

## WORK HEALTH AND SAFETY ACT REVIEW –ADDITIONAL COMMENT

### Introduction

The AMWU welcomes the opportunity to add to our original submission. During the consultation between Ms. Boland and AMWU Health and Safety Representatives, the AMWU indicated our willingness to further some examples of positive outcomes of HSR activity and additional points regarding the WHS Regulations.

The AMWU requests that when this is published that sections of this submission which refer to individual workplaces be redacted. Identification is kept in this version to assist SWA secretariat and Ms. Boland to recall the discussion which occurred.

### Feedback from AMWU HSRs at May 2<sup>nd</sup> forum with Ms. Boland

**Positive outcomes as a result of HSR activity** - These examples are written by the HSR directly concerned.

#### Workplace 1 Regional Queensland:

- HSC access to Incident reporting system at contract and parent company level (up to recently this was a seemingly well guarded secret)
- A portable Emergency eyewash station for our site
- The expeditious installation of reverse cycle air conditioning by our client (CoA) in our crib & office rooms
- The installation of RCD/Circuit breaker into a contractor use exterior power point
- GSW dressing first aid kit for the live fire test for the armoury at [REDACTED]
- Highlight painting of all exposed upstands around wash bay's and work areas
- Addition of extra heat stress prevention related PPE: neck ties & hard hat over brims
- A proposed safety stat's board for our site.

I hope some of the above points are what you are seeking for your data base. I am sure there are many more issues that have been resolved but currently elude my present recall.

Our company has many varying contracts through a multitude of industries so their resources to remedy any OH&S issues *should* not be a problem, but at times it seems to be a stretch to achieve worker/PCBU harmony (PCBU compliance.) Any and all efforts to strengthen the Model WHS Act to ensure greater conformity would undoubtedly be a positive outcome for all.

#### Workplace 2: Rail industry:

Workers on site where using a water blaster connect to a water treatment system; there was contamination of the water which smelt. The treatment system was not maintained properly. After my intervention I asked for an expert review. A consultant was brought in. He said it was the most contaminated water he had ever seen. He also said the water was cross contaminated with oil. He said because of the oil mixing with the water treatment chemicals it would produce chemical compounds which could cause cancer. He came up with recommendation to have modifications to the system to allow safe discharge to the storm water. This has saved the company thousands of dollars in waste pumping disposal costs and doesn't expose workers to any further contamination

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Workers working on [REDACTED] rail way bogies were injuring there shoulders and receiving hernias by having to tighten bolts to very high torque setting. After a number of people had to go on workers compensation and have surgery. The company was reluctant to invest money in tooling. Because of the powers provided by the Act, I was able to intervene, the company where convinced finally to purchase tool. The tooling is like heavy duty cordless drills they can tension the bolts up now in a much safer manner. It as provides a productive benefit to the company. No injuries and the work can be performed quicker.

Due to ineffective exhaust of welding fumes workers were exposed to fume levels well over the exposure standards. We used the law's and HSR's powers to fix the exhaust systems and arrange medicals.

### Workplace 3: The [REDACTED] Safety Committee

8 elected Health and Safety Representatives from various areas on site, Management and Safety Advisors.

The Safety Reps are very active on site and participate in many activities such as zero harm working groups, inspections, investigations and reviews of our safety system.

Some of the actions our safety committee have been involved in.

- Zero Harm working group for traffic management. (ZHWG)
- ZHWG for dropped objects
- JHA reviews
- Mental Health First Aid Training
- Noise Monitoring
- Audiometric Testing
- Safety Health and Environment management review
- Psychological Risk Assessment review
- Incident investigations, including ICAM investigations
- Verification of Competency, system review.
- Drug and Alcohol testing
- Building signage review
- PPE review
- ZHWG, Forklifts
- ZHWG, Hand Safety
- Warehouse Arrangements
- Selection of Safety Boot suppliers
- Consulting with senior manager face to face to resolve issues
- Blasting and painting improvements
- Researching safety issues

### Workplace 4: [REDACTED] incident -- Hydraulic jack – incident mentioned during meeting:

Boilermaker tradespeople using hydraulic equipment without sufficient training  
Incorrect use - used a malfunction to the jack resulting in discharging the ball bearing from the coupling

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The ball bearing travelled through steel structure

HSR secured the scene, investigate and brought to light the seriousness of the incident, made recommendations and reviewed the report to be sent to WorkCover

Positive outcomes from being able to be involved:

- Training provided to personnel
- Qualified personnel only to do the work
- Quarantined equipment
- In future that type of work to be carried out in the dry dock itself

*This was a great outcome and showed the importance of HSRs access to training i.e. all the above was achieved within a month of attending [REDACTED] HSR training and HSR was an apprentice at the time.*

**Workplace 5:** Site became aware of health and safety representation rights 18 months ago

### *1. Implementation of HSR's*

I joined the health and safety committee rather reluctantly 2 1/2 years ago at my mining manufacturing workplace with many preconceived ideas after hearing stories of disrespect and dictatorship in which it had been run. After several visits I could see the way that members were shut down, ridiculed & disrespected.

I highlighted to management that none of the members wanted to participate actively because it just wasn't worth it. There was no training offered whatsoever contrary to the companies HSC constitution document I had obtained.

I made a phone call to AMWU to discuss options to endorse HSR's on site as well as training options. I took the suggestions to management who reluctantly agreed saying we will look after it.

Throughout the whole HSR process there were many roadblocks around genuine consultation and the fact that it was no clarity given to employees. Once again AMWU official was consulted and came to our workplace for a meeting in work time to genuinely consult with workers as per the work health and safety act. He discussed the difference between health and safety committee and health and safety reps clearly and in a manner in which people understood.

AMWU officials visit changed my personal battle with management and suddenly all employees understood the process and it became a collective battle, one I knew we could win. I held a meeting with all employees; union and non-union members were invited where we conducted a vote on who should conduct the ballot on site. It was unanimously voted that the union run the ballot. A total of 5 HRS were agreed on and subsequently elected.

In typical fashion management organised HSR training through their training provider. The three AMWU HSR members genuinely considered their proposal and declined, deciding [REDACTED] was our better option given their extensive history in this field of expertise. Management was reminded of the recent win [REDACTED] had in the commission with regards to choosing training providers which I believe swayed their decision to agree with [REDACTED].

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Since the implementation of HSR's into the business nearly 18 months ago we have seen many improvements to safety and the style in which management approaches safety to include HSR's and to genuinely consult with workers ie:

- Asking workgroups to prioritise safety upgrades
- Involving workgroups & HSR's in implementation of safe work procedures, risk assessments etc.
- Safer working at height practices and procedures and fit for purpose access systems at heights etc.
- Broader first aid coverage to include rosters, shifts and overtime etc.
- SWL engineering on all jigs, racks and stands etc.
- Regular safety walks
- A smoother more respectful health and safety committee, actions prioritised for new business and all members now trained
- a change in managements attitude to listen to employees concerns and genuinely consult.

We believe we now have a safer workplace as a result with a marked decrease in LTI's and MTI's on site.

### 2. *Mandatory Mental Health First Aiders*

I would propose that the WHS act include as a mandatory clause that the workplace provide an adequate number of trained mental health first aiders.

This issue has been highlighted in my workplace in recent times with two workmates taking of lives within a period of five weeks apart.

With one in three people suffering from mental health issues, I believe this is a major issue which needs to be addressed as a matter of urgency. These mental health first aiders should be voted in by employees rather than selected by management as I believe this would be more affective and beneficial to open communication in a non-threatening environment.

I hope that this information will be of some benefit and we can continue to work towards improving a holistic approach to safety at the workplace.

### **Workplace 6 Constitution of a H&S Committee** - Extract of a policy regarding consultation

#### Members of the Committee: 1. Worker Representatives

- a) Worker representatives are always elected
- b) All workers must be given the opportunity to be involved
- c) Representation should always reflect various groupings
- d) Number of representatives is to be determined by consultation with management
- e) Worker representatives must never be in a minority
- f) All committee members shall be clearly identified to the site with their photographs on noticeboards
- g) Option to choose their provider for accredited WHS training

Worker representatives must always be elected by the workers they represent. They must never and cannot be selected under any circumstances by management or the union(s) involved in that

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particular workplace. Thirty days notice must be given for the election before it takes place in order that all workers have the equal time and opportunity to participate. The make-up and size of the committee should be formally agreed with the PCBU.

Numbers on the committee should be always be considered in conjunction with the following factors: shifts, departments, occupations, composition and hazards.

Since the overwhelming count of people at work are workers the committee must therefore always reflect this very fact to the extent that the workers cannot and must never be a minority on the committee. Also under the WHS Act, the committee cannot have a majority of management representatives.

### **Other points raised by HSR on May 2<sup>nd</sup>:**

- Tick and flick approach to contractor/labour hire safety. Labour hire workers not reporting accidents eg wound that required stitches, as worker concerned about security of employment. The failure to report is a common occurrence for insecure workers.
- Inspectorate – inability for person to make an anonymous complaint – inspector sent a message aback to the company about consultation which indicated clearly who had lodged the query
- The importance of genuine consultation ie. as per the Act. Consultation is not being told what management are going to do, rather having input into what it is management will do.

### **Additional Recommendations: WHS Regulations**

The AMWU's substantive submission recommended change to the WHS Regulations e.g. use of so far as reasonably practicable; limited coverage of Part 3.1, lack of regulation for the risks associated with the following - psychological, heat related ill health, occupational violence, biological hazards and a regulation on due diligence.

Additionally, during the process of the technical review of the current Model Codes of Practice SWA agency has been developing a list of issues that could not be addressed in a narrow review. For example –

- Asbestos regulation - mandatory training and licensing requirements for 'competent persons', consistent condition grading, and responsibility for decision making in relation to asbestos management in the workplace
- Excavation- definition
- Electrical work definition

It is understood these will be available later this year.

### **The AMWU also recommends the following amendments WHS Regulations:**

Regulation 38 applies to the hazards within the scope of the Regulations. However, there is a failure of each subsequent chapter to refer to other triggers for the review of risk controls.

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Given that the Victorian OHS Regulations 2017 include specific triggers it is inexplicable why the WHS Regulations are restricted. There is not existing link between Part 3 of the WHS Act and the WHS Regulations.

*These limitations restrict the ability of the WHS Regulations to link exposures or injury/ill health outcomes to improved risk control measures.*

### Recommendations to improve the WHS Regulations:

- Insert into each Part of Chapter 4, 5, 6, 7 a requirement to review the risk controls measures for any incident to which Part 3 of the WHS Act applies
- Part 4.1 Noise: insert a link between audiometric testing results and a review of risk control measures and a requirement for PCBU to develop a Noise Control Plan – as per Vic OHS Regulations 2017 Reg 34 (7)
- Part 4.2 Hazardous Manual Tasks: insert requirement to review risk control measures if there is an occurrence of musculoskeletal disorder at work
- Chapter 5, Part 5.1 Plant Division 7: insert requirement on the PCBU using the plant to review risk control measures if there is an injury associated with the use of the plant
- Chapter 7, Part 7.1 Hazardous Substances; insert a requirement that a review of risk control measures is undertaken by the PCBU when health monitoring indicates that a worker has been exposed to a hazardous substances [currently the Regulations require the PCBU to obtain the test results etc but not it is not explicit that the control measures must be reviewed. The link between health monitoring results and review of risk control measures is clearly articulated in the requirements in Part 7.2 Lead Regulation 401].
- Chapter 8 Asbestos Part 8.1: ensure that the Regulations/Act make it clear that inspectors have the ability to order the removal of in situ asbestos containing materials which has been installed etc. post the introduction of the 2003 ACM ban.

## OBSERVATIONS

### Bullying

As far as we understand -- If a bullied worker contact WHSQ and seeks assistance they are given a pack with a covering letter that clearly indicates it is not the role of the regulator to validate if bullying has occurred but simply to confirm a policy is in place. This is a totally inadequate response from the Regulator

### Insecure work and the effect of low wages on health

The importance of the effect of insecure work on health and safety cannot be overstated, especially low waged work. The ability for workers to access better conditions applies to health and safety and general health. A recent report concludes with:

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*Public discussion and debate over how best to address the challenges of insecure work should continue. An effective solution will require measures that expand the quantity of work available (empowering workers to demand better conditions, instead of being compelled to accept any work available), and regulatory standards and protections to improve the quality and security of work. But there should be no debate that work has indeed become more insecure in Australia.[page 19 The Australia Institute The Centre for FutureWork, see link below]*

[https://d3n8a8pro7vhmx.cloudfront.net/theausinstitute/pages/2807/attachments/original/1527557769/Insecure\\_Work\\_Factbook.pdf?1527557769](https://d3n8a8pro7vhmx.cloudfront.net/theausinstitute/pages/2807/attachments/original/1527557769/Insecure_Work_Factbook.pdf?1527557769)

The effect on health of low wages is discussed in the link below:

<https://payrise.eu/say-on-pay/low-pay-as-a-health-hazard/>