

# Modern Workplace: Safer Workplace

An Australian Industry Blueprint for Improving Occupational Health & Safety  
2005-2015

## QUESTIONS AND ANSWERS

### **WHAT IS ‘MODERN WORKPLACE: SAFER WORKPLACE’?**

*Modern Workplace: Safer Workplace* is a policy Blueprint prepared by the Australian Chamber of Commerce and Industry and its member employer organisations outlining the Occupational Health and Safety (OHS) System that should be developed in Australia over the next decade.

### **WHAT IS THE ‘OHS SYSTEM’?**

The ‘OHS System’ is the system of laws, policies and approaches taken by the Commonwealth, State and Territory governments and government regulators that affect the rights and obligations of employers, employees, trade unions, employer organisations and other parties in the supply chain in managing OHS in the workplace. It also includes the workplace and management systems implemented in businesses that are designed to address OHS issues.

### **WHY IS THE ‘OHS SYSTEM’ IMPORTANT?**

The OHS System creates the framework within which OHS is regulated and managed in the workplace. The framework, and the way it is interpreted and managed, sets the OHS rules and culture under which employers, employees and other parties in the supply chain work and comply. Those rules have an important bearing on the conduct of employers and employees and the OHS outcomes that they are able to deliver.

### **WHAT IS THE AUSTRALIAN CHAMBER OF COMMERCE AND INDUSTRY?**

The Australian Chamber of Commerce and Industry (ACCI) is the largest and most representative employer and business organisation in Australia. It is the peak council of Australia’s State chambers of commerce and industry, and leading national industry organisations. These thirty-six organisations form ACCI as a peak body to represent their collective interests on national OHS policy issues. ACCI is also involved in many other areas of policy including, employment, workplace relations, tax, economics, superannuation, population, environment, small business, industry, education, training and trade.



## **WHO DOES ACCI REPRESENT?**

ACCI represents private business and private employers. The ACCI employer organisation network represents 350,000 businesses employing over four million people. This includes over 280,000 enterprises employing less than 20 people, over 55,000 enterprises employing between 20-100 people and the top 100 companies. ACCI is recognised by Australian law as representing private sector employers on national occupational health and safety issues. ACCI member organisations represent employers at a State or Territory, or industry sector level. ACCI also represents Australian employers on OHS issues at the international level.

## **WHY IS ACCI RELEASING THE *MODERN WORKPLACE: SAFER WORKPLACE* BLUEPRINT?**

Australia has a good and improving OHS record, but it can and should be better. The current system of regulation is seriously deficient, and in some cases even hinders good outcomes by removing the incentive to invest in OHS or by making it difficult to comply. In addition, the burden of OHS red tape on small and medium business needs to be reduced.

*Modern Workplace: Safer Workplace* has been driven by three imperatives. Firstly, the business community must take leadership on OHS issues at all levels. Secondly, the current system of OHS law and policy needs a comprehensive overhaul. Thirdly, powerful common interests exist between employers and employees in achieving safer workplaces.

The priority being given by ACCI and employer organisations to OHS is a reflection of the heightened commitment of industry to OHS, as well as the high level of concern amongst employers at current regulation, evident in ACCI's pre-election survey conducted in 2004.

The Blueprint draws 20 Conclusions and Recommendations from its analysis of current industry practice, law and policy. These conclusions are directed at industry, governments, regulators, employees, trade unions, suppliers, designers and educators.

## **WHAT ARE THE KEY PROBLEMS WITH OHS REGULATION RAISED IN THE BLUEPRINT?**

The OHS Blueprint sends a strong message to governments, regulators and courts that OHS laws are out of control and out of balance.

In some cases OHS laws are undermining the goal of making workplaces safer. That is why Australia's leading employer bodies are calling for a fundamental re-think by governments about OHS laws and liabilities.

Just as tort (negligence) laws got out of hand and created major public liability problems a few years ago, OHS laws are now, for similar reasons, out of control and must be reigned in.

Some OHS laws now impose impossible obligations on employers. They reek of employers being held liable out of convenience or retribution – irrespective of a commonsense view of the facts.

Employers accept a reasonable and practical OHS duty of care – but not its expansion into the unknowable, uncontrollable or unforeseeable. Employers should not be liable for conduct of others that cannot be foreseen, cannot be controlled or cannot be known by them.



If workplaces are to become safer then a more enlightened approach is needed than a one-sided 'employer blame-game'. OHS laws which make employers liable no matter what they do remove incentives to invest in OHS prevention and create a culture of shared responsibility.

Recent decisions by the High Court are encouraging. They suggest that OHS liability has gone too far, and that individual and shared responsibilities must be factored back into the duty of care.

## **IN A FEW WORDS, WHAT IS THE VISION OF THE *MODERN WORKPLACE: SAFER WORKPLACE* ?**

The Vision of the Blueprint is for:

**“Occupational Health and Safety policies and systems that support employers, employees and all those in the supply chain to develop cultures and attitudes, and accept responsibilities, that achieve safer places of work and safer methods of working so that Australian workplaces are free from death, injury and disease.”**

This is the challenge for employers and employees and policy makers.

## **HOW CAN THE VISION OF THE BLUEPRINT BE ACHIEVED?**

By adopting a deep and ongoing commitment to pursue, over the next decade, the five Outcomes identified in the Blueprint, and implementing the specific measures by which they can be achieved. The five key Outcomes are:

- Significant and sustained reduction in fatalities and injuries;
- Reduced human and economic costs;
- Increased awareness, communication and co-operation as the driver of cultural change;
- Reasonable, balanced and practical regulation that contributes to a world class OHS system and performance; and
- Safer communities.

## **WHAT ARE THE KEY RECOMMENDATIONS AND CONCLUSIONS?**

In summary the key Recommendations and Conclusions in *Modern Workplace: Safer Workplace* are:

- Workplace culture drives outcomes more effectively than regulation;
- Mutual responsibilities exist, but should not be delegated to others;
- Active and ongoing OHS management plans and corporate leadership is required;
- There is a role for governments and regulation, but only where intervention drives improved outcomes;
- Australia's OHS performance is improving, but can and should be better;
- Commitment throughout the supply chain is needed, including early intervention through workplace design;
- The focus should be on risk management, not risk elimination where that is unachievable;
- The current system of regulation is seriously deficient;
- Complex regulation is self-defeating and removes the incentive to invest in better OHS outcomes;

- The duty of care based on reasonableness and foreseeability has been distorted in some jurisdictions into impossible or unreal duties of care, and should be restored to its original meaning;
- Specific measures, such as a business advisers programme, are needed to make OHS regulation workable for small and medium businesses;
- Alternative criteria for assessing the duty of care, such as compliance with a safety management system, should be pursued;
- National consistency of regulation is a desirable goal, whether or not there are national laws;
- State and Territory governments have a crucial role to play if OHS regulation in the private sector is to be improved;
- OHS communication activities by governments should be nationally co-ordinated;
- An imbalance exists in current enforcement and compliance practices. The focus is on prosecution of the few instead of prevention amongst the many;
- Alternative penalty options, such as enforceable undertakings, should be introduced;
- Proposals for new offences of industrial manslaughter breach fundamental principles of criminal responsibility and should not be pursued;
- Safety awareness should be built into community education;
- Investment in OHS training needs to be increased.

## **HOW WAS THE BLUEPRINT DEVELOPED?**

*Modern Workplace: Safer Workplace* is the product of careful thought and analysis of the current OHS System by the Australian Chamber of Commerce and Industry and its member organisations. In developing the Blueprint, ACCI has drawn on the many years of experience of employers and employer organisations with the OHS System and with OHS regulation, standards, and codes of practice and guidance materials.

## **HOW DOES THIS BLUEPRINT DIFFER FROM OTHER POLICY STATEMENTS ABOUT OHS?**

The Blueprint is not theoretical, bureaucratic, academic or econometric. It is prepared by employer organisations on behalf of the people in our community who have the experience and expertise to identify the problems with OHS Systems because they daily manage OHS within their businesses. It is the collective view of multiple industries, in urban, regional and rural sectors, and across large, medium and small businesses. What real employers say and do in the area of OHS in the workplace is based on practical day-to-day experience and should carry a lot of weight with all stakeholders in the OHS System.

## **WHY IS THE BLUEPRINT NECESSARY?**

It is wrong to leave important issues of law and policy affecting the welfare of employers and employees up to governments, politicians and regulators alone. In advocating mutual and shared OHS responsibilities, employer and business organisations in the ACCI network accept their responsibility to contribute in a positive way to improved workplace OHS cultures and to a reformed framework of OHS law and policy.

The Blueprint supports an OHS System designed around a modern approach to OHS management including national consistency, ongoing shared responsibilities, reasonable and practical duties and a



focus on prevention for the benefit of the many rather than a preoccupation with punishment of the few.

## **WHY IS THE BLUEPRINT A DECADE LONG PROPOSAL?**

In a contentious area like OHS policy there are many fixed attitudes and traditional ways of doing things. Better OHS Systems and outcomes should occur on an ongoing basis starting immediately. However, if improving culture and attitudes is to be sustained then this is a medium to longer term project, especially when it requires fresh thinking on the part of employers, employees, suppliers, designers, regulators, courts, unions and governments.

It is also important that all political parties and stakeholders have their say, and share the Vision of the Blueprint. If reform is to be sustained, it is important that changes cover a number of terms of government at Commonwealth and at a State and Territory level. Harnessing the joint commitment of governments to the Blueprint's Vision is as important as the commitment of those in the supply chain to active improvement in workplace outcomes.