



# 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](http://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](http://www.hstaskforce.govt.nz)

### About you

\* Indicates mandatory questions

#### 1. \*Your full name:

Paul Jarvie

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

☐ Individual ☐ Organisation

Name of organisation: Employers and Manufacturers Assoc.

#### 3. \*Region

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Northland | <input checked="" type="checkbox"/> Whangarei     | <input checked="" type="checkbox"/> Auckland |
| <input checked="" type="checkbox"/> Waikato   | <input checked="" type="checkbox"/> Bay of Plenty | <input type="checkbox"/> Gisborne            |
| <input type="checkbox"/> Hawke's Bay          | <input type="checkbox"/> Taranaki                 | <input type="checkbox"/> Manawatu-Whanganui  |
| <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: a variety of managers

#### 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 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 |  |

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**7. Gender**

☐ Male ☐ Female ☐ Other

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**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 type="checkbox"/> 65+   |

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**9. Ethnicity**

- |   |  |
|---|--|
| <input type="checkbox"/> NZ Maori       | <input type="checkbox"/> Asian                                 |
| <input 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               |

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**10. Your contact details**

Phone number(s)

Email address:

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**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?

Our research indicates that males, Pacific, Maori & Pakeha between the ages of 20-30, 40-50, & 50-60 are the areas that cause most injuries. 60% of respondents indicate that they didn't think there was a difference in the demographics of those being injured in the work place.

There was some debate as to the causes of why the demographics may be this way. Some of these relate to young workers coming through having no concept of risk and may be risk adverse, may be having no concept of plant or equipment.

There was a lot of debate about the old aged workers being injured at work. This was an area of debate and it came down to are they actually fit for the job. Issues around why are 60,65 & 70 year old still working on a construction sites. This may be an issue of a social driver requiring these people to remain at work.

There is also an issue of people not having the confidence to speak out and challenge. This may be an issue of ethnicity.

There is also an issue around young people having to prove themselves and older people having to maintain their work ethic in the belief that this will keep their job.

They thought especially with the younger workers that they had very poor exposure to risk and risk taking as society for ever takes risk away from play grounds etc. It was also thought that young people come from a low risk world, or false risk in terms of PC games.

The modern apprenticeship are strong on theory but have low practical exposures.

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?

There is a strong consensus that literacy and numeracy training is required for employees to better understand some of their roles & functions. There is a strong concept of more training for managers to understand Health & Safety Management systems but equally understand the role of their duty holders plus understand what their roles is in managing occupational Health & Safety on the site.

It was thought that there were too few inspectors. This is in line with the ILO recommendation of 1 inspector per 10,000 employees. We currently do not have that level of inspector. With this ratio applied NZ would need 223 inspectors.

There is a concept that they want the department of labour to be a modern regulator to assist with mentoring and coaching but at the same time still keep the enforcement as a last resort. There is also a strong concept of hazard management vs risk management with the concept of moving more to a risk base system but that should be evolutionary rather than revolutionary.

The concept that came through clearly was that all staff need training but more importantly need re-training on a frequent basis, maybe 2,3 or 4 yearly depending on the sector that they are in. There is a strong concept that employers would like to see inspectors come from the sector that they work in. This would give them more understanding of the issues and also be able to speak with employers at the same level using their jargon.

There is a strong concept for the merging of Department of Labour with ACC and in fact this could be expanded to include CAA, Maritime and MOT. See attachment.

One of the concepts that came through was that it is a very competitive market and the pressure of work that is deadlines both for work completion and quality of work to be done can add extra pressures on employees. They might knowingly or unknowingly take short cuts.

Safety culture was also mentioned that this can also drive bad behaviours.



## Regulatory framework

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

It is thought that the department of labour has a low profile and is reactive. Many employers thought that the only experience they have with the Department of Labour is following an event and this then leads to prosecutions. Many employers also voice their opinion that DOL had been brought in on a pro-active issue, this often then lead also to regulatory control. In summary this is not building bridges. Employers thought that legislation was biased toward the employer and left the employees accountabilities and responsibilities at a very very low level. It was thought that cases could be taken against employees where appropriate and where "contribution" could be used to assist in the prosecution. There was an issue that employers thought that there were an overload in the terms of the numbers of codes of practise for small employers and that they just didn't have time to read the raft of codes of practise that may apply to their business. It is also thought that the Department of Labour themselves don't even follow their approved codes of practise when giving advice. Designers & manufacturers need more ownership of their products & services and to be held accountable through the regulatory system. This we believe is a huge oversight and one that needs urgent attention.

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

There was a plea for the Department of Labour to give good advice, and perhaps back this up with public seminars. It was strongly felt that the Department of Labour is invisible within work places and within the public sphere. It would also be helpful if the Department of Labour gave more spontaneous visits in that mentoring coaching role and be seen as helpful advisers rather than just as the inspector.



## Regulators' roles and responsibilities

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

The large majority of employers felt that the Department of Labour was not effective in influencing work place health & safety outcomes.

Many employers fear the Department of Labour fronting up to their business as this means bad news this means prosecution. This may not be reality but certainly it is a public perception. Some employers thought that inspectors misrepresent codes of practise, what's in them and their legal status. This adds to the confusion about who employers believe.

Some thought that the Department of Labour codes of practise were too wordy and hard to read and queries whether they in fact were offering solutions. There was a strong issue in and around the machine guarding standards, being hard to read, very hard to find and if you did find them, they were extremely expensive. The expense would be a major driver for employers not to buy them.

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

There was a strong agreement that the recent TV programme on Department of Labour investigations was very good as it sold many messages using a real life example. The consensus was that more of this public TV system could be used.

It is also strongly agreed that integrated occupational health & safety management systems with iso 9000 and 14,000 would be the way to move forward.



## 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?

It was agreed that over time as an issue in some work places coupled with the casualisation of work. It was accepted that many employees have several jobs, and that this directly effects the amount of sleep that they have.

It was also accepted that some work places have 4 12-hour shifts but it is also widely known that employees work on the other days off.

It was also agreed that today's work places increase pressures on work with decreased active supervision by staff. Supervisors may in fact now be doing more paper work or computer work and do not have the one on one or one on team supervisory roles. There was also a concept that casual staff may in fact get less training than full-time staff as there is no long term commitment by the casual staff. This is a chicken and egg situation.

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

It was thought that some training could be given to employees on how to manage their own hours of work specifically if they have secondary employment. It was also thought that the whole question about sleep & fatigue could be a core subject for employees. It was also thought that managers need to understand how to manage work and work load and to ensure that people aren't working excessive hours on call back.

It was also thought that bringing health & safety into schools and woven into their existing curriculum would be a good way to expose new employees as to the risks and issues that would face them when they come to the work force.

It was also thought that the better use of industry associations could be used.



## Worker participation and engagement

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

Employers thought that the use of health & safety reps was an effective method for improving work place health & safety. Many employers have had their health & safety reps trained specifically in stage 1, less in stage 2 and a few in stage 3.

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

The health & safety rep training courses need to be re-vamped. There was a concept that stage 1 could be a core topic and stage 2 perhaps 3 could be then sectorised to add more value to that training. It was also thought that health & safety rep training could be given through NZQA thus the employee/reps can gain credits for their training and this may give them some incentives to do further training. Funding cuts to the health & safety rep training was seen as an issue although the figures going through currently might dispel that. The concept of a roving rep was given a guarded yes but would need a lot of detail, scope and direction to be ironed out before employers would embrace this concept.



## Leadership and governance

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

There was an overwhelming acceptance that directors should have more accountability and responsibilities in the governance of occupational health & safety. Employers had a guarded agreement for the concept of corporate manslaughter. This again would need a lot more detail and clarification. It was also a thought that having the charge of corporate manslaughter is very difficult to prove and is probably seen more as a deterrent on the books rather than a actual risk of being prosecuted. It was also thought that directors need to be trained in health & safety to better understand their roles and accountabilities.

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 concept of the Department of Labour in conjunction with other major stakeholders producing a guideline document for directors would be seen as a useful help. It was also suggested that taking the word 'known' out of Section 49, would also assist in the Department of Labour taking prosecution. It is also noted that Section 56 currently allows for directors to be prosecuted. There is much information that is available overseas under this heading that can be utilised and customised to suit the NZ culture.



## 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)?

There was a strong agreement that employers don't have the capacity nor the capabilities within the workplace to manage their scope of occupational health & safety issues. This is primarily due to managers coming up from the shop floor or if they are a small to medium employer, you were an employee but now you own the business. To this end, there is too little training for managers and occupational health & safety. Many employers do use external providers to assist and manage occupational health & safety and while this may be acceptable it is acknowledged that the competency and educational qualifications of external providers is low when compared to overseas jurisdictions.

It is also noted that in the new Australian health & safety model legislation that the regulations talk about someone who is suitably qualified. This requirement that employers must seek information from someone who is suitably qualified as defined. This notion may be applied to NZ.

It is also noted that anyone can set up business in NZ from a low-risk operation to a high-risk operation with no occupational health & safety training whatsoever. It is also noted that many occupational health & safety accountabilities and responsibilities are managed through HR and the question must be are these people suitably qualified to manage such a portfolio.

It is also noted that through the NZQA system that much of this training is on the low level and we think that the NZQA - ITO's could be utilised more.

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

There is a huge need for managers to be trained in occupational health & safety with the same concept as the health & safety reps. It is currently noted that some 67,000 health & safety reps have been trained but there will be a very small percentage of those who will be deemed as managers. This creates a huge in-balance in the work place. It is also noted that in some countries, to own a business you have to have some health & safety training.

New factories and businesses that are set up are not required to register with the Department of Labour so in most cases MBIE actually don't know who is working out there. The proposition would be that all new businesses and existing businesses have to register with the Department. The department then does a risk assessment to put the business into bands. From these bands MBIE can then prioritise their intervention strategies.



## Incentives

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

The role of both financial and non-financial incentives was not thought to be a major influence in health & safety. Only 23% thought it was. 38% no and 38% were not sure.

There was a concept that passing the WSMP Audit gave you a level of compliance against the Department of Labour. This is patently incorrect.

For the SME market, the incentives are just not worth it as 1 weeks absence from an employee loses your discount under experience rating. This week off work could have no bearing on the severity of the accident but merely the whim of the treating GP.

It is also noted that those under the WSMP scheme do not have better accident or severity records when compared to those outside the WSMP scheme.

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

There is a general consensus that the level of rebate under WSMP could be improved although as stated above this may not in fact have any real effect on the injury rates. Employers thought that the function of the Department of Labour with the ability to issue instant fines for infringement notices would be worth while and this could be rolled out better. Some employers thought that WSMP entry at a primary level should be mandatory as the license to operate your factory/ business. This could be sectorised in the high risk groups and brought down to a level that would be seen to be low risk.

It was thought that the level of fines, while high for a small employer aren't really high enough and for a large employer are starting to hurt, but this just merely creates the legal market for stronger defences.



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## 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)?

There was a strong agreement that the supply chain mechanism can be used as a powerful tool to influence suppliers. It was also agreed that governments should take a much larger role and leadership under their huge ability in terms of procurement. With the issue of contractors, principles currently have the prime responsibility for the health & safety of contractors and sub-contractors and this is an area of great concern for employers as the ability to manage contractors in and around work sites can be compromised by their own requirements to manage their own work places. There was a strong consensus for employers that the management of contractors on site should be a shared responsibility and liability. To this end, the degree of contribution by the contractor should be taken into account if a contractors employee has been injured. This would take some of the pressure off the principal. There is an issue around the use of 'HSNO compliance' vs contractor compliance under health & safety. This area needs to be sorted out.

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?

It is mentioned that we believe that government should be made more responsible in managing their procurement policies in the supply chain initiatives. Currently only a small percentage of government departments actually engage in the WSMP Audit.



## Major hazards

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

We note that the introduction of the new major hazard unit under the Department of Labour and acknowledge its timeliness. Employers thought that other major hazard groups could be managed in a similar vein including dust, high temperature processes and some civil construction.

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

We believe that a risk profile should be done across the board and that high risk industries have to have a "safety case" methodology to manage health & safety. This would then allow the inspectors when on site to look at the safety case and evaluate what the employer is actually doing in respect of their safety case. This is a far more objective way of managing health & safety.



## Health and hazardous substances

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

The most significant issue around occupational health is that employers & employees don't know that they don't know. There is a huge requirement for a lot more information to be made available to employers in an easy and understandable way for them to lift their game. There needs to be more surveillance around hazardous exposures and more education around the use of MSDS documents. Having an MSDS does not make the process safe.

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

We believe that all high hazard units need to have a license to operate again accompanied with a safety case. We believe employers need to undertake a lot more biological monitoring and environmental monitoring for them to be able to have confidence that their work place and their employees are in fact healthy. Major concern for employers around biological and environmental monitoring is the cost of that monitoring. This can be very expensive processes. Under the old regime, the Department of Health had the mandate to do a lot of this monitoring on site. Since 1985 onwards, the Department of Health inspectors for work place have vanished.



## Small to medium-sized enterprises

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

It is totally acknowledged that getting information to this SME market is both difficult and problematic. The current research also supports the notion that even if you write information that is specific to the SME in a language for SMEs that often they will not read it. Their answer to this is they are so busy maintaining and working within the business. Again, we believe that if the SME market is working in a high risk profile sector, then they need to have a safety case and the managers need to have some formal training to manage the business in a safe and healthy way.

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?

We believe that the use of business associations, mentoring groups may be a way forward. We also believe that if a lot of this information can be put into the NZITO's and NZQAs - this may incentivise employers for gaining qualifications and credits. It is also a huge ability for the SMEs to enter a mentoring process and this could be investigated.



## 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?

The OSH data sets at the moment are problematic and while improving, are difficult to use. It is noted that the ACC data set is the one that is used most often. Having said this, it accepted that even this data set has problems. Much information is gained from occupational health nurses working onsite. But this information is not shared into any national database. There would be obvious questions about consent for the information being used but it is a data source that is not being used currently.

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

We believe that a central repository for occupational health & safety data be set up that is distanced from ACC and is distanced from the regulator. This would have the ability of employers being able to submit data knowing that it wasn't going to be used against them. Obviously there is a need for reporting your serious harm accidents to the Department of Labour but this would be for that purpose only. There is a huge need for the department of health to come on board and become part of the solution as well, e.g. amending hospital admission forms.



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## Our national culture and societal expectations

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

It is noted that the instrument of company culture is a major vector in establishing and maintaining a safe and healthy workplace. We believe that the current cultures found within work places are contributing to workplace outcomes. We often hear a safety message being driven from the CEO or from the managers to be followed by the following day for the need for more productivity and better quality maybe at the expense of health & safety. What employees then hear is that productivity takes precedents. There has been much written about safety culture both nationally and internationally and we believe that we don't need to reinvent the wheel, there are solutions out there, but we do need to find a system that suits NZ.

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

We believe that there is a small but significant movement in health & safety culture and that it is starting to ripple out across other employers. What is needed though is some leadership from all Government Departments and from the regulator to give more direction and scope of what may be required. This could come out in codes of practise, governance documents and some examples through the business leaders forum.



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**Other factors**

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

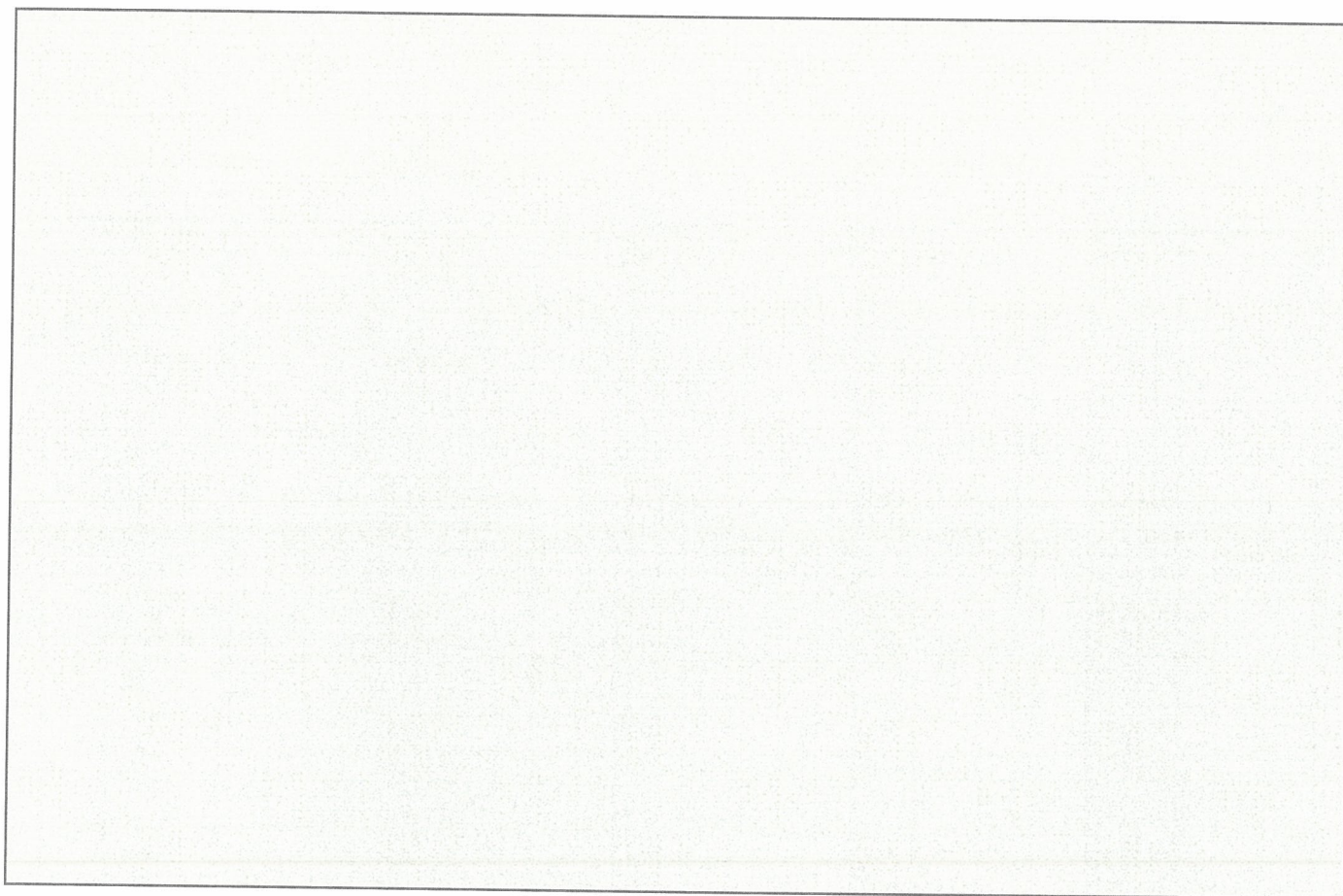
30. Do you have any other suggestions for how to improve workplace health and safety outcomes in New Zealand?



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## Other comments

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



Please send your completed submission to [secretariat@hstaskforce.govt.nz](mailto: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.