



Independent Taskforce
on Workplace Health and Safety

THE REPORT OF THE INDEPENDENT TASKFORCE ON

WORKPLACE HEALTH & SAFETY

HE KOROWAI WHAKARURUHAU

EXECUTIVE REPORT

APRIL 2013

He Korowai Whakaruruhau

A protective cloak

He Whakatauki

“He korowai āta raranga
He korowai whakaruruhau,
Mō tātou katoa”

“A carefully woven cloak, is a protective cloak for us all.”

Cover image acknowledgment:

The Taskforce gratefully acknowledges weaver Robin Hill for the use of her korowai or protective cloak on the front cover.

“This korowai is made of pheasant feathers, both male and female birds, which speaks to me of the inclusion of all people. The taniko (woven border) is designed with a family in mind. The marriage of two people and their respective families join to make one pattern. Although people belong together in society we are all individuals so there are individual bundles of feathers throughout the korowai body.” *Robin Hill*

Further copies

The Independent Taskforce on Workplace Health and Safety report is divided into three parts:

1. Workplace Health and Safety Executive Report
2. Workplace Health and Safety Report
3. Workplace Health and Safety Working Papers

Each of the above reports and papers can be found at: www.hstaskforce.govt.nz

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DISCLAIMER

The Independent Taskforce on Workplace Health and Safety was appointed by the Minister of Labour with the purpose of reviewing New Zealand's workplace health and safety systems and making recommendations based on its findings. This publication represents the collective view and recommendations of the Taskforce members; it is not Government policy. While every effort has been made to ensure that the information in this publication is correct, the Taskforce does not accept any responsibility for, or liability for, error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information or any reliance placed on it.

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Introduction

The Independent Taskforce on Workplace Health and Safety was established by the Minister of Labour in June 2012 to assess whether the workplace health and safety system in New Zealand is fit for purpose, and to recommend practical strategies for reducing the rate of workplace fatalities and serious injuries by 2020.

The Taskforce's report is in three parts: this Executive Report, the Main Report, and a set of working papers. The Executive Report summarises the Main Report, which is the culmination of our extensive consultation with stakeholders and experts, and of research and analysis we commissioned on specific health and safety topics. The working papers are published online only.

We recommend an integrated package of measures which represent the first steps necessary to bring about the substantial changes we believe are necessary for healthy and safe workplaces in New Zealand. These are our collective views and we all fully endorse the findings and recommendations.

The recommendations are structured to support the Government's role in influencing the health and safety system. The Government can pull on three broad levers to influence the attitudes, understandings and behaviours of employers, workers and others in the system – Accountability levers, Motivating levers and Knowledge levers.

The Taskforce has formed a clear vision of workplace health and safety in 2023 and of the prerequisites to make this a reality. We call for an urgent, sustainable step-change in harm prevention activity and a dramatic improvement in outcomes to the point where this country's workplace health and safety performance is recognised as among the best in the world in 10 years' time. This vision reflects our findings on the performance and weaknesses of the current system, and the invaluable input of many stakeholders and experts over the past 10 months.

The Taskforce is strongly of the view that all injuries and deaths in New Zealand workplaces are preventable, and any such death is unacceptable. We lack comprehensive and reliable intelligence on the extent and causes of ill-health, injury and fatality. What is certain is that the number of people dying each year in New Zealand workplaces is a shameful tragedy.

We believe that far more resource must go into preventing ill-health, injury and death – and that the returns will come in greater quality of life for New Zealanders, higher productivity, and reduced medical and other costs.

We feel privileged to have been involved in such important work. We thank the hundreds of submitters in our consultation process, and many others who gave their time, expertise and personal life experiences to inform the Taskforce's work. It is our sincerest wish that our work contributes to fewer deaths and injuries in New Zealand workplaces from now on.



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Recommendations

Accountability levers

The Taskforce recommends that the Government:

1. establish a new workplace health and safety agency with a clear identity and brand, and statutorily defined functions, including:
 - a. it should be a Crown agent
 - b. the new agency should be constituted on a tripartite basis, including an independent chair and members reflecting the interests of workers, unions, employers and iwi, as well as other parties interested in the workplace health and safety system
 - c. the new agency should have primary responsibility for workplace harm prevention, including strategy and implementation
2. enact a new workplace health and safety Act based on the Australian Model Law ('Model Law'), including:
 - a. the scope of the new Act should include acute, chronic and catastrophic harm
 - b. an Object based on the Object in the Model Law
 - c. duties should extend to all relationships between those in control of workplaces and those who are affected through adopting the Australian approach of persons conducting a business or undertaking (PCBUs)
 - d. duties should extend to all those in governance roles through adopting the Australian approach of giving a due diligence obligation to officers of PCBUs
 - e. replacing the current 'all practicable steps' test with the Australian 'reasonably practicable' test
3. strengthen the legal framework for worker participation, including through providing (based on the Model Law):
 - a. specific obligations for employers to support worker participation
 - b. expanded powers and responsibilities for worker health and safety representatives
 - c. stronger protections for workers who raise workplace health and safety matters
4. ensure that the following actions occur to support effective worker participation:
 - a. the new agency should include in regulations, approved codes of practice (ACoPs) and guidance material more specific requirements for how worker participation is expected to occur
 - b. the new agency should provide increased support for worker participation, including increased support for:
 - i. worker health and safety representatives
 - ii. workers who raise workplace health and safety matters, including either confidentially or anonymously
 - iii. unions' existing rights of entry
5. ensure a much stronger alignment and co-ordination of workplace health and safety activities through:
 - a. regulation of the use of hazardous substances in the workplace that are currently under the Hazardous

Substances and New Organisms Act 1996 (HSNO Act) (although enforced by the Ministry of Business, Innovation and Employment (MBIE)) moving to the new workplace health and safety legislation. This will make it easier for the new agency to provide guidance, co-ordinate and enforce the law, and reduce complexity and uncertainty for businesses

- b. a partnership between the new agency and Accident Compensation Corporation (ACC) to oversee funding arrangements for the delivery of workplace injury prevention activities
6. revise the workplace health and safety activities of transport regulatory agencies (Civil Aviation Authority (CAA), Maritime New Zealand (MNZ), New Zealand Police and NZ Transport Agency (NZTA)) to ensure that they:
 - a. are led by the new agency through service-level agreements for specific health and safety services
 - b. are strategically and operationally co-ordinated through a cross-agency oversight group to ensure:
 - i. effective targeting that takes a risk-based approach
 - ii. common capabilities and warranting
 - iii. the alignment of compliance strategies
 - iv. effective co-ordination when dealing with accidents
 - v. stronger operational co-ordination while allowing for specialist expertise
7. significantly strengthen the regulation of occupational health by:

- a. giving the new agency accountability and responsibility for leading strategic and operational occupational health activities in New Zealand
- b. establishing an occupational health unit within the new agency
8. strengthen the regulatory regime for managing the risks of major hazard facilities by:
 - a. mapping the risk landscape around potential catastrophic failure
 - b. developing criteria and prioritising types of major hazard facility for inclusion in the major hazards regulatory framework
 - c. ensuring that robust regulatory requirements apply to all priority facilities
 - d. building capacity in the new agency to provide rigorous regulatory oversight and ensure compliance with the new regulatory framework.

Motivating levers

The Taskforce recommends that the Government:

9. provide strong leadership and act as an exemplar of good health and safety practice, demonstrated by:
 - a. developing a comprehensive and targeted public health and safety awareness programme to change behaviours, norms, culture and tolerance of poor practice. This programme should be linked to a compliance strategy and specific compliance activity
 - b. ensuring that excellent health and safety outcomes are achieved by

its own agencies (e.g. ministries, departments, Crown entities, state-owned enterprises (SOEs))

- c. government procurement policies and practices that drive high standards of health and safety practice through the supply chain
- d. introducing an assessment of workplace health and safety impacts to all preliminary impact and risk assessments (PIRAs)

10. implement measures that:

- a. reward businesses for better health and safety performance through a levy regime that:
 - i. more meaningfully differentiates based on risk, good and poor performance
 - ii. is based on lead and lag indicators
 - iii. is aligned to a business health and safety rating scheme
- b. reflects the costs of regulatory activity inherent to the industry (e.g. major hazards)

11. implement measures that increase the costs of poor health and safety performance, including:

- i. extending the existing manslaughter offence to corporations and revising the corporate liability framework that applies to all offences (including manslaughter)
- ii. stronger penalties and cost recovery
- iii. visible and effective compliance activity

Knowledge levers

The Taskforce recommends that the Government:

- 12. ensure that the new agency implements a comprehensive set of regulations, ACoPs and guidance material that clarifies expectations of PCBUs, workers and other participants in the system:

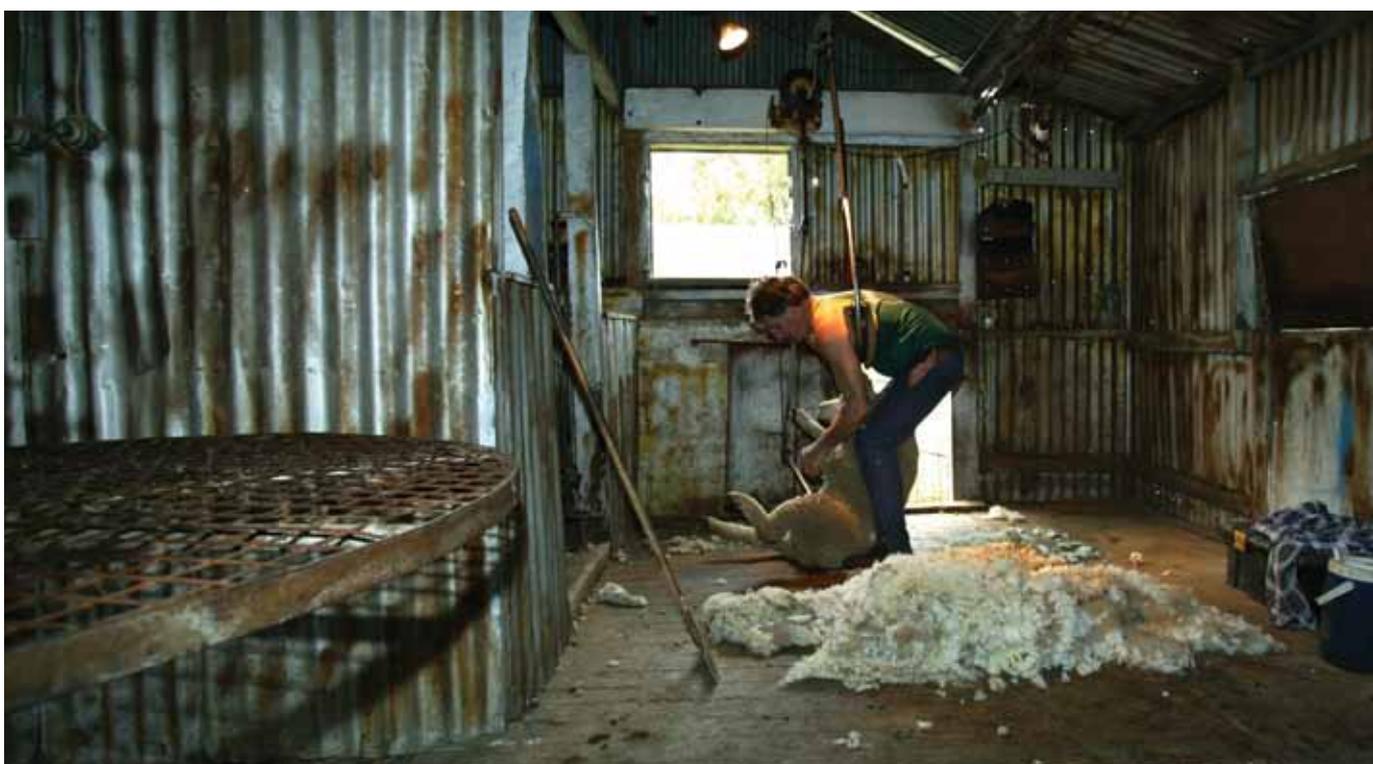
- a. Significant resourcing should be dedicated to this function of the new agency in the short term. The new agency should publish a timetable for the development and review of regulations, ACoPs and guidance material, and must ensure that these processes are undertaken on a tripartite basis. The new agency must consider what support is required for tripartite participation in the standard-setting process, including training and potentially funding for participation.

- b. The new agency must ensure that its information and support services are delivered effectively to hard-to-reach population groups and should consider establishing advocacy or advice services (potentially on a trial basis) to support this.

13. improve the quality and availability of data and information on workplace injury and occupational health performance by establishing a sector-leading research, evaluation and monitoring function within the new agency:

- a. with the mandate to influence and direct the collection of occupational health and workplace injury administrative data across government regulatory, compensation and health agencies and to collate and integrate this data for research purposes
- b. to commission and undertake research, monitoring and evaluation programmes, including the development of minimum datasets for workplace injuries and occupational illnesses and a system-wide suite of lead and lag performance indicators, to inform evidence-based regulatory and business practice
- c. to publish and disseminate findings, including through annual reporting on system-wide performance measures, and to make monitoring data available to partner agencies and key stakeholders in appropriate formats

14. require that the new agency lead the development and implementation of a workforce development strategy to identify and address capacity and capability gaps within the new agency as well as the workforce more generally, so that the workplace health and safety system functions effectively. Priority components for the new agency for inclusion in the workforce development strategy are:
 - a. developing specific workforce development plans for the new agency's staff generally and occupational health staff specifically
 - b. information-gathering to inform the strategy's content
 - c. leadership from the new agency for the establishment of a health and safety professionals alliance (HaSPA), and the development of a pathway to the occupational regulation (registration) of health and safety professionals
 - d. a comprehensive embedding of workplace health and safety into the education and training system at all levels to support up-skilling of the workforce generally
15. ensure that the new agency's compliance activity is focused on harm prevention, with far greater emphasis placed on root-cause analyses in investigations. To support this, the Government should:
 - a. require that the new agency develop ACoPs or guidance material on how employers and PCBUs can implement no-blame, no-fault or even-handed culture models of managing workplace health and safety matters, and how to undertake root-cause analysis
 - b. require that all investigations by the regulators examine the root causes of incidents, and that the regulators undertake more systemic reviews of root causes across groups of incidents
 - c. extend the role and function of TAIC to allow it to undertake root-cause investigations of a broader range of workplace health and safety incidents.





Inquiry process

The Taskforce and its Secretariat gathered and analysed information from a wide range of sources during a 10-month inquiry process. We consulted with stakeholders in three phases. The first involved consulting expert reference groups to help identify and frame the issues pertaining to New Zealand's health and safety system prior to the release of a public consultation document, *Safer Workplaces*, in September 2012. In phase two, 429 written submissions were received and 500 people attended 28 public meetings (including open forums, hui, fono, workplace visits and business network meetings). The third phase involved synthesising the Taskforce's thinking around key issues and opportunities, and sharing a high-level discussion document with a range of stakeholders for feedback. Around 100 people attended a two-day February 2013 conference.

The Taskforce met with the following government agencies to discuss their roles in the health and safety regulatory and injury prevention systems: ACC, CAA, the Environmental Protection Authority (EPA), MNZ, the Ministry for the Environment (MfE), MBIE, the New Zealand Police Commercial Vehicles Inspection Unit, NZTA and the Transport Accident Investigation Commission (TAIC). The Taskforce also met with the New Zealand Council of Trade Unions and other interested parties in the judiciary and business sector.

To support its decision-making and to fill gaps in knowledge, the Taskforce commissioned research into health and safety culture change. This research identified and reviewed examples of successful national culture change programmes to identify common themes and success factors. The Taskforce also commissioned other research on international injury and fatality rate comparisons, and on the operation of health and safety systems in 11 firms varying in size, nature of industry and organisational form. Case studies were developed to assess workplace capacity and capability for effective health and safety systems.

When the Taskforce was established, the best available data on New Zealand's workplace injury, health and fatality rates were Statistics New Zealand's Serious Injury Outcome Indicators (SIOIs). These showed that on average there were 102 fatal work-related deaths a year between 2008 and 2010, and New Zealand had a workplace fatality rate of around four deaths per 100,000 workers a year. On the basis of international comparisons using historical SIOIs and data from other jurisdictions, New Zealand was identified as having a high rate of deaths compared with many Organisation for Economic Co-operation and Development (OECD) countries.

The Taskforce was struck by how little knowledge there is on how health and safety headline numbers are derived and how unreliable they are. In *Safer Workplaces*, we reported that there is no comprehensive or reliable data set for monitoring workplace fatal injury rates in New Zealand.

In November 2012, Statistics New Zealand issued an official caution: "We have discovered some quality concerns with the work-related indicators and are working to fix them... We recommend that no further use is made of the data on work-related injury... until our review is complete." We understand that Statistics New Zealand will soon release modified work-related fatal and non-fatal SIOIs.

The Taskforce is left with a profound unease about the quality of data in New Zealand. We are deeply concerned that we do not have a clear, reliable picture of New Zealand's performance. Accordingly, we believe that data improvements, vital to advancing our understanding and targeting of issues and to monitoring and evaluating outcomes accurately, need to be addressed as a priority.

Key findings

Poor performance

The Taskforce is deeply concerned about New Zealand's workplace health and safety performance. While we acknowledge that there are problems with the data, the fact is that a lot of bad things happen to people at work in this country. Each year, around 1 in 10 workers are harmed, with about 200,000 claims being made by people to ACC for costs associated with work-related injuries and illnesses. Of these, about 90 percent are medical fee expense claims, often involving only one or two visits to a health professional. The remainder are more substantive entitlement claims, reflecting a more serious degree of harm, for which compensation and support beyond medical fees are required. These include payments for rehabilitation, weekly compensation and accidental death benefits. Approximately 26,000 workplace-related entitlement claims were approved by ACC for people being harmed at work in 2010. Workplace injuries and diseases inflict an enormous emotional toll on the people affected, and significant economic costs on New Zealand. In 2010, the costs were most reliably estimated at \$3.5 billion a year (almost two percent of GDP).

Five industries – manufacturing, construction, agriculture, forestry and fishing – account for more than half of all workplace injury entitlement claims and have the highest entitlement claim rates (as high as 32 per 1,000 full-time-equivalent employees in the agriculture, forestry and fishing industries).

Some groups of workers are also particularly vulnerable to injury and harm. Work-related injury claims, occupational disease data and fatality figures show that Māori workers, Pacific workers and workers of other ethnicities are more likely to be seriously injured at work. Other vulnerable groups include males, youth, older people, the self-employed and workers with low literacy and numeracy skills. There is a lethal nexus between high-risk population groups and high-risk industries.

Occupational illnesses have significantly worse human and financial impacts than harm incidents. These illnesses arise from a broad range of poorly-managed hazards in the workplace, resulting in gradual impairment or chronic harm conditions such as cancers and musculoskeletal disorders, and acute harms related to hazardous substance exposures.

New Zealand does not collect reliable data on occupational illnesses and diseases, due partly to the difficulties in measurement and attribution arising from long latency periods and conditions that can have multiple causes. In 2011, it was estimated that occupational illness cases result in 500-800 premature deaths a year. The majority of premature deaths are from work-related diseases due to occupational cancer, from exposure to hazardous substances such as asbestos and arsenic, and diseases of the respiratory system and ischaemic heart disease. Mental and nervous system disorders, diseases of the digestive and genito-urinary system, and toxic poisoning are also prevalent.

New Zealand has another particular issue in the potential for catastrophic harm as a result of ineffective oversight of major hazard facilities. The latter include extractive operations such as mining, and major chemical storage and processing facilities. The catastrophic consequences of inadequate management of such facilities were brought into stark relief by the 2010 Pike River mine tragedy.

Weaknesses in the system

The Taskforce has found that there is no single critical factor behind this poor performance. Instead, we see significant weaknesses across the full range of workplace health and safety system components, coupled with the absence of a single strong element or set of elements to drive major improvements or to raise expectations. The fundamental issue is systemic.

It is our view that weaknesses across the system stem from fundamental failure to implement properly the Robens health and safety model in New Zealand: this model, originating from the UK, informed the thinking behind New Zealand's Health and Safety in Employment Act 1992 (HSE Act).

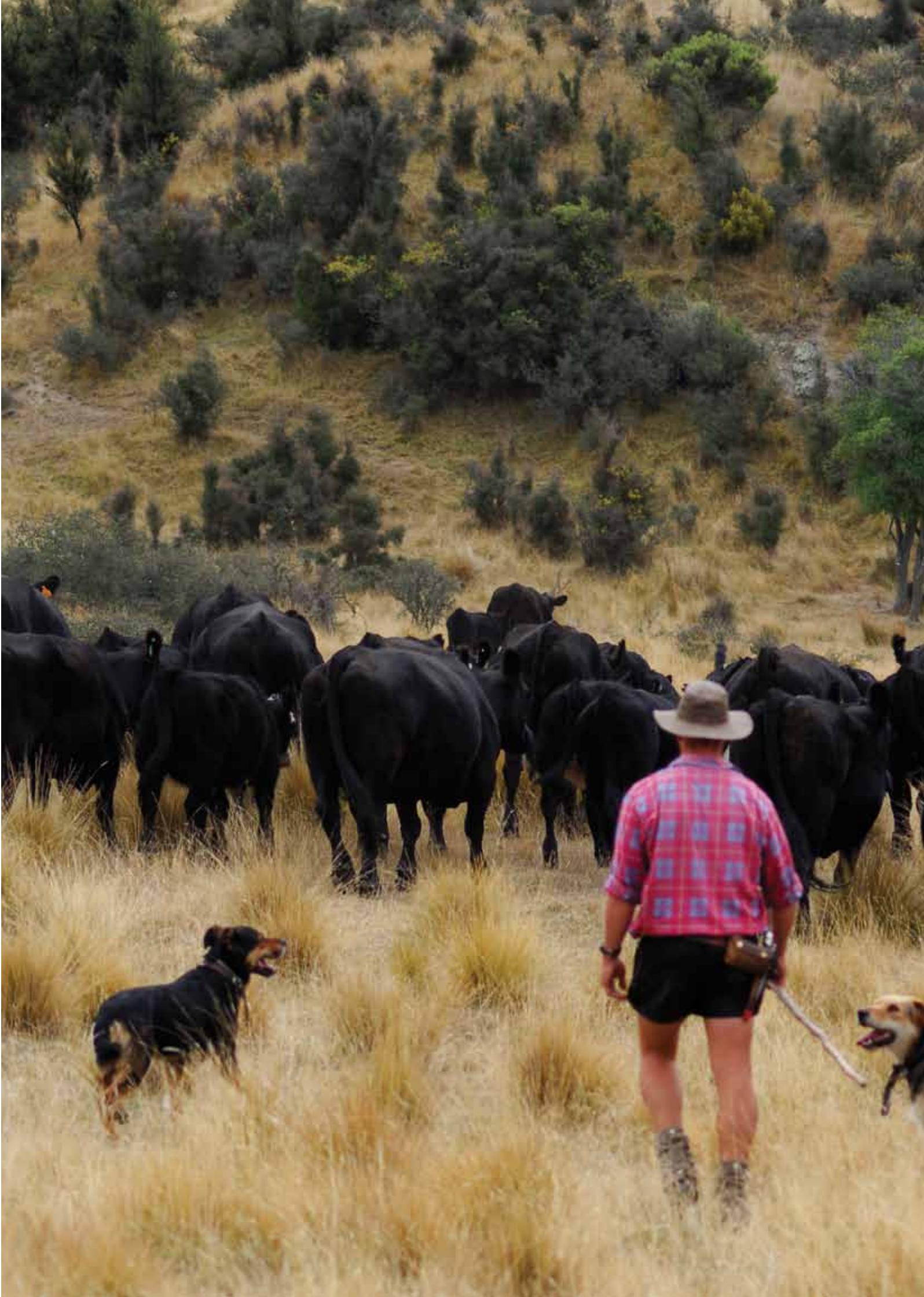
The HSE Act replaced a plethora of highly prescriptive, sector-specific acts which had grown in an ad hoc manner, and in the early 1990s were seen as too complex and overly-reliant on external inspection. The single new Act, by introducing performance-based standards (i.e. duties to do what is 'reasonably practicable' to achieve safe outcomes), provided comprehensive and standardised coverage of most places of work and hazards at work, whilst giving greater flexibility to workplaces for meeting their obligations. Regrettably, it also removed prescription where prescription was warranted, e.g. mining.

Ultimately, New Zealand implemented a much lighter version of the Robens model, and much later, than other countries. This light implementation reflected a range of New Zealand-specific factors during the late 1980s and 1990s, notably resource constraints (including public sector staff cuts), changing attitudes towards the roles of government and business (including an ethos of business self-regulation), and liberalisation of the labour market with weakened union representation.

The Taskforce has identified the following issues with components of the health and safety system.

1. **Confusing regulation:** The system currently fails to make clear expectations of regulated entities and duty holders, and the regulator does not make compliance easy for the vast majority who want to comply. Sanctions for those who intentionally, or through neglect, break the law are not adequate. The framework is confusing with multiple pieces of legislation, blending hazard- and risk-management specifications, falling across overlapping and ambiguous jurisdictional boundaries. There is a lack of coordination between agencies and gaps in coverage.
2. **A weak regulator:** Despite efforts in specific areas, and the integrity and dedication of many staff, the primary regulator has failed to deliver on core responsibilities under the Robens model. Overall, it has failed to provide the system with sufficient certainty on how duty holders and regulated entities should comply. The regulator lacks capacity and capabilities, and it has failed to collaborate with other agencies on effective harm prevention.
3. **Poor worker engagement:** Worker engagement in health and safety is generally ineffective and often virtually absent. New Zealand falls well short of the strength of worker representative legislation and levels of engagement operating in comparable jurisdictions.
4. **Inadequate leadership:** There is little leadership being shown by a large number of people and organisations who have influence in the workplace. The issues include a lack of capability among managers generally, New Zealand's shortage of large private sector employers who could become exemplars, and defensive attitudes in some industry bodies.
5. **Capacity and capability shortcomings:** These shortcomings exist among workers, managers, health and safety practitioners, business leaders and the regulator. The shortcomings include insufficient knowledge of workplace health and safety risks and specific hazards, and insufficient knowledge of workplace health and safety regulatory requirements, including of rights and obligations.

6. **Inadequate Incentives:** New Zealand lacks the positive incentives and deterrents needed to drive compliance with minimum health and safety standards or to foster behaviours that lead to continual improvement. The low likelihood of inspector visits, and of prosecution or other action, creates an uneven playing field and effectively rewards non-compliance. The regulators' resources are not applied optimally, penalties are far too low and the tools available are limited.
7. **Poor data and measurement:** New Zealand has poor information and intelligence on health and safety risk concentrations, causes of workplace injuries and illnesses, and the effectiveness of interventions to improve health and safety outcomes. We do not know the full extent of the issues or what to target. Reviewers and committees have reported on the issues before, but their recommendations have been largely ignored.
8. **Risk tolerant culture:** Our national culture includes a high level of tolerance for risk, and negative perceptions of health and safety. Kiwi stoicism, deference to authority, laid-back complacency and suspicion of red tape all affect behaviour from the boardroom to the shop floor. If recognition and support for health and safety are low or intermittent, workplaces are liable to develop, accept and defend low standards, dangerous practices and inadequate systems.
9. **Hidden occupational health:** New Zealand's estimated 500-800 premature deaths year from occupation ill-health receive little government, media or business attention. Inadequate data systems and research mean the scale and nature of the issues are largely unknown – and the system is unresponsive to new and emerging risks. Activity is fragmented across multiple regulators, disciplines and sectors with no effective co-ordination or leadership.
10. **Major hazard facilities:** Some major hazard facilities have insufficient oversight. The current framework focuses on certain industries (e.g. offshore petroleum, mining, geothermal energy) but other facilities with comparable dangers are not subject to the same degree of oversight and regulation. This reflects the gaps in knowledge about major hazards, and the fact that the risk landscape in New Zealand is not understood.
11. **Particular challenges to SMEs:** Challenges arise for SMEs from the generally less formal management style of smaller businesses, their resource constraints, limited access to external advice and support, and lack of systems fit for health and safety purposes. The current regulator has provided insufficient, relevant advice to SMEs who are particularly dependent on it.
12. **Particular at-risk populations:** Some groups experience disproportionate levels of workplace-related poor health and injury. Low literacy and poor communication skills are, in themselves, risk factors especially in workplaces that are inherently more risky. This presents a particular challenge to policy-makers and regulators, as a one-size-fits-all response to population-specific outcomes, without a careful analysis of all underlying causes, may result in poorly targeted and ill-conceived interventions.



Taskforce vision

The Taskforce seeks an urgent, sustainable step-change in harm prevention activity and a dramatic improvement in outcomes, to the point where New Zealand's workplace health and safety performance is recognised as among the best in the world in 10 years' time.

A number of critical changes and improvements, reflecting dual priorities around acute workplace injury and chronic health conditions, coupled with a seismic shift in attitude, will be needed across the health and safety system to create a robust, efficient and effective system.

At the very least, as required by the Government, the package of practical measures recommended in this report needs to result in *at least* a 25 percent reduction in the rate of fatalities and serious workplace injuries by 2020. We are confident that this modest target can and will be met, but only if the full package of recommendations is implemented in its entirety.

By 2023, if not earlier, the Taskforce wants New Zealand to be one of the best places in the world to go to work and to come home at the end of the day, every day, safe and sound.

To turn our vision into reality, we need all of the elements in place for a new, high-functioning system.

Prerequisites for a high-functioning system

We need a new, stand-alone, well-resourced health and safety agency that is effective in its enforcement and its provision of advice, but this on its own will not be sufficient to ensure the level of change needed across the system. There needs to be a broad-based approach involving change on a number of fronts to help workplaces do the right thing yet hold outliers to account for evading their responsibilities. We need better law, a stronger regulatory toolkit, a lift in leadership, greater commitment and participation from everyone in the workplace, more robust research and data, more effective incentives, and

information and guidance material that are fit for purpose. We also require working New Zealanders to shift their mind-sets and lift their game.

Following are our prerequisites for a high-functioning workplace health and safety regulatory system.

1. **Good, workable law:** Our vision is that the law makes clear to duty holders (those who create and/or are in the best position to manage risks to workplace health and safety) what their legal duties are and holds them to account for undertaking those duties. The law is comprehensive in its coverage to ensure there are no gaps. The law increases certainty by clarifying compliance requirements and the legal consequences of non-compliance.
2. **An effective primary regulatory agency:** Our vision is that the new agency has both the mandate and the resources to be a visible and effective best-practice regulator so that all participants in our nation's health and safety system know how to perform well, and are motivated and able to do so. The new agency requires a defined set of statutory functions, powers and accountability mechanisms for its activities. The new agency engages well with key stakeholders and has a commitment to effective tripartism in developing guidance and support to help all parties to comply with their duties under the law, and to deter non-compliance.
3. **Strong, visible leadership:** Our vision is that all people and organisations able to influence what happens in workplaces 'step up' to provide demonstrable leadership



for better workplace health and safety outcomes. Leadership comes from the bottom up, and from the top down – from the Cabinet room and the boardroom to workers on the front line. At a day-to-day level, the chief executive and senior management team lead the way but are held to account by those above (the board) and below (workers) for their responsiveness to concerns and risks. Leadership is vital to creating a workplace culture in which health and safety automatically comes first.

4. ***A robust level of capacity and capability:***
Our vision is that safety is an integral part of everybody's personal and workplace values. Our education system (from school to the vocational and tertiary sectors) supports the development of higher levels of awareness of health and safety risks, rights and obligations, and how to manage risk safely. Different users have access to comprehensive, high-quality guidance and standards that are fit for purpose. Research helps us to monitor and enhance our understanding of workplace health and safety risks, and to improve responses to those risks. There is also easy access to quality specialist advisers, when required.
5. ***Tripartism throughout the system:***
Our vision is that tripartism is inculcated throughout the workplace health and safety system. Tripartism involves the government regulator, employers and unions working together to improve workplace health and safety outcomes. The UK has shown respect for tripartism for 40 years. Tripartism is also the dominant model in Australia. The Royal Commission on the Pike River Coal Mine Tragedy ('Royal Commission') found that a key reason for the Department of Labour (DoL) being an ineffective regulatory body was that it had

"no shared responsibility at governance level, including the absence of an active tripartite body". Tripartism needs to be reflected in engagements between the Government and peak representatives of employers and workers, and in the governance of the regulators. Similarly, the implementation of the Robens model needs to be done on a tripartite basis, with representatives of employers and workers actively engaged in the development of regulations, ACoPs and guidance material.

6. ***Genuine and effective worker participation:*** Our vision is that worker participation is a valued part of the workplace health and safety system, and management is interested in and open and responsive to workers' health and safety concerns. 'Active worker participation' means that workers: are involved in developing, implementing and monitoring their workplaces' health and safety systems; can participate through a range of representation mechanisms, including unions; have the training, support and knowledge to enable them to participate without fear of possible repercussions; and can hold employers to account for their responsibilities.
7. ***Incentives that are effective levers for good practice:*** Our vision is for a mix of positive incentives ('carrots') and deterrents ('sticks') to encourage better workplace health and safety outcomes. The carrots include risk- and performance-rated levies, and procurement policies that require good practice to act as levers for proactive behaviour. The sticks include significant financial and legal penalties and sanctions for poor performance. Importantly, the incentive regime is designed to overcome any potentially perverse effects, e.g. non-reporting or suppression of ACC claims to avoid the consequences of higher rates of harm.



8. **High-quality data:** Our vision is that there is a robust, comprehensive and integrated workplace injury and disease data-collection, monitoring and reporting system. An effective data-collection and management system ensures the timely identification of signals and trends among the working population, and across types of work and workplace. Much better intelligence on health and safety risk concentrations, the causes of workplace injuries and illnesses, and the effectiveness of interventions will go a long way to informing the new agency's work, improving health and safety outcomes, and providing benchmarks to firms to understand their own performance in relation to that of others.
9. **Occupational health is taken seriously:** Our vision is that occupational health is front and centre of New Zealand's health and safety system. Strong government leadership sets ambitious targets and drives a programme of change to improve occupational health outcomes significantly. There are greater capabilities and awareness across government and business, in the health system and among the public to support the effective control of workplace exposures that cause high rates of occupational ill-health. In short, chronic harm prevention is treated with the same priority and commitment as acute harm prevention.
10. **SMEs have easy access to useful information:** Our vision is that health and safety information and advice are accessible and tailored to SMEs, which are the predominant business type in New Zealand. This information may be provided by the new workplace health and safety agency, by other businesses in their industries or with which they do business, and through trusted intermediaries such as accountants and industry associations. Regardless of source, it allows owners, managers and workers in SMEs to address workplace health and safety in a way that is fit for purpose and proportionate to the inherent risks in their workplaces.
11. **High-risk population groups are targeted effectively:** Our vision is that the new agency targets its activities towards the high-risk population groups that are overrepresented in injury, illness and fatality rates. These groups include workers in high-risk industries and occupations, males, older and younger workers, Māori, Pacific and other ethnic groups, recent migrants, people in casual and contract work and new on the job, and the self-employed. Further, there are targeted actions to changing unacceptable workplace health and safety practices and improving outcomes, e.g. literacy, language and communication skills training targeted to higher-risk workers with literacy skill gaps in firms in high-risk industries.
12. **Major hazards are effectively regulated:** Our vision is that there is a comprehensive and systemic framework for managing workplace health and safety risks in major hazard facilities. This framework is future focused, and involves mapping major hazard facilities and prioritising them by risk. It also involves scanning the New Zealand and international environments to identify new and emerging potentially catastrophic risks, and responding appropriately to the implications of major incidents and international changes to major-hazard-facility regulation. In particular, the regulatory approach to major hazard chemical storage and processing facilities is updated. The general public has confidence that risks in major hazard facilities are managed appropriately.
13. **A national culture that is more risk aware:** Our vision is for our national culture to be intolerant of preventable harms and to have a positive view of health and safety. New Zealanders have a high awareness of potential risks at work and are proactive in managing them. This involves New Zealanders being engaged in the campaign to improve workplace health and safety outcomes. It requires everyone to understand the key issues and be committed to solving them together. Ultimately, New Zealanders have a low tolerance for risky, unsafe and unhealthy work, and are personally proactive about good health and safety practice.

Levers for change

The following sections are structured to reflect the nature of the Government's role in influencing the workplace health and safety system. The Government has three broad levers it can pull to influence behaviour by workers, PCBUs and other participants in workplaces.

- **Accountability levers:** The Government can create accountabilities and set expectations through legislation, regulations or ACoPs, empowering state agencies by providing them with the mandate and function to ensure compliance with legal requirements, and empowering individuals.
- **Motivating levers:** The Government can encourage behaviours. This involves providing positive incentives to encourage or reward desirable behaviours, and negative incentives to discourage or sanction undesirable behaviours.
- **Knowledge levers:** The Government can influence behaviours. This involves providing information to influence people's choices about how they behave, and ensuring that people have the knowledge, capacity and capabilities to make decisions. It also involves ensuring there is adequate research and evaluation that reinforces system participants' learning.

Accountability levers

An effective workplace health and safety system requires that those who create risks, those who are best placed to manage those risks, and those who should be protected from harm are absolutely clear about their obligations and rights. The Taskforce proposes a set of accountability mechanisms that will strengthen and clarify these rights and obligations in a new workplace health and safety law.

New agency

We believe the system requires a well-resourced regulatory agency with a clear mandate to bring about change and an ability to do so. This new agency must be able to detect and penalise

those who break the law, and to inform, guide and direct as appropriate. Consistent with the recommendation of the Royal Commission, the Taskforce considers that the regulator should be a Crown agent with statutory independence. Its governance board should be constituted on a tripartite basis, with members representing the Government, workers, business and iwi.

The Taskforce recommends that, consistent with modern regulatory practice, the agency's wide range of functions should be specified in the new legislation. The functions should include monitoring the health and safety system to ensure it remains fit for purpose, providing rules, ACoPs and guidance to provide certainty, promoting and supporting education and advice, and monitoring and enforcing standards to ensure compliance.

The new agency should have a clear leadership role to remove current confusion over regulatory responsibilities and inadequate collaboration between agencies. The Taskforce recommends it should also be accountable for all workplace harm prevention, including advice to the Minister of Labour on strategy setting. The new agency should actively work with other agencies, industries, unions, sectors and communities to engage the whole system in harm-prevention efforts.

We recommend that some of the regulation of hazardous substances that relate to use in the workplace transfer to the new Act, and that injury prevention activities be delivered through a partnership between the new agency and ACC. Through a partnership arrangement and defined methodology, ACC's funding for workplace injury prevention activities would move to the new agency, which would lead the delivery of workplace injury prevention activities.

The Taskforce has noted a distinct lack of co-ordination and confused jurisdictions between health and safety regulatory agencies. The Taskforce recommends that the new agency take a leadership role on health and safety regulation through service-level agreements with other health and safety agencies for specific health and safety services to improve clarity of role and co-ordination of service delivery.

The Taskforce also believes that the new agency should work with Victim Support and other similar bodies to identify best practice for providing information, and emotional and practical support, to victims of workplace deaths and serious injuries and their families, and to embed this into its practice.

New law

The Taskforce proposes a new Act to replace the HSE Act 1992, with this legislation to include the functions, duties and powers of the regulatory agency. We recommend that the scope of the new Act extend to acute, chronic and catastrophic harm. We also recommend that the new Act be based on the Australian Model Law and associated regulations, while having regard to distinctive New Zealand conditions, as they are the most recent articulation of the Robens approach available to us. In developing the Model Law, Australia has been through an extensive modernisation process, drawing on both Australian and international experience. We have the opportunity to capitalise on that work.

The Taskforce recommends that the law has an Object with more positive language in relation to what is to be achieved. The current Object in the HSE Act is to *promote* the prevention of harm to all persons at work. The new Object should be to *secure* the health and safety of workers and workplaces. It should state clearly that “workers and other persons” will be protected “through the elimination or minimisation of risks arising from work”. The new Object should include a principle to inform duty holders and regulators on the level of health and safety being sought. The principle is that “workers should be given the *highest level of protection* against harm to their health, safety and welfare from hazards and risks arising from work [or from specified types of substance or plant] as is reasonably practicable”.

The Taskforce believes that the underlying foundation of the regulatory framework should be the allocation of duties to those who are in the best position to control workplace health and safety risks to keep them as low as is reasonably practicable. The duties should provide for the *coverage* necessary to ensure that those people who can prevent workplace harm have an explicit obligation to do so; and assign the *appropriate duties* to the appropriate duty holders to ensure that their actions are directed at preventing the most workplace harm. Coverage should extend to all upstream participants in the supply chain, including designers, manufacturers, importers and suppliers of plant, substances and structures, and commissioners of plant and structures.

The new Act should adopt the concept of a PCBU as in the Model Law. This covers all relationships between those in control and those who are affected, recognising that the traditional employer-employee relationship is only one arrangement. The Taskforce also recommends that those in governance roles assume a due diligence duty to be held by directors and people (e.g. chief executives) who participate in decision-making. We believe strongly that directors’ duties in relation to workplace health and safety should be as strong as other fiduciary duties.

The Taskforce considers that the current ‘all practicable steps’ test should be changed to the Model Law “reasonably practicable” test to improve certainty, clarify that risk-based decision-making is required, and create a presumption in favour of health and safety. The Taskforce believes that the regulatory framework should be made explicitly risk based.

Worker participation

The value of worker participation in workplace health and safety is acknowledged through conventions by international organisations (e.g. International Labour Organisation) and through research into actual outcomes. The Taskforce’s consultation process confirmed that New Zealand worker participation in this area is not effective. Improved engagement with workers is necessary, along with a major ‘mind-shift’ in New Zealand society and in workplaces. This ‘mind-shift’ needs not only to lead to more opportunities for worker participation but also to set an expectation that everyone in the workplace is

responsible for workplace health and safety. It is important that each workplace is able to adopt the approach to worker participation appropriate to its circumstances. Research has confirmed that current worker participation arrangements are varied.

The Taskforce recommends that the Government strengthen the legal framework, including through providing stronger obligations on PCBUs to support worker participation, expanded powers and responsibilities for worker health and safety representatives, and stronger protections for workers who raise workplace health and safety matters. We propose that the new agency develops regulations, ACoPs and guidance material on how worker participation should operate. Furthermore, there should be specific obligations on PCBUs to support worker participation. In addition to existing responsibilities set out in the HSE Act 1992, we recommend that PCBUs have explicit legal responsibilities to: consult workers affected by health and safety matters; have issue-resolution procedures in place for health and safety issues that might arise; identify workplace-specific health and safety matters in employment agreements; and identify workplace-specific health and safety issues in staff induction processes.

The new agency should provide increased support for workplace health and safety representatives, unions exercising existing rights of entry, and workplace engagement between its inspectors and workers and their representatives. There should also be better mechanisms for protecting workers who raise health and safety issues.

Occupational health

Occupational health issues, such as chronic harm resulting from the use of hazardous substances and the effects of fatigue and hours of work, can be a hidden feature of workplace health and safety. This is because the risks and/or effects may not be obvious until some time after the events that led to them. The Taskforce considers that occupational health activities should be given the same priority and attention as occupational safety activities. It is clear that these have not been a public or political priority for many years. We recommend that the new agency have responsibility for leading strategic and operational

occupational health activities, with the agency having a unit dedicated to this area of risk. This unit's functions could include developing a New Zealand occupational health strategy, facilitating research and evaluation, and leading occupational health communication and social media campaigns.

As a matter of urgency, the new agency needs to improve intelligence on occupational health in New Zealand. It needs to build an occupational health, serious harm dataset and facilitate the development of whole-of-life databases. For this, we consider it needs a strong mandate to collect health-monitoring and exposure-monitoring data. The Taskforce recommends that the new agency be given the authority to direct the collection of occupational health data from government agencies. It should also have the powers to require an employer or a medical provider to provide to it anonymised health-monitoring information on request.

Major hazard facilities

New Zealand has many facilities with a potential for catastrophic failure leading to significant harm to people, property and the environment. A number are not currently covered by specific regulations or proactive regulatory activities. Currently, specific regulations beyond the HSE Act 1992 apply to, for example, mining, pipelines and petroleum and geothermal activities, and are enforced by the current regulator's High Hazards Unit. The Taskforce recommends strengthening the regulatory regime to cover all major hazard facilities and adopting international best practice.

The new agency should begin by mapping the risk landscape and developing regulatory criteria. Prioritisation for inclusion in the expanded regulatory framework should depend on the extent to which the risks are effectively covered off by existing regulations, and the nature of the jurisdictional boundaries operating between the new agency and other regulators (e.g. Police, Fire Service, local authorities).

The Taskforce considers that the costs of regulating major hazard facilities should be separated out and more directly recovered from the operators of these major hazard facilities. We consider that mechanisms such as differentiated levies and direct charging for services are

appropriate to reflect the disproportionate costs of providing regulatory oversight of major hazard facilities.

Motivating levers

Some participants in the workplace health and safety system will respond positively to better information on the issues and what can be done to improve performance. They will also respond positively to leadership, human stories of the costs of poor health and safety, and what their peers are doing to improve performance. Other participants are more likely to be motivated by self-interest. They will act if convinced better workplace health and safety will reduce their costs or create more business opportunities. Regrettably, others will only respond positively if they are compelled to do so. They calculate the likelihood of getting caught for having poor health and safety practices and the costs to them if they are caught. If they think they can get away with poor practices, they will. The Taskforce proposes a set of motivating levers that address the characteristics of these different groups.

Leadership

The system requires leadership from all participants but first and foremost from the Government. The Taskforce recommends that the Government should become an exemplar of good workplace health and safety practice by: undertaking a comprehensive and targeted national public awareness programme to change behaviours, norms, culture and tolerance of poor practice; ensuring that excellent health and safety outcomes are achieved through its own agencies; strengthening workplace health and safety requirements in government procurement policies and practices; and introducing workplace health and safety impacts to all preliminary impact and risk assessments (PIRAs). Active and visible participation by business and community leaders, as demonstrated by exemplar health and safety practices in their respective organisations, is also required if a truly national focus on improving health and safety is to be achieved.

New Zealand's poor health and safety outcomes are exacerbated by social attitudes that tend to underplay both risks and consequences. We need widespread support from the public to achieve significant and enduring improvements. Building

public support should involve highly visible campaigns and partnerships with industries and communities, including iwi and other significant groups. The result should maximise voluntary compliance so that the new agency's activities can be focused on where they are needed most.

The Taskforce recommends that government agencies put their own houses in order as exemplars of workplace health and safety practice. This needs to be a first priority if the Government wants the rest of the nation's workplaces to lift their performance. The best approach is to set explicit expectations of government agency chief executives for the health and safety performance of their agencies. Government procurement policies requiring sound workplace health and safety practices are another effective means of driving up standards in the economy. The Government can leverage better outcomes through its purchasing clout particularly in construction and other services where it is a major customer for many New Zealand suppliers. The Taskforce has a firm view that the public sector must demonstrate leadership in procurement practice, and should be subject to ongoing reviews in this matter by the State Services Commission or other monitoring agencies.

Incentives

Incentives to encourage workplaces to do the right thing, and deter them from doing the wrong thing, are essential. Positive incentives need to be strong, visible and worth the effort of both the Government providing them and the businesses pursuing them. It is far better for workplaces to be stimulated to take voluntary steps than for a regulator to enforce action. Deterrents should provide certainty that poor performance will be punished.

The Government should introduce a business health and safety rating scheme with value to both the businesses involved and the people who depend on its ratings when making decisions on employment, investment, procurement and regulatory inspection. The scheme should be voluntary. The Taskforce considers that significant design work is required by MBIE, ACC and the new agency, rather than basing the scheme on existing performance measures (including the ACC levy discount schemes). At the same time,

the Taskforce considers that there is greater potential to use ACC levies to incentivise good performance by introducing a greater differential between good and poor performers.

We recommend that MBIE, ACC and the new agency be jointly mandated to provide advice to the Government on how the rating system can be used to better incentivise good performance. Specifically, the Taskforce considers that stronger lead and lag indicators need to be developed and tested. Poorly performing and higher risk employers should be subject to much higher levy loadings. Careful consideration needs to be given as to whether smaller employers are included in such a regime.

The new agency's research, monitoring and evaluation function will, over time, lead to improved data on health and safety outcomes, and on preventative and resilience factors – and this will enable benchmarking between firms, and across industries and regions. Benchmarks will need to be relevant if they are to serve as guides and motivators for firm and industry improvement.

Penalties

The Taskforce looked closely at Canadian, UK and Australian experience in this area, and we do not propose introducing a new law on corporate manslaughter in New Zealand because other jurisdictions have had very limited success in establishing an effective approach to the offence.

The Taskforce recommends extending the existing manslaughter offence to corporations and revising the corporate liability framework that applies to all offences (including manslaughter). This would be the most effective way to maximise the denunciatory and deterrent effect of the criminal law in influencing the behaviour of corporations. The recommended revision to existing law would need to address two issues. First, it would need to allow the attribution of criminal liability to a corporation as a result of the acts and omissions of a greater range of officers and employees within that corporation, provided they are acting within the scope of their authority. Second, it would need to provide that liability could be attributed to a corporation if two or more individuals of the required seniority within the company engaged in conduct that, if it had

been the conduct of only one of them, would have made them personally liable for the offence. This would allow conduct and states of mind to be aggregated for the purposes of attributing corporate liability in a way not permitted under current New Zealand law.

The Taskforce recommends that the maximum penalty ceiling for offences be raised so they are comparable with Australian levels, with a graduated penalty range. At present in New Zealand, offences likely to cause serious harm incur fines of up to \$500,000 or imprisonment for up to two years, or both. These are lower than provided for in the Model Law. Under the Model Law, reckless conduct offences by individuals incur penalties of up to \$600,000 or five years' imprisonment, or both, and by a body corporate up to \$3 million.

The Taskforce considers that the Government should introduce a hierarchy of offences and corresponding penalties of the same or a similar nature to those described in the Model Law. The offences should have three levels: *reckless conduct* where a person who has a health and safety duty without reasonable excuse engages in conduct that exposes an individual (to whom that duty is owed) to a risk of death or serious injury or illness, and the person is reckless as to the risk; *failure exposing to serious risk* where a person fails to comply with their health and safety duty, and the failure exposes an individual to a risk of death or serious injury or illness; and *failure* where a person fails to comply with their health and safety duty. The Taskforce recommends that consideration also be given to including a further category of serious offending with higher maximum penalties that would apply where death results.

The Taskforce considers that judges should be able to make adverse publicity orders after convictions for workplace health and safety breaches. Avoiding the risk of reputational damage caused by publicity about any poor performance or negligence can also incentivise employers to maintain good workplace health and safety systems. Likewise, the Taskforce believes the new agency should be able to make public information on their enforcement actions once the appeal period has expired.

Enforcement

Sustained or repeated poor performance on health and safety is often not due to deliberate non-compliance. Businesses may want to perform well but find it challenging because of competition pressures that favour poor health and safety performers. This might apply particularly to small businesses. To motivate compliance and create a level playing field, the new agency and the other regulators need an enhanced toolkit of effective sanctions, deterrents and remedies for ensuring responses are proportionate to the breaches.

The tools should include enforceable undertakings which are agreements reached between a PCBU and an inspector to put right an alleged breach to a required standard in a specified timeframe. Such an agreement avoids costly prosecution but can be enforced later, if need be, through a compliance order in the District Court. The Taskforce also sees greater potential for enforcement through: civil procedures under the Criminal Proceeds (Recovery) Act 2009 in relation to ill-gotten financial benefits from non-compliance; improved prosecutorial processes generally; the use of infringement notices (with increased penalties) without the current requirement for prior warning; and the use of compliance or restoration orders to address the deficiencies of improvement notices, which resolve the causes but not the consequences of the failure.

An essential feature of a fair regulatory system is transparency. The new agency and other regulators need to ensure their strategies, plans, policies and activities are published and accessible, including their enforcement policies and targeted sectors. By helping system participants to understand where harm-prevention priorities are within the system, the participants are able to focus their attention appropriately.

Knowledge levers

An effective workplace health and safety system requires all participants to have high levels of knowledge about health and safety, and reinforces the value of that knowledge. Participants need to understand their obligations and rights, and how to achieve good outcomes. That knowledge needs

to be supported by authoritative data, research and evaluation about what works and what does not. At present, we don't know what the issues are and what to target. The Taskforce proposes knowledge levers that will redress the lack of certainty left by current gaps in information and guidance for duty holders and regulated entities. Knowledge levers should also provide participants with the necessary capacity and capabilities to improve health and safety outcomes. In addition, by learning from past incidents, they will be better able to focus on preventing harm in the future.

Greater certainty

The Taskforce is concerned that low levels of general awareness of health and safety limit the ability of business owners, directors, managers and workers to engage for improved outcomes. New Zealand's poor outcomes are exacerbated by a high tolerance of risk and negative perceptions of health and safety in New Zealand. For system-wide improvements, participants need to recognise poor health and safety practices when they encounter them. Business owners, directors and managers need to know their responsibilities and how they can meet them. Workers need to know how they can ensure their own safety, health and wellbeing.

We recommend that the new agency implement a comprehensive set of regulations, ACoPs and guidance material, giving greater certainty to PCBUs, workers and other participants in the system on the expectations of them. The best available material from Australia can be adopted and adapted to speed up these developments. The Taskforce considers that all firms as a matter of best practice should have a fit-for-purpose health and safety management system. There should also be regulation-making powers that provide for mandatory health and safety systems such as in high-risk areas. Regulations, ACoPs and guidance material will assist in the development of firm-specific health and safety management systems, including the obtaining of competent advice from health and safety practitioners. ACoPs and guidance are also needed to promote worker participation, to address occupational health issues and for major hazard facilities. We note concerns about the current capacity and capabilities of managers and supervisors. The new agency should develop ACoPs and

guidance material for them, these becoming more specific in relation to managers' duties in a high-risk context.

The changing nature of work arrangements and reduced union membership mean a growing number of workers are hard to organise and reach on health and safety matters. The Taskforce understands that existing government agency contact centres, websites, publicity campaigns and inspection services do not meet public expectations. We recommend that the new agency ensures its information and support services are effectively delivered to hard-to-reach groups including through possibly establishing regional support centres, and that advocacy or advice services be considered.

Information quality

New Zealand has incomplete and poorly integrated intelligence on workplace health and safety risk concentrations, the causes of workplace injuries and illnesses, and the prevalence of good preventive practice. Occupational health data is particularly poor. As a consequence, industry bodies, businesses, unions and workers have inadequate information and are unable to compare their prevention-management performance meaningfully against that of their peers, reducing their ability to make improvements. The Taskforce recommends a leading health and safety research, evaluation and monitoring function be established within the new agency to direct the collection of relevant data across government agencies, commission and undertake research, monitoring and evaluation programmes, and to publish and disseminate findings. The latter will include annual reporting on system-wide performance measures. The Taskforce intends this single-focus workplace health and safety research, evaluation and monitoring function to lead a fundamental shift in the comprehensiveness and quality of workplace health and safety data captured, analysed and reported.

Workforce development strategy

The Taskforce recommends that the new agency lead the development and implementation of a workforce development strategy for people working in health and safety New Zealand-wide, including its own staff. We also recommend

that a health and safety professionals alliance (HaSPA) network be established by the end of 2014, drawing on Australian experience in this area. Longer term, the Taskforce sees some form of occupational regulation or a register of practitioners as being feasible as capacity and capability build in New Zealand.

In relation to the education system, the Taskforce recommends that health and safety learning is embedded in the nation's education and training systems. Health and safety standards should be embedded in all academic and vocational training at levels 1-6 of the New Zealand Qualifications Framework (NZQF), and made mandatory in trade certification. Together with education agencies and other standards-setters, the new agency needs to define roles and responsibilities for generic health and safety unit standards under the NZQF. It should also collaborate with professional registration bodies to ensure health and safety capabilities are part of university-level qualifications, professional standards and general management training.

The Taskforce is concerned that too often the response to workplace health and safety incidents is to seek and blame an immediate cause or responsible person, not to analyse root causes. As a consequence, the health and safety system does not learn adequately from incidents. A no-blame approach in workplaces would encourage greater co-operation from those who contribute to failures and more opportunity to fix problems for the future. We also recommend that the new agency's compliance activity is focused on harm prevention, with far greater emphasis placed on root-cause analysis in investigations. This will better enable knowledge levers to prevent future harm by ensuring the lessons of the past are understood and acted upon.



Cost-benefit analysis

The Taskforce's terms of reference required that we identify the net and gross fiscal and economic costs and benefits of our recommendations and, if applicable, how they should be financed. This section addresses this requirement.

In developing this section, we drew on:

- modelling by Ernst & Young of some of the costs of our recommendations
- advice from the New Zealand Institute of Economic Research on the broader costs and benefits of our recommendations.

Modelling the costs of our recommendations

The Taskforce commissioned Ernst & Young to provide advice on some of the costs of our recommendations. This work built upon work that Ernst & Young was undertaking for MBIE on the costs of a workplace health and safety agency. Both of these estimates are based on a steady-state costing. We consider that these steady-state costs are appropriate estimates of the costs of the new agency once it has scaled up to implement our recommendations fully.

The methodology for this work is reflected in the diagram below:

For the purposes of the cost-benefit analysis, the relevant incremental costs are identified by boxes B and C.

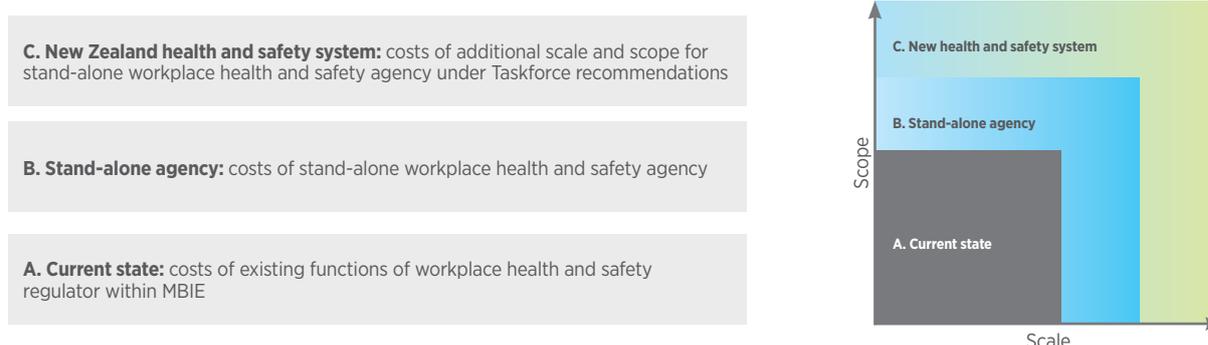
Summary of costs of our recommendations

We have been advised by MBIE that the level of funding currently available for the existing functions of the workplace health and safety regulator within MBIE is \$53.675 million for 2013/2014, rising to \$53.975 million for 2014/15 and out-years (excluding the costs of energy-safety functions).

Ernst & Young estimates of the steady-state costs of the new agency is that it would require funding of approximately \$100 million per annum to fully implement our recommendations, including the costs of having a stand-alone workplace health and safety agency. This would involve additional funding of approximately \$32 million per annum, when offsetting transfers of funding are taken into account.

For the purposes of assessing the overall incremental costs of our recommendations, we have made a number of assumptions about the timing for reaching this steady-state level of costs, which are reflected in the annual total costs in Table 1 on the following page.

FIGURE 1: COSTS OF GROWTH IN SCALE AND SCOPE ENVISAGED BY TASKFORCE



The above increases in funding make no explicit allowances for cost pressures, such as the impacts of inflation and labour market cost pressures. The new agency would need to make a case for additional funding for these cost pressures through the normal appropriations processes. The Taskforce considers that funding will need to be monitored carefully over time to ensure that it remains adequate. Account should also be taken of the fact that the Health and Safety in Employment levy revenue received by the Crown will increase in line with growth in leviable earnings.

While the above figures are presented as annual funding allocations, we are also concerned that this model of funding is not appropriate for the new agency. We recommend that the Government consider providing the new agency with a three-year rolling appropriation. This would provide the new agency with greater certainty and stability of funding. For more analysis on the costs and the subsequent benefits to New Zealand, see the Main Report.

TABLE 1: Annual increases in funding for the new agency

	2013/14	2014/15	2015/16	2016/17	2017/18
A: current costs	\$53.675m	\$53.975m	\$53.975m	\$53.975m	\$53.975m
B: stand-alone agency and C: additional scale and scope	\$33.870m	\$40.524m	\$44.709m	\$46.422m	\$46.422m
Total costs	\$87.555m	\$94.499m	\$98.684m	\$100.397m	\$100.397m
Net costs	\$19.970m	\$26.624m	\$30.809m	\$32.522m	\$32.522m



