

Safety Governance and Leadership of Boards and Senior Management

Position Statement

The AIHS recognises the vital role of Board Members and Executives in influencing attitudes to health and safety in workplaces, defining expectations of safe work practices, addressing risks and hazards, and setting standards for all involved in the business. This role goes beyond legal obligation and is based on ethics, values and evidence that safe work contributes positively to successful and sustainable businesses.

Rationale

1. Legislation

S27 of the model Work Health & Safety Act (WHS Act) requires that officers¹ conducting a business or undertaking to exercise due diligence or governance so that workers within that business or undertaking are working in an environment that is safe and without harm to health, so far as reasonable practicable².

The legislation requires that officers acquire an understanding and remain up to date on work health and safety risks and matters as they apply in the business or undertaking, that there are appropriate resources and processes in place to allow this to occur, and to routinely verify implementation, eg via audits, that the business or undertaking complies with all aspects of the WHS Act and Regulations within their jurisdiction(s). Tooma (2017a & b) provides detailed analysis of the serious due diligence obligations faced by officers.

2. Literature

The UK Health & Safety Executive (2006) (HSE) defined 'governance' as the system by which organisations are directed and controlled by their boards of directors. HSE (2019a) provides updated overview material. 'Governance' broadly refers to the higher-level systems and processes through which strategic decisions are taken and managers are held to account.

For organisations, WHS arrangements should be a corporate governance issue (HSE 2019b). The board should integrate WHS (including 'process safety' eg see Hayes and Hopkins 2014 and BOK 2017) into its main governance structures, including board sub-committees, such as risk, remuneration and audit. Examples of Boards not being in control of existentialist risks were recently highlighted by the banking Royal Commission, while investigations into wage underpayment within franchises, show that risk is not just about WHS, but any factor that affects an organisation's "social license to operate" (Price 2018). Safety and risk should be integrated with financial, environmental and other management systems (ISO 2018).

¹ "Officers" are defined in s9 of the *Corporations Act* 2001 (Cth). Broadly the term refers to the Board members and more senior Executives of an organisation.

² <https://www.safeworkaustralia.gov.au/doc/model-work-health-and-safety-act>

In 2006, the HSE noted that the Board should set out key objectives and targets for WHS management and create an incentive structure for executives which drives good WHS performance, balancing both leading and lagging indicators and capturing both tangible and intangible factors (HSE, 2006). Professor Andrew Hopkins has written extensively and persuasively on these matters and on the necessity for organisational structure in high-risk operations that ensures safety issues can be reported to the CEO and Board.

Organisations that integrate WHS within their operations and see WHS as an operating advantage rather than a legislative impost, are generally more successful than peers. They retain their social licence to operate and are more sustainable in the long run. Professor Patrick Hudson emphasises this in a Safe Work Australia video (Hudson 2018).

In an initial investigation of the value proposition of WHS, Larsson et al (2007) examined the share price of Australian organisation compared to WHS reporting references within annual reports. Figure 1 shows that the WHS leading organisations generally outpaced the ASX All Ordinaries index over time.

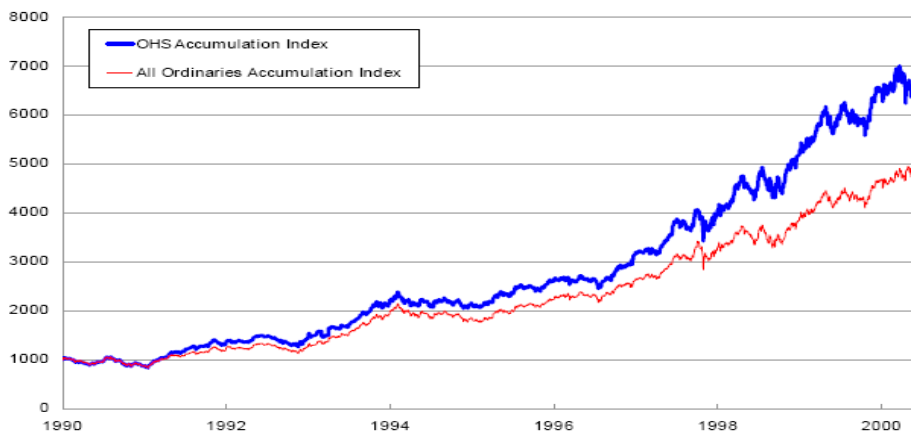


Figure 1 OHS focussed organisations v the ASX All Ordinaries index (Larsson et al. 2007)

In a more recent analysis of US organisations that participated in Corporate Health Achievement Awards (CHAA), Fabius et al (2016) showed that their share price increases were higher than that of the S&P 500 over the years 2001 – 2014. Moreover, the increase in share price was directly proportional to the score for good WHS performance (Figures 2 and 3). The return on investment improvement was 314-333% over this period compared to 105% for the S&P500 in general (Fabius et al, 2014). Note that in this study, the term ‘corporate health’ includes safety, injury management and physical and mental health management, and the study shows that these organisations took a holistic view of WHS.

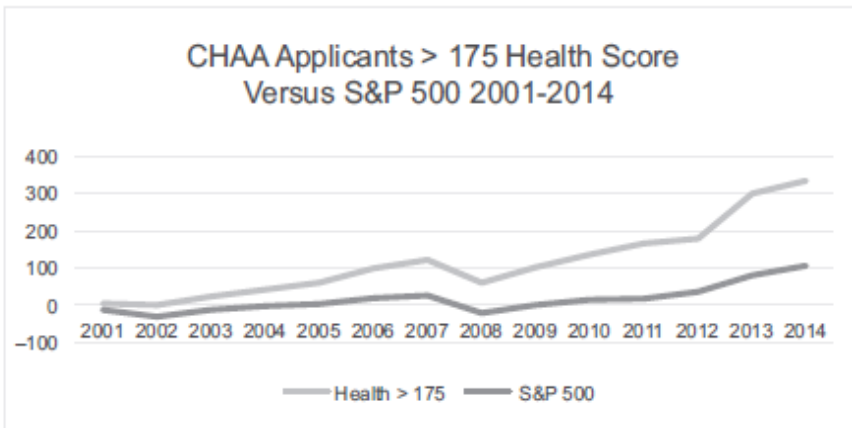


FIGURE 2. CHAA applicants with a health score >175 versus S&P 500.

Fabius et al, 2014

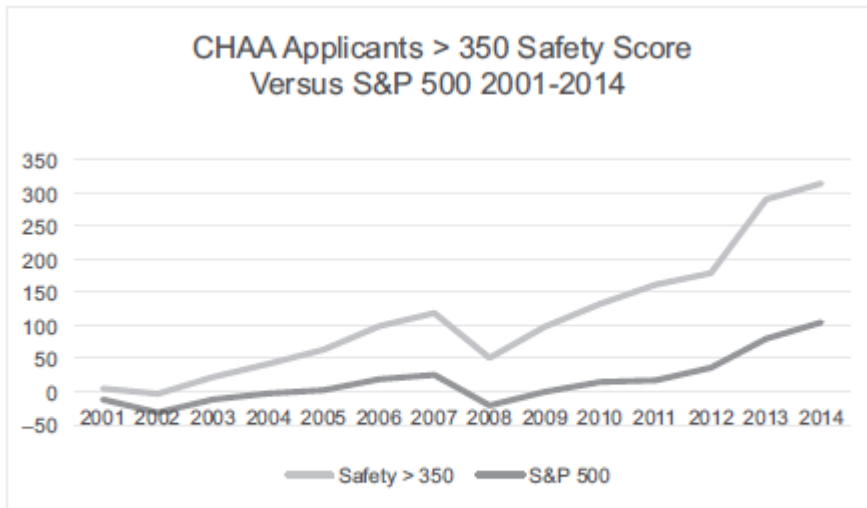


FIGURE 3. Performance of companies with a CHAA safety score >350 versus S&P 500.

Fabius et al, 2014

In a study of 10 Canadian organisations, Veltri et al (2013) identified that those organisations prioritising safety also excelled in operations and productivity. Conversely, organisations that took 'short-cuts' with safety had, at best, average operational outcomes.

Townsend (2013) found that 3-4% improvement in labour productivity was associated with a 50% reduction in injury rates. He suggests one does not cause the other as safety and productivity may be both dependent variables, and that the independent variable is skilled management which improves all aspects of an organisation.

Organisations that disregard safety are playing Russian roulette with corporate survival. Some notable examples include:

- McAleese Group floated at \$1.60 in November 2013 and sank to \$0.058 prior to voluntary administration in February 2016 after the NSW roads minister ordered the transport company's Cootes petrol tankers off the road following the discovery of fresh safety breaches. This resulted in loss of haulage contracts from Shell and BP³.
- In relation to the Macondo/Deep Water Horizon accident in the Gulf of Mexico, Forbes Magazine (October 6 2015) estimated total costs for BP to be up to \$US70B. BP in July 2015 reached settlement for \$US18.7B with US / State Governments for damages, but civil claims remain to be settled.

Regardless of any suggestion of non-compliance with legislated WHS responsibilities, workplace disasters can wreak havoc on an organisation's productivity and profitability. Village Roadshow Limited (VRL), the owner of Dreamworld had a share price at July 4 2016 of \$5.14, and at the time of the start of the Thunder River Rapids Ride Coronial Inquest this had reduced to \$1.77. An estimated \$672M in capitalisation was lost over this time, and although other factors may have been involved, *"collateral damage from the Dreamworld tragedy in October 2016 was the key driver of VRL's current problems"*⁴. It is the governance role of Boards to ensure through their risk management systems, which include WHS, that the probability of similar events is eliminated or at least minimised.

Summary and Conclusion

The AIHS's Position Statement recognises the vital role of Executives and Board Members in influencing attitudes to WHS for the better, by defining expectations of safe work practices and setting standards for all involved in the business. This role goes beyond legal obligation and is based on evidence that safe work contributes positively to successful and sustainable businesses.

The role of officers – generally Board Members and the Senior Executive team – in relation to WHS is included in WHS legislation as a non-delegable duty and is a minimum requirement. The requirements within the legislation are consistent with overseas literature on governance.

In addition, the literature clearly suggests that good WHS is associated with improved share price and improved productivity. This is consistent with AIHS's policy position.

Good WHS outcomes are not just an application of 'common sense', whatever that means, but an application of evidence-based processes and systems that yield results. Organisations are more likely to implement such processes and systems through the services of professionally qualified safety professionals. Indeed, the Victorian OHS legislation requires in s22(2)(b) that employers have access to

³ <http://www.smh.com.au/business/mcaleese-shares-at-record-low-on-tanker-woes-20140210-32br1.html#ixzz2szDmCRIm>

⁴ Morningstar, *YMW*, 12 July 2018, p20

competent OHS advice⁵. An analysis of the literature by Borys (2014) has shown strong evidence from the construction industry that employing an in-house safety professional results in lower fatality and injury rates.

The AIHS is able to provide information on the selection of such professionals to assist officers meet their legislative responsibilities and to improve productivity of their organisations.

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⁵ *Occupational Health & Safety Act 2004 (Vic) s22(2)(b) (employers must)... employ or engage persons who are suitably qualified in relation to occupational health and safety to provide advice to the employer concerning the health and safety of employees of the employer.*

Veltri A et al, 2013, Understanding safety in the context of business operations, *Safety Science*, 55, 119-134