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How technology can improve OHS outcomes

Technology is improving both the practice and efficiency of OHS in a number of ways. However, what technology can potentially bring to OHS in the future is much more promising, writes Craig Donaldson.

It's fair to say that OHS is behind the eight ball with regards to the application of technology and improving functional and organisational outcomes. The basics are in place for many organisations, and these have enabled significant improvements in the effectiveness and efficiency of OHS. Other functions, including finance and marketing, for example, are more progressive in their application of forward-thinking technologies such as machine learning, artificial intelligence and understanding of big data. However, this is changing, with a growing number of businesses actively exploring how these technologies – with the correct use of analytics – can deliver new and valuable insights.

Multinational dairy co-operative Fonterra is actively exploring the application of such technologies, with a view to driving down incident rates and minimising OHS risk across its diverse, global workforce. Fonterra's global director of health, safety, resilience and risk, Greg Lazzaro, acknowledges that while it is early days, he is already seeing the benefits of correlating data sets that are statistically linked to incident causation metrics. “I believe that as we develop this technology and enable machine learning environments, we can take better advantage of what the data tells us. As more and more big data is gathered by a growing number of sources, and with the rapid growth in artificial intelligence, predictive analytics will provide the health and safety community a new value proposition for our leaders. As decoders of this data, our community is presented with an exciting opportunity that challenges the conventional health and safety parameters which have been largely based on retrospective data analysis,” he explains. This forward-thinking approach to OHS has already benefited Fonterra in a number of ways, with a reduction in its TRIFR by some 70 per cent since 2010. For the full story see page 16.

“ Our community is presented with an exciting opportunity that challenges the conventional health and safety parameters which have been largely based on retrospective data analysis”

Also in the news recently has been the topic of industrial manslaughter. Industrial manslaughter offences have been on and off the agenda in a number of Australian states and territories for the last 20 years, and in 2004, the ACT enacted industrial manslaughter provisions in the Crimes Act 1990 (ACT). More recently, events in Queensland prompted the government to introduce industrial manslaughter provisions into the Work Health and Safety Act 2011 (Qld). In other states and territories in Australia, industrial manslaughter legislation has been proposed but not enacted, with both Western Australia and Victoria flagging the introduction of industrial manslaughter offences. However, as Michael Tooma explains, there are inconsistencies in the legislation and practice of industrial manslaughter laws across the states and territories in Australia, which has regretfully led to the beginnings of a fragmented legislative system that only looks set to continue as more states and territories promise to introduce the industrial manslaughter offence in differing terms. Turn to page 12 for the full article.

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D-Day approaching for Australian Standards

Safety Institute of Australia CEO David Clarke discusses the issue of the cost of Australian Standards, and explains why they should be available free of charge to Australian businesses

Given that they are a required tool for business, they are important to workers’ health and safety, and their development is aided by extensive voluntary input, their cost is completely unacceptable.

Why are they so expensive? Ultimately, it comes down to a distribution arrangement. In 2003, Standards Australia decided to spin off its commercial assurance business including publishing arm, creating an IPO on the Australian stock exchange. A critical element of this process was granting the new company SAI Global Limited an exclusive 15-year licence (with an additional 5-year option) to publish and distribute Australian Standards.

Although SAI Global Ltd was originally ASX listed, in 2016 the Hong Kong-based private equity investment vehicle Baring Private Equity Asia purchased it. As a result, today:

(a) we have a product (Australian Standards) created for the public good and for the benefit of Australian businesses
(b) the product is created by the Australian people by a not-for-profit agency ( Standards Australia) with extensive voluntary expertise and support contributed by a host of professionals
(c) the product can only come to the market through a private equity company with monopoly distribution rights.

Are there any pricing controls? Yes – but they contribute to the high cost, rather than control it. Distribution costs are not based on any production reality, but on an antiquated equation which assumes everyone is getting their own full-colour, bound copy in the mail. Over and above that cost, the rest is a profit margin. The creator and owner of the Standards ( Standards Australia) only receives 10 per cent (in some cases up to 15 per cent) of the net profit as a royalty share.

Extrapolating on FY15 figures in SAI Global’s financial report before it went into private hands, we believe the market in standards is well north of $300 million and as much as $150 million annually – and around 95 per cent of this is going to the distributor and not the creator.

As a result, Australian business is paying far too much for standards and the government plays its part in enforcing this by way of various legislation and regulation that push companies to buy standards to demonstrate compliance. The real cost of production has been long since de-coupled from the price of sale.

For those interested in the unintended consequences of privatising services and systems which are designed for the public good, this is a cautionary tale about how governments and not-for-profits do business, with the commercial sector. Putting a public good under the financial control of a profit-centred business can have hidden and unintended consequences, and this is a case in point. There is absolutely nothing wrong with profit motive, or SAI Global’s approach – they are simply doing what their shareholders expect by making money. But it is naïve to think that any company driven by profit motive is going to – or should – reverse that purpose for the public good.

What can be done about it?

In December 2018, at the time of writing this article, the 15-year distribution contract is up for renewal. Standards Australia’s board, to its great credit, is on the record as being fully committed to renegotiating the contract, including opening up the distribution to multiple licensees to create a fair market price for the sector. Putting a public good out of the system using whatever legal and financial resources governments and not-for-profits do business is about the fact that they cost anything at all. Created and maintained with the support of many thousands of ongoing hours of industry support and expertise, they deserve to be freely available to the community. They are critical tools for health and safety. But they are not used nearly as widely as they need to be, and solely because of their cost.

This is an issue of good health and safety practice in Australian businesses. We have written to the federal government urging them to take the next step: to subsidise standards so they are eventually available free of charge to Australian businesses – which is how it should always have been: for a public good which helps businesses produce safer and healthier workplaces.
ISO 45001 published as joint Australian/New Zealand Standard

The International Standard ISO 45001 guiding a systems approach to OHS has been published as a joint Australian/New Zealand Standard: AS/NZS ISO 45001:2018. Occupational health and safety management systems – Requirements with guidance for use. The standard was published as a joint ANZ standard following discussions with industry and regulators across Australia and New Zealand, and is intended to provide a framework for workplace safety to benefit employees and to reduce risks in the workplace. “Australian experts contributed heavily to ISO 45001, working with their international colleagues to deliver a standard outlining international best practice in the management of workplace safety,” said CEO of Standards Australia, Dr Bronwyn Evans. “Ultimately, organisations of every size and in every industry have guidance available to achieve a minimum level of workplace health and safety thanks to the publication of this standard.” Work is also underway to scope what additional guidance could be provided on AS/NZS ISO 45001 to support organisations and individuals utilising the standard. As AS/NZS ISO 45001 is adopted in Australia as a voluntary standard, Standards Australia said consideration will be given to the status of AS/NZS 4801 which today remains a current Australian Standard cited in a range of legislation across Australia.

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Government makes commitment to address silicosis

The Council of Australian Governments (COAG) recently committed to addressing silicosis in Australian workplaces through reviewing standards and regulations governing the artificial stone benchtop industry and examining the establishment of a national dust disease register for workers. Silicosis is a lung disease caused by silica dust, and displays itself by shortness of breath, cough, fever, and cyanosis (bluish skin). Safe Work Australia has been taking action to address dust hazards and occupational lung diseases for more than 10 years, and is part way through implementing a revised national work plan on occupational lung diseases and silicosis. Commenting on the government’s commitment, Australian Chamber CEO, James Pearson, said that earlier this year, SWA’s tripartite committee involving unions, employers and WHS regulators reviewed actions to address silicosis in response to increased concern and reports of more silicosis cases. “We look forward to working with government in increasing awareness of this issue and to equip employers and workers to prevent further harmful exposure wherever possible,” said Pearson. Dr Graeme Edwards, an occupational physician and Fellow of the Royal Australasian College of Physicians (RACP), also said the decision by COAG Health Ministers to review standards and regulations governing the artificial stone benchtop industry is a significant step towards protecting workers.
There has been a significant increase in the proportion of unsuccessful return-to-work attempts, according to recent Safe Work Australia research. Safe Work Australia’s National Return to Work survey is undertaken on a biannual basis and compares the return-to-work experiences and outcomes of injured workers against a number of variables, including returning to work, workplace rehabilitation and employer support. While the vast majority (92.7 per cent) of all workers reported having returned to work at any time since their work-related injury or illness, the research found that those who had to take additional time off since returning to work (due to their work-related injury or illness) was up from the 2016 survey, at 19.6 per cent. This was significantly higher among workers in the Comcare scheme (27.9 per cent) and Victoria (28.8 per cent). The total current return-to-work rate (the proportion who reported that they had returned to work at any time since their work-related injury or illness and were currently working) was also consistent with 2016, at 81.8 per cent. Furthermore, approximately 38 per cent of workers who had returned to work reported that they worked reduced hours upon their return.

Construction companies warned of heavy machinery

Construction companies operating in built-up areas were recently warned not to put workers or members of the public at risk following two serious incidents where heavy machinery has struck suburban houses, according to WorkSafe Victoria. WorkSafe is investigating after the mast of a piling rig recently struck a neighbouring house at a construction site in Strathmore. It is believed the rig was being loaded on to a float when it overturned and fell towards the house.

In another incident, a mobile crane lowering a spa bath into a backyard in Altona overbalanced, causing the boom to drop on to the roof of a neighbouring house. The two incidents should serve as warnings to construction companies working in built-up areas about the need to carefully plan work that involved heavy machinery, and to ensure it was executed safely, said WorkSafe Victoria head of hazardous industries and industry practice Michael Coffey. “Thankfully no one was injured in these incidents, but the damage caused shows just how dangerous operating large machines near houses can be,” Coffey said. “Any construction company working in a built-up area needs to be mindful of the restrictions of the site they are working on and plan accordingly, because it is unacceptable to put the lives of workers, and neighbours, at risk.”
How to improve labour hire OHS outcomes

There are a significant number of OHS challenges for both labour hire agencies and host employers when it comes to contract workers. OHS Professional speaks with Shah Abdul-Rahman, executive general manager – safety and systems for Programmed Skilled Workforce, about these challenges and the steps OHS professionals can take to improve labour hire OHS outcomes.

How well do organisations fare when it comes to OHS regarding contracted workers from labour hire agencies?

The labour hire industry is one of the most challenging sectors when it comes to the effective protection of the safety and wellbeing of employees. This is because the sector carries multiple employment responsibilities including those of the host employer as well as additional responsibilities associated with the deployment of contract personnel.

The responsibility of employing contract workers includes ensuring that all deployed personnel are consistently operating under adequate supervision, are provided with appropriate instruction and training, work within the boundaries of their competencies and skills and are not exploited to perform other tasks that a host employer would not risk themselves or their employees.

Most, if not all, host employers who engage contract workers do so to fulfil an immediate productivity need and on the whole do so with no intent to expose the contract worker to unnecessary risk. While there is a tendency to care and have concern for all workers whether they be permanent employees, contractors or contracted workers, host organisations can be categorised into three main groups in relation to their WHS considerations and responsibilities:

1. Mature organisational systems and cultures.
   
   These organisations consider contracted workers as an extension of their own. They often invest equally into contract workers as they do their employees, instill an inclusive WHS culture, have a strong focus on lead indicators and work proactively with the labour hire agency on joint WHS improvement strategies.

2. Semi-mature and reactive organisations.
   
   These organisations tend to have fundamental WHS management systems in place and will typically satisfy any labour hire agencies’ workplace risk assessment for deploying contract workers. However, we tend to find contract workers in this cohort of organisations to be more isolated than their permanent counterparts. Contract workers tend to receive less information, instruction and training as part of the organisation’s on-boarding process, they may receive less supervision and are generally exposed to more labour-intensive work activities which present a higher risk of injury. We tend to also find some organisations in this group lack a focus on preventative measures and are more lag-indicator orientated.

3. Immature organisations.
   
   These are the organisations that either fail to recognise their duties to contract workers or alternatively may be seeking to use contract workers to outsource higher-risk roles to a third-party provider. It’s these organisations which present as the highest risk to labour hire agencies like Programmed, and we can typically identify these through our workplace risk assessment process. We have solid policies in place and work flows to escalate high-risk prospective clients for further evaluation prior to supply. This is one of the most critical tools we have in place to protect our deployed field employees.

What are 3 key OHS challenges in the labour hire sector?

The casual labour sector experiences a significantly higher rate of injury from incidents across all industries, and this is clear in both industry research and my own experience overseeing health and safety in one of the largest casual labour agencies in Australia and New Zealand. There are several reasons for this.

First, one of the most consistent causes of serious injury in this sector occurs as a result of change of duties. As part of Programmed’s workplace risk assessment process, we assess every role we’re requested to supply. This allows us to validate both the hazards and controls in place as well as ensuring that we can match the skills and competencies necessary for that particular role.

Unfortunately, one of the biggest challenges we face is that host employers may instruct our deployed field employees to perform a task they are not qualified to do or one that hasn’t been assessed by us. For example, it’s not uncommon to see incidents where field employees who have been deployed in the role of a general labourer to be injured as a result of being instructed to trouble shoot, clean, repair or operate an item of plant without adequate training or supervision. Similarly, there have been incidents of deployed field employees being requested to operate mobile plant equipment which were well beyond their qualifications or level of competence.

This is where we differ. Our approach to health and safety has allowed us to defy the poor reputation of the sector. We invest heavily into this space, by engaging those clients that align to our values and are willing to work collaboratively with us. We spend a large portion of our engagement with our field employees on our Stop and Report program, which targets activities our employees have been asked to do outside the domain of their assignment. It’s important to recognise that our field employees want and need continuity of work. They have bills to pay and families to support, therefore it’s important they’re seen to be co-operative and reliable.
Unfortunately, often when they're faced with a situation of being instructed to perform a task that is unsafe or beyond their qualification, many field employees take the chance, and this is when we see many incidents occur.

Second, organisations typically engage contract workers to meet a short-term productivity demand. We find some host employers are more reluctant to invest the same amount of time and energy in the on-boarding, induction and training for a contract worker over that of a permanent employee. The result is that the deployed employee may be less skilled in their assigned work tasks, be unaware of specific workplace hazards and lack the confidence to speak up on health and safety matters associated with their assigned work.

Both challenges contribute to the perception that the labour hire sector, in my opinion, is often unfairly scrutinised for being dubious and failing to meet employment and WHS obligations. These perceptions are a legacy of the sham labour providers of the past and were part of the catalyst for the introduction of the labour hire licensing laws.

Labour hire agencies do not own the assets that employees are working on or operating within. They generally do not own the systems which employees are working under and in many cases do not provide the immediate supervision of the workers. Our strategy relies on collaboration with our customers to ensure that the health and safety of our personnel and that of the customer is effectively met.

When engaging labour hire, host employers face as many challenges as agencies. One of the biggest issues that host employers face is having the confidence that the contract worker that turns up at the front gate has the right skills, attributes and experience necessary to safely perform the assigned role and not place either themselves or others at risk. Mitigating the risk of the wrong person to the role means investing the time with the labour hire agency to ensure the person is completely across the minimum requirements of the job role, the work environment, team dynamics and, where possible, actively participating in the final screening process.

Another challenge for host employers is to determine how much time they spend on on-boarding contract workers to the organisation. When you’re looking for a contract worker for three weeks and you have a one-week induction program, many hosts are reluctant to invest in the time or expense. What we’ve seen can work well in this situation, particularly in the unskilled to semi-skilled arena, is to start off with a formalised buddy-up program with a narrow work scope coupled to a competency 

“Host employers may instruct our deployed field employees to perform a task they are not qualified to do or one that hasn’t been assessed by us”
A third challenge for host employers is working out what their WHS obligations are in relation to the contract worker. Under the model WHS Act, both agency and host employer are seen as a person conducting a business or undertaking (PCBU), and as such, both carry the same duties. If there is a lack of active communication between the two parties, assumptions can be and are made as to who has primary responsibility for the safety of the contract worker. This can extend to ambiguous interpretations and assumptions as to who is providing training and competency assessments, medicals, health surveillance, protective equipment, information, training and supervision, and it can often extend to the provision of safe systems of work.

My advice to host employers is to actively engage with your labour provider to work through these matters in a proactive and systematic manner.

What are the implications of the recent introduction of the labour hire licensing scheme on both host employers and labour hire agencies?

The recent introduction of the licensing scheme in Queensland has created a new barrier to entry following the multi-state inquiries into the exploitation of insecure workers. This barrier to entry means that labour hire agencies must be led and managed by a fit and reasonable person, be financially viable and demonstrate a history of compliance. It stands to reason that the scheme should reduce the current volume of sham and phoenix contracting agencies in the market. So far, however, of the approximately 2000 licence applications that have been approved, only one application has been rejected for misleading information.

I expected this process would have led to a higher number of sham or dubious operators being exposed, but in any case, it’s still early days, and while I understand the current focus is on processing the applications by way of desktop review, I believe the focus needs to shift to an infield style of enforcement strategy in conjunction with other workplace safety regulators. This would help ensure both host employers and agencies are adhering to the scheme conditions, but most importantly, that the safety, wellbeing and working conditions of deployed employees are protected.

While the licensing scheme rightly shines the light onto agency compliance, the implications on host employers are more limited to ensuring they only engage licensed agencies, and second, don’t engage in avoidance techniques to evade labour hire licensing arrangements.

With the South Australian scheme being repealed and Victoria yet to come online, this does bring with it additional administrative burdens and governance requirements on labour hire agencies, increasing their cost to service. I believe a federal or harmonised approach to labour hire licensing would bring a consistent and far more effective licensing model.

What impact have the harmonised WHS laws had on this?

The harmonised WHS laws, in my experience of this sector, do not sufficiently address the challenges that labour hire agencies face in their ability to exercise their duties as an employer with limited control and influence.

My view is that the duties imposed on labour hire agencies need to be proportional to the amount of control and authority they actually have over their deployed workers, and there are several such examples. The WA Mines Safety and Inspection Act 1994 imposes the same duties of a principal employer on to the agency to the extent the agency has control and authority.

There is a pressing need to provide greater clarity on defining the duties of host employers and labour hire agencies. While there is an abundance of various guidance material available, to a large extent it fails to go into sufficient depth in many areas. For example, a labour hire agency should have the right to access a host employer’s worksite and all relevant information following a serious injury or notifiable incident involving their employee.

It’s not uncommon for host employers to limit such access, making it difficult for the labour hire agency to effectively complete an investigation into the incident and allow it to make sound decisions around future supply arrangements. With the review of the Model WHS laws now underway, I am hopeful that the scope of the review extends to the labour hire sector in more depth.

What are some key strategies for host employer companies, which are engaging with labour hire agencies to protect the health, safety and wellbeing of both casual labour employees and host employers?

When it comes to assessing health, safety and wellbeing across sectors and organisations, labour hire agencies are in a valuable position. We have the opportunity to see how these elements are managed across multiple sectors and employer groups and use this information and experience to benchmark, create and apply best practice within our own organisation. Unfortunately, a lot of employers fail to see how labour hire agencies can support them in their safety journey.

Three tips for host employers:

1. Make inquiries with your labour hire incumbent and effectively assess what they are currently doing to manage the health and safety of their deployed employees.
2. See your labour provider as an extension of your organisation. Take the time to build a relationship with the labour provider and formulate a collaborative health and safety improvement strategy. This can extend to initiatives like education/training campaigns, risk assessment support, wellbeing initiatives and benchmarking programs. This approach can bring great improvements to workplace culture and provide for
a team-based spirit between contract workers and the host employer.

3. Work with your labour provider in setting up an aligned early intervention strategy.

We have found that where there is an upfront and agreed early intervention and injury management program, the wellbeing of injured employees through the process is heightened and, as research confirms, their propensity for return to work is higher.

What are the implications for OHS leaders of host employers, to improve OHS standards and mitigate and manage associated risks?

Most OHS leaders are well aware that a contracted worker is viewed as a deemed employee of the host organisation. OHS leaders need to take the time to understand where labour hire is used within their organisation and evaluate the effectiveness of the controls currently in place surrounding the scope of the labour hire supply. Consider conducting an internal audit against the challenges mentioned earlier, and engage with the senior leaders of both the labour hire agency and host organisations to facilitate a cultural alignment strategy. Some questions an OHS leader can ask within their own organisation include:

- How do we currently on-board and induct contract workers into the organisation? Is it the same as permanents?
- Are contract workers actively engaged and encouraged in daily start-up and work planning activities?
- Are contract workers encouraged to participate in host employer WHS recognition and other wellbeing programs?
- How are contract workers informed and trained to understand the operational hazards and controls in the workplace? Is it sufficient? Do contract workers have a voice to escalate health and safety concerns, and are they part of the consultative process?
- How do we keep the labour hire agency and contract workers informed of workplace health and safety changes?
- How do we manage injured contract workers, and how can we better support them and the process?
- How well do we engage with the operational and health and safety leads of the labour hire organisation to drive a shared improvement focus?

About Programmed Skilled Workforce

Programmed is Australia’s leading staffing and maintenance organisation, providing staffing, professional, technical, training and maintenance services across Australia and New Zealand with more than 20,000 employees supporting industry, every day. It has a zero harm focus, and since 2006 it has improved injury rates, improved employee engagement, reduced absenteeism, improved employee retention and achieved these results by embedding core values into the culture from the top down and bottom up, and proactively engaging its workforce and customers in the pursuit of safety improvement.

Shah Abdul-Rahman is a seasoned health and safety leader with over 20 years’ experience of service in maintenance and major project support in mining, oil and gas and infrastructure works. He currently serves in the role of executive general manager – safety and systems, overseeing a number of operational, quality and functional support streams as well as health and safety for Programmed Skilled Workforce.

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Industrial manslaughter: the state of affairs

There are inconsistencies in the legislation and practice of industrial manslaughter laws across Australia, which has led to the beginnings of a fragmented legislative system that only looks set to continue, writes Michael Tooma

Industrial manslaughter offences have been on and off the agenda in a number of Australian states and territories for the last 20 years. On 1 March 2004, the ACT enacted industrial manslaughter provisions in the Crimes Act 1990 (ACT). In Queensland, the deaths of two workers at the Eagle Farm Racecourse and four visitors in the Dreamworld theme park were catalysts for the Queensland government to follow suit and enact the Work Health and Safety and Other Legislation Amendment Act 2017 (WHS Amendment Act), which introduced industrial manslaughter provisions into the Work Health and Safety Act 2011 (Qld).

However, there is inconsistency in the laws in the ACT and Queensland. Specifically, there are different tests used (negligence in Queensland and both negligence and recklessness in the ACT); different levels of officer (“senior officer” in Queensland as distinct from “officer” as defined in the Corporations Act 2001 (Cth) in the ACT); and different penalties ($1.5 million, being the maximum penalty for a corporation’s breach in the ACT, and $50 million, being the maximum penalty under the Work Health and Safety Act 2011 (Qld)). This article examines the issues around negligence and recklessness.

“A negligence-based industrial manslaughter crime is in practice easier to prove than a recklessness offence – yet it carries a higher penalty”

The first part of this article provides an overview of the different legislation in force in the ACT and Queensland and the relevant tests in each jurisdiction. The second part of the article explains the position in the UK: the common law gross negligence manslaughter offence and the corporate manslaughter as enacted under the Corporate Manslaughter and Corporate Homicide Act 2007 (UK) (the UK Act) and what is required to prove these offences. The interpretation of these provisions by the courts provides a comparative analysis to the position in Australia and, ultimately, gives insight into how Australian courts may approach industrial manslaughter offences.

Australia

In Australia, the states and territories which have enacted, or are looking to enact, industrial manslaughter provisions all include a test of negligence. Some states and territories have also imposed an alternate test of recklessness.

In the ACT, industrial manslaughter provisions are set out under sections 49C, 49D and 49E of the Crimes Act 1990 (ACT) for employers, senior officers and corporations, respectively.

An employer is guilty of industrial manslaughter under these provisions if:

1. the worker died in the course of employment by, or providing services to, or in relation to, the accused (or later died from injuries suffered in the course of employment by, or providing services to, or in relation to, the accused)
2. the accused’s conduct caused the death, and
3. the accused was negligent about causing the death of the worker by the conduct.

In Queensland, industrial manslaughter provisions are contained under sections 34C and 34D of the Work Health and Safety Act 2011 (Qld) for both persons conducting a business or undertaking (PCBUs) and senior officers.

In order to establish industrial manslaughter against a PCBU or senior officer in Queensland, the prosecutor needs to establish that:

1. the worker died in the course of carrying out work for the accused (or later died from injuries suffered in the course of carrying out work for the accused)
2. the accused’s conduct caused the death, and
3. the accused was negligent about causing the death of the worker by the conduct.

In other states and territories in Australia, industrial manslaughter legislation has been proposed but not enacted. For example, Western Australia looks set to adopt a “recklessness” test in line with the ACT, while the current Victorian government has indicated it would introduce a “negligence”-based industrial manslaughter offence if re-elected.

The penalties for breaching the ACT provisions are 2000 penalty points (currently $42,000 for individuals and $1.5 million for corporations), 20 years imprisonment or both, while in Queensland PCBUs may be liable to fines of up to $10 million and a senior officer to up to 20 years imprisonment. Accordingly, industrial manslaughter provisions exist which are based on a negligence test and carry higher penalties.

The issue lies in that negligence is a lower threshold than recklessness. The meaning of criminal negligence in the context of industrial manslaughter in Australia is unclear. Generally, recklessness requires actual foresight of the possibility or likelihood of the consequences of the contemplated act or omission and willingness to run the risk of the consequences becoming reality; whereas criminal negligence requires proof of conduct, which falls short of the relevant standard that merits criminal punishment. The variance in the requirements to satisfy the offence results in incongruence and fragmentation.

Consequently, a negligence-based industrial manslaughter crime is in practice easier to prove than a recklessness offence – yet it carries a higher penalty.
The UK

The equivalent of industrial manslaughter offences in the UK has had a longer legal history than industrial manslaughter in Australia. The UK has a common law “gross negligence manslaughter” offence and a legislative “corporate manslaughter” offence.

Gross negligence manslaughter

The UK case law illustrates the development of the common law “gross negligence manslaughter” offence in the UK and how it was interpreted by the courts.

Gross negligence manslaughter was originally set out in R v Bateman (1925) 19 Cr App R 8 and followed by the case of R v Adamaco [1995] 1 AC 171 providing the historical position in the UK. The standard established in this case was that a “reasonably prudent person” would have foreseen a “serious and obvious risk of death”, and merely foreseeing “injury” or even “serious injury” was not sufficient. Following this, R v Jessey (1999, Steel J, unreported) held that the negligence must be considered a “grave crime of manslaughter”, and similarly, the court in R v Lion Steel Equipment Ltd and Others (2012, HH Gilbart QC, unreported) held that the relevant conduct must be “truly reprehensible”. It is evident that in the UK there is a high threshold for gross negligence to be proven. That is, the negligence must be of a serious kind.

“The UK position may give an indication of what we can expect to see from the Australian courts in the future”

While organisations could face these manslaughter charges as individuals under the common law offence, it was difficult to prove in court. The prosecution first had to show that a senior individual who “embodied” the corporation was guilty of the offence. If this “controlling mind” was not personally guilty of gross negligence manslaughter, the corporation would not be guilty. This difficulty in satisfying the test of negligence in the common law led to the enactment of the corporate manslaughter offence in the UK.

Corporate manslaughter

On 6 April 2008, the new offence of corporate manslaughter came into force under the UK Act.

Pursuant to sections 1(1) and 1(3) of the UK Act, to be guilty of “corporate manslaughter”, the prosecution must prove:

1. the organisation owes a duty of care to the victim
2. the way the activities are managed or organised amount to a “gross breach” of that duty
3. a substantial element of the breach must result from the way in which the activities are managed or organised by the senior management, and
4. the death must be caused by the way in which the activities are managed or organised.

Section 1(4) of the UK Act provides that a “gross breach” is one where the conduct alleged “falls far below what can reasonably be expected of the organisation in the circumstances”. To assist the court in determining whether a gross breach has occurred, the UK Act focuses on several factors, including a consideration of whether the corporation “failed to comply with any health and safety legislation that relates to the alleged breach, and if so... how serious that failure was... [and] how much of a risk of death it posed”. The House of Commons Standing Committee provides that “falls far below” dictates that when a minor breach of health and safety legislation occurs, or when a genuine effort has been made but the appropriate standard has not quite been met, guilt will not result. Instead, there must be a significant deviation from the standard.

The first prosecution under these provisions took place in early 2011 in the case of R v Cotswold Geotechnical Holdings Limited [2012] 1 Cr App R (S) when Cotswold Geotechnical was fined £385,000 after the death of a geologist. Between 2008 and 2017 there were 25 successful prosecutions, with a further three firms being convicted of corporate manslaughter in one week in May 2017. This illustrates the success of the enacted offence despite the high threshold to be established.

The high threshold in the UK may be an indication of what will be required to be met in industrial manslaughter cases across the states and territories in Australia. Gross negligence and corporate manslaughter in the UK incorporates the test of negligence and imposes a higher test within the spectrum of negligence. It may be that Australian courts will require similar extremes for any prosecutions to be successful.

Conclusion

There are inconsistencies in the legislation and practice of industrial manslaughter laws across the states and territories in Australia. This has regrettably led to the beginnings of a fragmented legislative system that only looks set to continue as more states and territories promise to introduce the industrial manslaughter offence in differing terms. The tests of negligence and recklessness are a prime example, and it is not clear whether these offences will logically fit with other work health and safety offences and the corresponding penalties.

In the UK, the standard of negligence under the gross negligence and corporate manslaughter offences are well established. Perhaps Australian courts will adopt a similar interpretation of the standards in relation to the issue of negligence under industrial manslaughter offences. The UK position may give an indication of what we can expect to see from the Australian courts in the future.

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How to improve OHS through Human and Organisational Performance

How well do organisations fare when it comes to optimal human and organisational performance?

Understanding how Australian, or indeed international corporations fare with regards to Human and Organisational Performance (HOP) requires us to reflect upon both what we measure and what optimal performance looks like.

The term Human and Organisational Performance describes the interactions and interdependencies of humans and organisations in the execution of work. Used within a professional practice context, it has come to be paradigmatic of a broad range of relativist and phenomenological thinking within business, focusing upon the understanding and improvement of relationships and interactions between the parts, as opposed to traditional componential analyses. It takes a holistic approach which recognises that systems as a whole drive behaviour – a view common among recent management, organisational and safety research.

This perspective, in which performance emerges from the interactions and relationships between technology, people and management (the fourth age of safety in Borys et al’s article “The fifth age of safety: the adaptive age” (2009)), emphasises the importance of building upon our existing knowledge base through reflective acts, in light of growing evidence-based research. It is a perspective that views emerging safety philosophies not as genocidal acts upon traditional approaches, but instead as more enlightened viewpoints borne of reflective processes; an act of integration, as described by Hale & Hovden in their article “Management and culture: the third age of safety” (1998).

Determining a state of performance thus requires the measuring of these interactions and relationships, relationships which by their very nature are constantly changing in response to numerous environmental and cognitive conditions, giving rise to the key HOP principle that interconnected networks of conditions, or systems, drive behaviour.

Yet, what is often measured is not these conditions but the behaviours, as well as attitudes and beliefs, of people within the system – the emergent phenomena of underlying interactions, void of the contextual conditions present at the time such phenomena are observed.

HOP, Safety II and Safety Differently are perspectives and paradigms that promote a deeper and greater understanding of operational work conditions, a means of providing organisational intelligence, writes Andy White

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HOP, Safety II and Safety Differently are perspectives and paradigms that promote a deeper and greater understanding of operational work conditions, a means of providing organisational intelligence, “not being a spy, but being someone who can understand the organisation, and hold up a mirror reflecting the organisation back to itself” (Dr Drew Rae, School of Humanities, Griffith University, 2016). The emphasis here is on understanding as opposed to explanation, an important philosophical difference between the natural and social sciences (Hollis, 2011).

The WHS Act 2011 yields further insight into this philosophical debate, for the word “understanding” not “explanation” is used within the definition for due diligence, requiring officers to “gain an understanding of the nature of the operations of the business or undertaking of the person conducting the business or undertaking, and generally of the hazards and risks associated with those operations”.

The question of how organisations are faring is thus dependent upon how management and people understand their own operations, through the interactions and interdependencies of their system components.

Understanding the vulnerabilities, the “messy” interactions, workarounds, frustrations and single points of failure within these operations is one measure of this fourth age of integration. Yet, we are only now beginning to ask these types of questions, and understanding the full spectrum of work irrespective of its outcome.

The only people capable of answering the question posed, therefore, are those from within the organisation. Benchmarking against others or providing a general account for how corporations are performing is both distorting and distracting; looking within, learning and understanding is what counts.

Our goal is thus to learn enough about
our operations, that we realise – given the conditions our operators face, the information, tools and equipment they use, and the interdependent pressures they are under – that we ourselves would probably make the same decisions they do at any given time.

The question is not what your dashboards and intelligence-gathering activities tell you about performance outcomes or activities, but rather, what they tell you about the conditions of work at any given time. Where are the most common challenges for companies, and what impacts do these have on OHS?

Despite the polarising debate that emerges from the word “bureaucracy”, there is certainly a challenge in the amount and value elicited from its use. Greg Smith, in his recent book *Paper Safe*, captures this sensitive issue in a way few can argue with, in that “the problem with bureaucracy is that it has lost its connection with purpose”. This is a hypothesis that is increasingly evidenced in case law, research (Rae & Provan, 2018), and in the decluttering experiments being undertaken at Australian academic institutions.

Reconnecting process with purpose, and measuring understanding over activity are key challenges for organisations, yet the benefits of adopting this approach extend far beyond any safety outcome, providing insight into all manner of operational performance phenomena such as quality, wellbeing and production. The issue we commonly see in the interpretation and application of safety being part of normal work, is in the adoption and completion of ever-increasing safety artefacts, artefacts with tenuous links between process and purpose.

What strategies can companies take to remedy the above?

Seeking to better understand requires organisations to reframe what it means to understand. To rely solely on metrics and quantifiable data as a representation of people’s everyday work is clearly insufficient, yet it remains the primary tool for organisational intelligence.

Understanding requires us to engage with our people, to enter into dialogue and conversation, not discussion; to share stories as representations of how individuals and groups make sense of the conditions present in work. This means seeing people as the solution, the intelligence gatherers, the problem solvers and innovators that they are.

Creating opportunities to converse, co-create understanding and reflect together are key first steps, yet they require a broader organisational commitment to learning. Acknowledging the barriers to learning – such as the attribution of blame and absence of diversity – enables people to share without fear of judgment, eliciting a deeper and richer understanding of work conditions.

What are the implications for OHS professionals?

For us as professionals, these fresh perspectives provide an opportunity to reflect upon the efficacy of our own actions and work in a way that needn’t be judgmental or critical, but instead, that emphasises the things we ourselves are doing well, that add value to operational safety and that connect process with purpose.

Andy White is a HOP coach with Southpac International, a qualified civil engineer, Antarctican, and postgraduate at the Griffith Safety Science Innovation Lab in Brisbane, Australia. His broad understanding of business, project management, safety, STEM and the social sciences provide him with a unique trans-disciplinary approach to safety leadership in which he invites diversity and inquiry into concepts of safety.

“The question of how organisations are faring is thus dependent upon how management and people understand their own operations, through the interactions and interdependencies of their system components”
Fonterra Co-operative Group Limited is a multinational dairy co-operative owned by around 10,500 New Zealand farmers. It is responsible for approximately 30 per cent of the world’s dairy exports and sells dairy products and ingredients to 138 markets around the world. With revenues of NZ$20.4 billion (A$18.7 billion) and almost 22,400 employees, it is New Zealand’s largest company.

The company has also been recognised for its leading approach to providing a safe and healthy work environment for workers as well as contractors and those involved in its supply chain and broader operations. “Continuous health and safety improvement is an integral part of everything we do,” says Greg Lazzaro, Fonterra’s global director of health, safety, resilience and risk. “Achieving effective health and safety improvement is regarded as essential to our long-term success and an integral part of our values and how we run our business. We have focused programs to address our critical risks and our injury reduction ambitions.”

Lazzaro explains that it is an ongoing and constant exercise to maintain a healthy tension on the factors where there is demonstrated good control, and elements where there is an opportunity to be better. “This healthy tension can be difficult when there are competing priorities: we’re a food business with a lot of manufacturing and distribution activity and large amounts of complexity,” he says. “And when you think about the obvious pressures in achieving outcomes, there are many things which are operating well where we tend to think we’re OK – but that’s where complacency can creep in. So, keeping health and safety alive and fresh in people’s priorities is a really tough job – probably even tougher when you’ve got good performance, because, quite frankly, that’s a lot of pressure on an organisation to ensure they keep that vigilance in what they do really well.

“So, we have great processes and systems. We have a great business culture (I won’t say safety culture because I don’t think safety culture exists) which does value health and safety, along with a lot of other things which are really important, so we want to make sure we keep our attention on what really drives us to perform.”

Road risk and innovation

One of Fonterra’s critical sources of safety risk comes from its road fleet, milk tankers and drivers behind the wheel. “There’s no easy solution to deal with what is a highly variable environment to work in. In our factories, manufacturing facilities, offices and logistics warehouses, we have total control of the environment, which means that we can make the precursors to risk really clear to people and we can educate people on the process of not creating risk,” says Lazzaro. “But once you get into an environment that is uncontrolled, this...
is where our most vulnerable areas are, and there isn’t an easy solution to this.”

Lazzaro explains that Fonterra is constantly looking at what value technology and innovation can add to safety and its fleet of 500-odd milk tankers. “They pick up milk, every day, and peak season’s twice a day, so there’s a probability that there’s going to be interactions with other vehicles. And, quite frankly, it’s something I think we have to wait for that next step change in technology to really have a marked effect on that.

“We have a great business culture (I won’t say safety culture because I don’t think safety culture exists) which does value health and safety”

We are looking at how we can align ourselves with technology and potentially with autonomous vehicles, which takes away that element of human judgment and builds in more potential safeguards.”

From marketing merchandisers and product reps through to milk tanker drivers or its delivery fleet, Lazzaro says the company is constantly challenged by the variables and sheer volume of events that its drivers face. “To support them we have driver training programs, defensive driver education, and have made investments in in-cab fatigue management equipment and driver telemetry management, including in-cab cameras,” he says.

“Fonterra takes our obligation to provide a safe tanker fleet for our drivers and our community very seriously. Our milk tanker fleet is made up of extremely professional drivers, all who are highly trained and experienced, well rested and with well-managed shift arrangements, but unfortunately, we do experience incidents on our roads – that can be tragic in some cases.”

Very rarely is there one cause for incidents or collisions on roads, according to Lazzaro, who says
“Once you get into an environment that is uncontrolled, this is where our most vulnerable areas are, and there isn’t an easy solution to this”

one specific challenge is the general behaviour from other road users – which generally comes down to a lack of understanding of the allowances that should be given to larger vehicles on the road. “If you speak to any professional driver, as I have done, you will quickly find that, more often than not, there are many stories of a close call or near miss that has almost led to a disaster – or worse, a fatality. Our drivers are also compensating for weather conditions and changing traffic densities,” he says.

Fatigue management, speed restriction and telemetry technology can play a crucial role in risk prevention, but with all the variables on the road at play, “we still rely on the quick action and high level of training and professionalism of our drivers,” says Lazzaro. “The longer-term ambition is for an autonomous vehicle solution that, in theory, should further reduce the risks on judgment, and we are on the constant lookout with our transport vehicle providers internationally for what the future has to offer. For the time being, we continue providing our professional drivers with the critical measures they need to manage this complexity and are constantly looking for better ways to improve with technology and innovation.”

Monitoring what matters and predictive analytics

As a co-operative comprising more than 10,000 farmers, Fonterra’s roots are focused on its people, according to Lazzaro: “starting with our farmer owners through to our production facility teams and onto our consumers. For many years there’s been a great drive of momentum and accountability with health and safety across Fonterra, which has led to everyone being encouraged to own health and safety issues. But with this good performance comes the risk of complacency, or dropping the ball,” he explains.

To help address this, Fonterra recently adopted a “monitoring what matters” strategy, which is designed to measure factors that will positively impact everyday risk prevention, from injury risk right through to critical risks. “Previously we have recognised that, while traditional reactive safety metrics have a place, they are not geared to taking the forward view of managing our complex environments. We have therefore shifted our views to the precursors of risk and the behaviours and environments we know can keep health and safety, and food safety, front of mind,” he says. “The notion of looking at what goes right in our work day rather than what goes wrong is something Fonterra is also investigating to set our activated workforce up for the next step in risk awareness and prevention.”

An important part of this process is looking at different environments and the way these environments interact with humans, according to Lazzaro, who explains that this involves the understanding and use of big data – which then helps understand what can be done on a predictive front. “Across our business we generate vast amounts of data from a multitude of sources. By harnessing the power of that data, we can piece together correlations and extract areas of opportunity to predict environments that may indicate heightened risk. We are also testing this data with our peers for deeper insights into the benefits of validating these correlations, to better predict unfavourable or higher risk areas,” he says.

“The value that this holds for better decisions is obvious and it will change the way we use our insights. While it is early days, we are already seeing the benefits with correlating data sets that are statistically linked to incident causation metrics. I believe that as we develop this technology and enable machine learning environments, we can take better advantage of what the data tells us. As more and more big data is gathered by a growing number of sources, and with the rapid growth in artificial intelligence, predictive analytics will provide the health and safety community a new value proposition for our leaders. As decoders of this data, our community is presented with an exciting opportunity that challenges the conventional health and safety parameters which have been largely based on retrospective data analysis.
“Right now, we’re delivering a mix of positive reinforcement and messaging from our business, while looking at precursors to events as well as environmental conditions. We’re tracking factors such as hours of work, overtime and fatigue indicators. And out of this, we are developing a modelling scenario for what could be heightened levels of habit or unfavourable conditions that may lead to an event.

“So, we’re challenging the business to start thinking about what a great work day looks like and what constitutes that, as well as where things can go wrong which will lead to heightened levels of risk – so we can act on that immediately with interventions. So, we’re looking at environmental conditions and what bad rain events do to our risk profile onsite as well as near misses with mobile plant such as our vehicle fleet. We’re also looking at the correlation between events caused through fatigue, and how these cascade into operational disruptions which then translate into further fatigue, heightening the level of risk for first-aid injuries or minor strains and sprains.”

**Improving training through VR**

Fonterra is adopting a range of technologies across the business to improve OHS outcomes, and Lazzaro says there are a number of implications and benefits in this. “With changing technology and automation becoming commonplace across parts of our workplace, we recognise that we have to work with autonomous vehicles, robots and other ‘people-less’ mobile plant,” he says.

“Our production environments are state-of-the-art and are becoming smarter, which requires our workforce to be constantly upskilled to deal with these rapid shifts while maintaining a careful balance of safe food, safe people. Technology plays an integral role in driving our safety culture, and Fonterra’s investment in creating a virtual environment makes the world more accessible and connected. Nothing beats face-to-face contact, but virtual technology gives us a healthy balance by giving people an environment where they can connect. Fonterra is front-footing this approach with bolstered experiential training, providing augmented reality training programs which are based on virtual reality (VR) environments to allow our people to become familiar with plant and process even before they have stepped foot onsite.”

Fonterra partnered with consulting firm Beca to develop a VR health and safety training technology which lets employees navigate the company’s manufacturing and distribution sites remotely, while substantially reducing on-boarding times. “The opportunities for VR are significant. With this solution we can replicate the physical environment of our sites, so staff can undertake virtual health and safety training in an extremely immersive and realistic way. That means our people can learn about and identify potential hazards more quickly than ever, encouraging more engaged employees and better workplace safety,” he says.

The VR technology replaces a significant portion of the hands-on health and safety training at Fonterra that is often costlier and less effective, according to Lazzaro, who explains that training can be tailored to each of Fonterra’s sites and tested through the completion of modules. While it’s a novelty at first, using VR is ultimately a safer learning environment and enables a strong familiarisation of sites for Fonterra employees. “While our health and safety performance continues to improve, we are always looking for ways to reduce risk to our employees.
VR means our people can experience hazards in a realistic simulated environment, enhancing learning experiences, without being put in harm’s way,” he says.

Following a VR walkthrough, employees answer questions about the identification of safety issues or the configuration of a particular site, as well as multiple choice questions focusing on competency. The technology is also able to look at how participants are interfacing with the experiential situation, assessing time to respond, what they’re looking at, what they’re attracted to, and how the eye movement matched to level of investigation. “VR technology is not new; but rather it’s the smarts that go behind the actual OHS application of it and the learning that we get from how to assess and address competency. For example, identification of fire protection equipment is easy – but our people need to understand what and where the risks are.”

**Collaborating to drive OHS outcomes**

Fonterra’s leadership takes a holistic approach to OHS, from board sentiment and behaviours, to executive decisions and all the way down to the manufacturing floor, according to Lazzaro, who says this supports collective buy-in and expectations around the critical importance of health and safety – both from a values and a business sustainability perspective. “This is achieved through a business culture that is fostered by our senior executive and delivered through action,” he says. “For example, our senior management teams own and lead our health and safety expectations and regularly deliver critical messages to employees on these. Across our manufacturing sites, it is not uncommon for our executive to visit a site that may have recently undergone an audit to speak with the teams about the findings – good or bad. It’s these behaviours that make the difference.”

As a food company, Fonterra also employs a “safe food, safe people” program which reinforces its enduring duty of care obligations, which are wider than traditional employee obligations, says Lazzaro, who explains that Fonterra aims to foster a belief that everyone is responsible for delivering on its “safe food, safe people” ambitions. “But we also understand that it takes time to instil this belief when there are competing priorities. We constantly face this challenge. Through managing budgets, production efficiencies, quality needs and other very important parameters, Fonterra is constantly reviewing the right balance between what is the best use of finite resources without compromising our values. It can be tough, but what really endures are our values and subsequent behaviours,” he says.

“For example, we strive to demonstrate our vigilance in health and safety through action rather than to talk a good game. I am proud that we hear the same messages echo from our management groups right through the organisation that are aligned with our health...
and safety teams. This is not by accident, but through hard work and robust leadership to instil a culture within our business that puts health and safety top of mind. Although our business continues undergoing a period of change, I am very heartened that the priority placed on health and safety remains very strong.”

As a global business operating in more than 60 countries, Lazzaro says building a sense of connection with people across Fonterra is key to ensuring its values and expectations are clearly delivered across all operations around the world. “It is tough ensuring we connect and manage this sense of belonging to the Co-operative, but Fonterra has a very strong on-boarding program that I believe is the best I've seen in any organisation I have worked in. As I travel throughout our business globally, I see that this is translated into common threads of sentiment and behaviours, with leadership teams playing an important role in delivering this culture,” he says.

**Leading a “just culture”**

Maintaining vigilance in health and safety is dependent on everyone in the business, according to Lazzaro. “Through a robust ‘just culture’ approach that is deeply embedded in Fonterra’s values, we are enabling managers, employees and other stakeholders such as our contractors to speak up and highlight health and safety and food safety improvements, issues or concerns,” he says.

“This just culture allows the business to be very open and transparent, and it serves as a mechanism to identify leaders who aren’t performing when it comes to the ‘people care approach’. We have 60 plus large manufacturing sites in New Zealand, about eight in Australia as well as many others across the world. When you look at facilities, there are staff who are performing as well as staff who aren’t performing. And usually, when staff are not performing, it’s not just a health and safety issue but rather a range of different issues. What we generally find is, it is leadership that makes the difference. So leadership care, if you like, is what we look at when we think about business success,” says Lazzaro.

“And leaders are accountable for health and safety. We could have the most efficient and effective plant but with poor health and safety performance. So it won’t be judged as being a good plant. We’ve put a value on how people are cared for and how people are allowed to be a part of a positive approach as a success factor. This is reflected in leadership assessments and also the way we can look at benchmarking. It’s really great when you can go internationally and see the same ethics, the same moral decisions and the same sentiments when the cultural differences are so vast,” he says.

**Fonterra’s OHS results**

Fonterra’s health and safety performance is measured using a number of reactive and preventive indicators. These include Total Recordable Injury Frequency Rate (TRIFR), number of serious harm injuries and status of self-assurance and internal control audits conducted throughout the business. Its TRIFR over the past year was 6.1 per million hours worked (a total reduction of about 70 per cent since 2010), with slightly fewer serious harm injuries in FY18 overall compared to FY17.

“We remain committed to achieving our longer-term TRIFR goal of five, which represents being among world-class operations within our industry group. Our focus is to continue to track our efforts on a broad range of health and wellbeing programs to enhance our people care and actively prevent incidents from occurring,” says Lazzaro.

Fonterra has received a number of awards in recognition of its leading approach to OHS. It won three awards including the supreme award for the best overall contribution to improving workplace health and safety in New Zealand in the 2016 New Zealand Workplace Health and Safety Awards. It has also received international recognition, with Fonterra Australia winning the 2017 commitment to workplace health and wellbeing award in the 2017 WorkSafe Victoria Awards, as well as a best in class OHS award in Sri Lanka’s 2014 National Occupational Safety & Health Excellence (NOSHE) Awards.
Taking the safety pulse of Tasmania

Australia’s OHS regulators play a fundamental role in improving health and safety outcomes. OHS Professional speaks with WorkSafe Tasmania chief executive Mark Cocker about the evolving role of the regulator, priorities in compliance and enforcement, and the hallmarks of organisations with good OHS.

What are the priority areas that WorkSafe Tasmania will be focusing on to help improve WHS outcomes?

There are eight industries and activities that we are currently focusing on as a priority: agriculture; public administration and safety; dangerous substances; health care and social assistance; construction; retail trade; major hazards and mines; and road transport. These industries and activities have been identified following an analysis of injury rates and industry performance data.

Health care and social assistance is the largest employing industry in Tasmania, and one in five workers injured in 2017 worked in this industry. Furthermore, the serious injury rate for this group is the highest of all industry sectors in Tasmania – 77 per cent higher than the state average.

One-third of all work-related traumatic fatal events occurred within the transport, postal and warehousing industry group in the three years to 30 June 2018. Focusing on identified priority areas such as this sector will maximise the impact of our compliance and advisory activities, to help these industries improve work health and safety performance and outcomes.

Targeted harm reduction within our targeted priority industries and a focus on high consequence activities is the first of four strategies set out in our Strategic Plan 2018-2023. Our other three strategies focus on building culture and capability to respond to current and emerging WHS issues; ensuring regulatory frameworks are contemporary and effective; and striving for excellence as a regulator. Together, these strategies support us to deliver our objective of healthier, safer and productive workplaces.

How is WorkSafe Tasmania working with stakeholders to achieve the best outcomes for all?

WorkSafe Tasmania has a strong relationship with the WorkCover Tasmania Board and resources, and have focused on emerging issues including the promotion of mentally healthy workplaces. Activities in 2019 will closely align with the priorities identified in our Strategic Plan, with sessions specifically targeting matters relevant to workers and employers in health care and social assistance, road transport, and public administration and safety.

Our stakeholders reach far beyond workers, unions, employers and their organisations. WorkSafe Tasmania also works closely with government, courts and tribunals, legal practitioners, subject matter experts, service providers and the Tasmanian community on specific areas of concern, to provide advice and networking opportunities. WorkSafe Tasmania chief executive Mark Cocker observes that as the nature of work changes, new risks, challenges and opportunities emerge through this partnership, continues to deliver a broad range of engagement activities to encourage unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices and outcomes.

Our Better Work Tasmania initiative maximises the benefits of collaboration, best practice and peer mentoring to equip workers and industry with the right information and support to create healthier and safer workplaces. Networking events held in 2018 have been tailored to stakeholders in specific sectors such as fisheries and forestry, and have focused on emerging issues including the promotion of mentally healthy workplaces. Activities in 2019 will closely align with the priorities identified in our Strategic Plan, with sessions specifically targeting matters relevant to workers and employers in health care and social assistance, road transport, and public administration and safety.

How do you see this evolving over the coming 3-5 years?

As the nature of work changes, new risks, challenges and opportunities emerge. Over the next three to five years, WorkSafe Tasmania will improve our use of information and research in work health and safety to identify emerging trends and recalibrate our priorities accordingly. Our organisation is in a unique position to collate and disseminate information to assist employers to better
identify potential harms in their workplaces and implement effective work health, safety and wellbeing programs to reduce these harms. We're currently embarking on the re-engineering of our digital platforms to improve the user experience and accessibility of content, which will be informed to a large degree by our stakeholders and how they would like to receive information and interact with the regulator. We are determined to make it easier for stakeholders to engage with our services. Particular opportunities exist to enhance our licensing, permission and accreditation systems to improve efficiency, consistency and access to information. We are also optimising our use of social media and livestreaming facilities to extend the reach of contemporary subject matter expertise.

We also recognise that workers over the age of 40 make up more than half of our total workforce distribution and account for more than 60 per cent of all serious injuries. So, while responding to and capitalising on advances in technology, our fundamental purpose remains the same. It is focused on people and the advancement of work health, safety and wellbeing to ensure our people are Safe and Well, Every Day.

Are there any common traits among employers and workplaces in which there are workplace incidents?

There are 15,750 employers across 39,000 businesses in Tasmania employing over 240,000 workers. Most of these workers are employed in small- to medium-sized enterprises operating in each of the 19 industry sector groups. The profile for each industry sector varies insofar as the size and age of the workforce, the frequency of injuries and, obviously, the type of work undertaken. Despite this, the most common types of injuries reported and the causes of these injuries are largely consistent. Common causes include falls, slips and trips, body stressing, being hit by moving objects and mental stress, and common injuries include traumatic stress, musculoskeletal disorders, fractures and mental health conditions.

WorkSafe Tasmania is focusing on these commonalities. Taking into account the severity of consequences, the number of people estimated to be affected and known prevention options, we are focusing our efforts on high priority conditions and injury causal factors. Our approach continues to focus on engagement and education rather than enforcement. This has resulted in significant improvement in safety outcomes over the past few years, with a 16 per cent reduction in the serious injury frequency rate across all industry sectors.

An example of our engagement and education approach can be seen with our Safe Farming Tasmania Program, which works closely with industry to reduce farmwork related death, injury and disease, and improve the health, safety and wellbeing of workers in the agricultural industry. This is achieved through raising awareness of farm safety, and working with industry stakeholders to provide training and education on farm safety.

What do you notice among “best practice” organisations that consistently have good WHS outcomes?

The concept of “best practice” in the work health and safety landscape is an interesting concept, as there is always a hazard to be identified and a risk to be controlled. We recognise that work health and safety is not about putting a tick in a box, or something to be thought about only when an incident occurs – it is the everyday occurrences and responses that determine good outcomes.

As a Vision Zero partner (a global campaign promoting a transformational approach to prevention that integrates the three dimensions of safety, health and wellbeing at all levels of work), we acknowledge that “best practice” organisations are those that embrace opportunities to take leadership and demonstrate commitment, through identifying hazards, controlling risks and defining targets and programs. Best practice organisations are well organised, invest in their people and involve them in safety discussions.

Individuals and workplaces in Tasmania that demonstrate excellence in health and safety, wellbeing, rehabilitation and return to work are recognised through the WorkSafe Awards. Businesses recognised at this year’s awards demonstrated best practice by developing and implementing integrated work health and safety management systems, fostering a culture where all workers within the business take ownership for positive WHS outcomes, and applying innovative solutions to identified WHS issues.

The improvements we have seen across the entire sector are due to the great work of these and other Tasmanian businesses and workers in embracing engagement opportunities with WorkSafe Tasmania, to share ideas and take deliberate steps to improving safety outcomes.

What advice would you offer OHS leaders to drive and realise good OHS outcomes?

The most important message for OHS leaders is to ensure you understand your own legal duties under the Work Health and Safety Act 2012 (Tas) and engage with your people to reinforce their understanding – duties under the law can be many and varied. Duties can also be shared, so being proactive in complying with your duties and involving others in implementing effective work health and safety initiatives demonstrates a commitment to improved safety outcomes that can support and encourage others to similarly adopt a proactive approach.

Increasingly, the narrative around achieving sustainable work health and safety improvements focuses on creating and maintaining a “safety-first” culture. This is important as the culture of an organisation plays a vital role in increasing workforce participation in WHS, encouraging information sharing and fostering innovation. However, achieving the optimal WHS culture within workplaces is not always a straightforward process. While being inspired by the achievements of others, and setting an ambitious target for organisational cultural reform, duty holders ought not be overwhelmed by the challenge of achieving lasting cultural change.

Rather, reference must first and foremost be given to the WHS legislative framework, the relevant duties that apply and the reasonably practicable action required to fulfill these duties. WorkSafe Tasmania’s Health, Safety and Wellbeing Advisors are available to assist small- to medium-sized enterprises develop a safety management system that is fit for purpose and relevant to the specific issues and needs of the individual business.
Taking the cadetship career path into OHS

Cadetships provide both organisations and would-be OHS professionals with a number of benefits. OHS Professional speaks with Ann Tomlinson, founder of Alium Works, about these benefits and examines why organisations should consider cadetships.

Where are the most common gaps and challenges in OHS with regards to training and education options, when it comes to practical and effective on-the-job application/performance?

Currently, as far as we’re aware, there are no other organisations that provide practical or on-the-job training combined with a WHS education for cadets/apprentices. Certificate courses as well as diploma courses are run through classroom-style or online training for the student. These styles of training cast a broad net and make WHS training available to people from all walks of life, giving all those who wish to enter a career in safety an opportunity to gain minimum qualifications. This can be problematic, as the quality of trainers can vary significantly. For example, we recently ran a recruitment campaign and the trainer, with almost 25 years’ experience, had never set foot on a construction site. While there is merit in the theoretical training aspect, nothing prepares you for the real world like gaining hands-on experience on-site. The same trainer also refused to do a trial training session, and in hindsight I feel we dodged a bullet.

The problem arises, though, when these qualified students apply for positions in their newly chosen career. The lack of quality, practical application of what they have been taught contains huge gaps and makes it extremely difficult for them to adjust to and gain respect in the workplace. Companies who are serious about safety are highly unlikely to take on a safety adviser with no practical experience. Not only are the costs and the risks far too high, but the companies don’t always have the time or capability to train them.

The likelihood of employment for these students may be found in smaller organisations, however, the new safety adviser can quickly find themselves out of their depth and under pressure to provide qualified safety advice for which they have had no experience, therefore, putting themselves, the employees and the business at risk.

The purpose of the Alium Works cadetship program is to provide a holistic approach to training so as to provide employers with safety professionals that can add value to their business from day one. Through our program they gain both the theoretical and practical knowledge of WHS simultaneously, through formal training methods, on-site hands-on experience with external industry suppliers (through our field day training), and face-to-face mentoring with our highly experienced senior safety professionals.

Where do cadetships fit into this, and how can they help advance the OHS profession and skill/quality of talent in the workplace?

Alium Works safety cadetships can almost be seen as a throwback to the apprenticeship programs that were so prominent during the ’50s, ’60s and ’70s, where Australia saw large numbers of mainly young people being indentured to a company for a three- to four-year period.

Like these apprentices our cadets receive both formal and on-the-job training to ensure their education is well rounded, both from a technical viewpoint as well as a practical one. The vast majority of current educational programs do not cater for any form of practical training, let alone the passing down of hard-won experiences from seasoned safety professionals.

The other major advantage of the cadetship program is that our cadets have a direct line to their mentor. This is a great asset that allows them to ask questions that the inexperienced may struggle to find answers for in day-to-day pressures of project life. This approach allows our cadets to learn and gain practical experience in a nurturing and safe environment and produces confident and experienced safety professionals ready to take on the rigours of working on-site.

What are the benefits of planned approaches in terms of mixing formal education with on-the-job experience?

The Alium Works program is a bespoke educational program that provides a number of advantages for our cadets and our clients.

1. Having a training schedule planned...
over a 12-month period provides a clear roadmap for what we need to provide to best deliver each of the training modules.

2. Each module is delivered with a range of practical experiences. For example, if the WHS module to be delivered relates to “working at heights”, which is actually one of the units covered in a 12-month cadetship, a field day would take cadets to an industry sponsor who specialises in that field for hands-on practical experience. Under strict supervision, we are talking about getting our cadets to use the equipment in real-life situations.

3. Alium Works works very closely with clients to keep them informed about the 12-month training schedule, so that cadets will be exposed to on-the-job situations that directly relate to the module being studied at the time, further enhancing the training experience.

4. The Alium Works training schedule is both fixed and flexible. We have fixed formal training sessions, but assignment completion for the cadets is very flexible, allowing them to be able to plan their studies around both their home and work life.

What advice would you offer OHS professionals (both established and up-and-coming) as a result?

Find a mentor. Most job situations nowadays rarely provide on-the-job experience, safely. In safety, learning on the job can be fatal. So whether the mentor is their direct supervisor, someone in their organisation or an experienced person outside their company, an experienced mentor is a highly valuable asset. Mentors are very good sounding boards and their wealth of knowledge and experiences can quickly guide you through situations; although you may have touched on these from a technical point of view, the mentor’s real-life experiences will quickly bring you to the safest solution.

Last but not least, stay on top with your CPD journey. Not only does it record your progress as a safety professional, it keeps you up to date with new innovations and above all it shows commitment and can help identify gaps when you are ready to step into a more senior role.

The Safety Institute of Australia is endorsing Alium Works cadetship program, according to David Clarke, CEO of the SIA, who explains that people have traditionally come to the role of the health and safety practitioner through different pathways – sometimes through their education, and others, through practical on-the-job experience. “Both are critically important, and that’s why the Australian OHS profession certification system acknowledges both,” he says.

“The successful health and safety practitioner is a person who understand the conceptual frameworks and the theory of good health and safety, and combines that knowledge with the practical experience that makes sense of that theory in the real world. The pathway to capability for health and safety practitioners is all about people getting a mix of education and experience. Programs which can ensure that people get both, while being supported to grow and develop through mentorship, deserve to be actively supported.”

Cadetships are a pathway for people being able to become certified health and safety practitioners, Clarke explains. “We’re recognising both the education and the experience people are gaining during their cadetships as contributing to certification. It’s great to see programs like Alium Works, that have the right mix of education, experience and mentoring, to bring people on their journey to being highly capable health and safety people.”
The starting point for this analysis is that companies exposed to catastrophic risk need to implement cultures of safety, of risk awareness, of sensitivity to failure – so as to minimise that risk.

Such cultures depend on having certain organisational structures in place. What is required is a powerful centralised risk management function. Ideally, such a function should be answerable directly to the CEO, independent of the financial pressures that drive the business units within the corporation, well resourced, embedded in the business units, the final arbiter of important risk decisions within the business units.

Such a function will ensure that the culture of the organisation – that is, “the way we do things around here” – is one that gives proper consideration to catastrophic risk. The underlying premise here is that structure creates culture.

The main competing view is that the way to create or change an organisational culture is to run “hearts and minds” programs aimed at changing directly the way people think and behave. These programs are favoured by the culture change industry, but there is good reason to doubt their efficacy.

Third, my book Organising for safety: how structure creates culture describes a number of cases in which negative outcomes can be clearly linked to the weakness of the risk management function or functions. The Deepwater Horizon accident is a case in point. The decentralised nature of the engineering function corrupted the judgment of the design engineers. The result was that BP failed to adopt best engineering practice in the design of the well. This directly contributed to the blowout. Finally, the fact that BP has had no catastrophic accidents since it adopted a centralised structure is unlikely to be merely a matter of chance.

All this supports the proposition that structure creates culture. For companies concerned to reduce the risk of major accident, the evidence is quite sufficient to act on.

None of this is to suggest that a centralised risk control function makes companies immune to risk. Recent evidence from the banking industry is relevant here. A report on the Commonwealth Bank of Australia shows how the risk function failed to ensure that the bank remained compliant with legal rules, even though the chief risk officer (CRO) answered directly to the CEO and had...
direct reports embedded in the various business units. One of the reasons it failed was that the CRO was incentivised on the same basis as all the heads of the business units, that is to say, primarily on the basis of bank profitability, not on the basis of how well the bank was managing its risks. The report attributes responsibility for the failure of the risk function to the board of directors, which authorised this remuneration arrangement and did not give sufficient emphasis to risk management in its deliberations. This is a case where culture – the culture of the board – undermined an organisational structure that on the face of it looked as if it had the potential to manage risk effectively.

How, then, can the head of risk management be incentivised appropriately? There are numerous specific indicators that are useful for evaluating risk management in particular contexts. But there is no single indicator applicable to all major hazard risks, or even a substantial range of them. It is nigh on impossible to identify quantitative indicators at the corporate level to demonstrate how well major hazard risk is being managed. Following is a non-quantitative approach to incentivising the head of the risk function.

**Learning from high reliability organisations**

Consider first what it is we want the risk management function to do. We can answer this question by looking to the research on so-called high reliability organisations (HROs), that is, organisations which have many fewer accidents than might be expected given the hazardous nature of their operations. Examples include the US nuclear navy, and various air traffic control agencies, among others.

The striking thing about HROs is that they are preoccupied with the possibility of failure. To use a now well-known expression, they exhibit “chronic unease” about how well they have their major hazards under control. They recognise that prior to every major accident there were warning signs of what was to come, which, had they been attended to, would have prevented the accident from occurring. This is true for every major accident that has been studied systematically.

A view has gained ground in recent years that some accidents are “black swans”. According to this view, just as black swans were unknown to Europeans before they visited the west coast of Australia, so, too, some accidents have causes that were unknown or unknowable at the time.

“There is no single indicator applicable to all major hazard risks, or even a substantial range of them”
“While structure creates culture, it is not enough to set in place a structure and assume it will have the desired effect”

However, the metaphor itself undermines this interpretation. The Aboriginal people of Western Australia were well aware of the existence of black swans. Similarly, the evidence from major accident inquiries is that the knowledge required to prevent the accident existed somewhere in the system. The problem was that it was not known or available to those with the power to act on it.

Anomalies are a common form of warning sign. So HROs are particularly keen to understand anomalies and not to assume that they can be ignored until they have obvious ill effects. In the language of HRO theory, HROs have a reluctance to simplify. It may be recalled that one of the functions of the Technical Engineering Authority recommended by the Columbia Accident Investigation Board was to “decide what is and is not an anomalous event”. This recommendation was a direct result of the Board’s attempt to reconstruct NASA as a HRO. Here is how the point has been put in relation to the most celebrated of all HROs, the US Nuclear Submarine Organization.

Digeronimo and Koonce, in their book Extreme operational excellence: applying the US nuclear submarine culture to your organization, explained, “One of the most amazing elements of the nuclear submarine culture is its self-enforced refusal to sweep problems under the rug. For decades the submarine culture has recognised the criticality of squeezing out every ounce of lessons learned from imperfect performance.”

HROs therefore have very effective incident/event/hazard reporting systems to pick up the warnings, fix the problems, the anomalies – in short, the bad news. They also have rapid and effective systems for responding to reports. In Australia’s air traffic control agency, reports from around the country are examined each day by head office staff. The most significant are compiled into an operations report. The corporate safety manager studies this report closely and presents it each morning to an executive briefing attended by the CEO. This group decides what follow-up is necessary.

HROs often have specialist units whose job it is to make sense of the reports being received, and to risk assess them, not according to some formalised process but on the basis of deep experience that enables the assessor to identify their full significance. All of this presupposes a level of resourcing that is seldom seen in non-HROs.

The preceding description clarifies perhaps the most important thing a risk function must do to operate effectively. It must identify whatever bad news there may be about safety at the grass roots of the organisation, escalate it as necessary, and ensure that the organisation responds effectively. This is the key to deciding how to incentivise the head of the risk function. He or she must be rewarded on the basis of how effectively the most important bad news is brought to the attention of the CEO and the board. That will require a qualitative judgment on the part of the CEO or board. Qualitative judgments enable the subtleties of the situation to be taken into account far more effectively than they can be with quantitative indicators.

A bad news reporting system

Let us examine in more detail how bad news reporting can be encouraged. It is not enough to set up a bad news reporting system. Bad news is generally not welcome at higher levels in large organisations. Indeed, it may be actively discouraged. Leaders sometimes seek to empower their employees by telling them: “don’t bring me your problems; bring me your solutions”. Unfortunately, this means that if the employee has no solution, the problem will remain unreported. Leaders inspired by the HRO model are very aware of this. For them, bad news is good news, because it means their communication systems are working to move the bad news up the hierarchy to the point where something can be done about it before it is too late. I sat in the office of such a leader one day while she was talking on the phone to a lower-level manager who had provided her with a report that presented only good news. “Thank you for the good news,” she said. “But where is the bad news? I want you to rewrite your report to include the bad news.” The organisation in question had a policy of “challenging the green and embracing the red”. This slogan refers in the first instance to traffic light score cards. But it also had a more metaphorical meaning: question the good news and welcome the bad. She was implementing this slogan in a very effective way.

To encourage the reporting of bad news, organisations must celebrate particularly significant reports. Weick, Sutcliffe and Obstfeld, in their research into organisational behaviour, outlined a famous case where a seaman on an aircraft carrier thought he might have left a tool on the deck. Foreign objects on a runway are very dangerous. Accordingly, the seaman reported the loss of the tool to the commanding officer of the carrier. There were aircraft in the sky at the time that had to be diverted to a shore base. The tool was found, and the aircraft brought back on board. The whole episode involved a substantial disruption of the activities of the aircraft carrier. The next day the commander summoned the crew to the deck and held a ceremony in which he congratulated the seaman for having made the report.

This kind of recognition can also involve financial rewards. The leader in whose office I sat had introduced an incentive system to encourage the reporting of bad news. She had instituted an award, named after a man in her organisation who had saved someone’s life by his alertness to a process safety hazard. The award had various levels, the highest being diamond, which was worth $1000. The day I visited her she made a diamond award to an operator who had...
recognised that an alarm level had been changed on a piece of equipment, without going through the proper management of change process. He had written an email about this to his manager, who in turn had passed it up the line. The senior manager I was visiting had made more than a hundred awards for this kind of reporting in a period of less than 12 months.

These anecdotes suggest a way in which a bad news reporting system might be constructed. First, people must be encouraged to report anything they notice that is problematic, not just incidents that fall into pre-defined categories.

Many incident reporting systems are computer-based, clunky and discouraging to use. They require reporters to fill out numerous fields and conduct somewhat abstract risk assessments themselves. More user-friendly systems employ a mobile device such as an iPad or a smart phone. It is easy these days to create an app that can be downloaded onto such a device which can then be activated by the push of a button. The app would enable reporters to make a report in free text with no attempt to categorise the matter or risk assess it. They could upload photos as appropriate and even make suggestions for what should be done.

Bad news reports should go to the immediate supervisor, as part of the normal communication between employees and supervisors. At the same time, they should be routed one or two levels up to a site manager, who should monitor what is going on and take further action in relation to selected matters that may be beyond the capacity of a supervisor to deal with. As well, all reports should go to a corporate centre for analysis and for transmission upwards where a corporate response is desirable. This is an essential step in the process to ensure that matters that cannot be dealt with at lower levels rise to the top of the organisation where something effective can be done. A strong central risk function is obviously vital if this is to be done effectively. Figure 1 shows these flows of information upwards. It depicts only the essential elements of the communication network just described; additional lines of communication could be added, either formally or informally, depending on circumstances.

Supervisors should respond to every report received, not just to acknowledge it but also to indicate what, if anything, will be done about it, and why. Getting a personal response to a report assures the reporter that the report is being taken seriously. Reporters would need to be invited to respond via the same route if they felt that their reports had disappeared without trace or that the response had been insufficient. The response to the reporter should also go to a higher level to ensure that something is being done and that the response is appropriate. This whole process of responding to reports would need to be monitored closely by the corporate risk function to ensure that it was working as intended. This is depicted in Figure 2.

**Encouraging helpful reporting**

A reporting system like this may be initially swamped with reports that are quite trivial from a corporate point of view, such as grass that needs cutting or paint that is peeling. While these reports need to be responded to respectfully, they are not necessarily warnings that danger lies ahead. They are not the kinds of reports that will assist in reducing fatality risks or the risk of a major accident. Once the system is in operation, people need to be encouraged to focus on bad news in relation to these matters. This requires a process of acknowledging and celebrating the most “helpful” report in a designated reporting period, and for some particular group of employees, let us say, all employees on site. Determining the most helpful report will require decision-makers to turn their minds to the kinds of events that bad news reporting is designed to prevent. For example, a report that some hazardous piece of equipment, such as a pressure

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**Figure 1: Pathways for bad news reports**

**Figure 2: Pathways for supervisor response**

"The failure of the people at the top to access and deal with bad news is a feature of every corporate scandal"
“People must be encouraged to report anything they notice that is problematic, not just incidents that fall into pre-defined categories”

Excerpted from Organising for safety: how structure creates culture. Andrew is Emeritus Professor of Sociology at the Australian National University in Canberra. He was an expert witness at the Royal Commission into the 1998 Exxon gas plant explosion near Melbourne. He was a consultant to the US Chemical Safety Board in its investigation of the BP Texas City Refinery disaster of 2005, and also for its investigation into the BP Gulf of Mexico oil spill of 2010.

vessel, is long overdue for inspection, is obviously more helpful than a report about the amenity of a lunch room. Perhaps once a month, therefore, the site manager will determine the most useful report received and announce this to employees. The decision may be delegated to a committee so as to involve more people, but it must be the site manager that makes the announcement, to reinforce its importance. In addition to this recognition there should also be a financial reward. The most helpful report of the month at each site could receive a prize of $500 or $1000.

Each month, site winners automatically enter a company-wide competition for the most useful report. The winner should be determined by the CEO, although again he or she may make use of a small advisory group. The prize in this case should be a considerable amount of money. The CEO should announce the result, together with the reasons for the decision, on a blog. All this will encourage people to think carefully about the value of their reports in terms of reducing fatality or major accident risk.

It should be obvious that some very useful reports may reflect badly on the reporter (think of the seaman on the aircraft carrier) or may cause trouble with workmates or a supervisor. To report in these circumstances takes courage. From time to time it may be appropriate at either site or corporate level to give special recognition to courageous reports of this nature. To assist in encouraging courageous reporting it will be necessary to grant immunity from disciplinary action to any person who makes a report and to any person about whom a report is made. In other words, the reporting system must be a no-blame system.

One result of a no-blame reporting system is that people who fear that their actions could give rise to disciplinary action might get in first and report their actions into this system. If that happens, it must be accepted; that is a price that must be paid to make the system work.

The system will fail if there are no reports, or not enough. It may be necessary in the first month or two to set a quota, requiring site managers to solicit reports from subordinates. But the aim is not to maximise the number – this is a system designed to reward quality, not quantity. What is required is enough useful reports to drive continuous improvement, but not so many as to swamp the system.

Conclusion

The beauty of a bad news reporting system, as described above, is that it incentivises risk awareness among employees generally. And because the rewards are for quality not quantity, the disadvantages of bonus systems based on quantitative indicators are avoided. Moreover, if this system operates well, it will contribute greatly to the effectiveness of the whole risk management function, as well as amounting to a big step in the direction of HRO functioning. It is therefore appropriate that the risk function should take responsibility for ensuring that a bad news reporting system operates effectively.

Of course, all this depends on the organisation taking reports seriously and acting on them, even when this has a significant financial cost. Suppose someone reports that a high-pressure gas pipeline has not been inspected, as required in the safety management system. The reason may be that an inspection can only be done by taking the pipeline out of service, at great expense to the business. A decision to shut the pipeline to carry out an inspection would need to be taken at a very high level, and the head of the risk function must have influence at this very high level, and access to the board if necessary, to ensure that a responsible risk management decision is made. The risk management function will also need to be alert to the possibility that reports of this nature will be censored along the way and not get to the top.

It is ultimately for the board to set its company on the path to becoming a HRO. To do this it needs to ensure that the company operates in a manner that is constantly alert to warnings of danger. This means ensuring that it has a powerful risk management function, protected from the profit and production motives that drive the rest of the organisation. The board should require the head of the risk function to develop and nurture the capacity of the organisation to report and respond to bad news. And it should remunerate the head accordingly. This will require a qualitative judgment based, in part, on evidence the head of the risk function can be asked to provide.

Some boards will not be willing to take this step. I once had occasion to contact a board member to convey some bad news I had become aware of during a consultancy. Her first response was that I should pass the information to the company lawyer and not to her. I declined to speak to the lawyer and so she agreed to speak to me directly. But her initial reaction spoke volumes. She clearly felt a need to be protected from whatever it was I wanted to convey. Where such sentiments prevail, boards will have no interest in ensuring that bad news reporting systems function effectively.

So while structure creates culture, it is not enough to set in place a structure and assume it will have the desired effect. The effectiveness of the risk management function can be undermined in many ways, and it is up to boards to ensure that this does not happen.

Finally, the value of this approach is that it extends way beyond management of catastrophic hazards. The failure of the people at the top to access and deal with bad news is a feature of every corporate scandal. Banking scandals of all kinds have this feature. Corporate frauds – both financial and technological (for example, the Volkswagen emissions testing fraud) – occur because people at the top are shielded from what is going on below them. The very best way for a corporation to avoid this pathway to disaster is to create a risk function powerful enough to identify the bad news and ensure that it rises to the top.
Diversity and inclusion champions in health & safety

OHS Professional speaks with the Diversity and Inclusion Champions in Health & Safety for 2018 about their achievements, challenges and recommendations for improving diversity and inclusion across the OHS profession

The SIA Women in Safety and Health (WISH) network has a strategic goal of diversity and inclusion across the Australian health and safety profession and in practice. WISH recently announced the winners of its Diversity and Inclusion Champions in Health & Safety for 2018. In doing so, it sought to recognise those working in/on the Australian health and safety industry who are dedicated to and spend time and energy in helping and encouraging others (be it in their workplace, their community or among their peers) for increased diversity and inclusion for professionals and practitioners in the health and safety sector. The three Diversity and Inclusion Champions in Health & Safety for 2018 are Alanna Ball, founder of Women in Safety; Gregory Ho, lecturer at Edith Cowan University; and Liam O’Connor, group HSEQ manager at Tasman Rope Access.

Alanna Ball
Alanna founded Women in Safety a few years ago with the intent to find people she connected with in the safety industry. She has connected over 1000 members in Australia, NZ and overseas, all on top of her day job as a WHS professional. She has run events nationally, and she strives to create meaningful impact to change the way the industry collaborates. “Women in Safety is essentially about a tribe. I never knew how much I needed a tribe until I went looking for one and couldn’t find it. Women in Safety grew out of a desire to find my fellow female safety professionals and ask some of the hard questions over coffee… OK… wine,” she says.

“Apparently I wasn’t the only one looking for a tribe or community! Women in Safety has grown beyond borders, oceans, and continues to create conversations to make our industry better. We want to provide an inclusive, fun-loving group that is prepared to be vulnerable in their experience, grow with one another and share learnings. We pride ourselves on our core values of collaboration, resilience, community, fun, diversity, conversation and integrity.”

Ball says she has a strong belief in conversations
"We have seen so much more around diversity in general in the news and in organisations, but it is not time to get complacent about it."

Liam O’Connor, group HSEQ manager for Tasman Rope Access, has helped the business get actively involved in gender equality and improving female participation rates.

and how positive and diverse conversations lead to better decisions. “Yes, our brand is Women in Safety, but we are also passionate about our male champions of change and how important they are to our community. We often have some amazing male counterparts attend our events and provide valuable conversations in our ‘safe space’. We love that they are on the journey with us,” says Ball, who explains that Women in Safety events are all about being vulnerable and sharing what we know, but also sharing what we don’t know.

“We encourage university students to attend often so they can learn from the start, not when they enter the workforce. This has also led us to have a huge culturally diverse following. Some of the students we see coming through really aspire to work with the passionate, established professionals in our group. We find that through having these students come through networking events with us, they grow their confidence, they meet mentors and learn that it’s OK to be vulnerable. I believe this vulnerability – across all sectors – is what we need to help us make change. It’s OK to not know, to question things and to learn,” she says.

Ball explains that there are many things that can be done to improve gender diversity in the OHS profession. “We have seen so much more around diversity in general in the news and in organisations, but it is not time to get complacent about it. Tangible results take time and these results will only be achieved through a persistent and consistent approach to diversity,” she says. “As a profession, we need to lead by example. Ask questions within your work around the way we work, the way we connect with our people – can we be more adaptable in our approach? Be brave! Speak up when things don’t seem right and use our position of influence in an organisation to drive change for better results. Diversity makes great business sense and the statistics behind it support these discussions, so I really encourage us all to be brave in conversation.”

Ball says it is also important to lead by example and provide opportunities for the next generation. “There are plenty of university students currently entering our profession, and we need to ensure they are all supported to be brave as well. We were all new once, and we all needed someone to have our back – be that change,” she says.

While there is much research and data to help organisations change the diversity and culture of their business, Ball says it is about taking it on board, leading the change and making it consistent. “For the safety professional, in my opinion, it’s about being authentic,” she says. “We have to show others our vulnerability and that we all have space to grow, learn and adapt. We are on a journey, as is diversity and culture in all organisations, so let’s support one another on this journey and help each other grow. Our profession needs to feel connected and supported for us to achieve true diversity of thought.”

Liam O’Connor
Liam O’Connor, group HSEQ manager for Tasman Rope Access, has implemented a company-wide Social Impact Program, which is designed to provide advancements for the company in both diversity and inclusion. “In late 2017 I set the challenge to Tasman Power, Tasman Rope Access, Tasman Mechanical and Tasman Recruitment [collectively known as ‘Tasman’] during a meeting of senior management,” he recalls.

“The challenge was actioned to each individual manager to identify personal causes and beliefs that they were passionate about and identify a way where the companies could act as the instrument to enact social change in that area.”

The program was implemented, and O’Connor says the companies had a social and ethical responsibility to provide alternate employment and training pathways back to varying ‘groups’ of the Australian community. In addition, the board of directors and managing director were interested in ways to further build on the internal culture of the companies. “One of the ways was by providing additional leadership opportunities to our personnel in areas that can achieve a direct, positive impact in the industry sectors of their personal values,” he says.

The program’s key elements and components comprise aligning the companies with other passionate organisations that are the leaders in their field. The key elements of our program are outlined below.

Aboriginal, Indigenous and Torres Strait Islanders. Tasman has engaged several community organisations after revisions to our internal Reconciliation Action Plan. “We’ve partnered with several community-based NFPs to provide Aboriginal, Indigenous and Torres Strait Islanders fully funded...
training that has been paid for by Tasman, that has led to upskilling and subsequent employment into our recruitment pool. We also continue to provide work experience placements, internship opportunities and apprenticeship programs to candidates through the NFP organisations,” he says.

Female participation. Tasman is actively involved in gender equality and female participation within the male-dominated trade industries. Four heads of department within Tasman are female, with opportunities provided to community organisations and their female candidates to experience working under these managers for industry work experience and internship positions.

Transitioning Australian Defence Force veterans. Tasman assists ex-defence force personnel in transitioning into ‘civvie street’ with the provision of employment and training opportunities. The current veteran unemployment rate is reported to be 30.2 per cent – almost five times higher than the national unemployment rate. “In conjunction with With You, With Me, Tasman is proud to provide engagement openings to individuals who have provided service to our country. In addition, the skillsets obtained from their service in the military provide additional assurance to our client base that personnel across our work fronts have qualifications and the highest level of training and experience in providing immediate medical and incident response measures,” he says.

Environmental impact reduction. Tasman installed 132 solar panels onto the roof of the head office building to reduce operations’ carbon footprint. Monthly electricity bills reduced on average by 68 per cent in electricity consumption and subsequent greenhouse gas emissions. The initiative has resulted in an average monthly reduction of 3837 kilograms of emissions. Furthermore, Tasman is currently beta-testing a paperless shutdown system, to reduce paper wastage from the company operations.

“The program also includes encouragement for members of the LGBTI community to apply for vacant positions, work experience opportunities for postgraduate university students and allowances by Tasman to enable our senior management to participate within local community-based NFPs in a non-executive director capacity,” says O’Connor.

“Across the companies we’ve received a lot of positive feedback from employees, suppliers and clients that we’ve enacted the program to further strengthen our HSEQ management systems. All our stakeholders have bought-in to the original aim of the program to use the companies as an instrument to enact positive change. The changes we’ve seen not only include increased morale across our organisations, but also our new employees that have come through the program are confident that they have successfully upskilled themselves, are no longer reliant on the federal government’s ‘safety net systems’ and now have long-term employment prospects in their new position,” he says.

“Internally, we’ve continued to achieve our zero-harm environment with our zero MTI and LTI rates with the on-boarding of the ‘green’ employees. This achievement will allow Tasman to continue to roll out the program nationally as we open additional offices across Australia in 2019. We’ve also had other contractor partners and our clients approaching me individually to request the specific details of our program to replicate within their own organisations.”

Gregory Ho
As a lecturer in OHS at Edith Cowan University, Gregory Ho says he would like to see an increase in diversity across the Australian health and safety profession, starting at the university level. “Through my job at the university, I am fortunate to get to interact with many people from all walks of life on a regular basis. I feel particularly privileged to be there at the very start of a young person’s journey into OHS when they start their course, and then to have the opportunity to see them grow over the next few years into competent and passionate OHS professionals, eager to launch themselves into the industry,” he says.

“Like other lecturers, I have had the honour of being asked to provide references for many of our graduates when applying for work. Landing that first professional job can be challenging for graduates, especially when they have little industry experience. So, in lieu of past work references, we are often approached to provide evidence of the person’s professional capabilities. However, given that we have spent the past three or so years interacting with and assessing the graduate, we are well placed to be able to provide potential employers with this information. For example, we have seen if they can communicate and work in teams, we have assessed their writing skills, etcetera. Hopefully we can then use this knowledge to help them to get a start in the industry,” he says.
To improve gender diversity in the OHS field, Ho says an ideal place to start is through tertiary education. “The statistics indicate that there are more female than male students studying at universities in Australia. This is a big improvement from 50 years ago when women represented only one-fifth of all university students. We also know that women are much more likely to graduate from their degrees than men.”

However, the challenges faced by women become more apparent when entering the workforce, with factors such as the pay gap and barriers to career progression. So, Ho says it is important for universities and lecturers to empower our future professional women for industry with education and practical experience. “One initiative that has proved successful for both students and the community is our industry-engagement workplace assessment,” he says.

“For this, students are tasked to choose a small business and conduct an audit as to how that business complies with relevant OHS laws. Through this, students replicate the tasks, competencies, knowledge and skills that are required in professional practice. The Australian Government has long recognised that small businesses often do not have adequate resources to devote to OHS, despite making up the vast majority of all workplaces. Therefore, this assessment not only provides students the opportunity to put into practice what they have learnt, but also has tangible benefits to the health, safety and wellbeing of actual people at work.”

Ho believes that diversity in OHS leadership – that is, taking a top-down approach – is needed. “Go to any OHS conference and you will see a homogenous audience comprising mostly middle-aged men from Western backgrounds. However, this is not representative of the general workforce, which is made up of young people of male, female and neutral genders, and people of Aboriginal and ethnic backgrounds,” he says.

“We need to have diversity across all levels of leadership, especially at supervisor and superintendent levels. Organisations should have clear pathways for career progression based on diversity and inclusion. We have seen this work successfully with Indigenous and female-focused employment programs in large mining companies. As a representative of the university, I am proud to work at an institution that values diversity, in terms of culture, gender and age.”

If we improve diversity and inclusion in the OHS field, Ho says the outcomes will be felt beyond that of just the OHS profession. Every workplace legally requires OHS to be implemented, therefore, every workplace and industry is impacted by changes to the profession. “As a single father of two girls of mixed ethnicity, it is my vision for them to be able to work in a healthy and safe environment, regardless of which profession they may choose.

I am grateful for the SIA Women in Safety and Health Network for instigating this fantastic initiative to celebrate diversity in the OHS industry, and for recognising the work done by academics and universities for their impact upon the OHS profession,” he says.
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