



26 November 2012

The Secretariat
Health & Safety Taskforce
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Re: Health & Safety Taskforce – Public Submission

The purpose of this submission is to provide the Taskforce with reasons they might choose to include anonymous reporting facilities in the recommendations to the Crown in the context of worker participation.

We focus this submission on three aspects:

- Worker Participation
- Self-regulation Vs Co-regulation
- Responsibility of the Board

Worker Participation

The benefits of worker participation in H & S is well documented world over and the results of successful worker participation systems in Australia and the UK have contributed to those countries having an enviable H & S record in comparison to New Zealand.

It is important though, to ensure that worker participation is not confused with workers being fully informed. A great mistake would be to think that worker participation is about the employer providing information to the worker without first having the worker input. We believe that is tantamount to placing the cart before the horse.

The primary responsibility for doing something about the present levels of occupational accidents and illness lies with those who work with the risks.

Therefore the very best form of worker participation must be for the ideas and concerns of the worker to be the catalyst for improvement. The ideas on how to address the concern or to expand on the idea can then be refined by the employer before then being passed back to the workers for feedback.

This is effectively a system of self-regulation within the respective workplace, empowering the workforce to be fully involved in that aspect of the business. It makes sense after all, because the respective workforces are the ones primarily affected.

The mining industry in Western Australia has been a world leader in worker participation practices and as a result can provide many fine examples:

- They have adopted a self-regulatory system where employees play a key role in reducing occupational accidents & illness.
- A key part of it is that the employees have established effective communication lines with employers and have implemented self-monitoring arrangements for H & S in their respective workplaces.
- The system is then overseen by appointed Inspectors who can offer impartial advice and assistance.

The Australian Government has now adopted that system of participation, consultation and the collective involvement of employers and employees. As a result, Australia is now reaping the benefits by way of a vastly improved workplace H & S record.

So, if it is accepted that worker participation is to play a major role in improvements to New Zealand's H & S record, then the obvious question is how to engage the workforce and be sure that all of their concerns are being tabled?

In an ideal world it would be great if everyone was forthcoming with their concerns and ideas and felt that they could speak freely and without fear of reprisals. Unfortunately that is not always the case.

This is where the aspect of anonymity and confidentiality is so important. The beauty of that type of system is that it then becomes the easy 'go to' option for voicing concerns and ideas, while also providing the employer or any overseeing agency an obvious start point for monitoring and auditing purposes.

It works equally at both ends of the business in that it places equal responsibility on the workers (to report concerns) and the board (to act on those concerns). It provides workers with a direct conduit to the board enabling the board to better manage and mitigate risk.

Self-regulation Vs Co-regulation

It is generally accepted that the Robens principle of self-regulation is a good system and we agree, however, we believe that New Zealand has a unique opportunity to improve on the Robens system by establishing a co-regulatory environment.

The regulations would be in the form of establishing a workable system and regulating for certain elements of the system to be in place. It is difficult to regulate for worker participation, simply because it would be so subjective. However, a simple solution for that is to regulate for aspects of the worker participation in order to ensure that workers have the ability to be heard.

We say that is in the form of an anonymous & confidential reporting system.

The co-regulation model could be expanded by way of industry or government appointed inspectors to ensure the regulations are being met and/or to offer advice on how the system can be achieved.

Aside from the obvious benefits for the employee, one of the key reasons to regulate for such a system is that the system then becomes an effective & efficient auditing tool in that concerns raised can quickly be identified, thereby expediting the process of determining what measures have been taken to address those concerns.

Co-regulation in this form provides the business the opportunity to implement a self-regulatory environment while proving the government with the ability to ensure there is a system in place and a way of auditing.

Responsibility of the Board

Of course in terms of the success and failure of any business the buck stops with the board. Just as the board should take the accolades for the success of business they should also be held to account for the failures.

Most would agree with that, after all it only seems fair. However, in fairness to the board, they don't know what they don't know.

By this we mean that if the board are not made aware of accidents, illnesses, near misses and risks in the workplace, how do they assess those risks and address them?

Without getting into the Pike River report too much, it does highlight an example of the board not being fully informed on H & S and as a result H & S being poorly managed. The Pike report points out quite rightly that it is the responsibility of the board to be fully appraised.

However, it was also highlighted in the report that the board had in fact appointed a two man HSE committee who were to report to the board monthly. That report failed to provide the board with adequate information in order to assess the risks. You don't know what you don't know.

We are not attempting to defend the Pike Board of Directors at all, we agree with the report in that it was the responsibility of the board to ensure effective systems were in place. We are simply using this example to make our point.

The point being, had there been an anonymous reporting system in place, a direct conduit to the board, or at the very least a way for the board to audit the many concerns raised in the mine, the dangers underground would have been identified and most probably addressed given their significance.

In order for the board to fully assess the risks in the business they must be fully informed of those risks.

Other Matters

To finish we acknowledge the Pike Report. We are not in a position to comment on all of the recommendations but we do point out several of the recommendations have an application across all industry:

- A Health & Safety Code of Practice.
- A Crown H & S Agency.
- Worker Participation improvements through legislative and administrative changes.
- Having H & S systems should be an integral part of permit allocation and monitoring.
- H & S risks should be included in the Risk Management procedures and responsibilities of the Board.
 - In addition to this we believe an H & S report should be included in Annual Reports.

Finally, would welcome the opportunity to be involved in any further discussion regarding reporting facilities.

We respectfully provide these submissions to the H & S Taskforce and in thank you for the opportunity to contribute.

Please feel free to contact the writer with any queries you may have.

Best Regards

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Director

