



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:

Ian Bartlett BSc DipOccHyg MFOH

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 checked="" 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 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 checked="" type="checkbox"/> 55–64 |
| <input type="checkbox"/> 35–44 | <input type="checkbox"/> 65+ |

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 checked="" 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?

There are four main drivers in force:

1. The degree of education and knowledge on health and safety matters that exists within a particular group as it enters the workforce.
2. The amount and quality of education and knowledge on health and safety matters a particular group receives while in the workforce.
3. The amount and quality of education and knowledge on health and safety matters managers of a particular group have.
4. The extent to which any particular group can influence change in their workplace.

The more education and knowledge that exists in 1, 2 and 3 the greater the chance of more favourable health and safety outcomes.

However point 4 is the most important of the 4 factors. The more barriers there are to change the more unfavourable will be the health and safety outcomes; no matter how much education and knowledge exists within an organisation.

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?

Overall the framework for H&S in NZ is, with the exception of the introduction of HASNO to confuse the picture, basically OK. It differs little from frameworks in all the countries that are apparently outperforming us H&S wise.

What is lacking in NZ is consistency in the following areas:

- Leadership
- Education
- Funding
- Focus

I believe that the leadership starts with the NZ Government and flows down and out from there. NZ has a woeful history of poor leadership from the Ministers responsible for OSH or whatever we call that organisation in its latest incarnation. Couple that with the funding issues and frequent structural changes (aka political tinkering) within OSH, DoL and now MBIE and we end up with those charged with leadership of health and safety at a national level doing little other than managing change every three years or so.

I hope that this is that last Task Force review we see for the next ten years – we haven't even completed what we were tasked with doing under the Workplace Health and Safety Strategy (WHSS) and there is only two years left for it to run. Why? – because it lacked leadership, funding and focus.

For the future we need to establish a single "regulatory" entity for Health and Safety that isn't swallowed up by some "super ministry". It needs to be properly funded with strong leadership and talented, qualified people throughout the organisation. Until that happens future initiatives will founder in the same way as the WHSS has and outcomes will not be improved.

I question whether setting up a "no fault" compensation system (ACC) was wise. I wonder whether this leads to a sub conscious attitude that somebody else will pay. Does the UK have better stats than NZ because, in part, employers must have insurance and can be sued as well as prosecuted? These are strong motivators to focus the mind of directors and managers of companies.

There is in my opinion a critical gap in failing leadership from the Government and its Administration arms. Until this issue is addressed for the better, outcomes at workplace level will hardly improve.

Regulatory framework

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

As previously discussed, the framework is largely OK, NZ does not need to waste valuable resources on trying to change the framework. The challenge is to properly fund and resource a Department of Occupational Health and Safety to use the existing framework to best effect. Please note that Health, in the title of this Department, has been deliberately placed before Safety because the burden from Occupational Disease is far greater than that from acute traumas.

The Department or however it is named must be seen as an independent and authoritative entity, not one that is "buried" within some all encompassing "Super Ministry" where there are likely to be conflicting needs diverting the primary focus which is simply to reduce ill health, injury and death resulting from work.

Challenge #1 for this new Department will be to look at setting reasonable targets for reductions in workplace ill health, injury and death. Targets are set for reducing the road toll, the same should be done for the workplace. Targets must be clearly and publicly stated e.g. by 201X we expect the incidence of Y to be less than Z/10,000. Targets masquerading as slogans such as "Together to Zero" are unacceptable and trite!

Challenge #2 will be to establish a properly funded action plan that sets out the intentions of the Department. Within that plan should be the expectations the Department has of the various industry sectors.

Challenge #3 will be for the Department to establish an authoritative, usable and understandable body of knowledge and guidance for use by industry.

Challenge #4 will be to establish an awareness programme via "prime time" TV advertising to get this guidance widely known. This concept is already used to get the message across about drunk driving yet we kill more people at work than we do through drunk driving. Government needs to take the lead here!

Challenge #5 will be to refocus on risk assessment principles and establish an Approved Code of Practice which can be used as a best practice guideline.

Challenge #6 will be to resist the call to make legislation more proscriptive. This approach has been seen in the HASNO Act and Regulations which have required huge resources to establish and administer and the payback for this has been minimal. We are still seeing major incidents which HASNO was either supposed to prevent (Icepack Coolstores) or were never covered by HASNO (Pike River). More regulation is NOT required, improved education and guidance (Approved Codes of Practice) is a more flexible approach and can respond more rapidly to change.

Once these regulatory challenges are addressed then industry can be set their challenges.

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

As stated previously it is the current operations within the framework that need to be improved not the framework itself. The tools are there already, now what is needed is to learn to use those tools efficiently and add to them or improve them where required.

Think of it this way:

Framework = A well stocked Mitre10 store.

Now we need to show people the various modes of transport to get them to the store, ensure they have the funds to use the transport and make purchases when they get to the store. Staff in the store need sufficient knowledge to help customers find the items they need. Moreover the store staff have to be knowledgeable AND able to show the customers how to use the items they have purchased if needed. The customers need to know to ask if they are not sure.

Stop trying to build another store and invent new tools!! They already exist, improve on the quality of what we already have.

It really is that simple.

Regulators' roles and responsibilities

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

If NZ's current H&S performance is compared to similar jurisdictions then one would conclude that NZ regulators are the least effective in influencing H&S outcomes.

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

OSH, DoL[H&S], - whatever we want to call them need taken out of the MBIE and established as a separate Crown Entity as per Recommendation 1 of the Pike River Royal Commission Report. Thereafter that entity needs to be split into two clear divisions.

One division is the inspectorate division who's focus is on ensuring that workplaces are complying with the legislation. Their training and focus is on the legal aspects of H&S in the workplace and they should possess excellent auditing and forensic investigation skills. Their responsibilities will be directed at inspection, incident investigation and enforcement. They are not problem solvers!

The second division (support division), larger in numbers would comprise full time employees supplemented by a range of contracted in (paid) skills. This division would form the advisory arm. Their responsibilities would include providing specialist advice to the inspectorate and the production of authoritative guidance documentation and other media to the inspectorate and workplaces in general. They are not problem solvers when advising the inspectorate!

The support division would have a list of suitable and competent persons to assist both the inspectors or workplaces. For inspectors these competent persons would be available to assist in any aspects of the inspectors enforcement roles but again, they are not problem solvers! If a competent person is engaged to assist a workplace then they are more likely to be problem solvers in which case they must not have been involved on any enforcement role with that workplace and vice versa.

OSH, DoL, MBIE must come off the fence and make clear, public decisions on defining competency. There will need to be a lead in period of several years, liaising with professional bodies to set up what is essentially a workplace assistance scheme. It is accepted that it will take time to build such a system as many individuals would need to gain appropriate accreditations via the professional bodies.

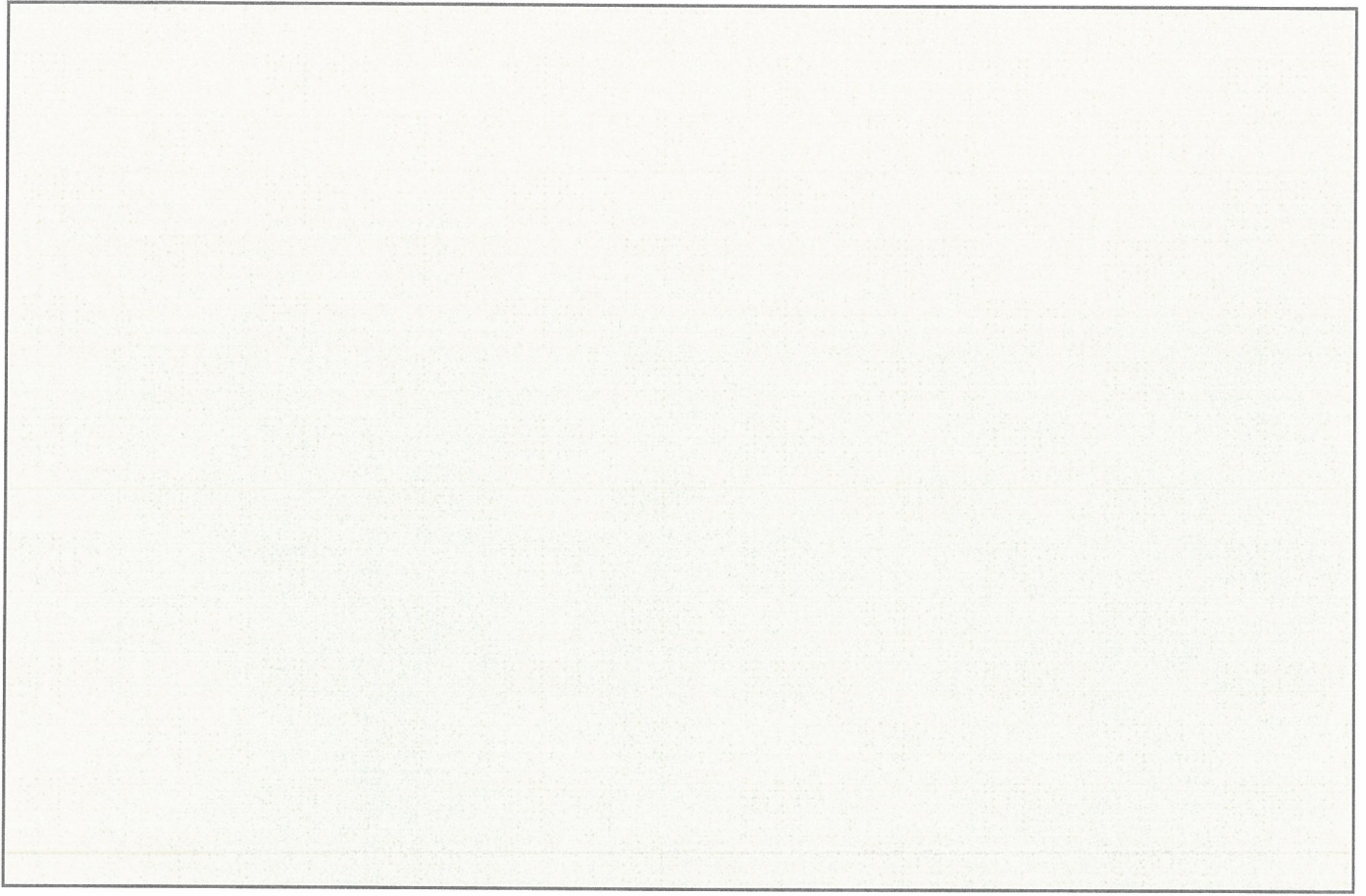
A decision to follow this path of identifying competent persons will do much to encourage individuals to increase their competencies in order to remain relevant and competitive in their sphere of activity.

This is already done for builders, gas fitters, mechanics undertaking WOF's, nurses, doctors, accountants, lawyers, dentists etc. there is absolutely no reason why the concept can't be initiated in the field of H&S. There is a strong argument to be made that health and safety progress has been so slow because the "H&S practitioners" have been totally unregulated.

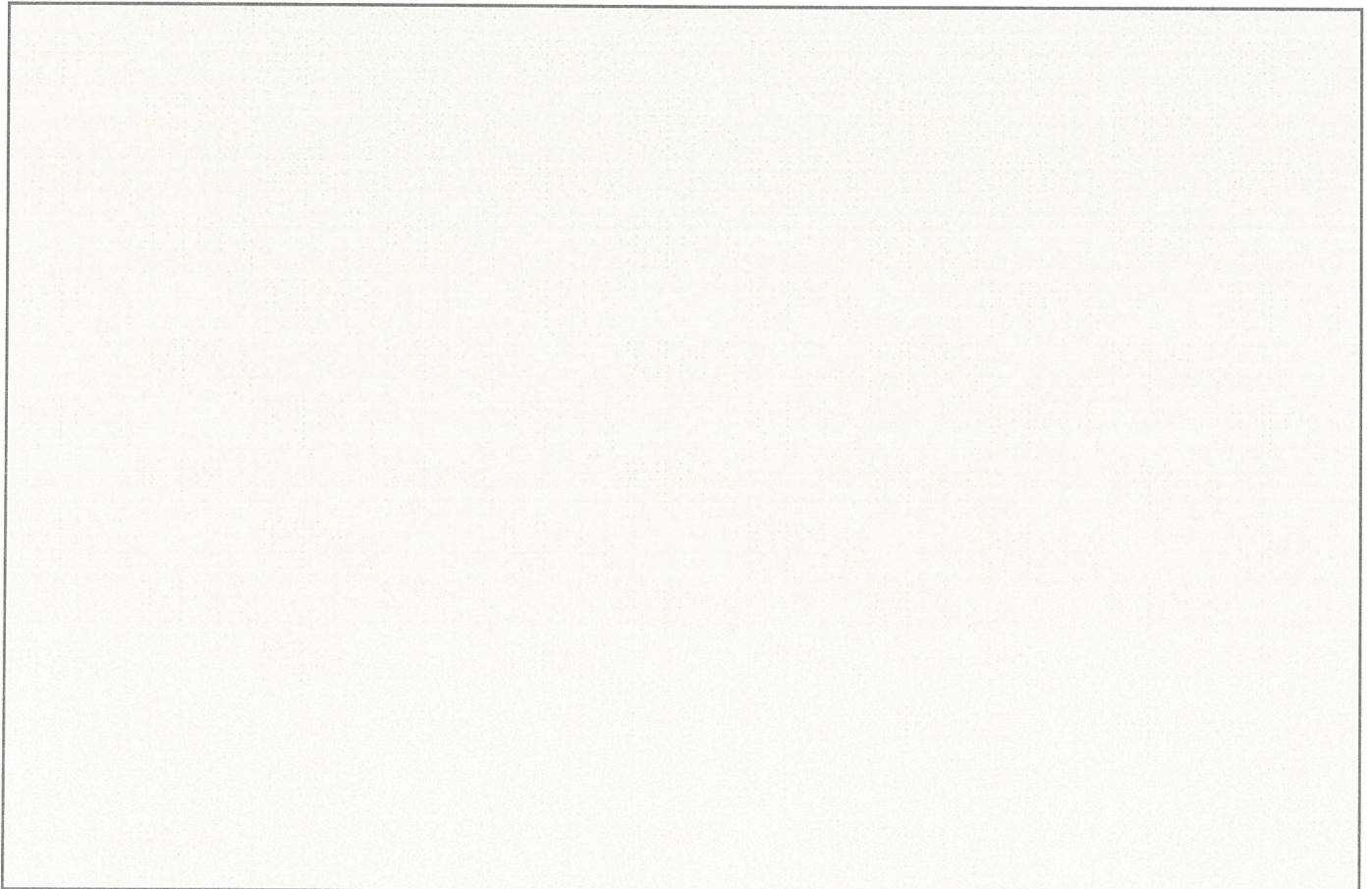
Initially there will need to be Government funding for such a scheme and where the larger industries have their own internal setups tax relief, upon favourable audits and history, could be a way of levelling the playing field.

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?



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



Worker participation and engagement

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

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

Leadership and governance

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

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?

It should be a requirement in law that companies required to file annual reports include in those reports a statement of health and safety performance over the year and that a named director is identified as being responsible for overseeing the performance of health and safety within the company.

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)?

SMEs have limited capabilities in to effectively manage such issues. They have even less ability to access competent external resources to assist them. This is where the provision of clear guidance documents and other media is so important for SMEs.

Larger organisations tend to manage better but even they, in tough economic times, tend to reduce the H&S activity first.

Access to competent, external sources may need to be subsidised in some way. The reality is that many SMEs are unable to afford to consult or engage competent H&S practitioners. They either end up not resolving H&S issues or receive inappropriate advice.

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

Better guidance documentation, authorised by OSH DoL MBIE would go a long way to assisting firms to improve. There is often too much guidance available from many sources which leaves the reader confused. There should be a single source, a "go to" point where the reader knows they are getting authoritative and reliable guidance.

Incentives

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

ACC financial incentive are attractive to larger organisations but those schemes tend to focus on H&S systems rather than risk reduction. An organisation can have excellent system is place but fail to manage risk appropriately.

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

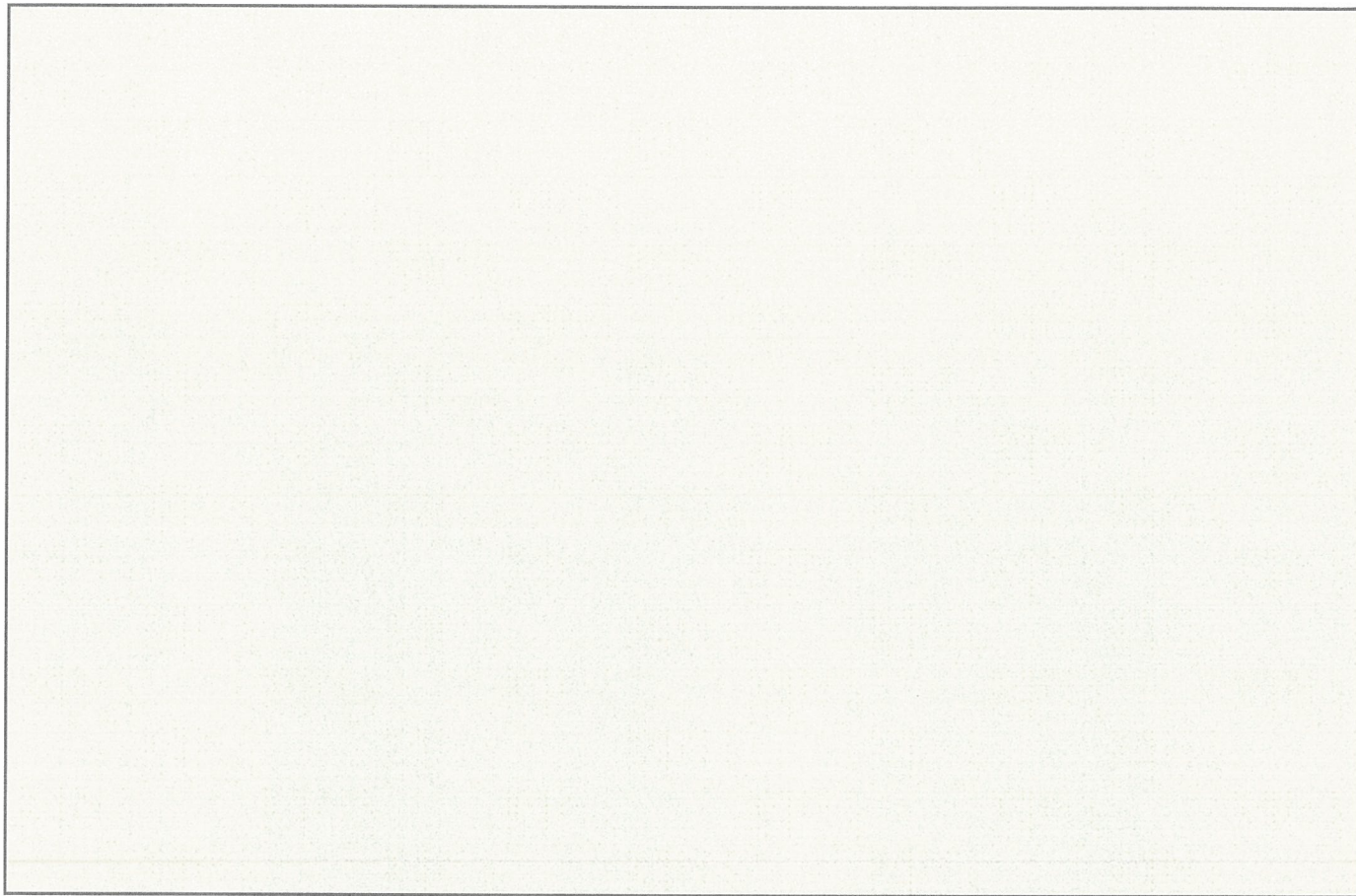
Influencing health and safety outcomes beyond one's own workplace

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)?

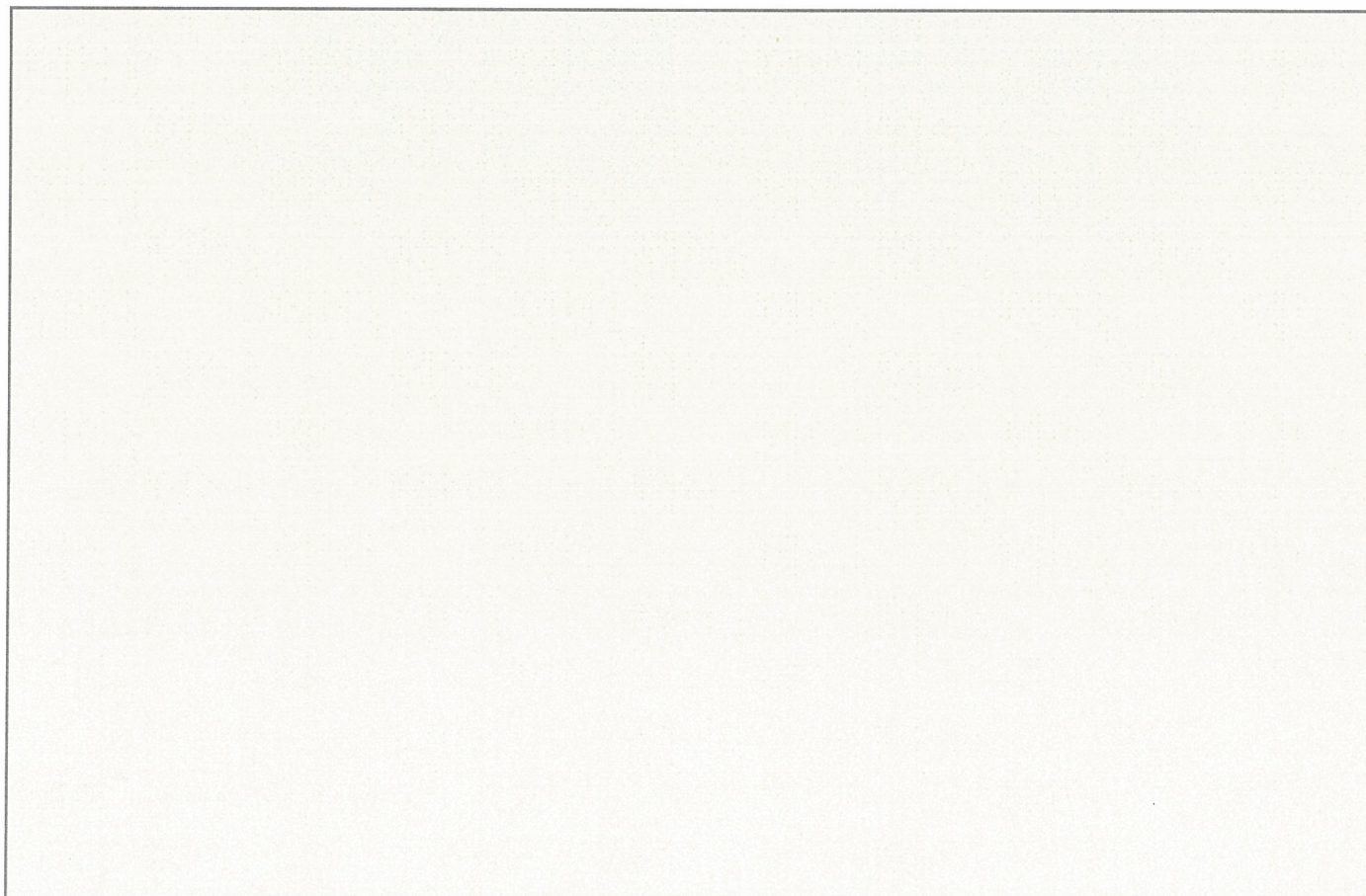
18. What could be done to get government, industry, corporate or other potentially influential bodies to exert greater influence on improving workplace health and safety outcomes beyond their own workplaces?

Major hazards

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



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



Health and hazardous substances

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

Challenge #1 The notion that the HASNO Act and Regulations is the primary legislation concerning managing occupational health risks must be dispelled. If the same amount of effort had been put in to administering the Health and Safety in Employment Act and Regulations as has been directed at HASNO we should have seen a significant improvement in occupational health outcomes. HASNO could have been easily managed as regulations under the HSE Act and a set of Codes and Guidance documents. HASNO does little if anything significant to manage occupational health risks, it manages substances. There is more to occupational health risk than substances.

What we have now are two sets of legislation that in a number of instances conflict and yet they are administered by the same regulator. The way in which the Workplace Exposure Standards are administered by each set of legislation is a case in point.

Challenge #2 At all levels, starting with Government and appropriate Ministers there needs to be a clear understanding that we identify hazards and manage risks. It is simply not good enough to identify and record hazards. The emergence of occupational ill health is by and large not because we have failed to identify hazards but because we have failed to assess the risks and understand what controls can be used to reduce that risk. The challenge is to raise the understanding and standard of risk assessment.

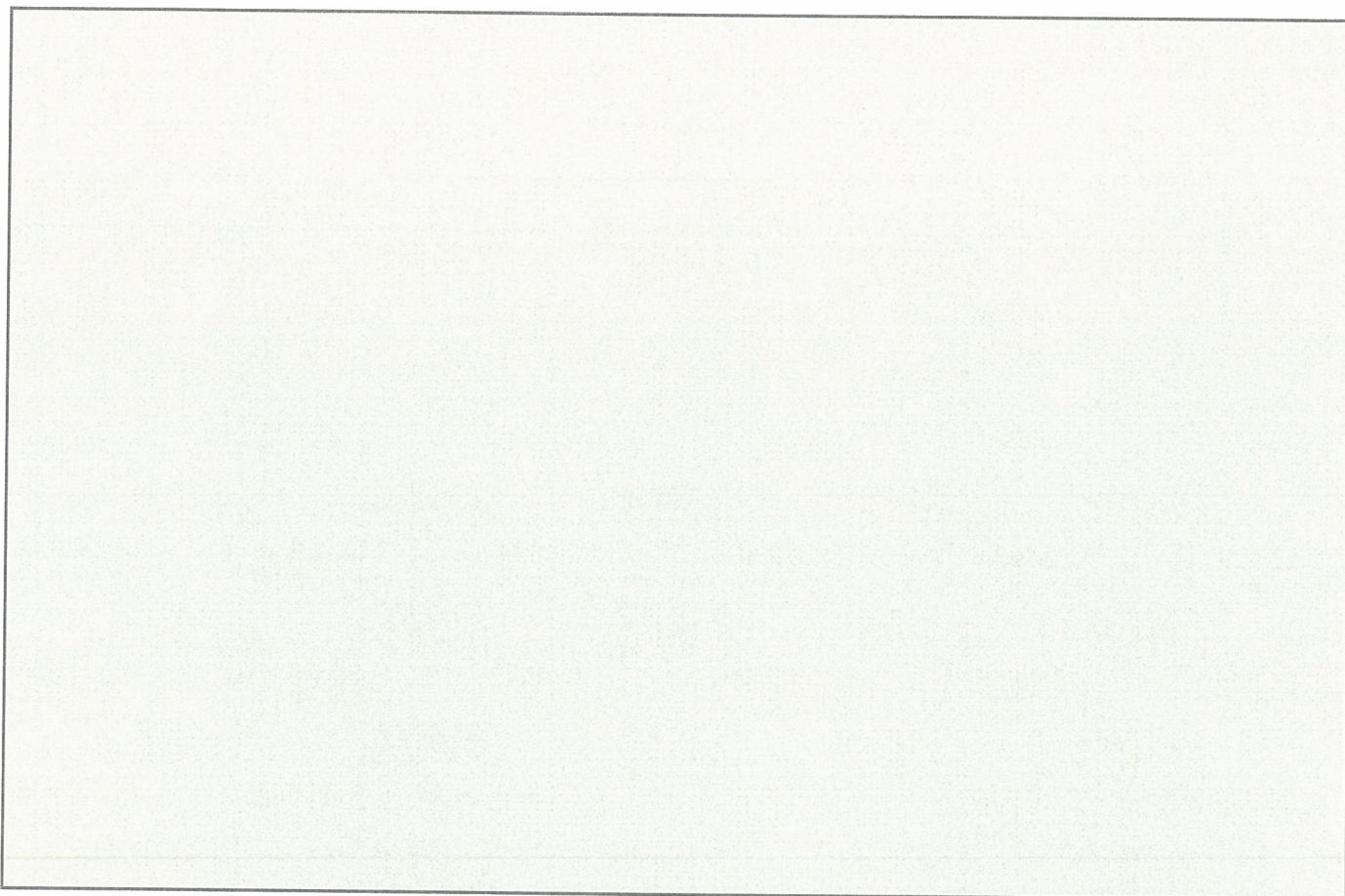
22. What changes could be made to the existing health and safety framework to reduce the harm caused by occupational disease and ill-health?

The framework is fine. Get OSH, DoL, separated out from MBIE to become a high profile, separate, competent and respected organisation that is well resourced both technically and financially. Put a moratorium on restructuring that organisation for 10 years so it has a chance to build an institutional knowledge, expertise and goals that will be progressive irrespective of what the makeup of the Government of the day is.

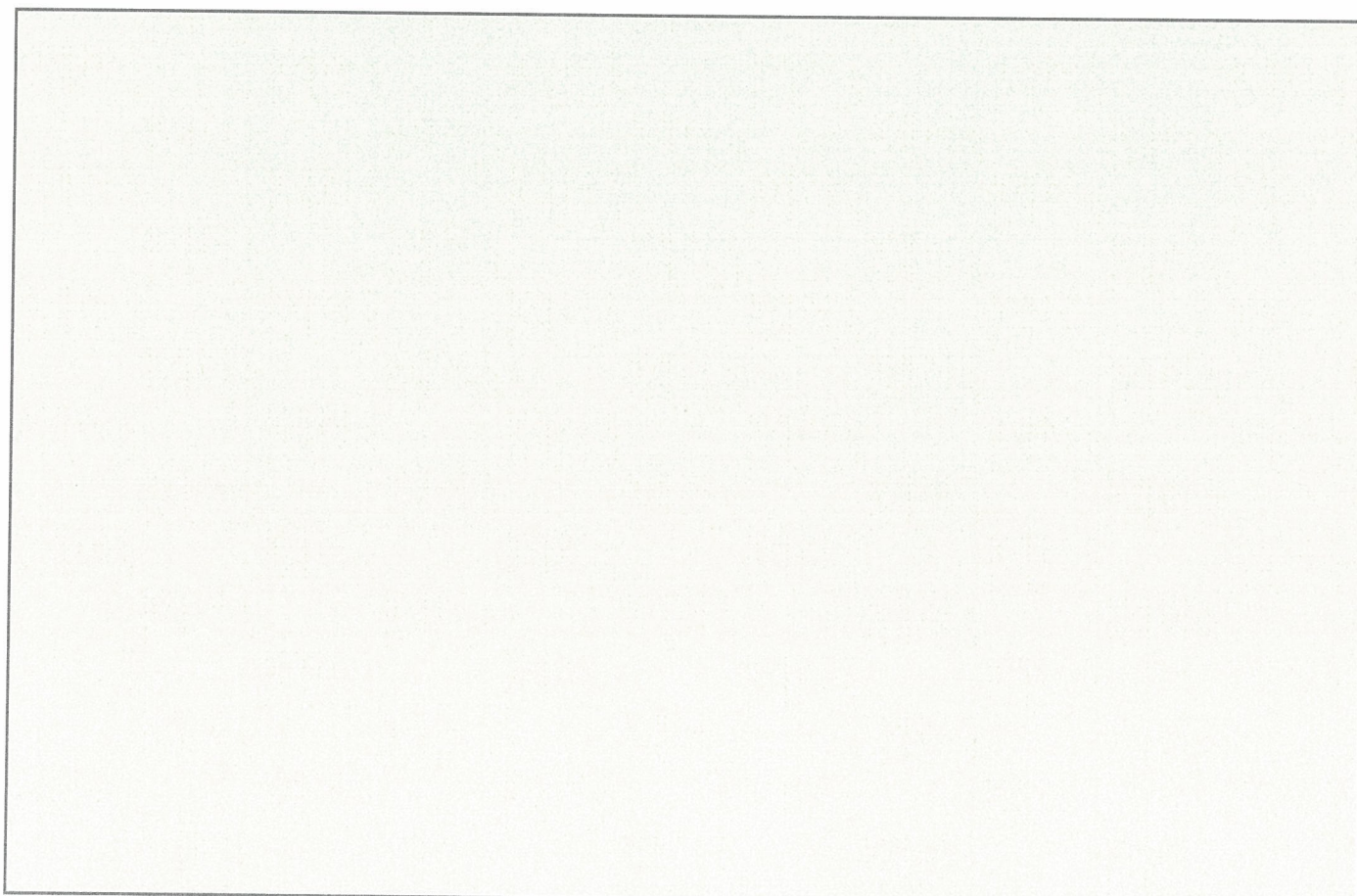
Until this is done there is little point in addressing the framework.

Small to medium-sized enterprises

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



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?



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?

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

Our national culture and societal expectations

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

No. Government culture, ideologies and policies influence our workplace health and safety outcomes. Successive governments have eroded OSH,DoL to the extent that its ability to have a major influence is almost non existent at present.

Strong, clear leadership is what influences better health and safety outcomes. That leadership has to start at Government level.

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

Tie the Prime Minister and responsible Minister's salary to the reduction in the incidence of occupational ill health, disease, accidents and deaths. Yes performance related. One the attitudes at government level is more focussed on this reduction then the drill down effect will have a chance of happening.

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?

Other comments

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

With reference to paragraph 78 in the Safer Workplaces Consultation Document it states ".. while the New Zealand regulator issues guidance there is no specific provision providing for guidance in the HSE Act."

Surely this is an erroneous statement and conflicts with paragraph 76 "The HSE Act provides a reasonably complete set of powers to the regulator, including the making of regulations and approved codes of practice,....."

What is an Approved Code of Practice if it is not guidance?

The answers, comments and observations in this submission document have been made by Ian Bartlett.

Ian Bartlett is an internationally qualified occupational hygienist, a Member of the Faculty of Occupational Hygienists and has in excess of 35 years experience in occupational health practice in both the UK, Europe and New Zealand. He has been resident in New Zealand and working full time here as an occupational hygienist since 1995.

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.