

Transforming Work Health and Safety Performance

How can we improve the effectiveness of our regulator?



Attorney-General's Department



Government of South Australia
Attorney-General's Department

A fresh approach to stopping workplace injuries

Keeping workers safe at work is a priority for the Government. The human cost of workplace deaths and injuries as well as the cost to businesses is unacceptable.

While significant progress in reducing workplace incidents has been made over the last ten years, more can be done. Workplaces have changed significantly with new technology, emerging industries, new laws and changing work patterns providing constant challenges to how we manage work health and safety.

Where are we now?

The recent Return To Work reforms have established a strong foundation for managing workplace injuries and for supporting injured workers. However, it is best if workers are not injured in the first place!

There are two key strategies for preventing work injuries:

- a strong enforcement and compliance regime which makes sure work health and safety laws are not being breached; and
- a comprehensive education and support service which provides businesses and workers with the information needed to keep themselves and their workplaces safe.

SafeWork SA is the agency that currently administers all work health and safety matters including compliance and education. SafeWork SA was established in 2005 following a comprehensive review which recommended combining the dual functions of compliance and education into one work health and safety agency.

In July last year, SafeWork SA was restructured to separate the education and compliance functions into a Compliance and Enforcement Directorate and a Community Engagement Directorate. However, there continue to be debates about whether work health and safety inspectors can operate effectively to deliver these dual functions.

It is important to note that since 2005, South Australia has achieved a considerable reduction in workplace injuries with the regulator, together with workers, employers, unions, business associations and industry organisations leading improvements nationally across many sectors.

Current Industry Mix & Interpretation of Results from 2005-06 to 2013-14

Claims for work injuries (significant claims)

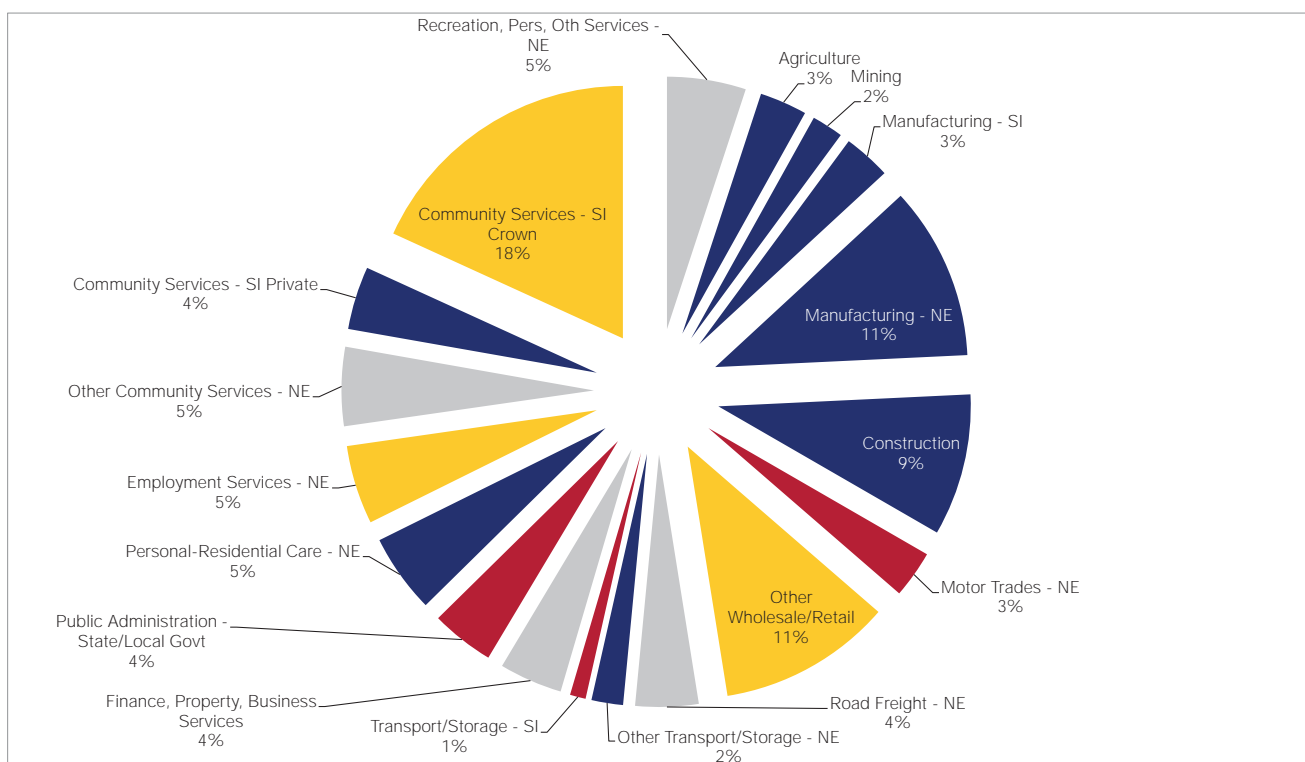
This graphic depicts two key pieces of information.

The segments of the pie show the current relative industry mix of significant claims (greater than two weeks lost-time) for work injuries in SA. For example of the estimated total of 6250 work injuries per annum, the Manufacturing NE (non-exempt) sector accounts for 11% of that total.

The colours of the pie segments are an interpretation of how each sector has fared with their work injury experience since 2005-06. This takes into account the growth or decline in the size of the industry and changes in the numbers of significant claims. For example the Manufacturing sector has reduced activity in SA but the analysis of the reduction in significant claims takes that into account and demonstrates a significant overall improvement over a ten year period.

SA WorkCover Scheme - Non-exempt (NE) & Self-Insured (SI)

(Industries - % of "> 2 week lost" claims (now approx. 6250 p.a.) and interpretation (by colours) of results from 2005-06 to 2013-14)



Interpretation of results* relative to changes in each industry's size^

- STRONG (>20% improvement)
- GOOD (>10% to 20% improvement)
- CHALLENGING (Nil to small improvement)
- LIKELY DETERIORATION

* Changes in Numbers of "Income" claims ("> 2 weeks lost")

Also considers changes in the numbers of "> 3 months lost" claims

^ Some sectors have grown e.g. Mining and some have reduced in size e.g. Manufacturing

At the current time compared to 2005-06, there has been a reduction per annum of approximately 1,000 claims for work injuries with more than two weeks lost-time and a reduction of almost 500 with more than three months lost-time.

What we know

Workers want to be safe at work. They want to be consulted about risks that could impact on their safety and they want to be represented in discussing solutions to work health and safety issues in their workplaces.

Employers want to be clear about their work health and safety responsibilities. They want simple, easy to understand guidance about how to comply with work health and safety laws. They want access to work health and safety education and support services.

Health and Safety Representatives want to be able to represent their work colleagues effectively. They want support and assistance from the regulator.

Unions want a strong and effective regulator which has the respect of both workers and employers. They want breaches of work health and safety laws dealt with quickly and consistently. They also want support in accessing their rights of entry.

How we currently operate

COMMUNITY ENGAGEMENT DIRECTORATE

Provides education and support services and includes the communications and community engagement team and the workplace support team (a team of inspectors who deliver advice and assistance to industry sectors and individuals)

COMPLIANCE AND ENFORCEMENT DIRECTORATE

Includes the majority of the work health and safety inspectorate which responds to complaints, investigates incidents, undertakes proactive compliance activities and manages prosecutions

BUSINESS STRATEGY AND PERFORMANCE DIRECTORATE

Includes the licensing team, human resources, finance, IT and other corporate functions.

What we have already done

In response to feedback from unions and business organisations and recommendations from a Parliamentary Inquiry, SafeWork SA restructured on 1 July 2014 into separate compliance and community engagement directorates. This is allowing the agency to put resources into the two important functions of education and enforcement.

The Community Engagement Directorate is using ReturnToWorkSA data to identify which sectors are generating the most workplace injuries and the nature of those injuries. Working with these identified sectors, education and support services are provided with the objective of reducing those injuries into the future.

The compliance and enforcement directorate focuses entirely on compliance and enforcement activities.

Why do we need a fresh approach?

Employer and union advocates have different views about whether education or enforcement is the best way to help reduce workplace injuries. Feedback suggests that many employers fear asking SafeWork SA for help because a visit from an inspector may lead to compliance action against them.

It is time for the regulator to establish a culture of responsiveness, accountability, efficiency and effectiveness. We need a highly trained, industry focussed, experienced team of inspectors. Inspectors should be assigned to specific industries and geographical locations to ensure consistent approaches to regulation in each sector. These inspectors should be supported by strong and consistent operational policies and direction. The regulator should be respected, but not feared.

The Return To Work reforms provide the right time to revisit the approach to delivering work health and safety functions in this State with a view to creating a modern, flexible and responsive regulator that prevents workers getting injured and meets the needs of twenty first century workplaces and of those doing business and working in South Australia.

How could compliance and education functions be separated?

The primary functions of a WHS regulator charged only with compliance and enforcement would be to:

- assist in dispute resolution about any work health and safety issues arising in a workplace
- assist in dispute resolution relating to the election of health and safety representatives
- assist in dispute resolution relating to right of entry disputes
- undertake targeted compliance campaigns
- respond to calls and notifications about work health and safety incidents
- investigate potential breaches of the legislative requirements
- prosecute breaches of the legislation
- administer enforceable undertakings
- provide policy support to the Minister for Industrial Relations

The education and support functions are:

- workplace support visits to assist duty holders in complying with their legal obligations
- support for health and safety representatives
- provision of advice about health and safety matters by phone, email, in person or via social media
- community engagement around the message of safe workplaces
- delivery of communications functions such as publications, guidance material, website assistance.
- delivery of events such as SafeWork Week

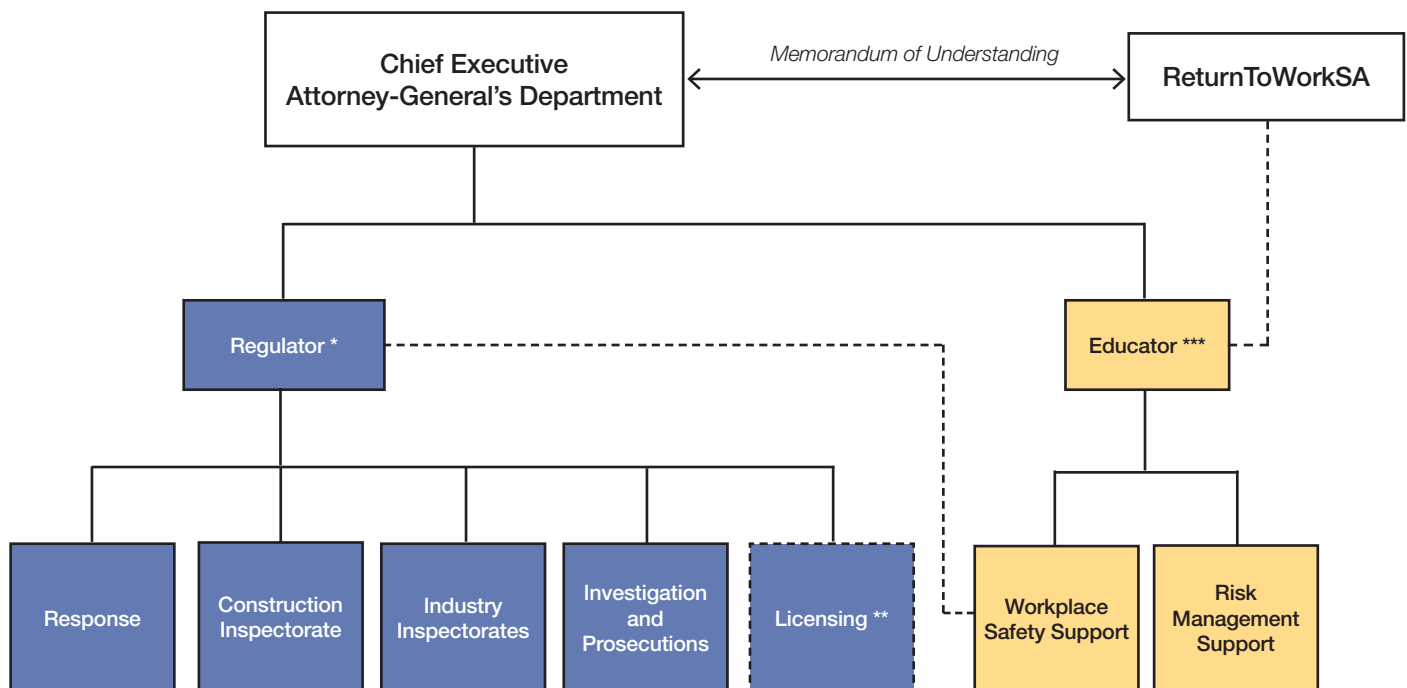
SafeWork SA also currently has a significant licencing function.

Practical implementation

Education and compliance functions will be delivered based on the following guiding principles:

- Strong, clear and consistent approaches to enforcing compliance with work health and safety laws
- Quick and efficient prosecution of work health and safety laws
- Support for workers and families of injured workers
- Effective dispute resolution
- Targeted support to those industry sectors generating the most workplace injuries
- Collaboration with health and safety representatives, businesses, unions and the community to raise awareness of and increase compliance with work health and safety laws.
- Co-operation with ReturnToWorkSA in delivering risk management education and targeted education campaigns.

The proposal



Questions raised by this model

- * could ReturnToWorkSA compliance and enforcement functions sit with the regulator?
- ** could licensing functions be transferred to Consumer and Business Services?
- *** could the education functions be separated from the compliance functions by having a clear management line back to ReturnToWorkSA?

A safe, injury free future

As Minister for Industrial Relations, I propose to clearly separate work health and safety compliance and education functions.

I want work health and safety inspectors to focus on ensuring that the laws are not being breached and where they are, that suitable enforcement action is taken.

I want educators who are not inspectors to concentrate all of their efforts on providing support to workplaces. This support will include education around how to prevent workplace injuries but also if injuries do happen, how to deal with injured workers and support their return to the workplace.

The separation between regulator and educator will be clear.

I want us to build on the recent reforms to the return to work scheme by establishing a system where:

- employers, workers and the community know who to turn to if they need help in relation to the prevention of workplace injuries; and
- who to turn to if they require access to strong enforcement of the laws and justice if the laws have been breached.

Tell us what you think

I want to hear your views about:

- how to improve any areas of the regulator that will ultimately support the focus of educating and supporting industry, workers and unions in all matters relating to safety in the workplace; and
- ensure that there is strong, transparent and consistent compliance and enforcement where breaches of the laws are found.

Comments should be provided in writing to:

Hon John Rau MP
Deputy Premier
Minister for Industrial Relations
GPO Box 464
ADELAIDE SA 5001

Feedback must be lodged by **30 April 2015**.

