



Strategic Review of the Workplace Health and Safety System

Submission template

This template can be used to make a submission to the Independent Taskforce on Workplace Health and Safety. The template does not limit the length of your answers, and you can attach documents to supplement your answers if you wish. Alternatively, you can use the on-line questionnaire to make a submission, which can be found at www.hstaskforce.govt.nz. The on-line questionnaire restricts the length of your answers to about 300 words per question.

Please refer to the taskforce's consultation document, *Safer Workplaces* before completing this template. The consultation document can be found at www.hstaskforce.govt.nz

About you

* Indicates mandatory questions

1. *Your full name:

Dave Feickert

2. *Is this submission on behalf of an individual or an organisation?

☒ Individual ☐ Organisation

Name of organisation:

3. *Region

- | | | |
|--------------------------------------|--|---|
| <input type="checkbox"/> Northland | <input type="checkbox"/> Whangarei | <input type="checkbox"/> Auckland |
| <input type="checkbox"/> Waikato | <input type="checkbox"/> Bay of Plenty | <input type="checkbox"/> Gisborne |
| <input type="checkbox"/> Hawke's Bay | <input type="checkbox"/> Taranaki | <input checked="" type="checkbox"/> Manawatu-Wanganui |
| <input type="checkbox"/> Wellington | <input type="checkbox"/> Marlborough | <input type="checkbox"/> Nelson |
| <input type="checkbox"/> West Coast | <input type="checkbox"/> Canterbury | <input type="checkbox"/> Otago |
| <input type="checkbox"/> Southland | <input type="checkbox"/> Overseas | |

4. *Respondent category

- ☐ Employer
- ☐ Manager
- ☐ Employee
- ☒ Self-employed
- ☐ Employee representative
- ☐ Not in paid employment
- ☐ Other:

5. *Which type of industry do you manage, own a business in, or work in?

- ☐ Agriculture
- ☐ Forestry
- ☐ Fishing
- ☒ Mining
- ☐ Manufacturing
- ☐ Electricity, Gas, Water and Waste Services
- ☐ Construction
- ☐ Wholesale Trade
- ☐ Retail Trade
- ☐ Accommodation and Food Services
- ☐ Transport, Postal and Warehousing
- ☐ Information Media and Telecommunications
- ☐ Financial and Insurance Services
- ☐ Rental, Hiring and Real Estate Services
- ☐ Professional, Scientific and Technical Services
- ☐ Administrative and Support Services
- ☐ Public Administration and Safety
- ☐ Education and Training
- ☐ Health Care and Social Assistance
- ☐ Arts and Recreation Services
- ☐ Other Services

6. *Size of business that you own / manage or work for?

- | | |
|---|--|
| <input type="checkbox"/> Self employed | <input type="checkbox"/> 20-49 employees |
| <input checked="" type="checkbox"/> 1-5 employees | <input type="checkbox"/> 50-99 employees |
| <input type="checkbox"/> 6-9 employees | <input type="checkbox"/> 100+ employees |
| <input type="checkbox"/> 10-19 employees | |

7. Gender

☐ Male ☒ Female ☐ Other

8. Age

- | | |
|--------------------------------|---|
| <input type="checkbox"/> 15–24 | <input type="checkbox"/> 45–54 |
| <input type="checkbox"/> 25–34 | <input type="checkbox"/> 55–64 |
| <input type="checkbox"/> 35–44 | <input checked="" type="checkbox"/> 65+ |

9. Ethnicity

- | | |
|--|--|
| <input type="checkbox"/> NZ Maori | <input type="checkbox"/> Asian |
| <input checked="" type="checkbox"/> European | <input type="checkbox"/> Middle Eastern/Latin American/African |
| <input type="checkbox"/> Pacific Island | <input type="checkbox"/> Other ethnic group |
| <input type="checkbox"/> Other European | <input type="checkbox"/> Do not wish to indicate |

10. Your contact details

Phone number(s)

Email address:

Please tick the boxes below as appropriate

☒ I consent to my submission being placed on the Independent Taskforce on Workplace Health and Safety website

☐ I would like my name withheld from publication (submissions from individuals only)

Please note that your name and contact information, including any personal information, is being collected so that the Independent Taskforce on Workplace Health and Safety can publish the names of people and organisations who or that made submissions, follow up with a respondent if any submission needs clarification, and for the general purposes of the Strategic Review of the Workplace Health and Safety System. The Independent Taskforce on Workplace Health and Safety is the intended recipient and holder of the information and can be contacted at PO Box 3705, Wellington, New Zealand. In accordance with Privacy Principle 7, you have the right to access and correct any personal information you provide.

Submission template questions

Please answer the following questions and feel free to attach any supporting documents.

If you are completing the template on paper, please feel free to add other pages but make clear which questions your answers refer to. **If you are completing the template electronically** and need more space for any of your answers, please write the rest of your answer into another document, making clear which question your answer refers to, and attach it when you send your completed submission template to us. The answer fields below hold approximately 430 words.

Who gets hurt, killed or suffers from ill-health or disease as a result of work?

1. What do you think is driving the differences in health and safety outcomes for different demographic groups?

The people who are killed, injured and made ill as a result of 'exposure to work' have traditionally been people working in high risk industries, and within those in the high risk jobs. However, times are changing. In some countries 'high risk industries' have become safer than many lower risk ones, because effective action has been taken to establish modern risk assessment and hazard analysis. This typically involves the effective use of the 'safety triangle' of manager(s)-government inspector(s)-worker inspector (s) or as has become known at the workplace level, the 'tree legged stool'. Within this best practice model there is a bottom-up approach as well as top-down leadership from responsible managers. It is a dynamic feedback system, in which workers are fully participating in the safety and health system at work, with effective responses from the government authority.

As far as demographics go, particular groups are more exposed to risky work. In NZ statistics show this to be clearly Maori male workers. In terms of process/SME differences, process industries which are higher risk may have a lower injury/disease rate than more simple work processes, albeit as international cases have shown, including the Pike River mine, catastrophic accidents can occur in apparently well organised workplaces.

2. What changes are needed to the workplace health and safety framework to improve outcomes for demographic groups with higher than average rates of injury and illness?

NZ requires a comprehensive updating of its health and safety law at work and its associated practice. NZ had Robens Minus, whereas the UK, where the Robens report was implemented fully has had Robens Plus, as EU safety and health law has been added, through majority voting in the EU system. This process began with the 1989 framework directive on safety and health, which implemented best practice, based on risk assessment and the safety triangle. This is seen in the outcome in terms of injury and disease in the UK and Norway. In Australia, Robens Plus was implemented state by state and re-inforced federally, with the adoption of modern risk assessment based legislation and the safety triangle.

If NZ takes this best practice route, the safety culture in the country will change. The speed of change will depend entirely on the collective vision coming from this Taskforce, political parties/legislators and the professionals working in the area. Commitment from companies, trade unions and local authorities, especially the education system will add to the 'speed factor'. Risk assessment is not rocket science and can be taught to school children, in a context not of 'granny state rules' but in a training system which is based on 'trained enjoyment' especially of outdoor and sporting activities. This will also flow on into the workplace of the future.

For that generation that has grown up under Robens Minus, a different approach will be needed to correct false notions about safety and health, as a boring, regulatory and negative drag on 'what I want to do as a business' or 'what I want to do as an individual'. As an antidote in such workplaces I would take groups for safety training, in warm weather for their waka ama capsizing training. As the children now doing this discover, it is team work, led by a captain, with every person in the 6 person crew allocated a key task for the group's safe survival. and it is fun.

Regulatory framework

3. What do you think the challenges are with the current health and safety regulatory framework?

Our current health and safety framework is Robens Minus - without the risk assessment there in the original report and as developed further by the best practice regions of the EU and Australia, some leading companies and now being adopted in the Peoples Republic of China. The UK, based on Robens, developed the Five Step simplified procedure for Risk Assessment, which has later adopted by the EU.

Our Robens Minus model also left out the worker safety representative role, oversaw the abolition of the special worker safety inspectors in the mining industry (which had come from the UK coal industry model, which in turn was the basis of Lord Robens' Report - he was for 10 years Chairman of the National Coal Board and his appointment by the Wilson Labour Government to do this work, was for the reason the NCB was a best practice model for all of employment generally).

The second more destructive phenomenon in NZ was the general deregulation in the 1980s and 1990s which has directly and indirectly led to disaster in the workplace (the abolition of the professional mines inspectorate and its replacement by DOL inspectors; and the abolition of the Marine Department which was responsible not just for maritime safety but for the safety in land based industries using pressure vessels (boilers etc), lifts, cranes and other large moving machinery systems - to be replaced in the end by Maritime NZ, which had an accountant as chair and no a single marine engineer on its board). Consequently, this deregulation led to the severe regulatory failure in Christchurch earthquake disaster prevention; the Rena sinking; a whole series of fatal accidents in our outdoor sports industries and infected the regulatory systems of building inspection (leakey buildings) and the financial services industry.

The solution here is not to through the swinging pendulum into reverse, but to design effective regulation, which uses the talents and skills, especially in the workplace of all Kiwis. This cultural change, the deeper it becomes at work and in school, will in turn help to prevent all those terrible accidents taking place in the home - where more people are killed than at work - though the taking of this new culture home.

4. How do you think the health and safety regulatory framework could be improved?

By adopting the EU and Australian best practice risk assessment models.

Regulators' roles and responsibilities

5. How effective are the regulators in influencing workplace health and safety outcomes?

At present in NZ the regulator's role is very limited, mainly because it has been so weakened in the past. The creation of the High Hazards Unit was the first and most important single step taken to reverse the long deregulatory nightmare, which is the main reason our accident and ill-health rates are so poor and embarrassing when compared with other similar jurisdictions. These latter figures have been known about for a decade at least and all present political parties should, quite frankly, be ashamed to have left New Zealanders suffering in this way. It is now time to make amends and help the country modernise itself, catching up with the 21st century. The Pike River Mine disaster is a very particular indictment of what was done in the past to undercut miners' safety both through deregulatory action and the failure to address the situation when it was pointed out by workers, their unions and former professional inspectors - who warned the country against following the deregulatory course. "When will they ever learn?" seems an appropriate refrain to politicians here.

6. How could the regulators' roles and responsibilities be changed to improve their effectiveness in influencing workplace health and safety outcomes?

See above

New Zealand's changing workforce and work arrangements

7. What impacts are New Zealand's changing workforce and work arrangements having on health and safety outcomes?

As in all other developed countries the deregulation of the employment contract is the critical issue here, with the rise of insecure, part-time, temporary work. Many of these workers have conditions - depending on the country and region and ethnic group - similar to the displaced agricultural workers in the early part of the British industrial revolution. In response to that daily scandal in the UK, and to some effect in the British colonies, a movement based on the Factory Acts grew into the Robens system finally, we see today.

Are we to have to do that all over again?

8. What changes to the health and safety framework, if any, are needed as a result of the changing workforce and work arrangements?

Workers, whoever and wherever they are need to be able to chose their own safety representatives. The idea of a roving safety rep with legal powers is essential. Otherwise government inspectors will have to do this work, and there will never be enough money to hire enough of them. Better the workers do it themselves.

Worker participation and engagement

9. How effective do you think worker participation is in improving workplace health and safety in New Zealand?

Workers' participation in NZ was a late 'add-on' to the HSE Act 1992. It never caught up with events. there now needs to be a new hierarchy of 'risk' - i.e. in the high risk industries a special worker safety inspector, modeled on the UK workmen's inspector in the coal industry and the check inspector in Australian coal mines is necessary. How to set this up should be a priority discussion among the high risk industry actors, based on EU and Australian best practice. For general workplaces in lower risk areas of the economy, the safety representative system needs to be upgraded. for example, it is all very well to say that individual workers have the right to refuse dangerous work, but if they are too insecure to do so, what needs to be done to make this possible. It a Toyota car plant requires its workers to stop the production line if safety or quality is threatened, why cannot we find a solution for our workplaces? The quality of our products can only improve, something we really need to do to survive as a small faraway country in the competitive global economy. So, once again using the trained talents of our workforce - those people who suffer accident and disease consequence - are essential.

10. What improvements can be made to worker participation in workplace health and safety so as to get better workplace health and safety outcomes?

1. Creation of a statutory position of worker safety inspector in all high risk industries, elected by the workforce, in high risk industries. This person will have a minimum of five years experience in that workplace or a similar one; inspect the whole workplace with other worker inspectors, depending on the size of the workplace and send his/her report to the government inspector and the manager; with a requirement on both the government inspector and the responsible manager to respond in 'safety triangle' discussion and action.
2. Strengthen the powers of elected worker safety representatives, as suggested by former President of the NZCTU, Ross Wilson, in his submission to the Pike River Royal Commission.
3. Set up regional and national tripartite working bodies which act to constantly review and upgrade our current safety and health practice, rather than the Minister-led 'talking shop' we have at the moment.

Leadership and governance

11. To what extent do directors and other senior leaders provide effective leadership and governance of workplace health and safety?

The role of top company leaders is crucial if a company is going to reach international best practice. However, the real safety and health work has to be done by others, including safety and health professionals but especially the workforce and a bottom-up approach is essential for success in this area.

12. What improvements can be made to directors' and other leaders' participation in workplace health and safety, so as to get better workplace health and safety outcomes?

The most effective way to achieve compliance with this aspirational goal is to use legislation and public exposure, where companies have failed Kiwis badly. Something that hits the bottom line of its PR image will work where a thousand speeches from a Minister or even a Prime Minister will never.

NZ is fortunate to have some corporate leaders will to stand up and be counted. Give them more powers.

Capacity and capability of the workplace health and safety system

13. To what extent do firms have the capacity and capability to effectively manage workplace health and safety issues (including through accessing external resources)?

If a small waka ama club can train its child members in capsizing training, any workplace, however small can set up an effective health and safety system as well. What is crucial here is to change the national culture into a participating, bottom up one, where the value of keeping our loved ones safe is simply and widely promoted. Some good techniques can be used from the drinking and driving ads on TV.

But we have got to just bury the 'Nanny State' approach which originates from both the deregulation of workplace safety systems - with its emphasis on the fact that all employers are then responsible = the 'you are on your own' approach, and when that fails, as it almost always does then give out increasingly strident exhortations and moralistic warnings. We have become a country, not of pioneers but of politicians saying 'you are on your own'. The pioneers may have been rugged individuals but they helped each other get in the crops and still do and Maori people have never once turned their backs on the community-based culture. It is their strength and so it is in the modern workplace.

In the adventure sports industry moralism has taken over, with more strident statements with each death, with one or two throwback politicians trying to, foolishly down play the harsh truth, with even a few saying we are tough Kiwis here. This has happened, as the frequency of disasters especially those affecting tourists, increases. New rules fly from the civil servants' pens or keyboards and greater fines are set, but no one - NO ONE provides any training in a modern risk assessment approach to the host of volunteers who sacrifice their mornings, nights and weekends to teach our young people and those from other countries who to take part in these sports! What we must do is to grow up as a nation and thoroughly enjoy our risk activities, trained to the best of our abilities so to do.

14. What options are there for improving firm level capacity and capability to deliver better health and safety outcomes?

This is something firms should be required to state as their safety and health policy.

Incentives

15. How effective are existing financial and non-financial incentives in improving workplace health and safety outcomes?

I do not beleive that financial incentives are the key to best practice. Disincentives are, with fines put into a proper contect and corporate manslaughter for companies, too, to be thought through. Serious accidents costs companies big time and their directors must be held responsible as well, not just for losing the shareholders' cash but for killing, injuring and making ill their workers. without whom they would be nothing.

My general approach is to support, however, a no blame, problem-solving approach to safety and health and I do not support a primarily punitive, over-regulated system

16. How could incentives be better used to improve workplace health and safety outcomes?

The value of 'moral incentives' cannot be overstated - competitions with prizes, recognition of safety representatives and safety managers in company meetings, parties and social events.

I am not in favour of 'safety bonuses'. They too often become distorted.

Influencing health and safety outcomes beyond one's own workplace

17. How successful are government, industry, corporate or other potentially influential bodies in influencing health and safety outcomes beyond their own workplaces (for example through influencing their suppliers, counterparts, and competitors)?

See most of the above - in NZ we have a long way to travel.

18. What could be done to get government, industry, corporate or other potentially influential bodies to exert greater influence on improving workplace health and safety outcomes beyond their own workplaces?

As above

Major hazards

19. How strong is New Zealand's current approach to regulating major hazards?

My Note on Process safety

MBIE made a presentation on process safety versus occupational safety. This presentation by the HHU is very basic indeed and in some ways misleading as it seems to suggest they are completely different. One slide shows a very small overlap of two triangles.

What the presentation is wrestling with is the apparently huge differences between a single fatality and a catastrophic process plant accident, killing and injuring many people.

Risk assessment, including hazard analysis should be applied to all workplaces, irrespective of whether they are process plant or a supermarket. It should be carried out by the safety triangle or three-legged stool of managers, government inspector and worker safety representative, or the safety delegate/check inspector in high risk industries. This is the core partnership at the heart of the best practice countries of the EU and Australia.

Having said that things to watch for in process safety are:

1. Process industries are typically semi-automated, or automated, continuous flow systems such as chemical plants, oil and gas rigs, steel making etc. There are also elements of process systems in manufacturing industries like car factories and even quite small workplaces, these days. These facilities range from low to medium to high risk, using chemicals, explosive gases etc. The headline accidents that have taken place in process industries recently include the Texas oil refinery explosions and the Deepwater Horizon rig disaster. Process industries are complex systems of people and machines and cannot be easily analysed using a 'human error' approach that might be suitable to slipping on a supermarket floor. An accident often involving plant destruction involves a casual web of factors. The most severe accidents are likely to be the most complex and the layers need to be peeled away to understand them, for future prevention. Human errors may be in the outer layer but it may be, as in the case of the Deepwater disaster, as the accident team investigating it found, that it is difficult to find any single action or inaction as the cause.

2. Points to consider are:

- Design and process risks: these are less observable and are more to do with the plant and equipment design - such as confusing control signals, inadequate displays, poor alarm systems with too many alarming at once, outdated maintenance standards, designs that hinder the proper use of protective equipment;
- Culture and decision risks: for example, at the Texas oil refinery a large minority of the craft and maintenance technicians felt that they had not been properly prepared by their training to have a clear understanding of the process risks;
- Operating dexterity: skilled operators with experience and constant retraining can cope better with crisis situations. Operating dexterity helps a worker to respond in situations of uncertainty and make the right decision
- Effective team working: no one person completely understands a modern process plant and team working is anyway required to optimise plant performance. Teams need to be built in every new facility and rebuilt after changes to existing ones and trained to anticipate risk. At the Pike River mine, among the many deficiencies which led to disaster, was the fact that the team building at mine level was extremely poor and the inclusion of worker representatives virtually absent.

* Enhancing design making capacity is essential, using good ergonomic design.

20. What improvements to the regulation of major hazards would lead to better health and safety outcomes?

1. Use modern risk assessment and hazards analysis. This means that our 'hazards based' legislation must be upgraded. Hazard analysis is inadequate as if a manager just appraises a hazard as low, he is less likely to act in a precautionary manner (as the Pike River management team did with methane gas and did not even include the possibility of a gas explosion in the emergency plan for the mine and trained no one to respond therefore). If he thinks it is high hazard, he make take necessary pre-cautions. However, risk assessment also asks 'what is the severity' of an accident? It then combines likelihood/frequency with severity and then the manager using it takes the 'low' hazard much more seriously if the severity of consequence is greater. This is one major reason why China is moving to risk assessment from hazard analysis. It has suffered a lot more, 100 plus fatality gas explosions in low methane mines than in high methane mines.

2. Involve the whole workforce as argued above. the greatest incentive to stay safe is among the workforce, who are likely to suffer and they must be equipped with the tools to do so.

Health and hazardous substances

21. What are the most significant challenges to managing occupational health risks and exposure to hazardous substances?

I recommend the EU 'REACH' approach to this as international best practice.

22. What changes could be made to the existing health and safety framework to reduce the harm caused by occupational disease and ill-health?

First, we need to accept widely and publicly that many more workers suffer from occupational disease and ill-health. This area has been the poor relation as modern countries drive down their accident rates. That last thing that should have been done was to abolish the committee dealing with this, but this was part of the deregulatory movement.

We need to get real, set up a new leadership body and systematically work through all our employment areas, recognising that there are new areas of ill-health emerging as the modern workplace changes.

Once again, EU countries are already leading on this and we do not need to re-invent the wheel but we do need leader institutions to do their job.

Small to medium-sized enterprises

23. What workplace health and safety challenges are specific to the self-employed and small-to-medium enterprises?

This is not my subject area, but there needs to be an integration of good safety and health advice into a 'one stop shop' advisory system from SMES. As the Taskforce report shows, we do not have more SMES than comparator countries.

24. What improvements could be made to the workplace health and safety framework, and its implementation, to ensure that it's effective for self-employed and small-to-medium sized enterprises?

As above

Measurement and data

25. To what extent are New Zealand's workplace injury and occupational disease data collection mechanisms conducive to robust monitoring, investigation and comparative analysis?

Our accident reporting and ill-health reporting system is confused, over-lapping and leaving large gaps.

It must be redesigned to produce useful statistics from which trends and progress can be measured.

Above all it must be public and comparative with the comparator jurisdictions chosen. Once again we can learn from international best practice and link into the work of the ILO, as in all other aspects.

26. What opportunities are there for improving data collection, integration and reporting?

as above

Our national culture and societal expectations

27. Do you think New Zealand culture influences our workplace health and safety outcomes?

In my experience, having worked in five different countries on three different continents, we are essentially no different from any other country, except that we deregulated much faster than any other country. I do not accept that the 'she'll be right attitude' determines our safety and health reality. That attitude can be found the world over.

28. What might we do to improve our culture relating to workplace health and safety?

See the answers above - but start in the primary schools, with simple, enjoyable, daily training that does not even need to be defined as such. It should be an essential part of the school curriculum.

Other factors

29. Are there any other factors (not already covered) that influence workplace health and safety outcomes in New Zealand?

Our national will - if we choose to do so we could take this opportunity and develop a world-leading approach. This has happened before in our nation - with the right to vote for women, the welfare state and the Treaty of Waitangi process. From being so bad, we could become so good, having learned from our mistakes. It is up to us. We could then hold our heads high in all international fora on safety and health.

30. Do you have any other suggestions for how to improve workplace health and safety outcomes in New Zealand?

as above

Other comments

31. Are there any other comments that you would like to make?

as above

Please send your completed submission to secretariat@hstaskforce.govt.nz (preferred) or post it to: Submissions, Independent Taskforce on Workplace Health and Safety, PO Box 3705, Wellington 6140. We would appreciate it if you could get your submission to us as early as possible, but at the latest, you must get your submission to us by **5pm, Friday 16 November 2012**. If you are sending your submission to us by mail, you should put it into the post by 5pm, Wednesday 14 November 2012.