



SUMMARY REPORT ON ANALYSES OF WRITTEN SUBMISSIONS AND CONSULTATION MEETINGS

28 January 2013

1. This report provides a summary of the analyses of the written submissions and input from consultation meetings that were part of the consultation process carried out by the Independent Taskforce on Workplace Health and Safety (the Taskforce) in late 2012.

Background

Consultation process

2. The Safer Workplaces consultation document was released by the Taskforce on 17 September 2012. The document described and sought feedback on a range of concerns with the workplace health and safety system, and also sought suggestions for what New Zealand can do to improve workplace health and safety outcomes. Feedback from the public was sought through written submissions and face to face meetings.
3. Submissions were received during the 10 week period from 17 September to 26 November. Submitters could provide feedback by e-mail, post or on-line. On-line and downloadable questionnaires were provided to assist submitters.
4. Thirty-two consultation meetings were held between 9 October and 30 November 2012. The meetings comprised of:
 - Nine public meetings (Whangarei, Auckland Central (2), Manakau, Hamilton, Havelock North, Wellington, Christchurch and Dunedin)
 - Five hui (Hamilton, Rotorua, Hastings, Lower Hutt and Christchurch); one fono in Porirua; and one joint hui and fono in South Auckland)
 - Five network meetings (Auckland, New Plymouth, Tapawera, Christchurch and Invercargill)
 - Four focus groups (with recent migrants, construction health and safety representatives, Canterbury rebuild construction leaders, and young workers)
 - Two shop floor meetings (with a forestry pruning crew and meat processing plant health and safety representatives), and
 - Five targeted interviews with key people from the agriculture and fisheries industries (Nelson).
5. The public meetings, hui, fono, network meetings and focus groups were generally for two hours and were semi-structured. The shop floor meetings and interviews took between 40 minutes to one and a half hours and were less structured. For all of the meetings, focus groups and interviews, however, the underlying lines of enquiry were:

- What are the problems in the current workplace health & safety system as you see them? and
- What are some options for change?

Response to the consultation

6. 430 submissions were received - 248 from individuals, and 182 on behalf of organisations. In addition, approximately 650 people participated in the consultation meetings.
7. Of the 248 submissions from individuals, 81 were from people who identified themselves as health and safety professionals. These included: health and safety practitioners; occupational health nurses; health and safety consultants; and employees, managers or owners of businesses that provide health and safety products and services. For 130 individual submissions, occupation was not given.
8. Of the 182 submissions from organisations, almost half (88) were from employers or industry or professional representative bodies, with most of the employer submitters being large (with over 100 employees). Providers of health and safety products and services accounted for a further 25 organisational submissions. Small to medium-sized enterprises were not well represented amongst submitters.
9. A list of all submitters is given in Appendix 1 of the full submissions report.

Method for analysing responses

10. The Taskforce engaged Counterbalance Research and Evaluation to undertake a thematic analysis of the written submissions. In addition, the secretariat for the Taskforce took notes and collected self-recorded break-out group notes at the consultation meetings and analysed those for themes.
11. Full reports are available on the analyses of the submissions and consultation meetings.

Note on findings in this report

12. Because of the high number of people and organisations participating in the consultation process, the findings discussed in this report are necessarily high-level. The Taskforce recognises that this report does not reflect the strength of feeling people sometimes expressed about particular issues or the full range of issues identified.

Overview of findings

13. Submitters and meeting participants overwhelmingly identified that there is a major problem with New Zealand's workplace health and safety system. Deep-seated and multi-faceted issues were identified and there was a reasonable consensus that there is no 'silver bullet' to addressing those issues. A common view was that many of the problems with workplace health and safety need to be considered within the wider regulatory, macroeconomic and societal context that has led to workplace health and safety being considered to be subordinate to profit-making.

14. A repeating theme from consultation participants' input was that there has been a lack of central Government leadership and prioritisation in workplace health and safety, and that this has been a significant contributor to our poor health and safety record. They felt that this has had a number of tangible consequences:
- There are a number of different Acts covering different aspects of workplace health and safety and these Acts are complicated, not well understood, and sometimes conflict.
 - There are many different agencies tasked with regulating different areas of workplace health and safety, and there are inconsistencies, gaps and duplications in their functions.
 - The regulators are under-resourced, and lack the expertise and capability that they need to function well.
 - There has been a focus on hazards that cause accidents at a high frequency, but with relatively insignificant consequences, rather than risk.
 - Approved Codes of Practice (COPs), as required under the Robens model to provide clarity on what practices are acceptable, are frequently absent or out of date.
 - Occupational health has received increasingly less attention than workplace safety in recent years and is seriously under-resourced as a result.
 - National goals and strategies, and engagements with industry bodies, are limited and there is no longer a visible 'brand' for workplace health and safety.
15. In workplaces, it was reported that health and safety is compliance-driven, and that productivity targets are prioritised over maintaining health and safety standards. Further, it was felt that many managers and directors were lacking in the skills and awareness needed to effectively manage health and safety issues, and lacked the will to genuinely engage with employees on this front. Meeting participants felt that a number of issues compounded this problem. They said there is:
- A lack of understanding of overly-complicated regulations.
 - A lack of access to high quality advice, standards and COPs.
 - A low level of industry body membership and activity.
 - Inadequate levy reductions across ACC incentive schemes, particularly for smaller businesses, given the time and cost that is involved in building a robust health and safety system.
 - Largely reactive regulator enforcement.
 - An absence of a 'level playing field'. Under a competitive environment, with low levels of enforcement, there is pressure to reduce health and safety costs.
 - Ambiguous responsibility for maintaining health and safety standards because of a plethora of sub-contracting arrangements on some sites.
16. New Zealanders as a whole were seen as lacking in awareness and appreciation of workplace health and safety issues, particularly health issues. Workers, like managers, were portrayed as viewing procedures as a set of paper-based rules imposed by management to protect themselves from legal liabilities, while preventing workers from getting on with the job. For many employees, however, a

lack of worker representation and meaningful participation in the management of health and safety issues was seen as frustrating and lay at the heart of the problem. It was said that health and safety representatives and committees were not working as intended in many workplaces, while the reality of declining union membership and a growing number of employees in temporary or casual employment relationships was further diminishing opportunities for workers' input.

17. Consultation participants recommended a large number of actions. Key recommendations included:
- Much better Government leadership, resourcing, enforcement and coordination of workplace health and safety.
 - A single focus agency for workplace health and safety.
 - Addressing the absence of standards, guidelines and COPs.
 - Better access to high quality advice on practical strategies for how workplaces can improve their health and safety. This may involve changing the functions of regulatory agencies to include advisory roles, as well as developing the health and safety profession, for example through an accreditation scheme.
 - Reconfiguring the balance of incentives and penalties for non-compliance.
 - Reviewing and enhancing ACC incentive schemes and regulator enforcement and penalty practices.
 - Establishing roving health and safety representatives, independent hotlines and/or independent health and safety centres to better support workers and workplaces to implement and maintain safe practice procedures.
 - Better integrating health and safety into New Zealand's secondary and tertiary education and training systems.
 - The regulator providing tailored and targeted assistance to small and medium-sized businesses.

Key findings in more detail

18. A number of commonly held views were expressed across the submission and public meeting consultation processes. While not all participants or groups necessarily agreed with each point raised, emergent themes are presented below. These are presented by topic domains as identified in the Taskforce's consultation document.

The regulatory system

We need "a stronger watchdog".

The legislative environment is complex and there are gaps in coverage

19. Participants thought the legal environment was confusing, with a "plethora of regulations" that were inconsistent and difficult to comprehend and implement. Smaller firms in particular were thought to struggle with this. A simpler, more comprehensive framework was desired with the relationships between the various Acts clarified and better aligned. These should be presented in clearer, plain speak language, with legal obligations accessible for everyone. The current level of complexity is thought to lead to a tick box compliance (as opposed to health and safety in spirit) approach.

20. Participants identified legislative gaps in need of correction or clarification. In particular there needs to be clearer legal obligations and additional duties for directors, architects, engineers and machine and equipment designers. There was a call for the introduction of corporate manslaughter charges in New Zealand, the development of 'safety in design' legislation and greater capacity for banning professionals from working in their profession where they have been found to be negligent. Ambiguities surrounding contractual arrangements and health and safety responsibilities on worksites, where multiple businesses may be operating, needed to be clarified also. In particular, principals, employers or those people in charge of workplace health and safety should be more firmly held to account for meeting their health and safety obligations.

Regulatory agencies are seen as overlapping, lacking in coordination and confusing

21. Multiple agencies were seen as confusing, with functions of the Ministry of Business, Innovation and Employment (MBIE) and the Accident Compensation Corporation (ACC) most commonly seen as overlapping, lacking in coordination and inconsistent in defining acceptable standards. In particular the injury prevention functions of MBIE and ACC were identified as lacking in coordination, but MBIE's relationship with other agencies, including the Civil Aviation Authority and Maritime NZ, was also seen as requiring greater cohesion and consistency with regards to requirements and approach to regulation. Further, constant restructuring of government departments responsible for workplace health and safety was criticised for reducing the visibility and clarity of vision for the regulator.
22. It was widely recommended that the regulatory bodies need to improve their coordination and for managers within these agencies to have operational experience rather than generic management skills. One widely expressed recommendation was to merge the agencies or take particular functions from each (e.g. injury prevention) and position these within a single agency to maximise synergies, clarity of focus, quality of advice and visibility.

The performance-based Robens¹ model should be retained, but strengthened

23. Submitters and meeting attendants largely agreed that the Robens performance-based model should be retained, albeit with serious modifications in its application. Strengthening across all three platforms of the model (the regulator, industry and worker participation) was required as the 'hands-off' 'self-regulation' approach was seen to be, in many instances, not working. In particular it was felt that, within the context of the Robens model, Government needed to overcome its reluctance to intervene and "stymie innovation" and make a "fundamental shift" in practice with "sweeping changes" and "more powerful legislation". Commitment to the Robens model stemmed from the recognition that, while a more active regulator providing more guidance and more actively enforcing standards was desirable, a highly

¹ The "Robens" model is derived from a landmark 1972 British report by Lord Robens. In place of prescriptive requirements, the model requires that laws set performance-based or outcome-focused standards (i.e. duties to achieve safe outcomes). Rather than directing specific activities, the model requires duty holders (those involved in the undertaking of work and providing the means for work to be undertaken) to achieve safe outcomes by the means which can be adopted, and are most appropriately adopted, in the circumstances of the particular business or work activities (Sherriff, Barry Noel and Michael Tooma, *Understanding the Model Work Health and Safety Act*, CCH Australia Limited, 2010).

prescriptive “one size fits all” model would not work for all sizes and types of businesses operating in a range of circumstances. “Flexibility” was seen as an important component to the existing performance-based system that should, in principal, be retained.

A smarter, stronger regulator

24. MBIE, the primary or lead enforcement agency of the Health and Safety in Employment (HSE) and the Hazardous Substances and New Organisms (HSNO) Acts in workplaces, was widely seen as incapable of effectively regulating or ensuring firms were complying. MBIE was seen as lacking in the will, resources, credibility and visibility to effectively develop, promote and enforce safety standards. In part this was due to insufficient funding, resulting in too few health and safety inspectors, of variable competence, to visit and engage workplaces effectively. Improved funding, better pay, conditions and career paths were seen as being needed to attract and retain a greater number of competent staff, including managers, able to develop appropriate proactive strategies and to effectively engage businesses. Industry-specific knowledge and expertise in occupational health were seen as particular areas in need of development.
25. It was also reported that the range of tools available to health and safety inspectors to deter non-compliance is too narrow and applicable penalties, when applied, are too low. The development of a proactive, intelligence-driven surveillance regime, with greater coverage, using a more flexible penalty regime and displaying more readiness to enforce standards was recommended (See *Incentives and disincentives* section to this report for examples of new penalties).
26. Submitters and meeting attendants were also in strong agreement that there needs to be more guidance on how firms can meet their obligations. MBIE’s activities are seen as skewed towards reactive enforcement with too little focus on pro-active, educational or preventative activities. Where educational campaigns have been run, these have been commended. In general, however, there needs to more clarity and higher levels of prescription around particular risks (where needed, without becoming overly prescriptive). “All practicable steps” is too vague for many industries and workplaces. There needs to be more advice, COPs and enforceable standards for firms to know what they need to address and how to comply. It was widely suggested that injury prevention activities should be separated out from enforcement activities. It was further suggested that some or all inspectors should be rebranded as *health and safety advisors* or *prevention advisors* so that they were less threatening to businesses.

More engagement with industry

27. It was observed that there is insufficient collaboration with industry by the regulator. The extent of collaboration to develop Codes of Practices and good practice guidelines was widely criticised as inadequate. It was suggested that MBIE in particular needs to more effectively engage with industry bodies and be responsive to firm requests for support.

Oversight of the regulator

28. Written submissions also included the observation that an effective tripartite governance body, including industry, regulator and employee representatives, was

needed to provide effective oversight of the regulator. The current Workplace Health and Safety Council was identified as not functioning effectively in this capacity. It was suggested that this be reviewed and reconfigured (in line with the UK Health and Safety Executive model).

Industry Leadership and Governance

“It’s not about making a profit – it’s about how we make a profit”

Inadequate senior management

29. A common sentiment expressed across the meetings and submissions, although not universally, was one of board members, directors and senior managers not providing effective leadership and active health and safety governance. At best the quality of leadership was variable. This was attributed to a number of factors:

- *Inadequate levels of accountability for leaders.* Directors and managers were identified as not being held sufficiently to account for health and safety failings on their watch. Stronger regulations, clearer health and safety duties and tougher enforcement were required to hold senior managers and directors to account (e.g. introducing corporate manslaughter charges, barring negligent directors and naming and shaming culpable firms).
- *Marginalisation of health and safety responsibilities.* Directors and senior managers in many businesses were characterised as commonly delegating health and safety responsibilities to a single or small number of, low level manager(s) or administrator(s). It was recommended that responsibilities should be held at a senior level – “high enough to have impact”. Annual reports should include (lead and lag) health and safety indicators and board meetings should include a regular health and safety component.
- *Commercial pressures and the prioritisation of productivity over health and safety.* Health and safety expenditure is too frequently seen as short term compliance costs, to be minimised in the context of production goals. Concern for the bottom line was manifest in patterns of unrealistic targets and deadlines being set (placing time pressures on workers to perform), low levels of supervision for new staff and staff working in dangerous environments and long hours. Businesses, particularly smaller firms, identified the costs of introducing effective health and safety systems (e.g. investing in safe machinery or training) as being prohibitive. It was recommended that there should be government subsidisation of proactive investment in health and safety practices, possibly through ACC levies or tax rebates. Also, employers should pay a living or fair wage, and the number of hours worked should be regulated. Submitters frequently referred to the risks arising from workers becoming fatigued from working long hours and overtime and how this was often linked to poor rates of pay.
- *Low levels of awareness of health and safety issues and how to manage them.* Managers and directors were identified as commonly lacking in health and safety expertise and competence. This was attributed to low levels of health and safety modules in their training and education. It was recommended that education in health and safety needs to begin from an early age, through better focused schooling and education and training at tertiary education level. Further, businesses should be incentivised to ensure managers and directors with health and safety accountabilities receive appropriate training and refresher training in health and safety. It was further suggested that there should be competency

requirements for directors and clearer guidance and codes of practice on how to meet obligations provided by the regulator.

- *An information gap exists between operations and the board room.* Senior leaders were seen to be sometimes out of touch with the workplace. Lower level managers were sometimes identified to be discouraging workers from reporting near misses, hazards or injuries and were not passing these on (in order to meet performance or health and safety targets). Recommendations for improving the information gap included establishing an anonymous reporting line to senior management from workers and reviewing health and safety targets and performance bonuses. It was also recommended that directors and senior managers needed to walk the floor and engage during health and safety audits and inspections.

Tender processes and contracting arrangements encourage health and safety shortcuts

30. It was frequently observed that it is common businesses practice across both the public and private sectors to select the cheapest tender when hiring contractors to undertake short term or project specific work. This principle promotes a “cut throat” market that encourages short cuts and creates distance from the provider to the work being undertaken and how this is being managed. Recommendations included imposing stricter duties on principals, to ensure there is a focus on health and safety throughout the tender and project work. Regulators should also provide greater vigilance and enforcement up the supply chain. Government could demonstrate greater leadership and model good practice in this area, for example by pre-screening (and publically listing) firms with minimum standards acceptable for inclusion in the tendering process. Many consultation participants said that government leadership in relation to supply chains is woefully inadequate.

Industry bodies and Government engagement

31. New Zealand business networks were seen to be potentially valuable mechanism for developing and sharing information and for cross firm mentoring, but this was under-developed compared to many countries. It was recommended that the regulator needs to more actively support the development of industry bodies, including encouraging wider membership of the Business Leaders Health and Safety Forum.

Employee participation

“Government needs to back up the people”

32. It was reported in meetings and submissions that worker participation, a key component of the Robens model, is not being implemented properly, with low levels of employee participation in the identification and management of workplace health and safety issues. There was a high degree of agreement that this essential component needs improvement.

Management awareness and culture can be a barrier to engagement

33. It was a repeated theme in the consultation process that management awareness and culture can be a barrier to engagement. Coupled with lacking in awareness of health and safety issues and management opportunities, many managers were also identified as being uninterested in employees’ views and input on health and safety practice. Employees complained about health and safety strategies and systems being absent or being introduced or run without adequate employee or

representative consultation (e.g. management-heavy health and safety committees). Further, employees reported that management were frequently un-responsive or defensive when health and safety issues were raised directly by them. Some reported being fearful of recrimination through pay docking (if damaged machinery was reported), or losing one's job. Employees said that this was a significant contributor to the non-reporting of health and safety issues, particularly the fear of losing one's job in the current economic environment. In this context, seasonal, contractual and otherwise vulnerable workers were noted as particularly less likely to report events. It was recommended across the written submissions and in the public meetings that:

- The regulator provides clear guidance and develops COPs for employee participation (e.g. health and safety committee representation and processes).
- The regulator more effectively monitors and enforces the HSE provisions requiring firms to have an employee participation system. Penalties should be imposed on employers who do not sufficiently engage their workforce or allow time off for representative training. Conversely, incentives (such as ACC levy reductions) should be available for good employers with strong employee participation schemes.
- There should be better protection and support for workers who raise issues or question unsafe practices (e.g. through introducing anonymous reporting lines to the regulator or an independent third party (see below) and whistle blower protections).

Employees are not ready to engage effectively

34. Employees were characterised as commonly lacking in awareness of their rights and responsibilities (e.g. to say 'No' to unsafe work) and sometimes complacent and apathetic about health and safety protocols - seeing them as "over the top" or "petty". Some employers complained about employees' resistant attitudes to health and safety being a key problem for the organisation. It was recommended that:

- there be an educational campaign to raise workers' awareness of their rights (e.g. to say no to unsafe work) and responsibilities/duties
- employers be required to pass on knowledge of health and safety rights and responsibilities to all new workers (e.g. through induction processes)
- the regulator needs to do more to hold employees to account, where they have been found to be breaking rules (e.g. removing a machine guard).

The health and safety representation mechanism is seen as valuable but of limited value

35. A number of concerns regarding the effectiveness of the health and safety representative role were raised. These centred around:

- *the appointment processes*, with representatives sometimes being appointed by management, challenging their independence. It was recommended that best practice guidelines be developed and disseminated and that employers be held to account regarding free and fair worker election processes.
- *low interest from employees in the representative role*. The role is seen as of low status, requiring hard, antagonistic work for little thanks, on top of existing duties. It was suggested employers should be required to pay health and safety representatives for their additional duties, and that these should be recognised

formally. Codes of practice from the regulator and clarification of role responsibilities were also recommended.

- *weak powers and protections under the HSE Act.* Many submitters argued for greater powers for representatives, as in the Australian Model law. Suggestions included the capacity to serve prohibition notices, to investigate complaints and to be consulted over workplace health and safety plans. Strengthening representative powers was debated. Some submitters argued the Australian powers were 'excessive'.
- *low levels of support for the role once training was completed* and the employee was back to work. It was recommended that funding be made available for continued role support (e.g. networking, information sharing).
- *vulnerability of representatives.* Issuing of hazard notices was rare. It was felt that representatives felt vulnerable and non-unionised and casual workforce representatives particularly so. It was recommended that 'roving representatives' and/or regional 'health and safety centres' with independent advisors be established to provide more impartial support to workers and health and safety representatives, where support was needed or requested, and to engage with management. Union involvement, where available, should be supported.
- *Exemptions for smaller businesses* (with less than 30 employees). These are not required to have health and safety representatives or formal worker representation processes. It was recommended the exemption be removed or the setting revised to 5 or 10. Further, tailored guidance on participation for smaller businesses should be provided (e.g. introducing "toolbox talks").

Health and safety representative training

36. There were mixed views on the effectiveness of health and safety representative training. While some participants thought the content and delivery was good, some questioned the competence of some course providers and the focus of courses. Concerns were raised around funding cuts and the level of funding available now and in the future to deliver high quality, up to date courses. A review of training content and delivery, and additional government funding for courses to increase availability and quality, were recommended. Further, greater Government support, particularly for smaller businesses, to meet the costs of training was recommended.

Incentives and disincentives

"The balance of incentives results in production pressures overriding safety".

37. It was widely expressed in submissions and by meeting participants that there are not enough inducements in the system to incentivise compliant or proactive health and safety actions, and concomitantly, enough penalties to deter non-compliance. The incentive regime was identified as "not working and possibly perverse".

ACC scheme incentives are inadequate

38. ACC scheme incentives were seen as a good start but provided too low a level of financial incentive to lift performance. Further, the schemes were criticised as not strongly enough connected to risk. Experience ratings were identified as being too focussed on "lag" indicators, and concerns were raised regarding the perverse incentives this has on under-reporting. The Workplace Safety Management Practices

system, and its associated audits, was criticised for encouraging paper-based compliance, not safer systems in practice. More robust auditing, increased levy reductions for good performers, greater support for smaller businesses and regular reviews of all the ACC incentive schemes were recommended.

39. ACC's no-fault, universal cover was also identified as contributing to health and safety complacency among businesses and employees, increasing risk. Businesses were identified, through being shielded from being sued or paying the true costs of poor performance, as being disincentivised to invest in health and safety. Similarly, workers may be developing a diminished sense of self responsibility in the workplace through the availability of cover on a no-blame basis.

Regulatory enforcement provides inadequate deterrence

40. It was widely expressed that the existing enforcement regime does not provide effective deterrence for non-compliance or poor performance. This was reportedly due to low levels of surveillance, little likelihood of being caught or prosecuted and penalties, where applied, being inadequate in magnitude. It was recommended that penalties need to be strengthened and new tools such as enforceable undertakings, spot fines, barring of directors and corporate manslaughter charges be introduced and used; ("less warning, more action").

Further rejigging the balance of incentives and penalties

41. It was widely recommended that there needs to be more effective incentives and punishments - better sticks and carrots. On top of ACC amendments, suggestions for "more carrots" included:
- providing tax relief, substantive ACC levy reductions, or Government subsidies, for good performance, investment in equipment, machinery or plant, and managers' and representatives' health and safety training.
 - building a publically accessible list of company rankings on health and safety performance. Rankings, it was suggested, could be provided by audit and could be linked to Government tendering requirements. Star ratings could also be used for publicity purposes (but also for shaming – see below).
42. Penalties for non-compliance, on top of tougher enforcement from the regulator, could be further increased through:
- Reputational impact. Naming and shaming, including publishing firm accidents and prosecutions and making publically available results, or selected sections, from the ranking system discussed above.
 - Charging companies for the costs of an investigation or removing ACC cover if found to be non-compliant.
 - Disqualification of directors.

Capacity and capability of the system

The training system is "not fit for purpose".

43. A number of parties were identified as lacking in health and safety knowledge and being inadequately prepared to competently lead or support good workplace health and safety practices.

Managers, supervisors and directors lack health and safety awareness and competence

44. As discussed, managers were often seen as inadequately prepared to manage health and safety issues in the workplace. Reasons given included low levels of focus on health and safety in secondary education and tertiary level professional degrees (e.g. management, engineering) and the limited opportunities for health and safety training available for managers on the job. It was recommended that professional degrees should include health and safety components and short, sharp courses in health and safety for supervisors, managers and directors be established and supported by Government (particularly important for SMEs who lack capability in-house and are less likely to be able to afford attending). Management attendance at health and safety training, some argued, should be mandatory.

Workers have variable health and safety competence

45. The health and safety knowledge of workers too was a concern for many, with young workers in particular seen as vulnerable and lacking in risk awareness and management skills. In part this was attributed to the absence of education on work related health and safety during school, where students were, from a young age, perceived to be “wrapped in cotton wool”. It was widely recommended that primary and secondary schooling should include education on health and safety to better prepare students for the world of work. Workers with low literacy and numeracy levels, including early school leavers and migrants, were also identified as being at particular risk. Increased support for language, literacy and numeracy courses was vital as was the use of hazard signage and communications in a range of languages where workers and trainees come from different backgrounds.

Concerns over the quality and availability of health and safety advice

46. For firms seeking external expert advice, the quality of health and safety professionals in New Zealand was identified as variable and limited in availability. Consultants were seen as inconsistent in their approaches, methods, competence levels and risk tolerance. It was noted there was no standard, competence level or qualification set required for them to operate. It was recommended that a licensing system or register for qualified, competent health and safety professionals should be established. This would improve employers’ confidence in accessing competent advice.
47. The regulator was seen as providing an insufficient level of useful, relevant advice on how to manage particular risks and issues. SMEs in particular were dependent on regulator advice but this was thought to be targeted at larger firms. Advice that is available was criticised as frequently being out of date, difficult to access and interpret or of limited relevance or applicability. It was recommended that MBIE needs to develop its information and education capability and to provide more timely and tailored information, advice and codes of practices. A separate, clearly identifiable source of information was recommended (e.g. a single focussed agency).
48. Industry bodies associations were identified as one source of useful information for businesses, however, this capacity needed to be developed. It was recommended that the regulator could help to build their activity, enabling them to more effectively (co)develop, own and propagate industry guidelines.

Training opportunities for building workplace health and safety capacity are limited and of variable quality

49. The availability and quality of health and safety training was widely judged to be inadequate. There were a number of reasons for this. These included:
- *a lack of a meaningful framework for health and safety training.* ITOs were criticised for offering a plethora of courses, of variable content, to a range of quality standards. It was recommended that TEC and NZQA review and consolidate course offerings and develop a meaningful framework for the delivery and quality assurance of courses.
 - *Growth of outsourcing and the decline of integrated health and safety teaching.* It was recommended that the Government bring back the hands-on traditional apprenticeship approach to trades training, where health and safety was a core, integrated component. Health and safety, with adequate on the job supervision, should be compulsory in any basic trades training or apprenticeships.
 - *Prohibitive costs.* Participants pointed out that TEC has in recent years reduced funding for many health and safety courses. It was recommended that TEC increase its funding availability for health and safety courses and for Government to provide subsidies for smaller businesses to encourage participation.

Occupational health and hazardous substances

50. Occupational health concerns were widely raised. An overarching theme was one of occupational health suffering from an “under emphasis” from the regulator, the medical profession and businesses, despite the statistics. The “mono-causal” accident approach to workplace harm was seen as unhelpful and greater recognition of occupational health issues among all players is required.
51. Low capacity in the occupational health field was identified as a particular concern. General Practitioners, the regulator and business management were all identified as poorly equipped to identify and manage occupational health risks. It was recommended that there needs to be more investment and capability building within the regulator, with the recruitment of specialist advisors and generic training in occupational health across the inspectorate. This would enable the provision of more accessible, higher quality information and guidance and more effective surveillance and stronger enforcement. Further, there needs to be improved availability and accessibility of occupational health advisors and professionals for businesses. GPs need to be encouraged to record occupation with each consultation and be better trained in assessing, diagnosing, treating and reporting occupational disease. Government funding for occupational health centres and better coordination with the Ministry of Health to undertake periodic health checks with workers were recommended.
52. Legislation and advice surrounding HSNO and the management of hazardous substances was described as confusing and difficult for organisations to apply. SMEs in particular found it hard to interpret or keep up with what was required, while the Environmental Protection Agency was seen to be difficult to get clear information from. It was noted too that currently there is little in the way of monitoring of exposures in New Zealand workplaces and, once more, the regulator lacked capacity or expertise. It was recommended that the regulatory framework needed to be

simplified with greater alignment across the HSE, HSNO and Land Transport Safety Authority and Maritime NZ and simplification of requirements into one set of rules. Inspection, enforcement and surveillance needed to be strengthened. The current certification model for hazardous substances should also be reviewed with a view to developing more robust assurance processes (e.g. quality control for third party test certifiers).

At-risk populations and organisations

53. A range of particular populations were identified as more vulnerable to injury and harm in the workplace. These included:

- *Workers with low literacy levels*, as effective written and verbal communication skills are essential to successful communication of health and safety messages or to ask questions. It was recommended that the accessibility of literacy training be increased and employers and the regulator use plain speak language.
- *Migrants*, due to struggling with English as a second language, having different attitudes towards health and safety and being unfamiliar with New Zealand's regulatory system and requirements. More pre-border education and providing simpler regulatory information were suggested.
- *Workers working long hours*, due to fatigue and distraction issues. Fair or decent pay rates (removing the need to work double shifts etc) and placing limits on the number of hours workers can work in a given period were recommended.
- *Workers in insecure employment relationships* (e.g. 90 day trials, casual employees) and short term contractors and seasonal workers were all identified as less likely to report injuries or voice concerns for fear of not being re-employed in the future.
- *Younger workers*. New, younger workers or "greenhorns" were seen as lacking in the cognitive maturity, experience and general awareness of health and safety to make safe choices in their work. Better supervision and training were recommended.
- *Older workers*, due to complacency, fatigue, general susceptibility, and being set in their ways (from the old days when health and safety was less of a priority).
- *Maori*, due to over representation in dangerous industries. It was also suggested that Maori workers may be less confident in speaking out about unsafe practices. Iwi were identified as having an important role in supporting or advocating for Maori workers and their whanau.
- *Pacific people*, due to over representation in dangerous industries, but also because of literacy and communication issues. Signage and communications in languages other than English were recommended. Cultural factors also play a part, with Pacific peoples identified as more trusting of and respectful towards authority figures, including their employers and managers. The establishment of a Pacific Advisory Committee to represent Pacific workers, and Government working more closely with churches to disseminate health and safety information, were recommended.

- *Workers in remote locations*, including farmers and fishermen. These workers were identified as commonly working in rapidly changing physical environments, often alone or in isolation and surrounded by hazards.
 - *Males*, who were more likely to work in, and be accepted by society to be working in, dangerous, highly physical workplaces. Further they are subject to peer pressure to appear macho and more likely to take risks.
54. Self-employed and small to medium sized businesses were widely identified as at-risk organisations, due to a several reasons discussed in various sections to this paper. These include lack of capacity and health and safety competence, low levels of awareness and certainty of required standards, a lack of regulator vigilance, tight margins amidst the prohibitive costs of health and safety investment and being exempt from the requirement to have health and safety representation (unless it is requested). Small businesses were identified as requiring greater levels of support to achieve robust health and safety systems and Government was encouraged to actively provide more active and tailored support. Subsidies (or tax breaks or increased ACC levy reductions) for firms building up health and safety training systems and capability (e.g. accessing training or expert advice) were recommended. The regulator too needed to provide greater levels of specific advice, suitable for smaller rather than larger firms, freely and without fear of penalties, and greater levels of prescription and COPs to clarify minimum obligations. It was also suggested that new businesses should be required to demonstrate health and safety competence prior to registration or being licensed to operate. Industry bodies and larger firms should be encouraged to mentor smaller firms, who should in turn be encouraged to join business networks.
55. *High hazard industries* were thought by many submitters (though not all) to be particularly under-regulated, given their risks. Regulators were identified as under-resourced and lacking in the expertise required to provide the necessary levels of monitoring and enforcement and quality of guidance. Greater prescription, supported by stricter, better resourced and capable monitoring and enforcement and the provision of more, better quality advice and guidance were recommended. The HSNO certification testing regime and risk calculation tools were identified as inadequate and more stringent requirements to operate, coupled with the introduction of a standardised approach for recognising and rating hazards were recommended. It was also suggested too that the scope of the High Hazard Unit should be extended to include a broader set of industries or hazardous workplaces.

National culture

“Just get the job done”.

56. New Zealand culture is widely seen as a key underlying contributor to New Zealand’s poor health and safety performance. A number of features to our psyche and cultural landscape were identified:
- our “laid back”, “she’ll be right”, “won’t happen to me” attitudes to health and safety reflect a general complacency.
 - we often think that others are responsible for health and safety – we have low levels of individual self-responsibility.

- we have a productivity-focussed “number 8 wire”, “give it a go”, “get on with it” mentality. We will take shortcuts and adapt or use inappropriate equipment to get the job done faster.
 - New Zealanders are resistant to regulations and can see health and safety requirements as an unnecessary compliance requirement.
 - we can be reluctant to stand out or ask questions. We have a tall poppy syndrome, fear putting our head above the pulpit and we “don’t want to seem stupid”.
 - we value stoic qualities and fear that talking about or asking for health and safety considerations may make us look like a “sook”, needing to “harden up”.
57. Mass, multi-media campaigns and in-school education modules focused on risk assessment and management were recommended to help shift New Zealanders’ attitudes. Messages, it was suggested, should focus on:
- practical strategies to identify and manage risks;
 - positive messaging (e.g. “it’s a good thing to report incidents”);
 - promoting health and safety in the context of safety for life – not just as a workplace issue. Consistent messages about personal responsibility applying at home and at work are required;
 - encouraging people to think about the “roll-on effects” of their injuries or illnesses, should this occur. For example the impacts on family of not coming home from work.
58. Use of role models and reality TV shows based on health and safety inspectors were recommended, as was empowering community groups, iwi and Pacific Island churches to reach communities with the message.

Data and measurement

We lack “an integrated reporting system”.

59. Submitters and meeting participants expressed concern that there was a lack of reliable and comprehensive data about workplace health and safety outcomes, causes and practices in New Zealand. Outcome and causation data collected by the regulator and ACC was seen as limited and partial, with poor coordination between the two main players. Issues raised include that there is a perverse incentive for managers in organisations to discourage or misrepresent reporting to the regulator and ACC (e.g. discourage employees from making a work related claim). Also that demographic (e.g. industry, occupation) and diagnostic data collected is incompletely or, across organisations, inconsistently captured. Further, it is unclear what serious harm means, with competing definitions operating across agencies and poor understanding of obligations for reporting from employers. It was recommended that a single agency lead the capture and reporting of injury and occupational illness data, ensuring that data is collected more robustly and making this more readily available for businesses for benchmarking purposes.
60. Another issue raised was that there is too much of a focus on the collecting and reporting of lag indicators. It was suggested that employers should be supported to develop lead indicators which could be regularly reported on and used for industry benchmarks (e.g. management training in health and safety).

61. The collection of occupational health data was identified as being particularly problematic. Submitters pointed out that the NZ Health Information Service (NZHIS) seriously under-records occupation and GPs are not adequately trained to identify occupational illness or incentivised to report it to the regulator. It was recommended that GPs are better educated and supported with assessment tools to recognise occupational health issues, record occupational history and (along with DHBs) be required to report all cases of occupational illness to the regulator. The regulator should improve and maintain the Notifiable Occupational Disease Data base.