

Terms of Reference for the Independent Taskforce undertaking the Strategic Review of the Workplace Health and Safety System

Background

1. On 16 April 2012 Cabinet agreed to the establishment of an Independent Taskforce to undertake a strategic review of whether the New Zealand workplace health and safety system remains fit for purpose (the strategic review) [CAB Min (12) 12/14].
2. The strategic review is timely as it has been 20 years since the enactment of the Health and Safety in Employment Act 1992 and 10 years since the last significant review of the regulatory framework.
3. New Zealand has relatively poor rates of work-related fatality when compared to other countries with similar health and safety frameworks, notably Australia and the United Kingdom, and the trends in our official rates of fatality and serious injury are not improving.
4. Work-related fatalities and serious injuries are a tragedy for New Zealand's workforce and have high financial costs. Direct costs, such as employers' short-term production disturbance costs and human capital costs of fatal injuries, were conservatively estimated at approximately \$1 billion in a 2010 cost of injury estimate prepared for the New Zealand Injury Prevention Strategy (NZIPS).¹ Even a one percent reduction would equate to about \$10 million p.a. in reduced economic costs.

Objectives of the review

5. The Taskforce are to undertake the strategic review to:
 - a) identify whether the overall workplace health and safety system remains fit for purpose
 - b) recommend a package of practical measures that would be expected to result in at least a 25 per cent reduction in the rate of fatalities and serious injuries by 2020.
6. The workplace health and safety system can be defined as being made up of a number of complex factors:
 - a) the system is comprised of and underpinned by the legislation, regulation, standards, guidance documents and codes of practice relating to workplace health and safety. It is impacted by a number of influences, including the levels of regulatory compliance, enforcement policies, financial and other incentives, workplace culture, leadership and worker engagement
 - b) within the system there a number of key players, including the Department of Labour, professional bodies, unions, duty holder,

¹ *New Zealand estimates of the total social and economic cost of "all injuries"*. O'Dea D and Wren J (2010), technical report prepared for NZIPS evaluation (total costs ~\$1.3b in 2010 dollars). Other estimates of the costs of work-related injury, fatalities and disease are New Zealand Institute of Economic Research (NZIER) (2008) *Volume 1: Risk Landscape*, Report to the Department (total costs ~\$16b, in 2008 dollars); and *The Economic and Social Costs of Occupational Disease and Injury in New Zealand*: Access Economics (2006), National Occupational Safety and Health Advisory Committee (NOHSAC) Technical Report (total costs ~\$21b, in 2006 dollars).

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employees and training organisations. The interactions between these actors influences how the system works and how effective it is

- c) the effectiveness of the system can be measured by outcome indicators which include: improvements in industry and employee engagement in workplaces; and improved responsiveness to government activity; the work-toll -rates of fatality, injury and disease; the social and economic costs of the work-toll.

Scope of issues to be considered in the review

7. The Taskforce will:

- a) provide an assessment of the current performance of the workplace health and safety system
- b) recommend a package of practical measures that would be expected to reduce the rate of fatalities and serious injuries by at least 25 percent by 2020. In developing this package of measures the Taskforce may explore the workplace health and safety system from a number of perspectives including (but not limited to):
 - i. what changes are required to the current workplace health and safety legislative and regulatory framework (and supporting guidance material) to ensure that it remains fit for purpose
 - ii. how culture change initiatives can be extended to a broader range of businesses, including through greater support of small to medium sized enterprises (SMEs)
 - iii. whether and how economic and other incentives can better influence workplace health and safety outcomes (eg the HSE levy, enforcement actions, penalty levels)
 - iv. how worker participation and engagement should be supported to ensure that the workplace health and safety legislative and regulatory framework is effective, and workers' perspectives are taken into account in identifying ways to improve workplace health and safety
 - v. whether and how improved government agency collaboration, co-operation and data-sharing can better influence workplace health and safety outcomes
 - vi. whether and how supply chains be better used to influence workplace health and safety outcomes (e.g. through procurement practices, business and Government leadership)
- c) in respect of the package of measures to improve workplace health and safety outcomes, identify:
 - i. the net and gross fiscal and economic cost and benefit of the measures and (if applicable) how they should be financed
 - ii. the policy, legislative, regulatory, and/or administrative changes required to implement the measures, and a proposed timetable for implementation
 - iii. how the impact of the measures should be monitored and evaluated

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- iv. what impact the measures would be expected to have on sectors and firms at the highest risk of fatalities and serious injuries, and workers and firms with different characteristics, such as SMEs
 - d) consider how a successor to the Workplace Health and Safety Strategy (2005-2015), the National Action Agenda (2010-2013), Sector Actions Plans and the Occupational Health Action Plan can contribute more to improving workplace health and safety outcomes.
8. In identifying a package of measures under paragraph 6, the Taskforce will:
- a) identify linkages to other issues that have the potential to impact on the workplace health and safety system; including matters relating to workplace exposures to hazardous substances that result in occupational ill-health and disease
 - b) consider the following aspects of the role of ACC that impact on health and safety outcomes:
 - The incentives provided to the health and safety system by the existing accident compensation system and the ACC
 - ACC's role in workplace injury prevention and rehabilitation (return to work outcomes)
 - How ACC supports the NZ Injury Prevention Strategy
 - How ACC engages with the Ministry of Business, Innovation and Employment's health and safety inspectorate and other government agencies.
 - c) consider aspects of the work-related road toll and public safety arising directly out of work activities, insofar as these issues arise from an examination of the systems and processes in workplaces that impact on fatalities and injuries in those areas.
 - d) consider international best practice in regards to workplace health and safety
 - e) be mindful of the findings of the Pike River Royal Commission and the Government's response, which will have impact in the area of workplace health and safety beyond the mining sector alone
 - f) generate bold and innovative thinking, and not to be otherwise constrained in its recommendations (other than by the matters outside of the scope of the strategic review, as indicated below)
9. The following are outside of the scope of the strategic review:
- a) recommendations related to policy changes about providing more choice for employers in ACC (the Minister for ACC has a separate decision making process for that area)
 - b) changes to the no-fault nature of New Zealand's accident compensation system
 - c) issues related to public safety (other than those outlined in paragraph 8 (c) above)

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- d) matters related to the administration of the Hazardous Substances and New Organisms Act 1996 (other than those outlined in paragraph 8 (a) above..
10. In relation to the exclusions in paragraph 9c and d, the Government is mindful of the need to improve outcomes in these areas as well. The Government proposes to specifically look at these areas in early 2013, drawing from the recommendations and findings of this Taskforce.

Process

- 11. The Taskforce will proceed as it thinks fit to obtain relevant information, including the engagement of expert services to assist it to examine issues covered by the review.
- 12. The Taskforce are expected to make recommendations to the Minister of Labour by consensus, but where consensus is not possible may include minority recommendations.
- 13. Appointees are expected to take a broad and fresh approach rather than representing an organisation's current or previous position.
- 14. The Taskforce will be provided with administrative and secretariat support coordinated by the Ministry of Business, Innovation and Employment.

Deliverables

- 15. The specific deliverables of the Taskforce are for the Taskforce to determine but should include:
 - a) an initial report to the Minister of Labour by the end of July 2012 on the significant issues of the strategic review and the proposed approach to public consultation
 - b) by mid-September 2012 the Taskforce will produce a public document for consultation and submissions from the public
 - c) the delivery of a recommendations report to the Minister of Labour by 30 April 2013, which provides detailed information on the Taskforce's recommendations.