

Your ref : A366132  
Our ref : SAFE18/0298

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16 July 2018

The Hon. Bruce Lander QC  
Independent Commissioner Against Corruption

*via email: [evaluation@icac.sa.gov.au](mailto:evaluation@icac.sa.gov.au)*

Dear Commissioner

I refer to your correspondence of 4 July 2018 requesting clarification on certain matters following my oral submission on 2 July 2018.

I can provide the following information.

**Strategic Plan**

The SafeWork SA Strategic Plan 2017-2020 was the plan that was in place when I first commenced in SafeWork SA. As I advised in my submission, this was primarily a copy of the Attorney-General's Department Strategic Plan and was not contextualised for SafeWork SA, therefore it did not mean anything for many workers. It also meant that team strategies and plans could not link to the broader organisational direction and objectives of the business. There was no specific documented organisational direction in a SafeWork SA context.

As a result the new Executive developed the Roadmap, which identified key change projects to be achieved and delivered over the next 18-24 months. It provided indicated timeframes yet allowed some flexibility of deliverables. The reason I introduced a roadmap rather than a strategic plan was due to the number, and extent, of change projects on hand. I do not consider it appropriate to lock the agency into a plan when so much change is occurring.

The SafeWork SA Strategic Plan 2017-2020 was rescinded when the Roadmap was released, which was in early January 2018. Therefore the SafeWork SA Strategic Plan 2017-2020 is no longer referred to in SafeWork SA.

It is my intention to develop a strategic plan once the significant change projects highlighted on the Roadmap are completed.

## **SWSA Values**

The values stated in the document are not the Values referred to in my oral submission. Since the implementation of the Roadmap a project commenced to identify and define the values for SafeWork SA. Each team in SafeWork SA was to nominate a representative for their team as these values needed to be identified by the employees. Therefore, neither managers nor Executive were involved in the process of identifying the values.

All teams were asked to brainstorm specific values from an Educator, Inspectorate, Investigation and overall perspective. Four core values were identified and behaviours and actions to demonstrate these values were documented. As part of this process key obstacles and barriers were identified and strategies were developed to help make these values live. Overall, the new SafeWork SA Values were identified by the workforce, which were workshoped to distil the behaviours SafeWork SA want to demonstrate and submitted to the Executive for final approval, which I agreed to and approved.

A copy is attached for your reference. These will go live on Tuesday 24 July 2018 through a soft launch.

## **Process for information sharing between Regulator and Educator**

There is no formal documented process for sharing information between Regulator and Educator. As I explained in my submission, the Educator has no powers, so when they go out on site they are unable to action any compliance tools in relation to the WHS Act. The objective of creating the Educator was to encourage an organisation to be compliant and obtain further information about how to be compliant with the WHS Act without fear of a sanction. However, if an employee from the Educator goes out on site and observes an unsafe practice, there is no formal way or system for SafeWork SA to capture this information and inform the Regulator of that unsafe practice. There is an ad hoc process of a report but it cannot be guaranteed that the information would reach the Regulator and/or be actioned accordingly. As I advised my concern is that if the Educator observes this unsafe practice, technically SafeWork SA knows about this practice and no action could be taken.

I have been advised that at the time of the split, work was supposed to be undertaken to ensure that this risk was addressed. However, when asking staff and management further questions about this, many are unable to advise of how this risk has ever been addressed. I can confirm that there is no practice or process in place to address this, which concerns me greatly. We are now addressing the gap by identifying a process to ensure Advisors within the Educator inform the relevant team in the Regulator of unsafe practices within a workplace visited by the Educator function.

## **Reasons for the issue of a notice**

Inspectors have not been given an instruction that they must provide evidence of their decision making and their reasons for the issue of a notice.

However, the compliance notice itself (i.e. Improvement Notice and Prohibition Notice) requires the Inspector to give the grounds for issuing the notice. This is a requirement of the Work Health and Safety Act 2012 (s.192 for Improvement Notice and s.196 for a Prohibition Notice) and is stated on the notice. If this part of the notice is not completed, then the notice would be set aside at Internal Review if ever the notice was reviewed.

Whilst I accept the grounds for issuing a Notice are written on the form, I have introduced the case conference process to require discussion about decision making and options for other compliance tools or outcomes. This discussion is to take place between the issuing Inspector and Team Leader and/or Manager.

The Operational & Legal Support Team will undertake periodic quality reviews across the Inspectorate, which will include Inspector decision making.

## **Case Conferences and file review**

An Initial Case Conference is used for certain notifiable incidents\* to determine whether a file remains within an industry team for compliance action, or is transmitted to the Investigation Team for further investigation.

The case conference is attended by the relevant inspector, with their Team Leader and Manager and the process provides a certain level of guidance on what compliance actions should be undertaken in relation to a file, as well as consideration as to whether any safety information or alerts should be published in relation to the matter.

Additional case conferences are used, to varying degrees, throughout an investigation. However, there is no consistency in the process or quality of the conference discussion. I am not confident that every case, compliance or investigation, is case conferenced or to the required standard. The Operational & Legal Support Team will re-introduce a rigorous case conference process to ensure they happen and to the correct standard.

\*Incidents are categorised from 1-4, and relate to the service level requirement where:

Category 1 = Critical event – same day service

Category 2 = Same Day Service – within 24 hours

Category 3 = Routine – within 5 days

Category 4 = Administrative – dealt with via administrative action only

Case conference is required for Categories 1-3 only.

The procedure of case conferences is outlined in the attached Standard Operating procedure – Investigation in pages 15-16. This document was provided in the initial request for documents.

File reviews are conducted by a Team Leader and Manager at the closure of a file in accordance with a file closure checklist. The review ensures all compliance activities are being undertaken correctly and all the relevant requirements of a file are present (e.g. inspection report, compliance notices, case conference etc). In addition, in April 2018, in response to a recommendation following PWC's audit of SafeWork SA's compliance and enforcement function, an auditing program has been implemented to ensure that a Manager (of an alternative Team) reviews a sample of closed files to assess whether they have been properly assessed prior to closure.

The Operational & Legal Support Team, as described above, will ensure a formal documented process is developed and implemented. They will oversee the quality and internal control of file reviews and case conferences.

### **Software Solution**

DTF have recently undertaken an assessment of a risk management software program called RiskConsole.

The overall assessment was that with some minor 'workarounds' it will meet DTF's requirements for a risk and audit management tool.

The benefits expected to be realised from the implementation of RiskConsole system are:

- A single, centralised source of all information relating to strategic and operational risks
- Reduced administration time required to manage risks through transparent recording and electronic tracking of the audit and effectiveness of controls
- More accurate and timely reporting as the periodic review of the risk and controls are monitored electronically and management and executive have visibility to ensure it is completed adequately
- Fewer risks are overlooked as the system electronically tracks workflow and escalates cases where actions are not completed by a Reviewer
- Better informed decision making due to a clear and accurate understanding of Agency risk and the effectiveness of the controls associated with each risk
- Management and staff are better able to focus on the most important risks, as the system will automatically prioritise risks and allow for easy filtering which will clearly, quickly and accurately reflect an up to date organisational risk profile.

Endorsement has been received to use the system by DTF for risk registers.

The transition of risk registers to the electronic system will create a central source of risk information, improve accountability by assigning ownership of operational, fraud and strategic risks, (including fraud and corruption risks), controls and treatment plans and supporting more effective system-based oversight through system-based workflows and reporting. Risk information, including controls, relating to powers of inspectors, will be included in SafeWork SA's risk register.

Implementation will take place across DTF branches by 31 December 2018 with SafeWork SA being the first branch to transition their risk registers to RiskConsole.

The software will provide a platform to better manage the current and new processes to manage risk, which includes fraud and corruption risk as well as the broader governance risks.

The operational documented guidance is the first line of defence for risk management and this is the level SafeWork SA staff will see and use. The software enables a transparent system to manage the risks, controls, acceptable risk tolerance and review.

### **Alignment to Department of Treasury and Finance's governance and risk processes**

SafeWork SA is currently undertaking a review of the AGD processes against the DTF processes to identify if there are any gaps or differences in the process. Where gaps are identified SafeWork SA will use the OLST Team to ensure the gaps are rectified so that SafeWork SA does align to DTF.

DTF have been invited to the SafeWork SA Governance meeting to ensure that there is agency oversight and to embed the DTF processes in to the SafeWork SA governance and risk processes.

### **Systematic Audit Process**

As an improvement strategy to ensure good governance principles apply to SafeWork SA, I have created the Operational & Legal Support Team (OLST). This team was developed, Job & persons specifications created, the team, positions and functions were consulted across the Agency and with the unions and feedback sought.

A key function of this team is undertaking internal audits of existing and new internal controls. This function will leverage the existing audit I commenced when I started. The audit I commenced 6 months ago continues and is currently managed by the Change Management Team, however a more sustainable process is to transfer this function to OLST. OLST will continue the internal audit function across the business and it will become a key function of that team.

The manager of OLST is already in place and we have advertised for the remaining positions. I expect to have all staff in place by early September 2018.

The audits are based on risk, with higher risks being audited more frequently and to a greater extent. This means we will audit higher risks more often until satisfied they can be reduced to a lower risk classification due to the effectiveness of controls.

As an example, I would expect the review of fraud controls and risks relating to abuse of powers to be audited more often as these are new controls which present a higher level of risk.

This team will have a dedicated quality assurance/control responsibility as they will be the team monitoring internal compliance and adherence to internal standards and will report directly to me.

The team will initially focus on organisational governance, fraud control risk, powers of the Inspectorate and, to a lesser extent, investigations. This is a new team, commencing from a low baseline. There will be a need to create systems for them to work within. That said, the Manager is in place and recruitment has commenced for all other positions.

### **Status of Compliance and Enforcement Manual**

The Compliance Enforcement Manual was in operation over 10 years ago when the Compliance, Advisory, Legal and Investigation (CALI) Team existed. I can confirm that this Compliance and Enforcement Manual is no longer in operation. It is my intention that once up and running, it will be a priority for the newly created OLST to bring back something similar for SafeWork SA.

### **Inspector Program (summary of course)**

The current Inspector Development Program runs for 11 weeks, not 16 as stated in my oral submission.

The Training Implementation Plan and Curriculum Document Inspector Development Program have both been developed further since they were provided to you in the initial request. I have attached the updated documents. These remain under development and I request that these not be published.

I have also attached the following documents (which also remain under development, and consequently I again request that these documents not be published):

- Inspector Development Program
- Schedule of program and program lesson documents

As at 30 June 2018 a total of 47 staff have completed the Investigations Management Program (CSU Training). Further sessions will occur during the remainder of the year.

These documents provide a breakdown of the 11 week training program, however a summary of the training is as follows:

- Week 1-5 - Face to face, 5 x 8 hour classroom sessions. This is provided internally by Trainers accredited through Charles Sturt University.

- An online training component must also be completed during weeks 1-5. This includes all compulsory training for Government eg. Code of Conduct, Public Sector values.
- Week 6 - Commence with the team they are allocated to, commence field based development.
  - The Inspector with limited powers is mentored/coached by an authorised Inspector and commences field work.
  - This involves completing the Competency Evidence Portfolio workbook which has a number of tasks that require evidence that the employee is competent to be appointed.
  - Examples of the tasks include:
    - Deal with a complaint from a client, including assessment, validation and taking action
    - Conduct a workplace Inspections
    - Complete a workplace Inspection report
    - Issue a prohibition notice
    - Issue an improvement notice
    - Issue and expiation notice
    - Collect evidence
- Week 6-11 - Simultaneous to the above they attend two days a week the Technical sessions. These sessions cover a range of topics within the various legislation. For example: Hazardous Chemicals, General Plant, Confined Spaces, Demolition, High Risk Work, Asbestos and Electrical.

Separate to this training, as at 30 June 2018 a total of 47 staff have completed the Investigations Management Program (CSU Training). Further sessions will occur during the remainder of the year.

### **Assessment of Inspectors to be Gazetted**

The following process reflects the new process for assessing Inspectors.

New employee commences and starts the Inspector development Program (this is up to a 9 month timeframe).

The employee attends as follows:

- Week 1-5 - Face to face, 5 x 8 hour classroom sessions. This is provided internally by Trainers accredited through Charles Sturt University.

- Week 6 - Commence with the team they are allocated to, commence field based development. This involves completing a competency based workbook of a number of tasks that provide evidence that the employee is competent to be appointed.
- Week 6-11 - Simultaneous to the above they attend two days a week the Technical sessions.

At six months if the workbook is complete the employee hands it to their Manager who presents it at a panel consisting of themselves, the Director of Compliance and Enforcement and the Training Manager for consideration.

This panel is required to assess whether the Inspector has provided evidence of certain skills these include but are not limited to - Investigating an incident/complaint and conducting a site inspection, Completing and issuing the following compliance notices.

The panel may then recommend them to the Executive Director for approval and gazetting.

The final full authorisation/Gazettal process is processed by the Policy and Governance Team.

*Note – Prior to or during the Program, inspectors are appointed under relevant legislation with conditions. These conditions state the inspector/authorised officer shall only exercise their functions and powers when under the direction and supervision of an inspector/authorised officer who has unconditional authority to exercise all functions and powers of an inspector/authorised officer under these Acts.*

### **Policies and/or procedures referred to during the induction process**

A list of all policies and procedures referred to during the Inspector Development Program is provided. Note some of these lessons are still under development, these have been identified on the list.

### **ORANGES® Training**

The ORANGES® resilience training program is available for all SafeWork SA employees to attend. Whilst it is not a mandatory workshop, I have strongly encouraged all staff to attend. Thus far 68 people have completed the training, of which only 23 people are from the inspectorate. The Executive Team, Managers and Team Leaders also attended the training late last year.

Session information are as follows:

#### Completed sessions

- 4th & 5th April 2018 (22 attendees)
- 10th & 11th April 2018 (23 attendees)

- 19th & 20th June 2018 (23 attendees)

#### Future sessions

- 24th & 25th July 2018 (24 attendees)
- 30th & 31st July 2018 (24 attendees)
- 20th & 21st August 2018 (11 attendees)

Please note, in the completed sessions the number of attendees does not reflect the individuals who did not pass or complete the ORANGES® training due to sickness, unplanned leave, workload changes etc. The cap of attendees per session is 25.

#### **Role of OLST Team in terms of auditing**

The Operational and Legal Support Team (OLST) has been designed to identify, initiate, and drive quality improvement programs to assist SafeWork SA to create a flexible, agile and professional organisation. OLST will be the centre of excellence, providing direction and setting the standards in the way the Regulator will fulfil its mandate and service to the South Australian Community ensuring the service is:

- without fear or favour
- fair, proportionate, and appropriate
- consistently applied
- dealt with in a timely manner
- conducted professionally and politely; and
- publically accountable.

OLST will be responsible for providing a range of in-house support to the Regulator. This will enable investigators and Inspectors to receive a range of supports in managing and leading complex critical incidents. Key areas of support that will be provided by OLST include:

- Legal advice and guidance
- Design appropriate systems in the way Inspectors and Investigators conduct their work
- Training and development
- Experts
- Enforceable undertakings.

OLST will conduct quality auditing to ensure custom and practice of SWSA Officers are in accordance with documented instructions. These audits will be unannounced. Any non-conformances will be addressed by the relevant Team Managers who will be responsible for resolving the non-conformance and will need to report back to OLST on the outcome.

### **Proposed approach to better manage the risk or capture**

This procedure and process will be the responsibility of the OLST Manager.

The risk of capture will be added to the inspector training program. SafeWork SA does not have anything in place to address this risk but I intend to leverage other regulatory compliance and/or police to benchmark their training.

Once staff are trained, the Industry Team Managers will monitor on an ongoing basis, with OLST periodically auditing.

We have already rolled out training regarding mandatory reporting for ICAC but it is intended that this would be refreshed periodically along with refresher training provided on the Code of Conduct and Values. I would like to see the issue of 'capture' also discussed at individual performance reviews.

### **Communication Plan for Change Program**

A communication plan for the SafeWork SA Strategic Road Map is attached. Please note that this is an evolving document, which has resulted in the document being updated with all communication that has occurred to date in relation to the Road Map. Therefore a recent copy has been provided.

### **Sample of Improvement notices, prohibition notices, non-disturbance notices and inspection reports**

The requested notices are attached for your information. These notices have been sampled at random and I request that they not be published due to their confidential nature.

### **Policies and Procedures of the Department of Treasury and Finance which are applicable to the regulatory arm of SafeWork SA**

Work has commenced on reviewing policies that relate to Human Resources and Governance and Risk. A comparison document has been prepared for Human Resource related policies and is attached for your information.

All other DTF policies will need to be assessed and adopted as necessary. This is a priority for our change management team.

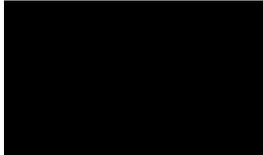
### **Copy of induction materials which address the risk of inspectors being groomed**

There are no documents that are provided to Inspectors during training that address this issue. However, I ask requested that SafeWork SA include the subject of grooming and capture into the induction training going forward.

Inspectors are required to undergo online training on a range of matters, including the Code of Ethics and Public Value Fundamentals as part of the Inspector Development Program. A list of the online training required to be completed as part of this program is attached.

Thank you for the opportunity to make a submission in reply once all other submissions have been received. I do not wish to make a further oral submission and trust the above information is of assistance.

Yours sincerely,



Martyn Campbell  
**EXECUTIVE DIRECTOR**  
**SAFEWORK SA**

***Encl.***

1. *SafeWork SA Values*
2. *Training Implementation Plan*
3. *Curriculum Document Inspector Development*
4. *Inspector Development Program*
5. *Schedule of Program*
6. *Program Lesson documents*
7. *A list of all policies and procedures referred to during training*
8. *Communications Plan for Change Program*
9. *Sample of Improvement notices, prohibition notices, non-disturbance notices and inspection reports.*
10. *DTF Policies*
11. *HR Comparison Document*
12. *List of online training courses*