Name (First and last name of the person reviewing the issue)	Date Review Initiated (yyyy-mm-dd)	Time Review Initiated <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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Understanding the issue [OHSR 3.12(2) & 3.12(3)]

Worker's name (Full name of the worker initiating the Refusal of Unsafe Work)	Date Supervisor Notified (yyyy-mm-dd)	Time Supervisor Notified <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Is the worker currently onsite? <input type="checkbox"/> Yes, <input type="checkbox"/> No If "No" direct the worker to come to the worksite to a safe area.	Name of supervisor notified if different than the reviewer?	
Give a complete description of the concern as indicated by the worker. (who, what, when, and how of the issue)		
Give a description of the location of the issue. (where specifically does the issue exist, take photos if relevant)		
Are there any additional contextual items that are important in understanding this issue? (e.g. events leading up to this issue being raised, work history or restrictions, actions of others) <input type="checkbox"/> Yes, <input type="checkbox"/> No – if "Yes" give details		
Does this issue involve equipment the worker has been directed to operate? <input type="checkbox"/> Yes, <input type="checkbox"/> No – if "Yes" give details		
Does this issue involve a process the worker has been directed to carry out? <input type="checkbox"/> Yes, <input type="checkbox"/> No – if "Yes" give details		
Does this issue involve workplace violence? <input type="checkbox"/> Yes, <input type="checkbox"/> No – If "Yes" answer the items below, if "No" proceed to the next question block. <ul style="list-style-type: none"> • Is the workplace violent incident still in progress and involves a student? <input type="checkbox"/> Yes, <input type="checkbox"/> No <ul style="list-style-type: none"> ○ if "Yes" please note that workers must not refuse the work during an escalation, because they are required to support the safety of all students, while doing so safely. ○ If "No" proceed to the next question • Has a workplace violent incident report been submitted with respect to this situation recently? <input type="checkbox"/> Yes, <input type="checkbox"/> No <ul style="list-style-type: none"> ○ If "Yes" review the incident report and include a reference to it in this review (or attach it if paper based). ○ if "No", have the worker fill out an incident report or if there is no reason for an incident report take note of this when summarizing the information. • Is there an Individual Safe Work Instruction/Procedure in place, for the directed work? <input type="checkbox"/> Yes, <input type="checkbox"/> No <ul style="list-style-type: none"> ○ If "Yes" obtain a copy and reference it or attach it if paper based. ○ If "No" take note of this when summarizing the information. 		
Has the worker been temporarily assigned to an alternate task/work while the review is conducted? <input type="checkbox"/> Yes, <input type="checkbox"/> No If "Yes" please include some details below about the temporary assignment.		
Are other workers potentially at risk if they are not informed of this refusal of unsafe work? <input type="checkbox"/> Yes, <input type="checkbox"/> No <ul style="list-style-type: none"> • If "Yes" list names or groups and inform them in person of the risk to ensure their safety while working, then proceed to Step 1a. • If "No", proceed to Step 1a. 		

Step 1a - Supervisor Review and Initial Assessment [OHSR 3.12(3)a & 3.12(3)b]

Identifying the risk factors:

Is the worker experienced in this type of work? Yes, No,

Are there established procedures/instructions for this work? Yes, No, Not applicable

If "Yes", was the worker following the procedures/instructions? Yes, No, Not applicable

Does the worker have the required training? Yes, No, Not applicable

Are the ergonomics of the task acceptable – lifting, awkward posture, pushing? Yes, No, Not applicable

Does the worker have access to required equipment to perform the job safely? Yes, No, Not applicable

Are equipment repairs and scheduled maintenance/inspection complete? Yes, No, Not applicable

Is there appropriate protection against chemicals or risk pathogens that could cause illness? Yes, No, Not applicable

Is the work area safe – lighting, air quality, noise, structure, storage, shared usage? Yes, No, Not applicable

Please give details related to items identified as "No" in the space below. Use this information, along with other information gathered in the "Understanding the Issue" section, to inform your risk assessment ("No" reduces your overall capacity to handle adverse events or work reliably).

Risk Assessment Rating Descriptions

	Low	Medium	High	Extreme	Points
Severity Physical/psychological injury severity potential	<input type="checkbox"/> (1 pt) Minor first aid treated at the site.	<input type="checkbox"/> (2 pts) Medical aid – healthcare professional required	<input type="checkbox"/> (3 pts) Health care professional treatment and lost time >5 days	<input type="checkbox"/> (4 pts) Health care professional treatment resulting in permanent disability	
Probability Probability of an incident based on the current situation	<input type="checkbox"/> (1 pt) Not possible or probable	<input type="checkbox"/> (2 pts) Might happen in the future but not certain when	<input type="checkbox"/> (3 pts) Will happen today or tomorrow if work proceeds as directed	<input type="checkbox"/> (4 pts) Will happen immediately if work proceeds as directed	
Control measures Existing hierarchy of control measures to support safe work	<input type="checkbox"/> (1 pt) Controls in place, workers are aware, experienced, skilled, and have authority to address issue effectively.	<input type="checkbox"/> (2 pts) Limited controls in place, workers are aware, but with limited experience or skills, and cannot address the issue without support	<input type="checkbox"/> (3 pts) Controls in place may not be sufficient, limited worker hazard awareness, skills and experience is limited	<input type="checkbox"/> (4 pts) No controls, no worker hazard awareness, no experience, young worker.	

Risk Score

Risk Score = S*P*C	Severity	*	Probability	*	Controls	=	Total Risk Score

Risk Level	Risk Score Range	Expected actions
Low risk	1-7	Could proceed as planned; the issue is not likely to lead to increased risk of injury.
Med risk	8-16	Could proceed but need to reconsider the context and the controls to manage risk.
High risk	18-64	Must review the work as planned and reduce risk by implementing controls.

Considering the risk assessment, and details reviewed, give a summary statement that includes a clear description of the specific hazard(s)/reason(s) for invoking a refusal of unsafe work as well as the findings of the review? (e.g. The worker has been directed to clean up debris after a number of ceiling tiles fell to the floor during the night and broke into smaller pieces. The worker has refused unsafe work over a concern that the tiles are made of an asbestos containing material (ACM) and that they are not trained to work with ACM. A review of the ACM site assessment documents shows that the tiles in question are not ACM. The training records confirm the worker has not received ACM specific training.)

Based upon the identified risk responses, the risk score category and the above statement, is it reasonable to believe that carrying out the process, or operating the equipment as directed would create an undue hazard to the health and safety of any person?

Yes, No

- If “Yes” take action to ensure any unsafe conditions are remedied as appropriate. Inform the worker of the changes made to remedy the situation. Itemize corrective actions in the section at the end of this report.
 - Does this report include corrective actions set out to lower the risk and remedy the refusal of unsafe work?
 Yes, No
- If “No”, and in the opinion of the reviewer the refusal is not valid, inform the worker who made the report of your findings.

After informing the worker of your findings, have the actions and/or discussions about the review resolved the matter with the worker who made the report? Yes, No

- If “Yes”, this ends the refusal process. Maintain a record of this review.
- If “No” proceed to Step 1b.

Step 1b – Assignment of refused work to another worker [OHSR 3.12.1(1)b] (Only required if Step 1a failed to resolve the refusal and another worker is needed to carry out the work) The information on this section of the form can be sent to the worker via various means including electronic messaging (email, text messaging), notice board, or other means. It cannot be verbal only. It must be documented.

Will the refused work be re-assigned to another worker? <input type="checkbox"/> Yes - continue below, <input type="checkbox"/> No – Proceed to Step 2			
Does the reassignment of the refused work to another worker resolve the undue hazard and unsafe condition? <input type="checkbox"/> Yes – the refusal has been resolved, <input type="checkbox"/> No – continue below			
Review the information in Step 1a in the presence of the worker to which the refused work will be assigned, as well as (select one of the following):		<input type="checkbox"/> A worker member of the joint health and safety committee, <input type="checkbox"/> A worker who is selected by a trade union representing the worker, or <input type="checkbox"/> If neither of the above two options is possible, any other reasonably available worker selected by the worker.	
Name of worker to be assigned to the refused work:			
Name of worker representative participating in this step of the process:			
Describe the unsafe condition as reported:			
Give the reason why the work would not create an undue hazard to the health and safety of another worker or any other person:			
Please note that the worker to which this work may be reassigned has the right to refuse unsafe work as per section 3.12 of the Occupational Health and Safety Regulation.			
Worker's Signature of review of refusal document	Date of incident (yyyy-mm-dd)	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Selected worker representative signature of participation	Date of incident (yyyy-mm-dd)	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Continue to Step 2:			

Step 2 – Joint Review of Unsafe Work [OHSR 3.12(4)a, b, or c] (Only required if Step 1 failed to resolve the refusal)

Continue the review, without delay, in the presence of the worker, as well as (select one of the following):

- A worker member of the joint health and safety committee,
- A worker who is selected by a trade union representing the worker, or
- If neither of the above two options is possible, any other reasonably available worker selected by the worker.

Please include the name of the selected worker that will be now be involved in Step 2 of this process.

Are there any new findings from this joint review with the selected worker representative and the worker? Yes, No, If "Yes" give details.

After the joint review with the worker and the selected worker representative the risk score:

Stayed the same, Decreased, Increased

Details if changed:

After reviewing the issue and assessing the risk jointly, does the worker still believe that carrying out the process, or operating the equipment as directed would create an undue hazard to the health and safety of any person? Yes, No

- If "Yes" give details of the objective basis for the continuation of the refusal procedure.
 - What is the worker seeking to remedy the issue?
 - Is the remedy reasonable and relevant to address the objective basis for the continuation of the refusal?
 - Yes, No
 - If "No" proceed to Step 3.
 - If "Yes" will the worker return to work when the remedy is implemented?
 - Yes, No
 - If "No" proceed to Step 3.
 - If "Yes" add the remedy to the corrective actions section at the end of this report and sign below. Re-assign the worker until the remedy is in place.
 - If "No" and all parties have agreed on how to return to safe work, this ends the refusal process. Maintain a record of this review. Proceed to sign the signature box below.
 - Does this report include corrective actions to lower the risk and remedy the refusal of unsafe work?
 - Yes, No - If "Yes" ensure they are listed in corrective actions section at the end of this report.

Reviewer's Signature	Date of incident (yyyy-mm-dd)	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Worker's Signature of participation	Date of incident (yyyy-mm-dd)	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Selected worker representative signature of participation	Date of incident (yyyy-mm-dd)	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

Step 3 Involvement of WSBC [OHSR 3.12(5)] (Only required if Step 2 failed to resolve the refusal of unsafe work)

When Step 1 and Step 2 have failed to result in an agreement on safe work options, both the supervisor or the employer, and the worker must immediately notify a WorkSafeBC officer, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.

Phone toll-free: **1.888.621.7233** (1.888.621.SAFE) 7 days a week, 24 hours a day

Has the WSBC officer been contacted? Yes, No

If "yes" please include the Date of call (yyyy-mm-dd) and the Time of the call a.m. p.m.

- If "No", please explain why a call has not been made.

WorkSafeBC Officer Name: _____

Date of site visit/call/video call (yyyy-mm-dd) _____ and the Time of site visit or video call a.m. p.m.

Summary of discussion: _____

Has the WorkSafeBC Officer determined that the refusal of unsafe work is valid Yes, No

If yes, are compliance orders expected? Yes, No

Attach any and all WSBC reports to this report.

Corrective actions identified and taken to remove the “undue hazard” if applicable.

Action	Action assigned to (name and job title)	Expected completion date (yyyy-mm-dd)	Completed date (yyyy-mm-dd)
a)			
b)			
c)			
d)			
e)			

End of report

Revision Log

Major revisions include substantial changes to the meaning or wording of the document and are noted by a change in the whole number. For example, n+1.0, where n is the existing version number.

Minor revisions such as administrative corrections to language for clarity or formatting are noted as #.n+1 where n is the decimal point of the existing version.

Revision Number	Date of Change	Description of changes
2.1	20220826	<p>The following changes were made to align with the updated regulation and guidance document produced by WSBC.</p> <ul style="list-style-type: none"> • Moved the section on temporary assignment of the worker to alternate work to the first part of the form. • Moved the old step #3 that was implemented for compliance with 3.12.1 of the regulation to become Step 1b. Changed the table Step 1b to include text boxes to write the description of the issue and the reason it is not an undue hazard. Also explicitly indicated that the worker has a right to refuse unsafe work. • In the risk matrix on page added “hierarchy of” in front of controls. Changed High rating to be “Controls in place may not be sufficient...”
2.0	20220525	<p>Added a new Step #3 to the process that supports the changes to the OHS regulations by including section 3.12.1. The new step ensures that the worker is give written notification of the earlier refusal.</p>