

## Zachary Clarke

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**From:** Elizabeth Thomas Privacy of natural persons  
**Sent:** Tuesday, 16 December 2025 5:16 pm  
**To:** Zachary Clarke  
**Cc:** Hayden Fenwick  
**Subject:** A drafting question for the Minister's decision [IN-CONFIDENCE]

Kia ora Zac

At our discussion of the Bill this afternoon Hayden mentioned one issue on which we would like the Minister's decision.

Hayden asked that I send an email to seek this decision.

Please let me know if you would like to discuss or if you need anything else to progress this.

### Consultation requirements for ACOPs: changing consultation 'between' to consultation 'with'

The HSW Act, s222(2) outlines the required consultation on draft codes and amendments. We have noticed that it refers to consultation 'between' the listed parties (unions, employers, and other affected parties) rather than consultation 'with' these parties. (See below for the full wording).

The regulators have confirmed that 'with' would more accurately capture their practice, which is to consult with these parties on draft codes, rather than facilitate the parties to all discuss together.

Changing to 'with' would also make this requirement clearer and simpler for the other groups who will be able to develop draft ACOPs under the proposed amendments.

This change would fall within the Minister's discretion to decide on issues that arise during drafting. Subject to the Minister's decision, we will instruct PCO to make this change.

The HSW Act, s222(2) provides that:

The Minister may approve, amend, or revoke a code of practice ... only if the Minister is satisfied that the code of practice, amendment or revocation was developed by a process that involved consultation between:

- (a) unions; and
- (b) employer organisations; and
- (c) other persons or representatives of other persons affected, or reasonably likely to be affected, by the code, amendment, or revocation.

MBIE recommendation	Minister's decision
<p>That the Minister for Workplace Relations and Safety:</p> <ul style="list-style-type: none"><li>• <b>agree</b> that the Health and Safety at Work Amendment Bill includes a change to the HSW Act, section 222(2) that replaces 'consultation between' with 'consultation with'.</li></ul>	<p>Agree / Disagree</p> 

Ngā mihi

Elizabeth

**Dr Elizabeth Thomas**

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