

**SAFEWORK SA**  
**ICAC Submission**  
**Comment On Recommendations of 31 August 2018**

The ICAC evaluation of Safework SA is essentially in relation to the administration of the Work Health and Safety Act. The other specialist safety and security legislation is mentioned briefly at the top of P-15, in particular the Explosives Act and the Dangerous Substances Act.

The Dangerous Substances Team (now titled Chemical Hazards and Explosives Materials CHEM), is funded by Treasury for the administration of specialist safety and security legislation, including public safety. The previous name was kept in place for about 34 years as it clearly reflected the specialist legislation the team administers.

My comments are largely made in relation to the specialist legislation administered by the CHEM Team. This legislation is not a subset of WHS, it is separate safety and security legislation, with different powers and different challenges. There is a danger that general recommendations made in relation to WHS will not recognise the different roles of those administering specialist safety and security legislation.

- Recommendations made in relation to WHS need to clearly state WHS. Otherwise there is the danger that WHS recommendations will be interpreted naively by administrators and be inappropriately applied to those administering specialist legislation.

It is good to see some clear legal thinking in relation to the otherwise schizophrenic educator / regulator roles. It would still be preferable to resolve this fully, by having the educator and advisor roles return to the Workplace Insurance agency (ReturnToWorkSA).

The reference to not using the expiation powers on P-19, is made in relation to WHS. However, expiation under the Explosives legislation has been used for many years and has been a particularly effective regulatory tool in relation to the control of fireworks operators.

The reference to lack of understanding of statutory powers on P-18, is also made in relation to WHS, the specialist inspectors are trained to always check their powers in relation to the particular circumstances, prior to taking any action.

Because the largest role the agency has, is administering the WHS legislation, there is a continuing problem that the focus of the smaller role of administering specialist legislation is overlooked or lost. Specialist legislation needs to be explicitly distinguished from WHS at each occasion decisions are made and recommendations are implemented.

### **Executive Director Submission**

I brought to the attention of ICAC the fact that some years ago a recommendation was made to employ graduates as WHS inspectors. This was based on a review of the UK Health and Safety Executive, who are widely recognised as setting the international benchmark in workplace safety regulation.

The ED response does not address this and conflates this with the existing specialist roles. Additionally, the loss of all professional positions within senior management is easily shown and has also not been addressed.

I brought to the attention of ICAC that there is a high turnover of the operational WHS staff. They are rapidly promoted to non-operational positions or leave. This issue has been raised at senior management meetings over many years by multiple Executive Directors.

The ED response does not address the matter raised, it refers to the wider agency and professional staff, but there was never any suggestion there was a problem with the wider agency or professional staff and in fact I explicitly mentioned that those in specialist professional areas often remain for decades. Similarly administrative staff often stay for long periods, the problem was specifically the high turnover of operational WHS Officers.

I did point out that the senior management positions now contain no professional positions at all, this was not addressed by the ED.

It is concerning that the ED response in relation to the previous Dangerous Substances Team mentions "working in silos". It demonstrates a dangerous lack of understanding of the specialist professional role and the relationship with administrative roles. A professional position is not something attained as a status, it is a classification of a role, as mandated by the classification criteria and the Award Public Sector Officers are employed under.

As mentioned above this team is funded by Treasury in relation to the administration of the Dangerous Substances Act and the Explosives Act. It is not a general chemical advisory group and cannot undertake that role. The agency previously had an Occupational Safety Division comprising largely of Occupational Physicians and Occupational Hygienists. This group did provide general chemical safety advice to the inspectorate and to industry, but it was disbanded, bar one hygienist position. It is not possible for this work to be undertaken by what is now called the CHEM Team, their focus must remain on the legislation that Treasury fund them to administer. This is not working in a silo, it is simply focussing on the assigned legislation as passed by parliament and funded by Treasury.

The ED states "I can see few easier ways of creating silo mentalities than delineating people by "professional" qualifications". In the public service, positions that require professional qualifications are classified in accordance with the Award provisions, they are not delineated. Those positions requiring mandated professional qualifications are classified as professional positions.

The manager position was altered from professional manager PO6 to administrative manager MAS-3. This provides the agency with the flexibility to rotate the MAS-3 administrative manager with the other MAS-3 administrative managers of the WHS teams, it means the team manager is no longer the most senior professional officer within the team.

I have examined the Job and Person Specification found on the ICAC website, for the Manager CHEM, MAS-3. This administrative position lists, under Technical Expertise (Essential), "an appropriate degree in science or engineering majoring in chemistry, chemical engineering or an equivalent discipline."

This Job and Person Specification has been altered from that as originally called and is not in accordance with the mandated classification criteria, as administrative positions do not have mandated essential degree requirements as listed and quoted above.

It appears that the fundamentals of classifying professional positions within the public service are not understood.

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