

Submission relating to the “Review of Self Insurance Licensing Framework”– Issues Paper.

I would like to thank PWC and by extension SIRA for the opportunity to personally comment on the issue paper “Review of Self Insurance Licensing Framework” and add my thoughts to the discussion.

My comments are predicated on the fact that they are an amalgam of issues, experiences and discussions I have experienced while being involved in the Self Insurance industry over the past decade developing and implementing my organisations WHS management system. My comments relate specifically to the WHS aspect of the SI process.

I have been involved in meetings with the Self Insurers Association in relation to this issue paper and know that there are a number of Peak Bodies and individual self-insurers that will be commenting on the more strategic aspects and global application/implications of the current system. Generally speaking, I am in agreement with the basis of their submissions but feel that, where I can add value is to comment on the implementation at the coal face of the current system and the resultant culture and short falls that have arisen as a result of this.

Again I stress that the views and comments expressed in this submission are my own and should not, in any way be considered to be those of the organisation I work for or indeed be based on that organisation alone.

Issues:

The application of the current SI model in relation to WHS has in my view:

1. Implemented an artificial and somewhat mercurial environment where the law of the land is seen as inferior and where an incredibly focused and increasingly detailed interpretation of “continuous improvement” is being developed in the vacuum of the self-insurance bubble. Complying with the Model as interpreted by the auditors seems to be becoming increasingly refined, more theoretical and less supportive of the day to day application of practical, on the job safe work practices.
2. Has focused organisations and made them increasing adept at passing WHS audits to the detriment of safety generally. If the fundamental tenant of SI is to drive best practice and ultimately reduce claims numbers and severity, then I don’t agree that the current practice is best suited to achieve this end. By way of an example my organisation could literally be a world beater and have no accidents, injuries or near misses for three years. It could indeed be the very best organisation in the entire world for safety over that time, however after three years we will still get audited for no other reason than “this is what we do”. The current system is not nuanced, does not apply the fundamentals of a risk based approach by allocating SafeWork NSW assets where needed or where they can be leveraged for the most benefit. Regardless of performance, the system rigidly imposes what I would suggest in this scenario to be a non-responsive, no-risk based approach. I am certain that if the process was being initiated today, the current modus operandi would not be countenanced.
3. The WHS audit process imposes considerable impost on an organisation that is a duplication of processes and which comes at significant financial cost. Surely the s189 annual return clearly identifies, via an independent third party auditor, that the organisations WHSMS is compliant or not. This then already addresses the compliance aspect of the organisations WHSMS. The other aspect of the three year audit is implementation however this is to pre-arranged sites with advanced notice that are probably not representative of the organisation at large. This is one part of how organisations have diverted budgets and resources simply to pass the audit and not to best drive safety in the workplace.
4. The audit process is again very rigid being binary and one dimensional in its application. Examples here are the fact that a score of 100% for one criteria and a score of 73% for another means a failure. Additionally, non-conformances of a non-life threatening nature are set in stone so that if you have a chemical register with 999 chemicals listed, risk assessed and in every regard complying with GHS, however if one chemical is missed then rather than getting a positive recognition of 99.9% compliance you get a failure. I would suggest in this case an audit approach more akin to AS/NZS 4801 be applied where there is a reasonable time to address the issue, of

say a week, and if successfully remediated then a non-conformance is not issued. This would save considerable cost and resources for an organisation and not in any way affect the safety of operations.

5. An oscillating sine wave of response from senior management that matches the current three year audit cycle. It is almost universally the case that senior management necessarily focus on the audit process and are actively involved in the lead up to the scheduled audit. It is also a fact that senior management almost universally then drop the ball on WHS, turning their attention to other issues until the audit is again approaching. This is another aspect of a rigidly imposed audit system that means organisations are getting good at passing audits to the possible detriment of safety overall.
6. The intensity generated with the current audit cycle and practices actually serves to alienate the organisations workers from the safety process. No worker wants to be involved because it is so intense and they could potentially bring the organisation down inadvertently. A previous audit experience (no reflection of the auditors) resulted in a number of staff taking time off on sick leave after the fact as they were so stressed knowing that you either pass or fail and there is no redress. The WHS SI audit process in its current format instils fear in the workforce and vicariously implies that safety is arduous, stressful and over the top. This does not help when trying to implement other non-audit related safety initiatives across the organisation as there can be considerable resistance and fear.
7. The audit process demonstrates no correlation between performance and outcome. Regardless of a company's performance the outcome i.e. a three yearly audit is the result? There seems to be lots of stick but very little carrot in the current system.

Suggestions for improvement:

1. That the SI WHS audit process be maintained in a changed format so that there is provision for an extension between audits based on performance. Poor performance (criteria for intervention to be established) would result in the organisation being subject to an audit with notice at any time if their indicators such as injury rates, costs of claims, litigation, PIN notices etc. exceed pre-determined values. Consistently good performers would then be recognised for their achievements and the organisation would have a significant reduction in compliance costs associated with the current three year audit cycle. I would suggest that the audit cycle be extended from the current three year cycle to four years with the ability for SafeWork NSW to extend this to a maximum six years for companies constantly exceeding minimum performance criteria. This would reduce the cost to an organisation by 50% over a six year cycle in recognition of achievement. This saving could then be ploughed back into practical, at the coal face, safety initiatives improving safety generally. In this regard everyone is a winner and SafeWork NSW can reallocate resources that would be constrained by the current process to other areas of obvious need.
2. Augment the current audit process to more closely reflect an AS/NZS 4801 in terms of allowing for non-conformances of a non-life threatening nature to be discussed with the organisation and a short timeframe set to satisfactorily address these. If completed on time to the satisfaction of the lead auditor then the final audit report would be written without their inclusion knowing they have been fully addressed and saving the organisation the cost of potentially another full audit in a year's time. Additionally, SafeWork NSW are not required for a week in a year's time.
3. That the s189 return be further developed and presented in a standardised template format so that all self-insurers are reporting on exactly the same criteria to the same degree and in this way self-insurers can be compared accurately with each other and with the industry at large. In this way the parameters as discussed in item 1 above could be set and assessed. As previously mentioned this would ensure that minimum legislative compliance levels are being achieved/maintained. SafeWork NSW would then know they have a compliant system however this still leaves the issue of implementation. Implementation can be assessed by intelligent development of the s189 criteria and review of the organisations WHS Annual Report considered

in conjunction with workers comp monthly returns, reportable incidents, PIN notices etc. If an organisation is not properly applying its WHSMS, then there are many existing reporting protocols that will quickly be triggered and alert SafeWork NSW to this fact. The s189 return could also include the provision for low key interviews with the organisation to massage and improve the process for all.

4. Apply the principal of an aggregate pass (item 4 above in issues section) so that the combined total must exceed 75%. Perhaps to ensure this is not a 50% score in one criteria and 100% in the other, a more nuanced approach could be a minimum combined score of greater than 75% with no individual criteria percentage below a set % level.
5. Hold senior management more accountable across the full audit cycle by again enhancing the annual s189 return. This would force/ensure their continued driving and due diligence of safety across the organisation on an ongoing and consistent basis.

Conclusion:

An F18 fighter plane is computer controlled and makes approximately 120 minor corrections a minute to stay on target. This means that for the majority of the time the F18, one of the most sophisticated pieces of machinery in the world is mostly off track. Constant, minor changes that are immediately responsive to local conditions ensure the most appropriate and effective outcomes. If this plane was to make a single adjustment every three minutes, the G forces would literally tear it apart and render an effective fighting machine impotent. I use this analogy to recommend what in my view would be the best/necessary enhancements to the current WHS SI audit aspect of the issues paper. Surely we would be better to keep in close partnership with each other (organisation and SafeWork NSW) to adjust as required rather than waiting three years.

More targeted adjustments via a closer partnership rather than the current three yearly "shock and or" approach would also enhance the process from being somewhat adversarial to a more symbiotic approach.

It seems to me that we currently have the scenario of the "tail wagging the dog" with the three year audit cycle not founded on best practice or a risk based approach, but instead being rigid, arbitrary, one dimensional and serving to alienate those who the system seeks to ultimately protect. We seem to have a system that people work for rather than one that works for us and which ensures an ongoing and pragmatic approach to safety in the workplace.

Thank you for your time in reviewing my submission, I apologise for my somewhat unconventional response in not directly addressing the issue paper items specifically, however I hope my more idiosyncratic review from the perspective of the practical application of the current system is of some value to your considerations.

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