

Independent Review of SafeWork SA

16 December 2022

John Merritt

LETTER OF TRANSMITTAL

16 December 2022

The Honourable Kyam Maher MLC
Attorney-General
Minister for Aboriginal Affairs
Minister for Industrial Relations and Public Sector
GPO Box 464
ADELAIDE SA 5000
Kaurna Country

Dear Minister

On 12 September 2022 you confirmed my appointment to undertake a review into the practices and procedures of SafeWork SA, commencing on 17 October 2022. The purpose of the review is to undertake a comprehensive assessment of SafeWork SA's compliance and enforcement functions, to ensure SafeWork SA is a nation-leading regulator.

I have completed the review in accordance with the Terms of Reference.

I enclose my Report.

Thank you for the opportunity to support workplace health and safety in South Australia.

Yours faithfully,



John Merritt

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Introduction

SafeWork SA is South Australia's work health and safety regulator, responsible for administering 29 pieces of legislation, including compliance and enforcement under the *Work, Health and Safety Act 2012 (SA)* (WHS Act). During the 2022 South Australian state election, the Government committed to undertake a “root and branch review” of the practices and processes of SafeWork SA to improve workplace safety, deliver prompt action on safety concerns, support improved physical and mental wellbeing in our workplaces, and ensure a genuine voice for workers in complaint and resolution processes.

The Terms of Reference for this Review are included in Appendix 1. In summary they require the review to examine the effectiveness of SafeWork SA’s compliance and enforcement functions, including complaints, inspections, investigations, prosecutions and witness and family support. The review is required to examine SafeWork SA’s implementation of recommendations arising from previous reviews. Further, the review is required to recommend appropriate measures to ensure that workers and their representatives, including health and safety representatives (HSRs), and the families of deceased workers have a genuine voice in the complaints, investigation and enforcement processes. Finally, the review is asked to consider the engagement between SafeWork SA and other government agencies to help monitor and improve workplace safety. It is also open to the review to make recommendations as to any other matters that might arise during the review.

Review Process

This Review officially commenced on 17 October 2022. The Terms of Reference were determined by the Minister for Industrial Relations and Public Sector, the Honourable Kyam Maher MLC. The Review provided for a public submission process, with submissions opening on 21 September 2022 and closing on 21 October 2022. Twenty-nine submissions were received from employee associations, employer organisations, professional associations, the families of workers who had lost their lives at work, ReturnToWorkSA, individuals and staff from SafeWork SA. A list of organisations who made a submission is included at Appendix 2.

The review was supported by a stakeholder reference group comprising representatives of SA Unions, Construction Forestry Maritime Mining Energy Union, Communications Electrical Plumbing Union, Business SA, Master Builders Association, and Housing Industry Association. The stakeholder reference group met twice during the review. I want to warmly acknowledge the support of the members of the stakeholder reference group. My interactions with you filled me with optimism about what can be achieved in workplace safety in South Australia.

In addition to receiving submissions and the support of the stakeholder reference group, the review was informed by meetings with a range of stakeholders and other interested parties. I met with SA Unions, and 11 employee associations. Employee associations were represented by their state leadership, field organisers, national safety leaders, HSRs and delegates, some of whom had travelled significant distances to contribute to the review. I was able to attend a meeting of SA Unions workplace health and safety standing committee. SA Unions also convened a special forum of HSRs which I attended. I attended a meeting of the South Australian Construction Safety Alliance.

I met with four employer organisations, who were represented by their senior leaders and managers responsible for workplace health and safety services. I met with the leadership of ReturnToWorkSA and had follow up conversations with the Chief Executive. I met with the Chief Executive Officer of Safe Work Australia.

I met with the families of four workers who had tragically lost their lives at work. I would like to acknowledge the courage and determination of those families in seeking both justice and better workplace safety outcomes as a legacy of the loss of their loved ones.

I met with the Crown Solicitor, the Director of Public Prosecutions and the Victims of Crime Commissioner.

I met with many staff of SafeWork SA. I addressed an all staff meeting at the beginning of the review, and I attended the launch of the Strategic Plan. The Public Service Association convened a forum for past and present staff to present their views. Other SafeWork SA staff met with me individually or in their work teams. I met with SafeWork SA's executives, team leaders and managers, both collectively and individually.

I accompanied three SafeWork SA inspectors on their workplace visits. I would like to thank each of the inspectors who allowed me to accompany them and acknowledge the professionalism and energy they bring to their role.

All up I conducted 55 meetings with individuals and groups, in person and online. I would like to acknowledge the effort, energy and passion for improving workplace safety displayed by everyone I met. I would particularly like to acknowledge the enormous work that went into many of the submissions received by the review. The quality of thought in the submissions was outstanding.

I would like to acknowledge the assistance of the Executive Director of SafeWork SA, Martyn Campbell, and his leadership team, and everyone at SafeWork SA who cares so deeply about workplace safety.

I was supported in the administration of the review by the Project Lead, Review and Reform Team. I want to record my sincere appreciation for her help.

Comparative Performance

Safe Work Australia compiles the work-related Traumatic Injury Fatalities data set which provides national statistics on all workers fatally injured at work. Unfortunately, the data set excludes fatalities resulting from diseases, natural causes and suicides.

The most recent data set is for 2021. Fatalities by state and territory are recorded per 100,000 workers. In 2021, South Australia recorded 16 work related traumatic fatalities, at a rate of 1.8 per 100,000 workers. Northern Territory (3.1) and Tasmania (1.9) were higher. All other states were lower, including New South Wales (1.1) and Victoria (1.0).

Safe Work Australia compiles a comparative data set for serious injury and disease claims by jurisdiction. The most recent data set is for 2019/20. It shows that South Australia had a serious injury claim incident rate (number of serious claims per 1000 employees) of 8.7, lower than Queensland (12.4), and New South Wales (11.8) comparable to Western Australia (8.9), and higher than Victoria (7.2). South Australia's serious claim frequency rate (number of claims per one million hours worked) was 5.5, lower than Queensland (7.6) and New South Wales (7.2), comparable to Western Australia (5.4), and higher than Victoria (4.6).

Review Context

This Review was conducted in a unique context. There have been several reviews of SafeWork SA in the last five years. A 2017 review of the investigation and prosecution functions of SafeWork SA by Special Counsel to the Crown Solicitors Office produced 18 recommendations. A public evaluation conducted by the Independent Commissioner Against Corruption (ICAC) in 2018 produced 39 recommendations covering a range of issues, including strategy, processes, and integrity. There have been recommendations for improvements made by coroners conducting inquests into workers or members of the public who have tragically lost their lives in workplaces. There have also been internal audits into SafeWork SA's compliance and enforcement function.

Chapter 1 - Executive Summary

SafeWork SA has undergone significant internal change over the last five years. There has been considerable effort to improve the systems and processes of the organisation. This work, and the challenges associated with it, has been acknowledged by some who contributed to this Review. Others accept that the work may well have been done, but they are yet to see the impact on safety in South Australian workplaces. This report is focussed on the next steps to convert that work into making South Australian workplaces safer, and grow confidence in the regulator, and its confidence in itself.

Many employees of SafeWork SA commented on the amount of reform that has been undertaken. Some of those employees acknowledged that this work and those reforms were well overdue. Other employees expressed how difficult the reforms have been, both personally and collectively. Some employees have left SafeWork SA as a result of those reforms, or how they have been implemented.

I found that SafeWork SA, at least internally, is a different organisation today as a result of the reforms of the last five years. The organisation is more professional, and disciplined, and staff are more individually accountable for their work.

This provides a strong foundation for the organisation to go forward and be a powerful force in making workplaces safer in South Australia, and indeed, the safest in Australia.

To achieve this SafeWork SA needs to make a relatively small number of significant changes in how it goes about its work.

Firstly, SafeWork SA can raise its ambition for safer workplaces, and hold itself to account in achieving this. It can build its self-belief, and its reputation, by publicly, and courageously going after the one thing that everyone inside and outside the organisation really wants – fewer people hurt and killed at work. I have made recommendations for a new mission for the organisation focussed on safety outcomes, additions to its strategy and measures to track its progress.

Secondly, it is obvious that SafeWork SA will not achieve this ambition alone. The organisation needs to fully embrace and champion the relationships with its partners – employee associations, employer organisations, ReturnToWorkSA, Health and Safety Representatives and safety professionals. As a community, we all need to support the full role these partners can play in protecting us.

Throughout the review, I was constantly excited by the potential for the tripartite relationship to reach unique heights in South Australia.

To support this, I have made recommendations for a new tripartite SafeWork SA Oversight and Advisory Council and designed its role so that it can both support the organisation and hold it to account.

SafeWork SA can do much more to support its partners. I have made recommendations for a new Health and Safety Representative Strategy, and amendments to the Entry Permit provisions of the WHS Act to bring them into line with the model laws. I have supported changes to s 271 of the WHS Act to ensure that those people relying on the work of SafeWork SA can be appropriately informed and respected.

Thirdly, SafeWork SA can do more with its resources. It can and must do more physical prevention by rebalancing the weight of effort towards more site inspections, supported by smarter administration and technology. It can be more proactive, and intelligence driven in its interventions. It can be more strategic at using the skills and resources of its partners in prevention.

To support this, I have made recommendations to guide its regulatory activity. I have also supported the extension of existing civil penalty provisions to cover the primary duty at s 19 and the offences in Part 2 Division 5 of the WHS Act, and that standing for bringing applications in civil penalty provisions be extended to workers, families of injured workers, and employee associations.

Fourthly, SafeWork SA cannot achieve its ambition without good people. SafeWork SA is losing too many staff. It can assess its culture and engage with its staff on the type of workplace it needs to be to attract and utilise the best people at making workplaces safer. It will need its leaders to champion this.

To support this, I have made a recommendation to help the organisation set and achieve the culture it needs to realise its potential and the full contribution of its partners.

Chapter 2 - Recommendations

I recommend:

1. SafeWork SA should adopt a new Vision which matches the objects of the WHS Act, “securing the safety of workers and workplaces”, and a Mission to “protect workers and other persons against harm to their health, safety and welfare”.
2. SafeWork SA should adopt the fatality and injury data provided by ReturnToWorkSA as the measure of its performance in achieving its Vision and Mission.
3. The performance of SafeWork SA leadership should be measured against improvements in fatalities and injuries.
4. The Minister should establish a SafeWork SA Oversight and Advisory Council (SWOAC). The Council should receive a detailed quarterly report on SafeWork SA activities and performance, including the following:
 - a) South Australia’s injury performance for the preceding quarter, injury performance year-to-date, comparisons with five-year averages, and comparisons against the strategy targets.
 - b) Reports on fatalities that have occurred in the previous quarter, including follow-up regulatory and education actions, and engagement with deceased workers’ families.
 - c) Regulatory actions for the preceding quarter. The number of visits, both response and targeted, the number of notices, both improvement and prohibition that have been issued, the number of referrals for investigation, the number of investigations completed, enforceable undertakings, and prosecutions completed. This data should be presented against prior periods and the strategy targets.
 - d) Activities to improve the management of psychosocial hazards at work, and support for the recently released code of practice
 - e) A report on all s 231 requests, including the tracking of each individual matter against the statutory time limits.
 - f) A report on all internal review applications and the outcomes of those applications.
 - g) Feedback on inspections, including outcomes (notices and corrective actions), and a report on all contact with HSRs from inspection reports.
 - h) Data on serious incident reports and notifications received by SafeWork SA and the follow up actions the agency has taken.
 - i) Data on complaints received by SafeWork SA, including the outcomes of those complaints and the feedback to complainants. Also, any reports on any misuse of complaints.

- j) Exercise of entry permits, including incidences where entry has not been achieved, and follow up inspections to entry reports.
 - k) Activities with social partner organisations to “promote the provision of advice, information, education and training in relation to work health and safety”.
 - l) Communications and media activity completed and planned.
5. The report should be forwarded on behalf of the Council to the Minister, and the Chief Executive of the Attorney-General’s Department, before being published online.
6. SafeWork SA’s annual activity report should be expanded to include the activity and performance data in the quarterly reports.
7. The SWOAC should work with SafeWork SA to enhance its strategic plan. The expanded plan should include the following:
- a) Targets for injury and fatality reduction.
 - b) Targeted injuries, industries and employers, based on the ReturnToWorkSA injury data.
 - c) Targets for regulatory activity.
 - d) Targets for delivery of advice, information, education, and training by the social partner organisations supported by SafeWork SA.
 - e) Targets for supporting and increasing the numbers of HSRs.
8. SafeWork SA should publicly and internally commit to encouraging and supporting employee associations and employer organisations to play their vital role in promoting improvements in workplace health and safety, in accordance with the WHS Act.
9. SafeWork SA should publicly and internally promote fair and effective workplace representation, consultation, cooperation, and issue resolution in relation to work health and safety.
10. The SWOAC terms of reference should reflect the following objectives:
- a) To give practical effect to the tripartite mechanisms in the WHS Act and support the social partner organisations to play their critical role in securing the health and safety of workers and workplaces.
 - b) To build confidence in SafeWork SA through transparency.
 - c) To enable workers, employers and families of deceased workers to hold SafeWork SA to account for its strategic choices and regulatory actions, and its performance in securing the safety of workers and workplaces.
 - d) To improve SafeWork SA’s strategic choices in targeted injuries, industries and employers, and strengthen its capacity and confidence to use its regulatory powers.

- e) To support the Minister for Industrial Relations and Public Sector, and the Attorney-General's Department in the delivery of the Government's agenda for workplace safety.
11. The Minister should seek the advice of the SWOAC regarding SafeWork SA's preparedness to support any Industrial Manslaughter provisions in the WHS Act.
12. Members of the SWOAC should be appointed by the Minister. All members should be the senior leaders of their organisations, with sufficient authority to contribute at a strategic level. There should be no provision for proxies in the event a member cannot attend a meeting. Membership should comprise the following:
- a) An independent chair with sufficient experience and qualifications to earn the respect and confidence of the major parties
 - b) Five representatives of employee associations
 - c) Five representatives of employer organisations
 - d) A representative of the Chief Executive of the Attorney-General's Department
 - e) The Victims of Crime Commissioner
 - f) A representative of the Australian Institute of Health and Safety
 - g) A representative of ReturnToWorkSA
13. The Council should meet quarterly. For the first year it should meet monthly. The Minister and the Chief Executive of the Attorney-General's Department should attend the Council annually. The agenda for that meeting should include feedback from the Council on the performance of the Executive Director of SafeWork SA. Two representatives of the Council should be on the interview panel when appointing the Executive Director of SafeWork SA. Council members should accompany a SafeWork SA inspector for a day within a month of their appointment, and thereafter this should be an annual activity. SafeWork SA should brief the Council on the skills and experience in each inspector intake.
14. The SWOAC should receive an annual report from SafeWork SA confirming that all documents and standards called up by the WHS Act are updated.
15. SafeWork SA should develop a new strategy to support HSRs. The strategy should include the following:
- a) Actions to identify how many HSRs there are, where they are, and how to communicate with them. These actions should have regard to promoting and enforcing s 74(2) which requires a person conducting a business or undertaking (PCBU) to provide SafeWork SA with a list of HSR's.

- b) Initiatives to encourage more people to take on the HSR role.
 - c) Regular reviews of HSR training and training providers, including feedback from trainers and HSRs.
 - d) Initiatives to enforce the prohibition of discriminatory conduct against HSRs.
 - e) Mechanisms to help SafeWork SA inspectors support HSRs, including the strict application of s 164(2)(c) and a system of monitoring and reporting on SafeWork SA's adherence to this provision.
 - f) Opportunities to increase engagement with HSRs, including improving the portal and regular forums between HSRs and SafeWork SA inspectors for their industry.
 - g) An annual survey of HSRs to ascertain the support they are receiving and their needs to fulfill their role under the WHS Act.
16. SafeWork SA should convene an annual conference of HSRs. The conference should be addressed by the Executive Director, who will report on progress against the strategy, and the broader strategic plan, and take questions from HSRs.
17. SafeWork SA should run an award for HSR of the Year. The prize should be a scholarship for professional development in workplace health and safety and be presented by the Minister at the annual HSR's conference.
18. The Minister should support the recommendation in the Model Laws Review that provision be made for an employee association official to visit a workplace to provide assistance to an HSR without the need to hold an entry permit.
19. The Minister should support the recommendation in the Model Laws Review to provide for disputes under ss 82 and 89 to be capable of being referred to a relevant tribunal (in this case, the South Australian Employment Tribunal) if the dispute remains unresolved 48 hours after an inspector is requested to assist with resolving disputes under the default or agreed procedures and with cease work disputes.
20. The Victims of Crime Commissioner should be appointed to the SWOAC to ensure that SafeWork SA is held to account and supported in respecting the rights and needs of families of deceased workers.
21. The Government should commence consultation with employer organisations to amend the WHS Act such that the Workplace Entry by WHS Entry Permit Holder's regime created within the Act is consistent with the model laws. Those provisions that require notification to SafeWork SA about proposed entries to workplaces, and the requirements to furnish reports after entry has been achieved to SafeWork SA should be removed.

22. SafeWork SA should report quarterly to the SWOAC on the number of times it has been requested to intervene where entry to a worksite has not been achieved by an Entry Permit Holder, and the outcome of its interventions. Its report should contain an analysis of any patterns within these incidents, and its actions to resolve these matters. Requests from Entry Permit Holders and employers for an inspector to attend a site to resolve a dispute should be included in the quarterly report along with the outcome of the request. The report should also record where voluntary reports have been lodged by Entry Permit Holders and the response to those reports.
23. The Government should commence consultation with employer organisations to amend the WHS Act to allow Entry Permit Holders to take photographs, video, voice recordings, measurements and tests relevant to their investigations, in terms similar to the provision added to the Victorian *Occupational Health and Safety Act 2004*.
24. Section 271 should be amended to enable a person who has been seriously hurt, and the families of a person who has been killed at work to be kept abreast of the findings of SafeWork SA's investigation into the circumstances of the incident, including the materials that are being considered in deciding on whether or not to prosecute.
25. Section 271 should be amended to expressly allow SafeWork SA to keep an applicant under s 231 abreast of the progress of their application.
26. Section 271 should be amended to support an "informal release of information policy" that allows for inspection reports, appropriately redacted, to be provided to employee association and employer organisation officers, and HSR's who notify issues to SafeWork SA.
27. The SafeWork SA Workplace Education Team should develop a strategy to transition from direct delivery of education and training, to coordinating and supporting education and training by employer organisations and employee associations. The team to work in partnership with the ReturnToWorkSA Employer Risk Services to improve the targeting of education and training.
28. The Mining and Quarrying Occupational Health and Safety Committee should sit within ReturnToWorkSA.
29. The SafeWork SA complaints system should be modified to allow tracking of responses to complainants, with non-compliances to be included in the quarterly report to the SWOAC.

30. SafeWork SA should replace its three online complaints processes with a single process based on that used by WorkSafe Victoria.
31. SafeWork SA should accelerate the streamlining and refining of the administrative procedures and processes that apply to worksite visits, with the goal of enabling inspectors to conduct an average of six to eight visits per week. This work to be done in consultation with inspectors, and with the oversight of SWOAC.
32. SafeWork SA should set a target of 50% of visits by inspectors to be proactively initiated, based on the ReturnToWorkSA data and the revised strategy, and work with the SWOAC to achieve this.
33. SafeWork SA should review its investigation processes and investigator resources, including supporting inspectors to do some investigations, with the objective of creating the capacity to complete thirty prosecutions a year.
34. SafeWork SA should aim for 90% success in its prosecutions, and SafeWork SA have the flexibility to engage the DPP to support specific prosecutions where its skillset will benefit the outcome.
35. The WHS Act should be amended to allow SafeWork SA to seek a Court extension of time in limited circumstances.
36. The SWOAC should be provided with a briefing by Counsel on the advice relied on by SafeWork SA in its decision not to bring a prosecution following the tragic death of Gayle Woodford.
37. SafeWork SA should develop a new Compliance and Enforcement policy to supplement the National Compliance and Enforcement Policy (NCEP), based on the policies of the Queensland and Victorian regulators.
38. SafeWork SA should engage an independent consultant to conduct a survey of its culture, and use the results to engage with staff to design the culture necessary to achieve their potential and the full contribution of its partners.
39. The Government should commence consultation with employer organisations to amend the WHS Act to extend the existing civil penalty provisions to cover the primary duty at s 19 and the offences in Part 2 Division 5 of the WHS Act, and that standing for bringing applications in civil penalty provisions be extended to workers, families of injured workers, and employee associations.

Chapter 3 - Accountability

The previous reviews of SafeWork SA have been highly critical of the organisation. An obvious consequence of this constant criticism over the last five years has been that the organisation is very internally focused in its day-to-day activities. This is not surprising given the determination by everyone in the organisation to avoid failure and more criticism going forward. A mood of resignation, of “here we go again” hung over my review.

Unfortunately, and somewhat inevitably, the excessive internal focus appears to have come at the expense of the organisation focusing on the health and safety outcomes in the State. This is understandable. In fact, it would be hard to imagine any organisation that was subject to this level of criticism not having its attention overly focused on internal matters and avoiding failure.

Given the amount of good work that has been done, the time is right for the organisation to shift its focus outwards. It is time to replace some of the criticism for not doing enough, with some criticism for doing too much and trying too hard to get injuries and fatalities down.

In November 2022 SafeWork SA released its strategic plan for the next four years. A lot of work appears to have gone into the plan, into the development of a vision, mission, values and goals. There is some good work in the plan, but it can be improved. It is time to aim higher. The Strategic Plan is attached in Appendix 3.

The current vision of the organisation is to be a leading contemporary regulator. The current mission of SafeWork SA is to inspire workplaces to be safe through collaboration, education and compliance.

The vision of being a leading contemporary regulator should be a means to an end, not the end in itself. The appropriate vision for SafeWork SA can be drawn from the WHS Act. The Act sets out objects, and those objects form the basis on which SafeWork SA exists. The Act is a good basis from which to draw the vision and mission for SafeWork SA. The vision for SafeWork SA should be to “secure the health and safety of workers and workplaces”. The mission of SafeWork SA should be to achieve that vision by “protecting workers and other persons against harm to their health, safety and welfare” through the elimination or minimisation of risks arising from work or from specified types of substances or plant.

SafeWork SA can adopt measures of its performance in achieving this mission. One of the practical measures we have of whether or not workplaces are healthy and safe is the injuries that occur in those workplaces. The best measure we have of work-related injury is workers compensation claims. It is a matter of fact that only a proportion of work-related injuries result in a workers compensation claim. However,

it is a measure which is accepted across the country and around the world as an indicator of the state of health and safety in workplaces.

South Australians have an organisation, ReturnToWorkSA, whose job it is to care for injured workers and to manage the workers compensation system. The organisation holds very accurate and timely data on work related injuries. That data includes the number of workers that have been hurt, the types of injuries they have suffered by severity and accident type, the mechanism of those injuries, and the nature of the employers and the industries in which those workers were employed. Accordingly, I am recommending that SafeWork SA adopt the ReturnToWorkSA injury and fatalities data as the measure of its performance in delivering on this mission.

Having adopted a mission which focuses the organisation on securing the health and safety of workers and workplaces, and then adopted the ReturnToWorkSA injury and fatalities data as the running measure of this performance, it is vitally important that SafeWork SA and its new leadership commit to this mission and the metrics as the measure of *their* performance.

There is no question that SafeWork SA is committed to improving the way it works, and there is evidence in the staff I met of its commitment on behalf of the community. However, these are of more importance to SafeWork SA than to the community. What matters to the community is that the level of injury, particularly serious injury and fatalities in the state is falling. There needs to be fewer people hurt today than yesterday, and a strong commitment that there will be fewer people hurt tomorrow. It is this measure that determines the performance of SafeWork SA, and the performance of its leadership.

When SafeWork SA commits to the health and safety outcomes in the State as the principal measure of its performance, it will quickly see that it needs a lot more support in achieving these outcomes. Chapter 2 will discuss opportunities to improve tripartism in South Australia and the critical leadership role SafeWork SA can play in supporting this. A first measure to improve tripartism in South Australia would be the establishment of an oversight and advisory council, overseeing the work of SafeWork SA and supporting the work of its staff. Chapter 3 discusses the Terms of Reference and composition of that council.

There is an equally important and impactful role for this council. Throughout the review, representatives of social partner organisations repeatedly questioned the direction of SafeWork SA, and particularly the transparency of decisions of the organisation and its activities.

It is vital that SafeWork SA earn the confidence of its social partners. Many of them encouragingly expressed a genuine desire to support SafeWork SA in its difficult and important work. All of the representatives of these organisations want to be more

involved in guiding, supporting and overseeing SafeWork SA. Every social partner I spoke to was emphatic about the importance of health and safety to their members, and their genuine desire to see it improve. For that reason, I am recommending the establishment of the SafeWork Oversight and Advisory Council. Its role would be to hold SafeWork SA to account for the decisions, choices and activities it undertakes to achieve healthy and safe workplaces, and also to support SafeWork SA in executing its work.

The first task of the SWOAC will be to work with SafeWork SA to help expand its ambition through enhancements to its strategic plan. The expanded plan should include:

1. Targets for injury and fatality reduction.
2. Targeted injuries, industries and employers, based on the ReturnToWorkSA injury data.
3. Targets for regulatory activity.
4. Targets for delivery of advice, information, education, and training by the social partner organisations supported by SafeWork SA.
5. Targets for supporting and increasing the numbers of HSRs.

To strengthen oversight and accountability, SafeWork SA should provide a quarterly performance report to the SWOAC. That quarterly report should include the following:

1. South Australia's injury performance for the preceding quarter, injury performance year-to-date, comparisons with five-year averages, and comparisons against the strategy targets.
2. Reports on fatalities that have occurred in the previous quarter, including follow-up regulatory and education actions, and engagement with deceased workers' families.
3. Regulatory actions for the preceding quarter. The number of visits, both response and targeted, the number of notices, both improvement and prohibition that have been issued, the number of referrals for investigation, the number of investigations completed, any enforceable undertakings, and any prosecutions completed. This data should be presented against prior periods and the strategy targets.
4. Activities to improve the management of psychosocial hazards at work, and support for the recently released code of practice
5. A report on all s 231 requests, including the tracking of each individual matter against the statutory time limits.
6. A report on all internal review applications and the outcomes of those applications.
7. Feedback on inspections, including outcomes (notices and corrective actions), and a report on all contact with HSRs from inspection reports.
8. Data on serious incident reports and notifications received by SafeWork SA and the follow up actions the agency has taken.
9. Data on complaints received by SafeWork SA about the decisions or conduct of SafeWork officers, including the outcomes of those complaints and the feedback to complainants. Also, any reports on any misuse of complaints.

10. Exercise of entry permits, including incidences where entry has not been achieved, and follow up inspections to entry reports.
11. Activities with social partner organisations to “promote the provision of advice, information, education and training in relation to work health and safety”.
12. Communications and media activity completed and planned.

After consideration by the SWOAC the ratified quarterly report should be provided to the Chief Executive of the Attorney-General's Department, and the Minister, and subsequently be published online.

SafeWork SA currently produces an annual activity report which was a recommendation of an earlier review. This report should be expanded to include an annual collation of the reports to the SWOAC. The expanded annual report of SafeWork SA should aim to provide the community with a clear picture of how the agency is discharging its accountabilities for workplace health and safety in South Australia.

Chapter 4 – Tripartism

Securing the health and safety of workplaces is both an engineering and work organisation challenge on the one hand, and a behavioural challenge on the other. Whilst our first focus is always to eliminate risks at work and, if that is not achievable, to mitigate those risks as far as possible, it is accepted that there will always be a level of residual risk that has to be managed by a constant consciousness about safety in workplaces. That consciousness is partly achieved by having a strong and high-profile health and safety regulator holding people to account to meet their duties under the WHS Act. The other, equally important role of the health and safety regulator is to ensure that employers and workers are constantly focused on working safely. To do this the regulator has to work to mobilise those organisations that support employers and workers. This means working in partnership with employer organisations and employee associations. It is tripartism. Tripartism is such an established part of securing safe and healthy workplaces that the key social partners are referenced in the WHS Act. A specific object of the Act is “encouraging employee associations and employer organisations to take a constructive role promoting improvements in work health and safety”.

Throughout the consultations for the Review representatives of employee associations and employer organisations expressed a consistent desire to fulfil this role under the WHS Act. None of the organisations felt that they were being fully utilised in this role by SafeWork SA. Some of them expressed considerable frustration that they were not being properly utilised. Some of them expressed this as anger. Their frustration and anger emanated from a legitimate view that it should not be discretionary for SafeWork SA in determining whether or not to work with representative organisations. This was particularly the case in regard to employee associations. Indeed, employee associations repeatedly expressed the view that the health and safety of their members is the number one issue for their organisations.

It was also evident that the profile of health and safety in South Australia is not high relative to other States, and that the representative organisations could and wanted to play a major part in elevating this profile.

Accordingly, I am recommending that SafeWork SA publicly and internally commit to encouraging and supporting employee associations and employer organisations to play their vital role in promoting improvements in work health and safety in accordance with the WHS Act.

Another pillar of health and safety legislation is the clear acknowledgement that working people will sometimes be reluctant to raise issues of concern about their health and safety. It is for this reason that the health and safety legislation contains significant provisions to encourage and support workers to be represented by HSRs, and where relevant their employee associations. Employee association

representatives made consistent submissions and representations criticising SafeWork SA's support for them in performing their role as expressed in the WHS Act. Accordingly, I am recommending that SafeWork SA commit to and publicly promote "fair and effective work-place representation, consultation, cooperation and issue resolution in relation to work health and safety". Later in this report I will discuss the support that can be provided for HSRs, and employee association representatives under the workplace entry provisions in the WHS Act.

Chapter 4.1 - SafeWork SA Oversight and Advisory Council

To support SafeWork SA in delivering on the tripartite provisions in the WHS Act and to improve its accountability for reducing work-related injuries and fatalities, I am recommending the establishment of the SWOAC. The terms of reference for the SWOAC should reflect five objectives:

1. To give practical effect to the tripartite mechanisms in the WHS Act and support the social partner organisations to play their critical role in securing the health and safety of workers and workplaces.
2. To build confidence in SafeWork SA through transparency.
3. To enable workers, employers and families of deceased workers to hold SafeWork SA to account for its strategic choices and regulatory actions, and its performance in securing the safety of workers and workplaces.
4. To improve SafeWork SA's strategic choices in targeted injuries, industries and employers, and strengthen its capacity and confidence to use its regulatory powers.
5. To support the Minister for Industrial Relations and Public Sector, and the Attorney-General's Department in the delivery of the Government's agenda for workplace safety.

In regard to the latter objective, I recommend that the Minister seek advice from the SWOAC on the preparedness of SafeWork SA to investigate and prosecute matters arising from the Introduction of Industrial Manslaughter provisions in the WHS Act.

To be effective, the membership of the SWOAC will be critical. Members of the SWOAC should be appointed by the Minister. The members are to be senior leaders of their organisations and capable of contributing at a strategic level. To reinforce this, in the event that a member cannot attend a meeting, there should be no provision of proxies. This is to ensure that the Council operates at a strategic level, and for the most part, does not get drawn too frequently into operational matters. Operational issues should not have to wait for a Council discussion to be resolved. I am expecting that relationships between representative organisations and SafeWork SA will improve considerably and certainly to the point where important operational issues are dealt with in a timely and effective manner.

Membership of the SWOAC should be appointed by the Minister for Industrial Relations and Public Sector. Membership should comprise the following:

1. An independent chair with sufficient experience and qualifications to earn the confidence and respect of major parties.
2. Five representatives of employee associations, including SA Unions.
3. Five representatives of employer organisations.
4. A representative of the Chief Executive of the Attorney-General's Department of South Australia.
5. The Victims of Crime Commissioner.
6. A representative of the Australian Institute of Health and Safety.
7. A representative of ReturnToWorkSA.

The SWOAC will have a standing agenda. The first item on that agenda will be a report from the SafeWork SA Executive Director in accordance with the earlier recommendations.

The Council should meet quarterly. For the first year it should meet monthly. To support the work and focus of the Council, the Minister should attend the Council annually, accompanied by the Chief Executive of the Attorney-General's Department. To build confidence in the SafeWork SA leadership, the agenda for that meeting should include feedback from the Council on the performance of the Executive Director of SafeWork SA.

Noting that the Government will soon be recruiting for a new Executive Director of SafeWork SA, and the importance of the relationship between that leader and the SWOAC, I recommend that two representatives of the SWOAC be on the interview panel.

The SWOAC should receive an annual report from SafeWork SA confirming that all documents and standards called up by the WHS Act are updated. The report should also cover the progress of adoption of any Codes of Practice, including delays or amendments arising from s 274.

Employee association submissions, and meetings with their officials and HSR's, raised concerns about the expertise, experience and competence of SafeWork SA inspectors. My discussions with inspectors and the worksite visits I attended did not give me cause for concern in this regard. Nevertheless, we need to build greater confidence in the inspectorate. Therefore, I am recommending that members of the SWOAC accompany a SafeWork SA inspector for a day within the first month of being appointed, and that this be an annual activity. Further, I recommend that SafeWork SA brief the SWOAC on the skills and backgrounds of the successful applicants for its inspector intakes twice a year.

Chapter 4.2 – HSRs

Every employee association that contributed to the review was critical of how SafeWork SA treats HSRs. The criticisms included:

1. A consistent failure by some SafeWork SA inspectors to seek out and speak to HSRs when they arrive at a site to conduct an inspection. This is despite the fact that this is mandatory in the WHS Act.
2. When HSRs notify an issue or incident to SafeWork SA, inspectors frequently resolve the issue by telephoning the person conducting the business undertaking, but do not contact the HSR to advise them of the outcome.
3. Some SafeWork SA inspectors, when called to a site, fail to explain to the HSR what action they have taken to address the safety risks.
4. SafeWork SA inspectors are seen to arrive at a site where there is a HSR and only interact with the employer representative.
5. Some HSRs are not legitimately elected representatives of employees. Rather, they are employees nominated by the employer and therefore do not fulfill the role as intended by the Act.
6. There were a range of criticisms of health and safety committees. The most consistent criticism is that the committees do not have employees and HSRs as members. The election processes for HSRs are inconsistent.

SA Unions conducted a survey of HSRs as part of its submission to the review. The results included the following:

- 80% of those surveyed had not seen an inspector in their workplace in the last twelve months, even though 47% reported injuries in their workplace requiring hospitalisation in the same period.
- Where an inspector had visited their workplace, 37% reported the inspector had not spoken to them, and 46% reported the inspector did not speak to them or another HSR about the issues they had found.
- Only 30% of those surveyed were confident that if they raised a safety issue with SafeWork SA, it would be rectified.
- 42% of those surveyed felt extra intimidation by management as a result of their role as HSR.

As a result of the perceived lack of support for HSRs, employee associations reported a reluctance of their members to take on the role. Employee associations also reported a lack of respect for HSRs by some employers, and that this lack of respect is inadvertently supported by SafeWork SA inspectors by the way in which they interact, or do not interact with HSRs.

HSRs are, in many ways, the single biggest asset that we have in improving health and safety in workplaces. They provide a practical resource for any worker to express their reservations about a safety issue without fear of retribution. Importantly, HSRs are trained in their role. Many HSRs are incredibly passionate about health and safety and go to great lengths to educate themselves and to understand the work processes. South Australia needs more HSRs, and it needs those HSRs that are in place to be better supported to fulfill their critical role.

Accordingly, SafeWork SA should develop a strategy to support HSRs and health and safety committees. This strategy should be developed in consultation with the SWOAC. The strategy should include the following:

1. Actions to identify how many HSRs there are, where they are, and how to communicate with them. These actions should have regard to promoting and enforcing s 74(2) which requires a PCBU to provide SafeWork SA with a list of HSR's. Employee associations submitted that understanding and compliance with this provision is low.
2. Initiatives to encourage more people to take on the HSR role.
3. Regular reviews of HSR training and training providers, including feedback from trainers and HSRs.
4. Initiatives to enforce the prohibition of discriminatory conduct against HSRs
5. Mechanisms to help SafeWork SA inspectors support HSRs, including the strict application of s 164(2)(c) and a system of monitoring and reporting on SafeWork SA's adherence to this provision.
6. Opportunities to increase engagement with HSRs, including improving the portal and regular forums between HSRs and SafeWork SA inspectors for their industry.
7. An annual survey of HSRs to ascertain the support they are receiving and their needs to fulfill their role under the WHS Act.

SafeWork SA should convene an annual conference of HSRs. The conference should be addressed by the Executive Director, who will report on progress against the strategy, and the broader strategic plan, and take questions from HSRs.

SafeWork SA should run an award for “HSR of the Year”. The prize should be a scholarship for professional development in workplace health and safety and be presented by the Minister at the conference.

I note in the Model Laws Review conducted for Safe Work Australia, it is recommended that provision should be made for an employee association official to visit a workplace to provide assistance to an HSR without the need to hold an entry permit. I support this recommendation.

Employee associations have also supported the recommendation in the Model Laws Review to provide for disputes under ss 82 and 89 to be capable of being referred to a relevant tribunal (in this case, the South Australian Employment Tribunal) if the dispute remains unresolved 48 hours after an inspector is requested to assist with resolving disputes under the default or agreed procedures and with cease work disputes. I support this recommendation.

Chapter 4.3 – Families of Deceased Workers

I was privileged to meet or speak with the following family members of deceased workers:

- Andrea Madeley, whose son Daniel died in 2004, and who leads the advocacy and support group, Voice of Industrial Death.
- Pam Gurner-Hall, whose partner Jorge Castillo-Riffo died in 2014 on the Royal Adelaide Hospital site.
- Keith Woodford, whose partner Gayle Woodford was murdered while she was the on-call nurse in the remote community of Fregon in 2016.
- Carmel Schwartz and Tom Howard, whose brother Peter Howard died in a car fire outside his workplace in 2018.

Whilst each family has its own unique and painful story to tell, there were three common themes in their submissions to the review.

- SafeWork SA had made significant errors in its investigations, which meant that those responsible were not held to account for the death of their loved ones.
- SafeWork SA had disrespected them, particularly by withholding information about the investigations into their loved ones,
- SafeWork SA had failed to ensure that other workers did not suffer the same fate as their loved one.

There is substance to each of these claims.

Earlier reviews have found that SafeWork SA's investigation processes were inadequate, and significant changes have been made to address these shortcomings. These are discussed later in this report. In summary, I believe these families can be confident that future tragedies will be properly investigated.

Much of the focus of disrespect and anger from families has centred on SafeWork SA's application of s 271 of the WHS Act. This is discussed later in this report. In summary, changes to s 271 have been recommended by the Honourable John Mansfield AM KC in his Review, and supported by the Government, and I strongly support those changes. When these changes are made, families can be optimistic

that in future, other families who find themselves in this dreadful situation will be afforded more respect, and more information about the investigation and circumstances of their loved one's death.

It is a painful fact in workplace safety that most of our progress in making work safer is achieved off the back of tragedy. It is the horror of dreadful events that motivates us to make the hard changes to ensure such events are not repeated.

To ensure that this work is done by SafeWork SA I am recommending the new SWOAC receive a quarterly report on fatalities, including follow up regulatory and education activity, and engagement with deceased workers families. The report will also track the progress of all investigations and prosecutions.

To ensure that SafeWork SA is held to account for respecting the rights and needs of families of deceased workers, I am recommending that the Victims of Crime Commissioner be a member of the SWOAC.

I want to acknowledge that SafeWork SA created a Contact Liaison Officer on 1 July 2019. This has significantly improved the care for families of deceased workers.

Chapter 4.4 – Workplace entry by work health and safety Entry Permit Holders

When the national model health and safety laws were introduced into South Australia additional provisions were added into Part 7, Division 2 in relation to workplace entry by Entry Permit Holders. The additional provisions required a WHS Entry Permit Holder to (A) notify SafeWork SA about proposed entries and (B) furnish reports to SafeWork SA after entry had been completed. Employee association submissions, and interviews with employee association officials, went to considerable lengths to articulate the frustration and the futility arising from these two additional provisions. There was frustration about the additional workload that was required, particularly when efforts to notify SafeWork SA lead to delays in entry to workplaces where imminent risks were identified. There was also frustration that considerable work went into producing the reports. Employee associations gave quite detailed examples of instances where they had gone to great lengths to detail the issues that they had identified and the risks that relate to those issues. The employee associations reported that to the best of their knowledge none of these reports had ever led to any action by SafeWork SA.

The introduction of entry permit provisions for representatives of employee organisations was one of the more contentious elements of the model laws when they were first developed. Over the years since the introduction of the model laws many of the fears and concerns around right of entry have proven to be unfounded in most

sectors. Moreover, the underlying motivation for developing those provisions remains, i.e., for workers to have access to assistance and representation when concerned about their health and safety. This driver is more relevant than ever today. To the extent that the additional provisions in the WHS Act impede the entry permit provisions achieving their objectives, the provisions should be amended.

Accordingly, I am recommending that there be amendments to the WHS Act such that the right of entry regime created within the Act is consistent with the model laws. Those provisions that require notification to SafeWork SA about proposed entries to workplaces, and the requirements to furnish reports after entry has been achieved to SafeWork SA should be removed. I note that employer organisations have not had the opportunity to contribute to the review on this issue, and accordingly a consultation process should commence.

I am further recommending that SafeWork SA report quarterly to the SWOAC on the number of times that it has been requested to intervene where entry to a worksite has not been achieved by an Entry Permit Holder, and the outcome of its interventions. Its report should contain an analysis of any patterns within these incidents, and its actions to resolve these matters. Employee associations are seeking amendments to the WHS Act creating an express power for Entry Permit Holders to request an inspector attend a workplace to determine whether a notice should be issued. I do not recommend amending the Act, but requests from Entry Permit Holders for an inspector to attend are serious matters, and therefore should be included in the quarterly report to the SWOAC along with the outcome of the request.

Where Entry Permit Holders enter a worksite and send a voluntary report to SafeWork SA, the organisation must have a system for logging the receipt of such a report, and its response. Data from this system should be included in the quarterly report to the SWOAC.

Employee association submissions recommended a range of legislative amendments to strengthen the rights of Entry Permit Holders that were considered in the recent SafeWork Australia Model Laws Review. These included allowing Entry Permit Holders to exercise the powers of HSRs, to request documentation after entry and to remain on site to inquire into additional contraventions of the Act. That review ultimately did not recommend such changes, and I am inclined to respect the consensus in the national Model Laws Review process that there should be national consistency in the right of entry provisions.

Employee associations specifically sought legislative amendments to make clear the power of Entry Permit Holders to take photographs, video, voice recordings, measurements and tests relevant to their investigations. A similar provision has been recently added to the Victorian *Occupational Health and Safety Act 2004*, and I recommend that the Government commence a process of consultation around the

addition of a provision in the same terms into the WHS Act. Employee associations are seeking to use these and other materials obtained by Entry Permit Holders for the purposes of media and social media. I note that the Victorian provision is not intended to extend to that purpose.

Chapter 4.5 – Section 271 of the Work Health and Safety Act

Under s 271 of the WHS Act persons must not disclose information or provide access to documents if they have obtained such information or documents when exercising any power or functions under the WHS Act. This provision, stipulating confidentiality of information, applies to SafeWork SA and its employees when utilising powers or carrying out functions under the WHS Act. The prohibition in s 271(2) is from disclosing to “anyone else” information acquired, or the contents of any document obtained, or from giving any documents to anyone else, or from using the information or document “for any purpose”. The consequences and the impact of this provision on the family members of a person who has died at work were covered extensively in the Mansfield Review released in July 2022. Mr Mansfield AM KC was inquiring into the investigation and processes of SafeWork SA relating to the tragic death of Gayle Woodford in March 2016. Mr Mansfield AM KC found that s 271 and the application of that section by SafeWork SA was a contributing factor in the angst suffered by the family of Ms Woodford throughout the investigation into her death. He recommended that consideration should be given to amending s 271. I note that the South Australian Government has accepted that recommendation.

Section 271 of the WHS Act was raised as a source of significant frustration by many of those who were interviewed for this Review, and in many of the submissions that were made to the review. As noted earlier, I was privileged to be able to meet with family members from four separate tragic work-related fatalities. Each of them was deeply dissatisfied with the way in which SafeWork SA had investigated and held to account, or not, the employer and others whom they felt were responsible for the death of their loved ones. In each case their hurt and frustration and suffering was significantly increased by their inability to understand what was being done by SafeWork SA to determine how their loved one died and who was to be held to account. They all implored that s 271 be amended, because it was given by SafeWork SA as the reason that they could not be told anything about the investigation and outcomes into these tragedies. In addition, many felt that SafeWork SA was hiding behind this provision as a basis for not interacting with them. Some felt that SafeWork SA was using this provision to provide itself with cover for not taking appropriate action against those that they felt should be held to account for these tragic deaths.

Section 271 was also raised by every employee association in the interviews, and was referenced in all of the union submissions to the Review. Employee associations believe that the provision stops SafeWork SA from informing them about what the

organisation has found when entering a workplace and investigating matters brought to their attention by the employee association. Most employee associations also feel that SafeWork SA hides behind this provision as an excuse for not interacting with officials and HSRs.

It was evident throughout the review that s 271 is a significant contributing factor in the poor relationship between SafeWork SA and employee associations, and HSRs. The provision is undermining tripartism, which is so central to achieving and maintaining safe and healthy workplaces. I support the recommendation of Mr Mansfield AM KC that s 271 of the WHS Act be amended. The amendments should firstly enable a person who has been seriously hurt, and the families of a person who has been killed at work to be kept abreast of the findings of SafeWork SA as they investigate the circumstances of the incident, and that they are kept abreast of the materials that SafeWork SA is considering in putting together its decisions around whether or not to prosecute. SafeWork SA's procedures should require its officers to provide this information to these persons. SafeWork SA's adherence to these procedures should be reported to the SWOAC.

Amendments to s 271 should also expressly allow SafeWork SA to keep an applicant under s 231 abreast of the progress of their matter.

Amendments to s 271 should also provide for inspection reports, appropriately redacted, to be provided to employee association, and employer organisation officers and HSRs who raise issues or notify issues to SafeWork SA. Other States have an "informal release of information policy" which is utilised by health and safety regulators to allow tripartite partners to have access to appropriate information that allows them to keep abreast of actions taken by the regulator at the instigation of the social partner. I recommend that similar provisions be adopted in South Australia.

Chapter 4.6 – Education and Training

The organisational structure of SafeWork SA was considered at some length by the ICAC review. The review noted the division of SafeWork SA into two divisions; a Compliance and Enforcement division and a Workplace Education and Business Services division. The Workplace Education and Business Services division contains an education business unit, and within that there is the advisory service. According to the organisation chart the advisory service has five WHS advisor positions and five information officers, although there are a number of vacancies, and challenges with recruitment.

The role of the advisory services team is to provide direct assistance to South Australian businesses seeking support in their compliance with the WHS Act. This is an important function, and I was impressed with the motivation of the staff members I

met in this team. I agree with them that this team could do great work. However, it is very optimistic to think that a team of ten staff can directly deliver the education necessary to support all of the businesses in South Australia to meet their obligations under the WHS Act. This is challenging now, but that challenge will grow exponentially with the rising incidence of psychosocial risks and responsibilities, and the foreshadowed introduction of industrial manslaughter provisions.

There remains a legitimate debate as to what is the best way to make health and safety information, education, and training available to businesses. In other States the vast majority of support and training for businesses is provided through employer organisations, supported by the regulator. This makes good sense. Employers have a unique relationship with their employer organisation. It is partly transactional, in that they pay membership fees to belong, but it is certainly also one of trust. The employer associations that I met with showed genuine enthusiasm to want to do much more to support their members with education, training and information in work health and safety. It is my recommendation that the education function of SafeWork SA and the advisory services team should use their skills and knowledge to support employer organisations in directly delivering information and training to employers, rather than delivering services directly themselves. The role of the SafeWork SA team will be critical. They are the ones who will determine the acceptable solutions to health and safety problems. They are the ones that will determine the level of compliance that is acceptable under the Act. By utilising the services of employer organisations to directly provide this information and deliver the training, SafeWork SA could reach so many more employers and have a much bigger impact on health and safety in the State.

A similar logic applies in the delivery of information to workers. Each of the major employee associations in South Australia, and SA Unions, has a well structured training and education unit. Their teams provide significant training for HSRs, and they are passionate about it. They are the logical conduit for SafeWork SA to get information on hazards and the control of risks to working people, particularly HSRs. I recommend that the education team develop a very clear and deliberate strategy for pushing education, training and information out into workplaces and to workers through employer organisations and employee associations, consistent with the tripartite mechanisms envisaged in the WHS Act.

I also recommend that the education team work in partnership with ReturnToWorkSA's Employer Risk Services who also invest significant resources into education for workplaces.

The Mining and Quarrying Occupational Health and Safety Committee (MAQOHSC) is an interesting model of a tripartite body providing guidance and support to its industry. MAQOHSC currently sits within SafeWork SA, however its leadership submitted that this is creating conflicts of interest in the discharge of its functions,

similar to the conflicts identified in the earlier ICAC review. The Committee believes these conflicts would be resolved if the MAQOHSC sat within ReturnToWorkSA, and I support this recommendation.

The education and training strategy should be developed in conjunction with the SWOAC.

Chapter 4.7 – Complaints

The first term of reference for the review talks to the effectiveness of SafeWork SA's complaints function.

There are two types of complaints coming in to SafeWork SA. The first is notifications of unsafe work, and the other is complaints about decisions or conduct of SafeWork SA officers.

In regard to notifications, SafeWork SA operates a 1300 number, where calls are answered by an Information Officer, who takes details about the issue. The latest Activity Report, 2020/21, records that 38,328 calls were answered in that year. The complaint details are entered into a case management system, and will include name and contact details of the person lodging the complaint, if they agree.

The system directs the complaint to the relevant industry Inspectorate team, where a Team Leader will triage the complaint and allocate it a priority. Depending on the priority, the complaint will be dealt with by either a phone call, an email, or a worksite visit by an inspector.

SafeWork SA's Compliance and Investigation Manual provides that when a complaint case file has been deemed ready for closure by the inspector, the Team Leader must check that the complainant has been contacted at some point throughout the life of the file.

In matters involving an injured person, or next of kin, the inspector must ensure that these persons have been contacted by telephone and advised that the file is being finalised. Following the telephone call, the inspector must prepare a letter and either post or email it to the injured person or next of kin. There does not appear to be a mechanism to track whether this procedure is followed.

Employee association leaders and HSRs expressed considerable frustration with the practical workings of this complaint system. For some it was frustration that urgent safety issues could not be directly communicated to a Team Leader or other senior officer for immediate response. I note that the requirement to formally enter complaints and record the triage decision is an outcome of the ICAC review. As

relationships between SafeWork SA and social partners develop, it should be possible for these urgent issues to be entered into the system directly by the Team Leader, if their judgement is that an immediate response is warranted. This should satisfy the accountability obligations, whilst prioritising safety.

By far the greater weight of frustration comes from those making a complaint never hearing what comes of it. This is particularly the case where a complaint is dealt with by SafeWork SA by a phone call to the PCBU. The SA Unions submission goes as far as recommending that the WHS Act be amended to require SafeWork SA to notify persons with a relevant interest of its decisions, and the reason for its decisions.

SafeWork SA's procedures already acknowledge the importance of informing and respecting complainants about the organisations' actions in response to complaints. I recommend that the complaints recording system be modified to track the responses to complainants, and that data from this system showing the incidence of compliance and non-compliance be included in the quarterly report to the SWOAC.

Employee Associations were also critical of the on-line complaints process, drawing attention to inconsistencies between the forms for "report a safety concern at your workplace", "report a safety concern at a fireworks display", and "report a psychological risk". Regarding the latter, employee associations submitted that they had received consistent feedback that some workers found the level of personal detail required to be oppressive, and the tone and emphasis dissuaded them from lodging complaints. The SA Unions submission referenced the WorkSafe Victoria process, which uses one form for all complaints, and is less off-putting, and recommended a similar form be adopted by SafeWork SA. I support the recommendation as a practical way of addressing these concerns.

The Australian Nursing and Midwifery Federation expressed frustration that SafeWork SA deals with multiple individual psychological risk complaints from the same workplace separately and appoints different officers to deal with them. The Federation also understands that SafeWork SA assigns separate responsibility to different inspectorate teams for physical and psychological risks in the same workplace. I simply draw these concerns to the attention of the relevant SafeWork SA leaders in the expectation that they will work more closely with all employee associations in the health sector, and anticipate requests for progress reports in this regard to the SWOAC.

In regard to complaints about SafeWork SA officers' conduct, I found the process to be sound, and working as I would expect.

Chapter 4.8 – Relationship with ReturnToWorkSA

The fourth term of reference invites recommendations on engagement between SafeWork SA and other government agencies to monitor and improve compliance. The review has been particularly focussed on the relationship between SafeWork SA and ReturnToWorkSA.

Arguably the single biggest challenge for every modern workplace safety regulator is the choices they make about where to focus their effort to achieve the biggest overall impact in lives saved and injuries prevented. It is possible to avoid this challenge for a period, and default instead to chasing incidents after they have occurred, but we know this does not work.

At the heart of effective regulating is making good choices. Good choices need good data and great relationships. SafeWork SA can have both.

The social partners all want SafeWork SA to make good choices. Of course they want to be a part of those choices, to contribute to them, to challenge them. This is their right, and their role, and SWOAC should be their platform to do this.

The good data resides in ReturnToWorkSA. SafeWork SA can make so much more use of this data. Here are two examples:

1. In construction, 87% of injuries fall fairly evenly across four injury mechanisms; body stressing, being hit by a moving object, slips, trips and falls, and hitting objects with part of the body. Body stressing and slips, trips and falls account for 61% of injury costs because of the volume and severity. This injury profile has not changed significantly in five years. These injury types have well-understood root causes that are effectively managed in good workplaces. SafeWork SA can focus on small numbers of employers with recurrent injury claims, and equip their inspectors with employers' claims histories to help target workplace changes.
2. In manufacturing, the same injury mechanisms account for 88% of injuries. Again, this has not changed significantly in the last 5 years. 42% of claims costs relate to body stressing, reflecting poor design around repetitive manual tasks. Again, good workplaces manage these risks effectively. SafeWork SA inspectors can target small numbers of employers with recurrent claims, and equip their inspectors with employers' claims histories to help target workplace changes.

The ReturnToWorkSA submission noted the organisation has provided access to significant amounts of data to SafeWork SA, however its records indicate the data is not being regularly accessed, and it is not clear how SafeWork SA is using the data to inform its operations.

SafeWork SA has made a start. An Intelligence Analyst has been employed, and I met him on his second week in the role.

SafeWork SA must be working hand in glove with ReturnToWorkSA, collaborating to interrogate the data to find good targets, engaging with SWOAC to make its best choices, and strategically deploying their combined resources, covering inspections, education, advice, funded prevention projects and important initiatives such as Wellbeing SA.

Of course, there is another important aspect to this relationship. ReturnToWorkSA collects most of SafeWork SA's funding through a levy on workers compensation premiums. In 2022/23 the levy will collect \$23,883,000. Employee associations expressed concern at the insecure nature of this funding, linking it to variability in SafeWork SA's staffing numbers.

This relationship could be so much more strategic than the current transaction. Every worker's compensation scheme in Australia is facing unprecedented challenges arising from the growth in primary and secondary psychological injuries. With the national model code of practice flowing into jurisdictions there is every incentive and opportunity for the schemes to invest more in effective prevention through education and enforcement.

Every scheme in the country is battling to improve return to work outcomes from physical injuries, and increasingly seeing prevention as a strong investment. As SafeWork SA and ReturnToWorkSA work collaboratively together, and achieve success together, I am confident that this commercial relationship will grow. When SafeWork SA courageously commits to bringing injuries down, starts making good choices about the injuries and employers it targets, and succeeds, as it will, there will be every incentive for ReturnToWorkSA to invest more in the organisation. It is a function of the SWOAC to ensure that this happens.

Chapter 5 – Monitoring and Enforcing Compliance

“Regulating agencies will be able to speak more softly when they are perceived as carrying big sticks.” (Ayres and Braithwaite)

It is not practical for this Review to engage in a broad examination of regulatory theory as it applies to workplace health and safety. The stakeholders and others who made submissions displayed a typical range of views about how health and safety should be regulated. There was the expected spectrum, spanning those who would have a very strong regulatory stance to those who would favour a more educative and supportive approach.

Whatever the perspectives regarding the regulatory approach, it was common ground across all contributors that in order to achieve healthy and safe workplaces in South Australia there must be a regulatory regime where those persons conducting a business undertaking who deliberately or wilfully break the law are held to account.

Employer organisations argue that the vast majority of employers want to do the right thing in regard to workplace health and safety. They want to be able to provide a safe work environment and make a reasonable margin. Most businesses would agree that it is harder to do this if that very small percentage of recalcitrant businesses are not held to account. Similarly, those organisations representing working people would argue that a safe work environment for all workers is best delivered if there is a real and measurable perception that those who do the wrong thing will be punished.

Part 8 of the WHS Act establishes the role of the regulator in South Australia. It requires SafeWork SA to monitor and enforce compliance. SafeWork SA reports against this obligation in its annual activity report. The most recent activity report is for the 2020/21 year. The regulatory activities by SafeWork SA in this period were likely adversely affected by the pandemic. For the period 2020/21 SafeWork SA inspectors conducted 11,800 workplace visits. SafeWork SA inspectors issued around 2800 improvement and prohibition notices in that period, approximately one notice for every four visits. In the same period SafeWork SA issued 10 expiation or infringement notices. For 2020/21 SafeWork SA completed seven prosecutions.

SafeWork SA will soon publish its 2021/22 report. Due to the pandemic, high staff turnover, old technology, heavy administrative processes and some work practices, the number of workplace visits is likely to have fallen considerably. In October 2022 there were 317 worksite visits. In the week in November 2022 that I accompanied inspectors, there were 56 worksite visits. So far in 2022, there have been eight completed prosecutions.

That volume of worksite visits, and the accompanying level of notices per visit, and the level of prosecutions, is not adequate to create a realistic perception that the businesses and individuals who do the wrong thing, will be held to account.

It is not surprising, given that low level of regulatory activity, that every organisation that participated in this Review felt that the visibility of SafeWork SA was low.

Chapter 5.1 - Resource Utilisation

It is a matter of record that public sector agencies in South Australia have been required to find budget savings in recent years. SafeWork SA carried its share of these savings. Budget savings assigned to SafeWork SA have been designed to quarantine inspector numbers. However, inspector numbers at SafeWork SA have fallen in recent years. This seems largely due to an increase in staff turnover. The Executive Director of SafeWork SA reported to Parliament recently that SafeWork SA's budget allocation for inspectors is 74. There are 20 vacancies, which seems high, and more inspectors are expected to leave. Another 18 inspectors are being recruited, commencing from December 2022, but they will take at least six months to be fully operational.

I accompanied three inspectors from different industry teams, on different days, on their worksite visits. I also met with a number of inspectors individually and collectively, and with former inspectors. Many of those inspectors expressed concern about the number of staff who had left and were about to leave, and the resultant pressure on those inspectors remaining. On the two days I was in the field accompanying inspectors, the SafeWork SA IT system, Infonet showed that 11 inspections in total were conducted, heavily impacted by training, leave and turnover.

Active inspector numbers are low. SafeWork SA seems to be doing everything it can to recruit additional inspectors to backfill the vacant positions. However, the productivity and effectiveness of inspectors must also be addressed. Typically a workplace health and safety inspector in most regimes in Australia would be able to complete six to eight worksite visits each week, with one day a week in the office. SafeWork SA inspectors appear to be achieving three or four visits per week. This is not because of any lack of effort on the part of inspectors. Indeed inspectors I spoke to expressed frustration that they could not do more worksite visits. Inspectors I spoke to expressed their love of the work and their desire to make a difference. They all believed that the biggest difference they could make was by physically visiting workplaces and ensuring that they were made safe. Notwithstanding that almost every workplace safety inspector across Australia would rather do more doing and less administration, the level of administration at SafeWork SA is unsustainably high.

The main reasons that they are not doing more visits are the technology they use, and the administrative systems that apply at SafeWork SA. The visits that I participated in

each took about half a day in preparation, planning, travel and execution. This is normal, although I note that unlike other states, SafeWork SA inspectors start each inspection from the office, after they have collected a pool vehicle. For each visit there appeared to be another half day of administrative work back in the office. In other states, inspectors complete their field reports remotely at the end of their inspection, and move onto the next visit. This is partly why inspectors in South Australia are completing so few inspections.

The administrative and procedural processes at SafeWork SA are a consequence of the recommendations of the earlier reviews, designed to improve the regulatory rigour of SafeWork SA. It seems the application and implementation of these recommendations has had the unintended consequence of severely limiting the practical capacity of SafeWork SA inspectors to monitor and enforce compliance. I was advised that work has commenced on streamlining and refining these processes.

I recommend that the leadership of SafeWork SA urgently accelerate the streamlining and refining of the administrative procedures and processes that apply to worksite visits. Consistent with the Accountability recommendation, the systems need to be assessed against the target for reducing workplace fatalities and injuries, as well as delivering regulatory rigour. The goal should be to streamline these processes so that inspectors at SafeWork SA are able to conduct an average of six to eight visits per week. This work must be done in consultation with inspectors. The work should be conducted with the oversight of the SWOAC.

I was advised that efforts to procure a replacement software and technology solution are on hold, pending budget approval. I would urge a resolution of this issue. Importantly, regulators in other states have invested heavily in acquiring such systems, and their inspectors have been working hard to contribute to practical modifications. If budget is a constraint in procuring a new system, then choose from those already in service in the other jurisdictions, and take advantage of the time and development savings.

Chapter 5.2 - Proactive Worksite Visits

With low inspector numbers, and fewer worksite visits per inspector, it is unsurprising that SafeWork SA inspectors are under pressure, internally and externally. The incident notifications, and requests for inspector attendance at site by HSRs, employee associations and members of the public continue to grow. As a result, the overwhelming majority of worksite visits are reactive to these notifications. Sadly, it is a fact in workplace health and safety that many of the workers who are most vulnerable to a worksite incident are not able to lodge a notification or request a visit from an inspector. As a result, most of the workplace safety regulators in Australia aspire to allocate 50% of all worksite visits to those driven by a proactive examination of the data. Accordingly, I am recommending that SafeWork SA set a similar objective that

50% of worksite visits by inspectors be proactively initiated, based on the ReturnToWorkSA data, and the revised strategy. SafeWork SA should work with SWOAC to achieve this.

Chapter 5.3 - Prosecutions

SafeWork SA has completed seven prosecutions under the *WHS Act* in each of the last two years. In 2022 there have been eight prosecutions. In all but one of the cases this year, a person has died or suffered life changing injuries.

The prosecution numbers in South Australia are very low relative to other jurisdictions. Whilst it is contentious to set targets for prosecution numbers, it is accepted that modern regulators set strategic enforcement priorities, using prosecution for failing to manage risks and duties, before anyone is hurt, as a deterrent. In this regard it is pleasing to see the prosecution in 2022 of a business for failing to comply with a Prohibition Notice. There should be more of these.

It is understandable, given the criticism that SafeWork SA attracted because of its flawed investigations into a number of very serious workplace fatalities some years ago, that its investigative processes are very detailed and exhaustive. Unfortunately, these processes seem to be contributing to the very low number of risk-based prosecutions, and the excessive time taken to complete investigations into blatant breaches of the Act in South Australia.

Based on the size of its jurisdiction, SafeWork SA should have the capacity to complete 30 prosecutions a year. If those prosecutions are not needed because compliance is high and incidents are low, that would be great. In the meantime, the opportunity is there to strengthen deterrence. Accordingly, I am recommending that SafeWork SA review its investigations processes and investigator resources, to increase its capacity for strategic enforcement. This work should be done with the involvement of the investigators and inspectors, and the oversight of SWOAC.

I am also recommending that SafeWork SA support inspectors to make more referrals for comprehensive investigations, and also support inspectors to conduct their own investigations and referrals for prosecution for blatant breaches of the Act.

It is also notable that the small number of prosecutions that are completed result in 100% success for SafeWork SA. This is not surprising given that only the most extreme breaches of the *WHS Act* end up being investigated and prosecuted. Strong work health and safety regulators do not just prosecute the most extreme breaches of the Act. Given the changing nature of workplace health and safety risks it is important that the regulators be consciously and deliberately testing the application of the *WHS Act* to contemporary workplaces and safety issues. This is particularly the case in regard to psychosocial risks. Accordingly, I am recommending that SafeWork SA set

an objective of 90% success in prosecutions. I am also recommending that SafeWork SA should have the capacity to engage the DPP to run specific prosecutions where it believes its skillset will benefit the outcome.

Employee Associations have recommended that the time limitations for the bringing of prosecutions under s 232 should be removed. Mr Mansfield AM KC, in his Review invited consideration of extending the time limitation periods, or providing an opportunity to formally seek a Court extension of time in certain circumstances. I do not support a removal of all limitation periods. In my experience regulators manage their investigations to the time limits available. Extending the time limits will extend the time of all investigations. I do, however, acknowledge that a very small proportion of investigations are particularly problematic, and the option should exist for the regulator to seek a Court extension of time in certain circumstances.

SA Unions' submission expresses considerable concern about the advice of Counsel relied on by SafeWork SA in its decision not to bring a prosecution following the tragic death of Gayle Woodford. This matter was raised with me in several meetings during the review. I note that an offer has been made to the Woodford family for a briefing by Counsel on their advice, and to date that offer has not been accepted. I recommend that Counsel provide a briefing on their advice to the SWOAC. It will be open to the SWOAC to request any further clarification on prosecutions for a breach of s 19 arising from the briefing.

I note that in the Model Laws Review process, Ministers have agreed to further consider increases to penalty levels.

Chapter 5.4 - Compliance and Enforcement Policy

SafeWork SA utilises the NCEP as its compliance and enforcement policy. The NCEP is a good foundation piece, but I agree with the finding in the Model Laws Review for Safe Work Australia that NCEP requires a comprehensive review. It is not detailed and explicit enough for a modern, confident regulator to work closely with its partners and fully harness its authority to improve safety performance. Queensland and Victoria are two jurisdictions that have developed supplementary policies that reflect close engagement with their partners, and confident determination to be strategic and effective in getting injury numbers down. These documents are more explicit, and therefore much better at enabling the partner organisations and the community to hold them to account.

I recommend that SafeWork SA uses one or both of those policies to work with the SWOAC to develop a new compliance and enforcement supplement to the NCEP, while supporting any national review.

Chapter 6 – Culture

Employer and employee association representatives, and others, commented on SafeWork SA's lack of internal confidence, and the need to improve this before others can have more confidence in the organisation. Culture is the key to building confidence and getting the best out of good people.

The ICAC Review of SafeWork SA in 2018 was very critical of the culture of the organisation. The review characterised the culture as lacking in accountability. The senior leadership of SafeWork SA accepted that criticism, and committed to address the issues raised in the review.

Over the last four years it is evident that the senior leadership and staff of SafeWork SA has worked hard to address issues of poor performance and poor accountability. Some staff told me that this was overdue and was improving the organisation. Some staff told me that they feel the pressure of performance management and accountability. Anecdotally, some staff who were subject to performance management have left or are leaving SafeWork SA. A surprising number of staff told me that they do not feel it is safe for them to speak up on issues that should be communicated to the leadership. This feedback came from a range of staff and former staff, and included staff who seemed to be very competent and passionate about their work, and who would otherwise have little to fear.

In the course of this Review I met so many terrific SafeWork SA people, across operational and leadership roles. The organisation has weathered difficult years, but it now has the opportunity to achieve great things in workplace safety, starting with getting the best out of its people.

Nobody at SafeWork SA wants a culture where it is not safe for everyone to speak up and contribute their best. The organisation is missing out on opportunities to be its best, and to make workplaces safer. The first step in tackling this opportunity is for SafeWork SA to engage an independent consultant to conduct a survey of its current culture, and the culture it needs to be its best. The results of that survey should support the leadership to engage with the staff to set and build the culture needed for the organisation to achieve its potential, and the full contribution of its partners. The results of the survey, and progress in addressing its findings, should be reported to the SWOAC, the Chief Executive of the Attorney-General's Department, and the Minister, and included in the quarterly reports.

Chapter 7 – Implementation of Previous Review Recommendations

The second Term of Reference requires the review to inquire into SafeWork SA's implementation of recommendations arising from the previous reviews undertaken by Senior Counsel, the 2018 ICAC Evaluation, internal audit recommendations, and coronial inquests into workplace deaths.

The 2017 review by Special Counsel to the Crown Solicitor made 18 recommendations aimed at strengthening SafeWork SA's investigation and prosecution processes. The recommendations cover training, a training framework, team structure, procedures and practices, case management, the relationship with SAPOL, the role of the Crown Solicitor's Office and interactions with SafeWork SA, the engagement and management of experts, the provision of victim support services, and enforceable undertakings.

Appendix 5 provides a schedule of the recommendations and the actions that SafeWork SA has implemented to close out the recommendations.

I am satisfied that the recommendations and the intent of the recommendations are being implemented by SafeWork SA. The investigations team has been strengthened, with a higher level of expertise amongst team members, supported by contemporary training, policies and procedures. Some members of the investigations team indicated that there is still room for improvement, however it is acknowledged that significant progress has been made such that SafeWork SA is today a competent investigator of workplace health and safety matters.

SafeWork SA's investigation capacity was the subject of considerable scrutiny by Mr Mansfield AM KC when he undertook an inquiry into the investigation conducted by SafeWork SA into the tragic death of Gayle Woodford on the night of 23/24 March 2016. Mr Mansfield AM KC found that the investigation by SafeWork SA was adequate and was a comprehensive and careful investigation.

In 2018 the ICAC decided to evaluate the practices, policies and procedures of the regulatory arm of SafeWork SA. The review produced 39 recommendations. The recommendations covered communication between the educator arm and the regulatory arm, a strategic plan, organisational structure, clarity of the organisation's role and protocols, a governance framework, management of policy documents, triaging practices, inspector procedures, including inspection reports, note keeping and the discharge of statutory powers, conflict of interest, gifts and benefits policy, the use of intelligence, proactive visits, quality assurance, recruitment and selection, staff rotation, inspector oversight and accountability, management training, and staff induction.

SafeWork SA has tracked and reported the implementation of all of the recommendations. Appendix 4 contains a table of each of the recommendations and the actions and close out date for each recommendation.

The implementation of the ICAC recommendations has been the top priority of SafeWork SA leadership over the last four years. The recommendations have created a significant agenda for reform of the organisation, that has dominated the focus of the organisation. Every leader and member of staff that I spoke to affirmed the activity of the organisation to implement the ICAC reforms.

The Review found that all of the recommendations have been implemented. In some cases, the full benefits of those recommendations are yet to be fully realised. However, the effort by everyone in the organisation to deliver the reforms is acknowledged.

Such has been the dominance of the focus on implementation of the ICAC recommendations that it has seemingly come at the expense of SafeWork SA giving adequate attention to the external environment in which it operates. SafeWork SA has been particularly, and understandably, inwardly focussed over the last four years in order to meet the considerable challenge of implementing so many recommendations. Having now successfully implemented those recommendations, the time is right for the organisation to turn its gaze externally and particularly on the performance and outcomes in regard to workplace safety. In doing so SafeWork SA has the opportunity to assess the success of the implementation recommendations against the contribution that these reforms are making to safer workplaces in South Australia.

Appendix 6 contains a table of each of the recommendations made by the Coroner in the Jorge Castillo-Riffo Inquest and the actions that SafeWork SA has implemented to close out each recommendation.

Appendix 7 contains a table of each of the recommendations and actions arising from PWC's Compliance and Enforcement Audit and the actions that SafeWork SA has implemented to close out each recommendation.

Chapter 8 – Legislative Amendments

Consistent with the Terms of Reference, all submissions to the review focussed on the performance of SafeWork SA as the workplace health and safety regulator. Submissions from employee associations individually, and as represented by the SA Unions submission, went further, and made several recommendations for legislative amendments.

Consideration of these proposed amendments is within the “other matters” provision in the Terms of Reference, and the Minister has indicated publicly a preparedness to consider any such recommendations made by the review. I note that employer organisations and others, have not had the opportunity to comment on any potential legislative amendments. This would necessarily need to occur before any such changes were determined. I note the Government is currently engaging in such a process around the introduction of Industrial Manslaughter provisions in the WHS Act.

Notwithstanding I have not had the benefit of other perspectives on legislative amendments, I have given them consideration, and in the context of my other findings and my focus on improving workplace safety in South Australia, I am supportive of some changes, in principle.

Whilst I have expressed support for legislative amendments, it is necessarily a matter for the Government to determine how any such changes would be progressed in the context of the model laws.

This section discusses the legislative amendments contained in employee association submissions and any recommendations coming from my review.

Chapter 8.1 - Standing to bring Prosecutions

The employee associations’ submissions recommend that the WHS Act be amended to grant standing for the bringing of prosecutions to workers, their families and employee associations. They recommend that the Act should be amended to extend the existing civil penalty provisions to include contraventions of the primary duty contained at s 19 and the offences in Part 2 Division 5 of the *WHS Act*, and that standing for the bringing of prosecutions of these offences should be granted to workers, their families and employee organisations.

There is a long history to the question of who should have standing to bring proceedings for offences under workplace health and safety legislation. Going back to at least 1995 when the Industry Commission made recommendations on this matter, the issue has been the subject of energetic debate.

The current provisions in relation to prosecutions and who can prosecute under the model laws adopted by South Australia relate back to the provisions in the Victorian Act, which were adopted in 2004. The Victorian provision was the result of the review conducted by Chris Maxwell AC in 2003. Maxwell considered the issue at length. He concluded that the prosecution of persons for criminal offences was a matter of the utmost seriousness. It was properly the exclusive function of the state and should be performed by a state agency such as the workplace health and safety regulator. Maxwell explicitly dismissed the argument that regulators were under prosecuting and therefore failing to secure the best workplace safety outcomes. If the problem was insufficient resources, he argued, it should be addressed directly and, if it were by reason of poor decision making by the regulator, the regulator should have greater accountability with a more effective review mechanism.

Ultimately the Victorian legislation, and subsequent model legislation, reserved the right to bring a prosecution for a criminal offence to the regulator. Safeguards against poor decision making by regulators were built into the Act. As provided in s 231 of the WHS Act, the safeguards provide that if no prosecution has been brought in relation to an alleged Category 1 or Category 2 offence after six months, but not later than 12 months, a person may make a written request to the regulator that a prosecution be brought. Within three months after the regulator receiving a request, the regulator must advise the person in writing whether the investigation is complete, and if the investigation is complete, whether a prosecution has been or will be brought, or give reasons why a prosecution will not be brought. The regulator must advise the person who the applicant believes committed the offence of the application and of the matters that are set out. If the regulator advises the person that a prosecution will not be brought, the regulator must advise the person that they can ask the regulator to refer the matter to the DPP, and if the person makes a written request to the regulator to do so, the regulator must refer the matter to the DPP within one month of the request. The DPP must consider the matter and advise the regulator within one month as to whether the Director considers that a prosecution should be brought. If the regulator declines to follow the advice of the Director, the regulator must provide written reasons to the person making the application

Employee associations' submissions were adamant that s 231 is not working. Whilst SafeWork SA is required to provide a response to a request under s 231 within three months, there is no perceived consequence or action if that request is not met. Submissions noted that where requests are made investigations are not being completed in a timely manner, and therefore the process is frustrated. Parties reported that they are not advised of investigation outcomes and therefore valuable time is lost. In any event there are very few requests under s 231 being made. It is clear that in South Australia this important provision is not working as intended. I have recommended that the quarterly report to the SWOAC contain tracking data on s 231 applications to help improve this process. This data should inform the SWOAC on whether the 12-month deadline for a request under s 231 is a practical impediment to

the function of the provision, and it should make a recommendation to the Minister if it is.

This report has already discussed the number and nature of prosecutions completed by SafeWork SA in recent years. Employee associations argued strongly that this level of prosecution is inadequate to create a realistic perception amongst duty holders that there is a consequence for serious breaches of the WHS Act. It is also inadequate to deal with risk-based breaches of the Act. Every organisation interviewed for the review noted that the visibility of SafeWork SA and workplace safety enforcement is low.

This report has earlier canvassed the work that has gone into reviewing and reforming the investigation and prosecution functions of SafeWork SA. The team has been strengthened and restructured, considerable training has been delivered, and stronger processes introduced. It was noted earlier that the Mansfield Review affirmed the competency of SafeWork SA to conduct robust investigations. Notwithstanding these reforms, and partly as a result of these reforms, SafeWork SA's capacity to conduct investigations is limited. The organisation is working to increase this capacity, but this will take time.

Employee association submissions also drew attention to provisions within the *Fair Work Act 2009* that enable enforcement by employee associations and workers of breaches.

Employee associations submitted that the range of matters covered by the WHS civil penalty provisions are inappropriately limited and should extend to breaches of the primary duty. They note that the criminal law model is inefficient and ineffective for the majority of Act contraventions, and particularly in its application to many risks associated with psychosocial injury. They argue that an expansion of the civil remedy jurisdiction would provide a practical and significant deterrent to contraventions of the existing duties. Civil remedy provisions are increasingly commonplace, and it is now not uncommon for legislative schemes to have overlapping criminal and civil remedy regimes.

Every external party who submitted or spoke to the review expressed concern about the visibility of SafeWork SA and workplace health and safety generally. Everyone wanted SafeWork SA to be better resourced, to be more active and more confident in doing its work. Those parties that acknowledged the considerable effort by SafeWork SA to improve its internal processes noted that there was a long way to go before this translates into a stronger regulatory presence. This was not a criticism. It was a reflection on the challenge the organisation faces to build its capacity and its visibility in South Australian workplaces.

This report has previously noted the essential need to build a strong partnership between SafeWork SA and its partner organisations representing employers and employees. These organisations have such an important part to play in making workplaces safer. It is also vital because these organisations have considerable resources to deploy towards making workplaces safer. This report notes that it is the view of all parties that the capability and resources of SafeWork SA's partners was not being fully utilised and there was significant potential for improvement. Throughout the review, I was constantly excited by the potential for the tripartite relationship to reach unique heights in South Australia.

I am very mindful of the importance of respecting the model laws and ensuring that all Australian workers and workplaces are subject to a consistent workplace health and safety regime. However, I have found that there is a vast difference between the capacity of the big regulators in the eastern states, and the different challenges and opportunities in South Australia. The larger regulators, backed by massive compensation schemes, have high profile brands, with over two hundred inspectors, each with their own vehicle and the latest mobile technology, conducting hundreds of visits each day, backed up with multimillion dollar media campaigns and high-profile sports sponsorships. The larger regulators each complete around one hundred prosecutions a year. In 2022 SafeWork SA has completed eight.

I was also moved by the personal representations of decent, courageous HSRs, from tough work environments in regional South Australia, desperate for support in protecting their workmates. They made a compelling case for the difference it could make if there were simple civil remedies to be actioned with their employee association.

I believe that standing to bring prosecutions should be extended to workers, their families and organisations representing workers in South Australia. It is not my view that this should extend to criminal matters. Instead, the WHS Act should be amended to extend the existing civil penalty provisions to include contraventions of the primary duty contained at s 19, and the offences in Part Two Division 5 of the Act.

Chapter 8.2 Other Propose Legislative Amendments

Employee associations have recommended several other legislative amendments. Again, employer organisations have not had an opportunity to comment on these proposals, and that would necessarily have to occur if they are to be progressed. Also, I reiterate my preference to support the Model Laws, and the review and amendment process that is in train.

Some of the employee association proposals are addressed in other parts of this report.

Employee associations are seeking amendments to the WHS Act to require SafeWork SA to notify persons with a relevant interest of their decisions and reasons for their decisions. They are also seeking a mechanism for external review of all decisions relating to statutory powers by SafeWork SA, and for standing to be granted to workers, WHS Entry Permit Holders, employee associations and the families of seriously injured or deceased workers.

Employee associations provided summaries of numerous cases where, in their opinion, SafeWork SA inspectors had failed to discharge their role in the manner they would have expected. The cases cover a wide range of employment environments. I can feel the frustration and anger in the stories. I heard these and many other stories in my consultations.

Some of these matters should have been progressed through the Internal Review mechanism established by the Act. None of them were. Employee associations have not lodged an internal review request this year.

Some of these matters should have been lodged as formal complaints under the SafeWork SA procedures. None of them were. Employee associations have only lodged three complaints this year against actions or decisions of SafeWork SA officers.

I have tried to probe why these established processes are not being used. The responses keep coming back to a perception that employee associations feel pushed away: "it's like hitting a brick wall", "the place is impenetrable", "they're antiunion".

The relationship between SafeWork SA and its social partners is not as it should be, or as it needs to be. I have discussed earlier in this report the importance of tripartism, and the need to put in place structures that build co-operation, trust and respect. In my experience, with committed and accountable leadership, trust, respect and transparency will be established. In my opinion, creating a legislative pathway to external review gives up on that process, and that is not the right direction for workplace safety in South Australia.

Employee associations have recommended that the WHS Act be amended to enable a trier of fact to find a person guilty of an alternative offence. I believe this is a matter more appropriately considered through the model laws process.

Appendix 1

INDEPENDENT REVIEW OF SAFEWORK SA TERMS OF REFERENCE

Background

SafeWork SA is South Australia's work health and safety regulator, responsible for administering 29 pieces of legislation including compliance and enforcement under the *Work Health & Safety Act 2012 (SA) (WHS Act)*.

Since 2017, SafeWork SA has been the subject of extensive reviews including a 2017 review of the investigation and prosecution function undertaken by a senior prosecutor from the Office of the Director of Public Prosecutions (**ODPP**), a 2018 Public Evaluation by the Independent Commissioner Against Corruption, and numerous recommendations from coronial inquests concerning workplace deaths.

During the 2022 South Australian State Election, the Government committed to undertake a 'root-and-branch review' of the practices and processes of SafeWork SA to improve workplace safety, deliver prompt action on safety concerns, support improved physical and mental wellbeing in our workplaces, and ensure a genuine voice for workers in complaint and resolution processes.

The purpose of the review is to undertake a comprehensive assessment of SafeWork SA's compliance and enforcement functions, to ensure that SafeWork SA is a nation leading regulator.

Terms of Reference

The review will be undertaken by a Reviewer independent from Government.

The scope of the review is to inquire into, report, and make recommendations to the Minister for Industrial Relations and Public Sector on the following matters:

1. The effectiveness of SafeWork SA's compliance and enforcement functions including complaints, inspections, investigations, prosecutions, and witness and family support.
2. SafeWork SA's implementation of recommendations arising from the review undertaken by a senior ODPP prosecutor, 2018 ICAC Evaluation, internal audit recommendations, and coronial inquests into workplace deaths.
3. Appropriate measures to ensure that workers and their representatives (including Health & Safety Representatives), and the families of deceased workers, have a genuine voice in the complaints, investigation, and enforcement process.

4. Engagement between SafeWork SA and other government agencies to monitor and improve workplace safety.
5. Recommendations as to any other matters that may arise during the review.

The Reviewer will consult with interested parties as they see fit and will receive submissions from the members of the public.

The Reviewer may also consult with a stakeholder reference group including both industry and union representatives.

The Reviewer will provide a final report to the Minister for Industrial Relations and Public Sector by 31 December 2022.

The review will be publicly released after it is provided to the Government.

Appendix 2

Written Submissions Received

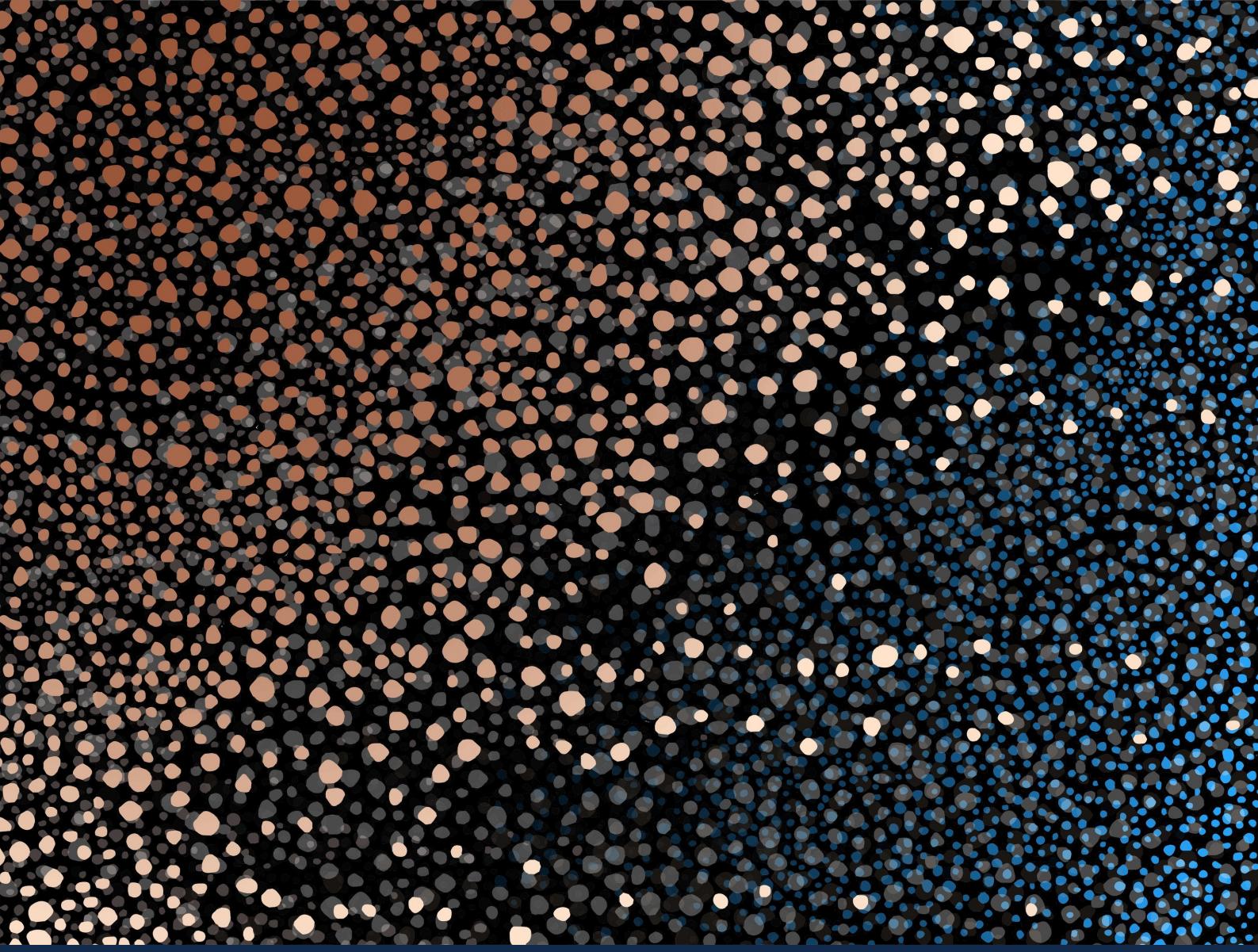
1.	Ai Group
2.	Ambulance Employees Association
3.	Association of Mining and Exploration Companies
4.	Australian Institute of Occupational Hygienist
5.	Australian Institute of Safety
6.	Australian Nursing and Midwifery Association
7.	Australian Manufacturing Workers Union
8.	Australian Services Union
9.	Communications, Electrical Plumbing Union - Electrical Energy and Services Division
10.	Construction, Forestry, Mining and Energy Union -Construction and General Division
11.	Graham Warren and David Fitzgerald
12.	Haylee Read
13.	Health Services Union SA/NT
14.	Michael Scruton
15.	Mining and Quarrying Occupational Health and Safety Committee
16.	Moose Dunlop
17.	Motor Trade Association
18.	Maritime Union of Australia
19.	National Fire Industry Association
20.	Occupational Risk Services Pty Ltd
21.	Pam Gurner Hall
22.	Public Service Association of SA Inc
23.	ReturnToWorkSA
24.	SA Unions
25.	South Australian Salaried Medical Officers Association
26.	Shop, Distributive & Allied Employees' Association SA Branch
27.	United Workers Union
28.	Woodford Family

SafeWork SA

**STRATEGIC PLAN
2023–2027**

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ACKNOWLEDGMENT OF COUNTRY

SafeWork SA acknowledges and respects Aboriginal peoples as the state's First Peoples and nations, and recognises Aboriginal peoples as Traditional Owners and occupants of lands and waters in South Australia.

We recognise:

- the spiritual, social, cultural and economic practices of Aboriginal people come from their connection to traditional lands and waters
- maintaining cultural and heritage beliefs, languages and laws are of ongoing importance to Aboriginal peoples today
- Aboriginal peoples have made and continue to make a unique and irreplaceable contribution to South Australia.

We acknowledge Aboriginal peoples have endured past injustice and dispossession of their traditional lands and waters and the effects of such injustice and dispossession are still felt today.

WELCOME

I am pleased to present SafeWork South Australia's Strategic Plan 2023–2027. This plan will set a clear direction for our activities over the next five years. Our objective is to inspire workplace safety through collaboration, education and compliance. We will make South Australian workplaces safe through trusted and respected regulation and our core values of professionalism, respect, integrity and service.

Our people are our greatest asset and we are dedicated to being the employer of choice for a contemporary and high performing workforce.

In a time of rapid change, our goal is to strengthen relationships with industry, collaborate with the community to promote 'safety through their eyes' and take action against non-compliance.

We are dedicated to being a centre of excellence. This includes strengthening and building our knowledge by working with global leaders to introduce new ideas for work health and safety in South Australia. We will share our extensive knowledge to train and upskill South Australian businesses and help them make more informed choices about workplace safety.

Going forward, we will continue to build and enable modern connectivity with industry by delivering proactive reporting and reducing the number of unsafe workplaces.



Our Plan sets a clear direction to ensure we are transparent in our objectives, guided in our decisions and accountable to the South Australian community. We will review and report on our progress by regularly publishing key performance data relevant to each of the goals set out in the plan.

I am confident the strategic approach outlined in this plan will enable SafeWork SA to achieve higher standards of work health and safety in South Australia, while maintaining the agility to respond to emerging risks.

A handwritten signature in black ink, appearing to read "Martyn Campbell".

Martyn Campbell
Executive Director, SafeWork SA

ABOUT US



SafeWork SA is a business unit in the Attorney-General's Department, under the portfolio of the Attorney-General, Minister for Aboriginal Affairs, Minister for Public Sector and Industrial Relations.

SafeWork SA administers legislation for South Australia's key work health, safety and workplace relations.

SafeWork SA works with the South Australian community through engaging with workers and their representatives, employers, unions, business representatives and industry sectors to enable positive health, safety and workplace relation outcomes.

WHAT WE DO



- We develop, reform, update and improve workplace legislation
- We promote and educate on work health and safety
- We grant licences and registrations
- We investigate workplace incidents and other work-related matters
- We make rules or standards and enforce work health and safety laws in SA
- We promote and monitor workplace safety compliance
- We handle complaints from the public about workplace safety

LEGISLATION WE ADMINISTER

Safety

- Work Health and Safety Act 2012 (SA)
- Work Health and Safety Regulations 2012 (SA)
- Dangerous Substances Act 1979
- Dangerous Substances (General) Regulations 2017
- Dangerous Substances (Fees) Revocation Regulations 2020
- Dangerous Substances (Dangerous Goods Transport) Regulations 2008
- Explosives Act 1936
- Explosives Regulations 2011
- Explosives (Fireworks) Regulations 2016
- Explosives (Fees) Revocation Regulations 2020
- Explosives (Security Sensitive Substances) Regulations 2021
- Petroleum Products Regulation Act 1995
- Petroleum Products Regulations 2008

Industrial Relations

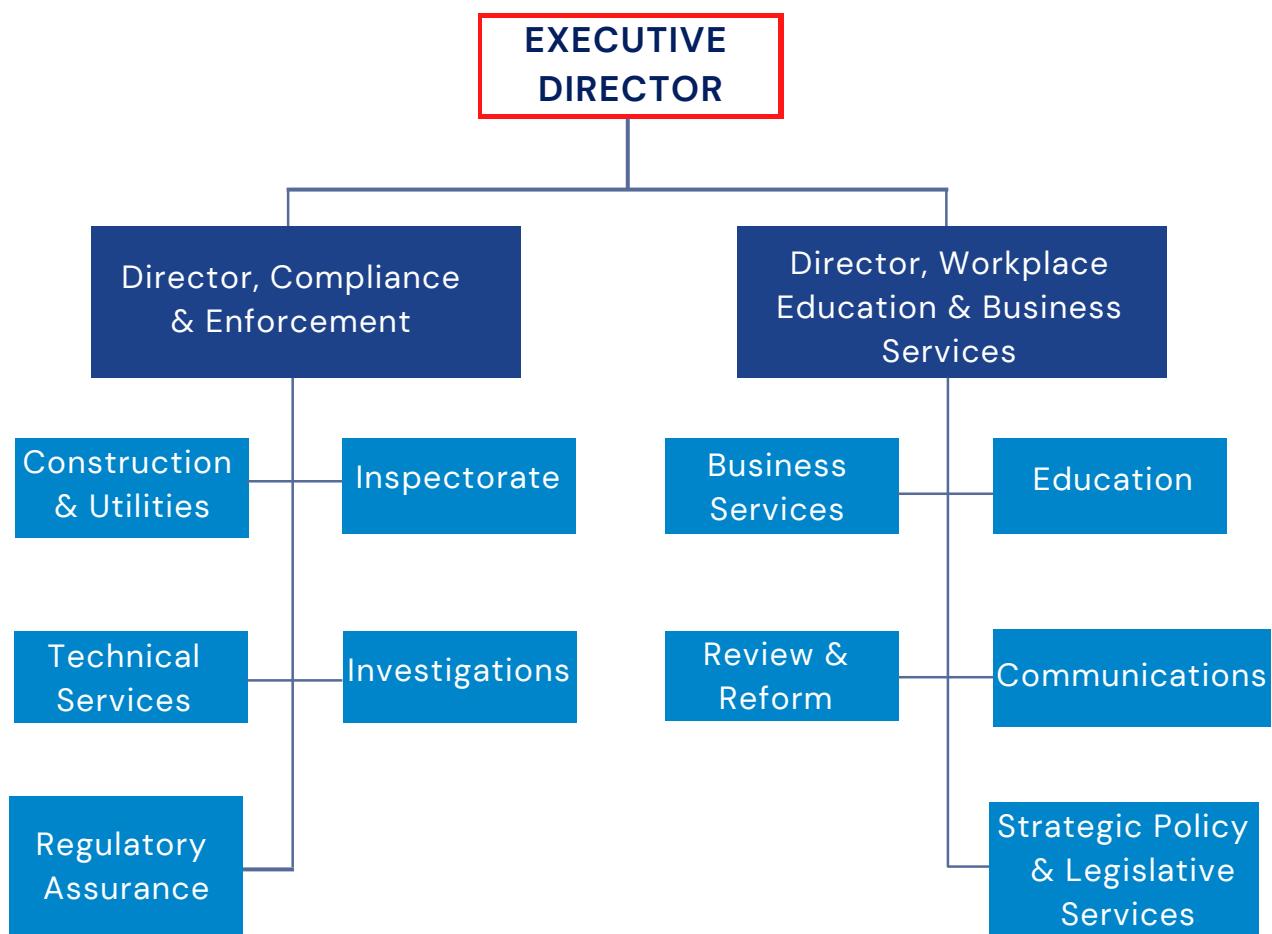
- Fair Work Act 1994
- Fair Work (Commonwealth Powers) Act 2009
- Fair Work (General) Regulations 2009
- Fair Work (Clothing Outworker Code of Practice) Regulations 2022
- Fair Work (Representation) Regulations 2009
- Holidays Act 1910
- Long Service Leave Act 1987
- Long Service Leave Regulations 2017
- Construction Industry Long Service Leave Act 1987
- Construction Industry Long Service Leave Regulations 2018
- Shop Trading Hours Act 1977
- Shop Trading Hours Regulations 2018
- Standard Time Act 2009
- Daylight Saving Act 1971
- Daylight Saving Regulations 2009
- Employment Agents Registration Act 1993
- Employment Agents Registration Regulations 2010

OUR STRUCTURE

SafeWork SA has two public facing functions, the Regulator and the Educator. Both have direct but separate reporting lines to the Executive Director, who oversees both units.

The Regulator arm of SafeWork SA has regulatory power to investigate workplace incidents and enforce work health and safety laws in South Australia.

The Educator arm of SafeWork SA provides advice and education on work health and safety, state-based industrial relations, and facilitates licences and registration for workers and plant.



OUR VISION

Leading contemporary regulation

OUR MISSION

To inspire workplaces to be safe through collaboration, education and compliance.

We will make South Australian workplaces safe by trusted and respected regulation through professionalism, respect, integrity and service.

OUR VALUES

Professionalism

Respect

Integrity

Service

OUR GOALS

Our People

To be the employer of choice for developing a contemporary workforce

Our Community

To promote the SafeWork SA brand as a trusted and intelligence-led Regulator who works collaboratively across industry

Centre of Excellence

To be a global leader in regulatory compliance theory and practise and work with stakeholders to transfer knowledge into healthy and safe workplaces

IT & Innovation

To create a mobile workforce and make it easy for people to interact with us

OUR GOALS

Our People - Our Community - Centre of Excellence - IT & Innovation

Our People

To be the employer of choice for developing a contemporary workforce



How we will do this

1. Develop people who reward and recognise collaboration across teams and agencies

- Build a team that strives to deliver and promote collaboration and knowledge sharing every day
 - Create teams that encourage diversity of thought and are prepared to build trusted relationships across the agency
-

2. Embed a high performance culture

- Develop people to be modern thinkers with a growth mindset, striving for excellence every day
 - Measure our across-agency performance by recognising and celebrating people who go above and beyond their core roles and teams
-

3. Create and embed succession plans to support our changing workforce

- Develop people who drive their own learning and development needs and who are courageous to ask for opportunities for growth
- Celebrate people who continually strive for high-performance outcomes by supporting their colleagues

OUR GOALS

Our People - Our Community - Centre of Excellence - IT & Innovation

Our Community

To promote the SafeWork SA brand as a trusted and intelligence-led Regulator who works collaboratively across industry



How we will do this

1. Collaborate with the community to promote 'safety through their eyes'

- Develop technology to engage in businesses self-reporting
- Provide accessible tools to the community to be mobile regulators — 'regulators and inspectors in your pocket'
- Develop an environment where transparency is encouraged and rewarded

2. Be more engaged and visible in the community

- Increase time spent in the community to learn about future safety challenges, obstacles and concerns
- Engage with and promote industry advocates in health and safety

3. Promote action taken against non-compliance

- Build the SafeWork SA brand to be seen as proactive in taking action against non-compliance and supportive of businesses that are advocates for 'doing the right thing'
- Collaborate with national and international agencies to build and promote global best practice in workplace health and safety

OUR GOALS

Our People - Our Community - Centre of Excellence - IT & Innovation

Centre of Excellence

To be a global leader in regulatory compliance theory and practise and work with stakeholders to transfer knowledge into healthy and safe workplaces



How we will do this

1. Create a dynamic education platform for businesses to leverage our knowledge and skills

- By utilising our extensive knowledge, we will create and promote training programs to upskill South Australian businesses
- We will collaborate with industry to build self-help tools to promote ongoing learning

2. Promote thought leadership through external education

- We will share our extensive knowledge with businesses to help them make more informed choices about workplace safety
- Our people will engage frequently with businesses to share our extensive knowledge learned from global connections

3. Leverage knowledge from global leaders

- We will strengthen and build our knowledge by collaborating with global leaders to introduce new ideas and key initiatives to promote best practice in workplace safety in South Australia

OUR GOALS

Our People - Our Community - Centre of Excellence - IT & Innovation

IT & Innovation

To create a mobile workforce and make it easy for people to interact with us



How we will do this

1. Develop intelligence-led online tools to enable businesses to be self-sustainable

- Make it easy for industry to engage and work with us through our commitment to new technologies and advancements
- Simplify our technological processes to promote greater use among SafeWork SA staff and South Australian workplaces

2. Utilise available data to build knowledge and services

- Learn from others around the globe about how they utilise data to benefit workplace health and safety
- Connect with government agencies to promote data sharing, improve efficiency and build connectivity across agencies and businesses

3. Develop and deliver intelligence-led campaigns

- Utilise our extensive data and global-led intelligence to build engaging and proactive campaigns to support businesses in South Australia to be leaders in workplace health and safety

OUR VALUES

Professionalism

- Show initiative
- Lead by example
- Be proactive and identify improvements
- Identify when to consult stakeholders
- Ensure there is available information for someone to fill your role
- Personal accountability for getting your work done to a high standard



Respect



- Listen to the wishes and opinions of others
- Recognise the value other people can add
- Communicate clearly and in a timely manner
- Respect our customers and the value they can add
- Value and acknowledge the work and effort of others

OUR VALUES

Integrity



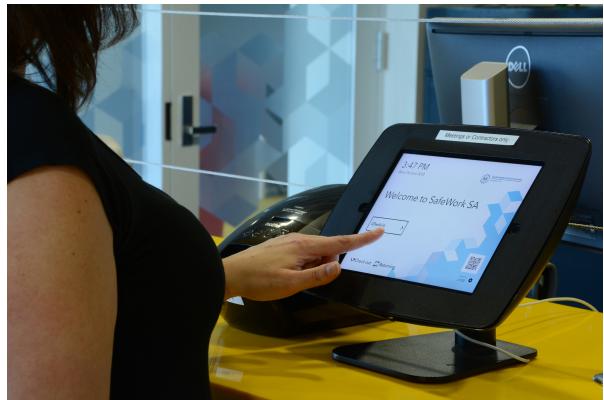
- Treat all people fairly and honestly
- Walk the talk, live and breathe Safework SA
- Make decisions openly, transparently and confidently

Service

- Focus on achieving positive and sustainable outcomes
- Maintain a consistent approach based on our values
- Provide quality and accurate service in a timely and courteous manner
- Make your interactions 'value add'



REPORTING OUR PROGRESS



Reporting on the progress we make towards achieving our success measures ensures we remain transparent and accountable to our stakeholders and customers on actions taken and outcomes achieved.

We will regularly publish key performance data relevant to the each of the goals set out in the plan.

Annual reporting of performance against qualitative measures, including stakeholder, industry and customer satisfaction service delivery outcomes.

We encourage feedback from workers and industry to improve our performance.

All published documentation will be available on <https://www.safework.sa.gov.au>.



Independent Commissioner Against Corruption 2018 Evaluation of the practices, policies and procedures of the regulator arm of SafeWork SA

SafeWork SA established an executive led Steering Committee (Steering Committee) to provide strategic executive governance over the implementation of the recommendations contained in the Evaluation Report. The Steering Committee consisted of the Executive Team of SafeWork SA and Senior Executives from Department of Treasury Finance, Consumer and Business Services and the Environmental Protection Authority. The Steering Committee was established in May 2019 until 23 June 2022 and met 17 times during this period.

The Steering Committee agreed to close the ICAC Evaluation project at the end of the 2022 financial year. SafeWork SA advised the current Independent Commissioner Against Corruption of the completion of the project to address the recommendations in July 2022.

The Committee noted some components of the recommendations are still being actioned, but these will continue to be managed by the Director, Workplace Education and Business Services. These have been identified in the table provided as Attachment 1.

Information has also been included where further work has occurred on the recommendations following their initial completion.



Number	Recommendation	Description and status of project addressing recommendation
1.	SafeWork SA changes its policies regarding communication between the educator arm and the regulatory arm to ensure that the regulatory arm is provided with all information about work health and safety risks or potential breaches of the WHS Act.	<p>Communication between the Educator and Regulator</p> <p>The interaction model was developed and supported by a Policy and Procedure that determined the principles of interaction between the Educator and Regulator.</p> <p>The Policy and Procedure determines:</p> <ul style="list-style-type: none">o the role and function of the Regulator and Educatoro the sharing of information between the Regulator and Educatoro when matters are to be referred from the Educator to the Regulatoro the process for a referral of a matter from the Educator to the Regulator. <p>The trial of the interaction model was undertaken for six months from August 2021– February 2022. The trial aimed to assist in determining whether the proposed model meets the intention of the recommendation. The trial model maintained a separation between the Educator and Regulator but required matters identified that presented an immediate or imminent risk of serious injury, would immediately be referred by the Educator to the Regulator for action.</p> <p>Matters that the Educator identify require action by a PCBU will be referred to the Regulator in cases where the PCBU does not adequately rectify them.</p> <p>The trial was evaluated and a report recommending a change in operating model is implemented.</p> <p>Recommendation closed following sign off at Meeting 17 – June 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
2.	SafeWork SA improves the systems of communication between the Help Centre and the inspectorate to ensure that Help Centre staff can quickly and effectively contact members of the inspectorate.	Internal Communications Policy An internal Communications Policy was implemented in October 2020 that identifies how communication will occur within SafeWork SA. The Policy includes the various channels of communication, their intended purpose, and the roles and responsibilities of staff in accessing and sharing information. Recommendation closed following sign off at Meeting 12 – November 2020
3.	SafeWork SA develops and implements a strategic plan.	Strategic Plan A Strategic Plan has been developed and was launched on 19 March 2019. <i>The Strategic Plan for 2023-27 was launched in October 2022.</i> Recommendation closed following sign off at Meeting 01 – May 2019



Number	Recommendation	Description and status of project addressing recommendation
4.	SafeWork SA conducts a functional analysis of all the work that the organisation should undertake, with a view to identifying the core business functions of the organisation.	<p>Workforce Plan</p> <p>SafeWork SA will engage a consultant to undertake this work now that the transition to the Attorney-General's Department and the new Strategic Plan have been developed. The Workforce Plan will include a functional analysis component.</p> <p><i>Further work on this recommendation was dependant on the above actions being completed. SafeWork SA sought to close this recommendation noting that this information is known, but not formally documented. It was expected that some changes will occur within the structure of SafeWork SA following the release of the 2022-23 State Budget along with election commitments made by the Government which include new work for SafeWork SA to perform.</i></p> <p><i>It was determined that the Steering Committee to close the recommendation in considering the above. Work is continuing on this recommendation as it is an ongoing matter.</i></p> <p>Recommendation closed following sign off at Meeting 17 – June 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
5.	SafeWork SA makes a clear statement on its website about what action it will take in respect of certain risks, incidents, and complaints	<p>Statement for Website</p> <p>A statement was published that clearly outlined what matters SafeWork SA will address and the ways in which they will be addressed.</p> <p>Information also includes how the enforcement of WHS is undertaken and what compliance and enforcement tools they may use, including notices, prosecutions and enforceable undertakings.</p> <p>This information has been integrated into SafeWork SA's website within key sections relating to SafeWork SA's role and the role of Inspectors.</p> <p>Recommendation closed following sign off at Meeting 04 – September 2019.</p>



Number	Recommendation	Description and status of project addressing recommendation
6.	<p>SafeWork SA creates, implements, and maintains a complete governance framework by:</p> <ul style="list-style-type: none">• establishing the systems, structures, and documents necessary for good governance• documenting the way in which each of those systems, structures and documents interacts with the other systems, structures, and documents• identifying the person or persons responsible for each component of the governance framework, and• being accountable for the ongoing operation of the governance framework.	<p>Governance Framework</p> <p>A new Governance Framework has been developed that meets the requirements of the recommendation.</p> <p>The Governance Framework:</p> <ul style="list-style-type: none">○ establishes all the systems, structures, and documents necessary for good governance○ documents the way in which each of those systems, structures and documents interact with the other systems, structures, and documents○ identifies who is responsible for each component of the governance framework○ establishes accountability for the ongoing operation of the Governance Framework. <p>Recommendation closed following sign off at Meeting 13 – March 2021.</p>



Number	Recommendation	Description and status of project addressing recommendation
7.	<p>Following the establishment of an appropriate governance framework, SafeWork SA prioritises the creation of a policy framework which:</p> <ul style="list-style-type: none">• details the process for the identification, creation, consultation, approval, and implementation of every policy document• establishes a system for the regular review of each policy document• sets out the way policy documents will be stored and how and who may have access to the policy documents• identifies the hierarchy of policy documents and how they relate to each other• allocates responsibility for each task specified in the policy framework, and• indicates who has authority to approve new policy documents and implement changes.	<p>Policy Framework</p> <p>The Policy Framework was implemented and established a system to manage all policies and procedures in SafeWork SA. The framework provides a detailed structure for creating, reviewing, and approving policy documents.</p> <p><i>SafeWork SA has implemented 28 Policies, 74 Procedures and three Manuals under the Policy Framework.</i></p> <p>Recommendation closed following sign off at Meeting 04 - September 2019.</p>



Number	Recommendation	Description and status of project addressing recommendation
8.	SafeWork SA establishes a central repository for policy documents accessible by all staff which contains only current, accurate and approved policy documents. Draft documents and earlier versions of documents should be stored elsewhere.	<p>Central Repository</p> <p>The development of a central repository for all current policy documents was completed in 2019. Collating of all current policy documents was completed as part of this process.</p> <p>Recommendation closed following sign off at Meeting 01 – May 2019.</p>
9.	SafeWork SA improves its triaging practices by: <ul style="list-style-type: none">• conducting random audits of triaging decisions to increase oversight• identifying those matters that are not within SafeWork SA's statutory jurisdiction• identifying those matters that could be best dealt with by some other agency and requesting the reporter to direct the matter to that agency, and• documenting a clear process for triaging and providing instruction and education to team leaders to ensure consistency in the way matters are triaged when they reach team leaders.	<p>Triaging Procedure</p> <p>A triage procedure was implemented in August 2019. The Triage Procedure set out the roles, responsibilities, and processes applicable to the triaging of reported complaints or notifiable incidents in accordance with all legislation administered by SafeWork SA. The Procedure assists SafeWork SA employees to facilitate the timely, appropriate, and efficient triaging of all reports complaints and notifiable incidents.</p> <p><i>After two years in operation, the Triage Procedure is in the process of being reviewed to identify how to further streamline the process, and to better incorporate matters that do not fit the current triage model. The aim of the review is to ensure priority levels assigned to matters are accurate and any deviation from the priority level is recorded accurately.</i></p> <p>Recommendation closed following sign off at Meeting 03 – June 2019.</p>



Number	Recommendation	Description and status of project addressing recommendation
10.	SafeWork SA establishes clear guidelines regarding the minimum standard of information, which is to be recorded about an inspection, including the information which is to be recorded where the inspector has decided not to issue a notice.	<p>Minimum Standard of Information</p> <p>This recommendation was addressed by the InfoNet improvement project and within the Compliance and Investigations Manual. InfoNet is SafeWork SA's electronic casework management system.</p> <p>Improvements were made to InfoNet to ensure a minimum amount of information is collected about a site visit. Changes were also made to the worksite visit activity in InfoNet to ensure inspectors include the reasons why they decided not to issue a notice.</p> <p>Recommendation closed following sign off at Meeting 15 – November 2021</p>
11.	SafeWork SA requires its inspectors to prepare inspection reports in electronic form rather than in hardcopy.	<p>Electronic Inspection Reports</p> <p>The implementation of an improved the Electronic Inspection Report was finalised in August 2022. The new Report is aimed at improving the collection of information. Inspection Reports are issued in electronic copy only. Hard copy inspection reports are no longer used.</p> <p>Recommendation closed following sign off at Meeting 17 – June 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
12.	SafeWork SA requires inspectors to keep an accurate and complete record of all the statutory powers that the inspectors have exercised (including by reference to the specific sections and sub-sections) and the reasons for exercising those powers. The record is to be stored electronically in a form which allows data to be easily extracted	<p>Record of Statutory Powers - Inspectors</p> <p>This recommendation was addressed by the InfoNet improvement project. Improvements were made to InfoNet to capture the use of powers exercised by Inspectors and the reasons for exercising the powers. Reports can be extracted to report on the specific powers used.</p> <p>Recommendation closed following sign off at Meeting 14 – June 2021</p>
13.	SafeWork SA requires inspectors to upload information directly relevant to a workplace inspection to the appropriate electronic system within two business days after the completion of the inspection unless there are exceptional circumstances.	<p>Upload of information within 2 business days</p> <p>This recommendation is being addressed by the InfoNet improvement project to address the requirement to upload information about a workplace visit to InfoNet within two business days.</p> <p><i>Currently 90% of all activities are recorded in the system within two days or less. There are system changes currently being developed to put controls to activities to be entered in InfoNet within two days of the activity occurring and developing an appropriate recording process to identify entries outside the two day timeframe.</i></p> <p>Recommendation closed following sign off at Meeting 17 – June 2022</p>



14.	<p>SafeWork SA requires, on an annual basis and within one week of a change of circumstances, all staff to sign a statutory declaration disclosing direct and indirect private interests and real, potential, and perceived conflicts of interest. SafeWork SA should also require new staff to sign such a statutory declaration on appointment.</p>	<p>Conflict of Interest</p> <p>A comprehensive Conflict of Interest Framework was implemented in July 2019. The framework includes:</p> <ul style="list-style-type: none">• Conflict of Interest Policy• Conflict of Interest Procedure• Declaration Form• Training Resources <p>Requirements of the Conflict of Interest Policy mandates that conflict be declared:</p> <ul style="list-style-type: none">• annually by all SafeWork SA staff• by new staff on commencement with SafeWork SA, and• when a staff member's circumstances change (e.g., they intend to commence outside employment, or they identify a new/undeclared relevant personal relationship or financial interest). <p>All employees are required to successfully complete mandatory training to ensure they are aware of their responsibilities in reporting and managing conflicts.</p> <p><i>An annual declaration of Conflicts of Interest was implemented. This was first completed in 2022. All staff are now required to action an annual declaration..</i></p> <p><i>Managers were retrained in the requirements to manage conflicts in particular perceived conflicts.</i></p> <p>Recommendation closed following sign off at Meeting 03 – June 2019</p>
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Number	Recommendation	Description and status of project addressing recommendation
15.	SafeWork SA establishes its own gifts and benefits policy which requires all staff to report all gifts and benefits offered, accepted, or rejected on its own register. The register should be made available to the public for inspection at any time.	<p>Gifts and benefits register</p> <p>Department of Treasury and Finance (DTF) updated their Gifts and Benefits Policy, Procedure and Form which SafeWork SA staff are required to comply with.</p> <p>SafeWork SA worked with DTF to ensure that SafeWork SA's requirements were outlined in the documents. The Register is now able to capture information from SafeWork SA employees and is reported on at the monthly meeting of the SafeWork SA Governance Risk and Audit Committee.</p> <p><i>SafeWork SA transitioned to AGD on 1 July 2022 and adopted the requirements of AGD to declare gifts and benefits. The form to declare gifts and benefits has been updated to reflect the requirements.</i></p> <p>Recommendation closed following sign off at Meeting 01 – May 2019</p>



Number	Recommendation	Description and status of project addressing recommendation
16.	SafeWork SA ensures that when allocating new case files, to the extent possible, the inspector who is to be allocated the new case file was not the last SafeWork SA inspector to attend at the relevant workplace	<p>Workload Allocation and Management</p> <p>A new process for allocating workload to inspectors and investigators and how workload will be managed was implemented.</p> <p>A Procedure was developed to provide a clear set of factors that must be considered when allocating work to an Inspector.</p> <p>An electronic tracking system for the allocation of work was developed and tested to support the Procedure.</p> <p><i>A recent request to have this process reviewed and amended was approved and work is now commencing to streamline the process.</i></p> <p>Recommendation closed following sign off at Meeting 12 – November 2020</p>



Number	Recommendation	Description and status of project addressing recommendation
17.	SafeWork SA changes its practices to ensure that its proactive activities are driven by intelligence it has received; an assessment of the risks; and research regarding the way SafeWork SA will assist workplaces to achieve long term adherence to work health and safety laws	<p>Intelligence Proactive Campaign</p> <p>A comprehensive policy was implemented to create a framework for proactive compliance campaigns and audit programs.</p> <p>Supporting procedures have also been implemented that provide a large set of tools to assist in identifying, planning, and undertaking proactive campaigns to ensure there is a standardised process for all proactive campaigns and audit programs.</p> <p>SafeWork SA continues to work closely with ReturnToWorkSA SA (RTWSA) to obtain clearer and more up to date data to assist with proactive compliance campaigns.</p> <p>Recommendation closed following sign off at Meeting 11 – September 2020</p>
18.	SafeWork SA conducts a greater proportion of its proactive workplace visits as unannounced visits	<p>See recommendation 17.</p> <p>Recommendation closed following sign off at Meeting 11 – September 2020</p>



Number	Recommendation	Description and status of project addressing recommendation
19.	<p>SafeWork SA establishes a quality assurance program which includes:</p> <ul style="list-style-type: none">• on a quarterly basis:<ul style="list-style-type: none">◦ an audit conducted by the inspector's team leader of a selection of the notices or inspection reports prepared by each inspector◦ a review conducted by a small group of team leaders of a selection of notices or inspection reports which have been audited by a different team leader◦ each team leader accompanying each inspector in his or her team on a workplace visit• an audit of all the work undertaken by randomly selected staff members exercising discretionary statutory powers during a one month period.	<p>Quality Assurance Program</p> <p>A Quality Assurance Framework was approved in August 2022 that includes on a quarterly basis an audit of notices and inspection reports prepared by inspectors and a review by Team Leaders of notices and inspection reports which had been audited by different Team Leaders.</p> <p>Recommendation closed following sign off at Meeting 17 – June 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
20.	SafeWork SA implements a system for identifying the location of inspectors during working hours by installing Global Positioning System navigation into SafeWork SA's fleet of government vehicles	GPS Installation The installation of GPS (telematics) system in all SafeWork SA's Fleet vehicles was implemented in 2020. The Fleet Use and Management Policy and Procedure to support the use of telematics was developed. Telematics monitoring commenced on 16 April 2020. Recommendation closed following sign off at Meeting 09 – May 2020
21.	SafeWork SA sends two inspectors to each workplace inspection. Pairs should be regularly rotated and inspectors from different teams or regulatory agencies should attend together where appropriate.	Two-Up Visits A framework has been implementation within the Compliance and Investigations Manual to determine when a two up site visits by inspectors occurs. Recommendation closed following sign off at Meeting 09 – May 2020



Number	Recommendation	Description and status of project addressing recommendation
22.	SafeWork SA provides inspectors with body worn cameras for use when attending workplaces	<p>Body Worn Cameras</p> <p>SafeWork SA trialled the use of body cameras for inspectors and investigators for a three month period from 28 September 2020 until mid-December 2020.</p> <p>The trial involved the use of body cameras at all site visits and at any time a statutory power may be exercised.</p> <p>A group of volunteer inspectors and investigators participated in the trial to enable an evaluation to be undertaken to determine the value of providing all Inspectors and Investigators with body worn cameras.</p> <p>An evaluation report of the trial was undertaken to assess the trial and make recommendations on the use of body worn cameras.</p> <p>In February 2022, a decision was made by the then Government to implement the use of body worn cameras in certain circumstances.</p> <p><i>Work is currently underway to implement Body Worn Cameras in early 2023. The implementation will be supported by a Policy, Procedure and information sheets along with training for all Compliance and Enforcement Directorate staff.</i></p> <p>Recommendation closed following sign off at Meeting 16 – April 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
23.	SafeWork SA prepares its own annual report for tabling in Parliament which reports on its operations, including the exercise of statutory powers, the number of internal and external reviews conducted and the outcomes of those reviews.	<p>Annual Report and additional Report</p> <p>SafeWork SA information will continue to be incorporated into the Annual Report of its lead Department in accordance with the requirements for all Annual Reports.</p> <p>SafeWork SA is now publishing a separate document annually, which provides a comprehensive overview of SafeWork SA operations and activities undertaken for the financial year. The first Activity report was published in November 2019.</p> <p>Recommendation closed following sign off at Meeting 01 – May 2019</p>
24.	SafeWork SA continues to develop a collaborative investigation approach which allows investigators to draw on the expertise of inspectors.	<p>Internal Expert Register</p> <p>An internal expert's register was developed to assist SafeWork SA in identifying suitable persons to assist in complex incidents, investigations, and prosecutions.</p> <p>Recommendation closed following sign off at Meeting 01 – May 2019</p>



Number	Recommendation	Description and status of project addressing recommendation
25.	SafeWork SA requires investigators to keep an accurate and complete record of all the statutory powers that the investigators have exercised (including by reference to the specific sections and sub-sections) and the reasons for exercising those powers. The record is to be stored electronically in a form which allows data to be easily extracted.	Record of Statutory Powers – Investigators This recommendation was addressed by the InfoNet improvement project. Improvements were made to InfoNet to capture the use of powers exercised by Inspectors and the reasons for exercising the powers. Reports will be able to be extracted to report on the specific powers used. Recommendation closed following sign off at Meeting 14 – June 2021
26.	SafeWork SA puts in place a process or procedure whereby at the commencement of an investigation the investigator appointed to carry out the investigation be accompanied by an inspector on at least the first visit to the workplace.	Initial Response Procedure The initial response procedure has been updated in accordance with the Policy Framework to set out the actions SafeWork SA Inspectors, and Investigators, will take in responding to notifiable incidents and accidents. Recommendation closed following sign off at Meeting 02 June 2019 and again at Meeting 04 – September 2019
27.	That SafeWork SA provides investigators with body worn cameras for use when attending workplaces.	See Recommendation 22 Recommendation closed following sign off at Meeting 16 – April 2022
28.	That SafeWork SA implements the 16 recommendations contained in the CSO Advice applicable to SafeWork SA's practices, policies, and procedures, to the extent that those recommendations have not already been implemented.	Completion of CSO Recommendations There were 18 recommendations contained in the CSO advice. All 18 recommendations have been completed. Recommendation closed following sign off at Meeting 14 – June 2021



Number	Recommendation	Description and status of project addressing recommendation
29.	<p>SafeWork SA reviews its evidence management practices in its regional offices with a view to ensuring that:</p> <ul style="list-style-type: none">• all offices have an evidence storage facility which is secure• access to each evidence storage facility is restricted, and• all dealings with evidence stored in the facility are documented in accordance with the standard operating procedure.	<p>Evidence Management Practice</p> <p>All regional office evidence facilities were reviewed to ensure there are secure evidence storage facilities.</p> <p>A Physical Evidence Storage Procedure has been implemented to ensure a rigorous process for the management of physical evidence.</p> <p>This Procedure is supported by the Digital Evidence Storage Procedure specifically for digital evidence captured by SafeWork SA digital evidence storage system Axon Evidence.</p> <p>Recommendation closed following sign off at Meeting 15 – November 2021</p>
30.	<p>SafeWork SA develops standard processes for all recruitment and selection which meet the mandatory minimum requirements for the South Australian Public Sector and include additional pre-employment screening as determined through an assessment of the risks associated with the role.</p>	<p>Recruitment and Selection</p> <p>A comprehensive Policy and Procedure was implemented in May 2020 that established a structured recruitment process for SafeWork SA.</p> <p>This process aligns with the Commissioner for Public Sector Employment requirements, but is also tailored to SafeWork SA, noting the need for Inspectors to have necessary industry experience and technical areas requiring specialist qualifications.</p> <p>Recommendation closed following sign off at Meeting 10 – June 2020</p>



Number	Recommendation	Description and status of project addressing recommendation
31.	SafeWork SA provides recruitment training to all staff who are, or will be, members of a recruitment panel for a role within SafeWork SA.	Recruitment and Selection Training All Managers and persons who have been identified that may participate in a recruitment process have been trained in the recruitment and selection Policy and Procedure. Recommendation closed following sign off at Meeting 10 – June 2020
32.	SafeWork SA rotates new staff recruited to inspector roles through the separate industry teams as part of the inspector induction program	Rotation of new inspectors A rotation model has been approved as an ongoing component of the Inspector Development Program. The model supported by a Procedure, determines that new Inspectors will rotate through the teams in the Compliance and Enforcement Directorate along with the Help Centre to assist in their learning and experience in the various industry based teams. Recommendation closed following sign off at Meeting 12 – November 2020.



Number	Recommendation	Description and status of project addressing recommendation
33.	<p>SafeWork SA provides training as part of its inspector induction program as well as to all existing inspectors and investigators which addresses:</p> <ul style="list-style-type: none">• grooming and capture• managing competing pressures at workplaces, and• private interests and conflicts of interests. <p>Private interests and conflicts of interest training should be provided to all staff.</p>	<p>Training for staff</p> <p>A training package for grooming and capture was developed and has been incorporated into the Inspector Development Program. All Inspectors and Advisors from the Educator arm are also required to undertake this training.</p> <p>Training on managing private interests and conflicts of interests has been implemented throughout SafeWork SA with all staff being required to attend and has been incorporated into the Inspector Development Program.</p> <p>A training package addressing Balanced and Ethical Decision Making' has been developed and is a mandatory training session for all staff in the Compliance and Enforcement Directorate. All Managers and Team Leaders across SafeWork SA are also required to complete the training.</p> <p>Recommendation closed following sign off at Meeting 14 – June 2021</p>
34.	<p>SafeWork SA ensures that, during the field based development phase of the inspector induction program and for the first six months following the unconditional appointment of an inspector under the WHS Act, each recruit or inspector receives constructive comments within 48 hours about the inspection reports and notices that the recruit or inspector has prepared.</p>	<p>New Inspector feedback from Managers</p> <p>The trial of incorporating feedback within 48 hours has been incorporated into the Inspector Development Program through their critical competencies record required to be completed as part of their training.</p> <p>Feedback for new inspectors from their Team Leaders, Principal Inspectors and Managers on their activities undertaken in relation to preparing notices and inspection reports is now captured within the record on an ongoing basis.</p> <p>Recommendation closed following sign off at Meeting 12 – November 2020.</p>



Number	Recommendation	Description and status of project addressing recommendation
35.	SafeWork SA provides management training to all existing managers and team leaders and to any persons who commence in a management role within SafeWork SA.	<p>Manager and Team Leader Training</p> <p>The Team Leader training program and Manager Training Program is now well established in SafeWork SA.</p> <p>The training is based on the leadership skills required in leadership and management roles but tailored to the safety requirements of SafeWork SA. The Manager and Team Leader Training modules have been developed and tailored to SafeWork SA's needs.</p> <p>These programs remain an ongoing requirement for all new Managers and Team Leaders in the future.</p> <p>Recommendation closed following sign off at Meeting 08 – March 2020.</p>
36.	SafeWork SA provides relevant training to all staff who commence in a new role within SafeWork SA, including those staff who have moved from another role within SafeWork SA.	<p>Onboarding</p> <p>An onboarding procedure and supporting documents were implemented in December 2019.</p> <p>All SafeWork SA employees responsible for the onboarding and induction are required to adhere to the procedure.</p> <p>The onboarding procedure applies to new staff and to those moving to alternative roles within SafeWork SA.</p> <p>Recommendation closed following sign off at Meeting 06 – December 2019.</p>



37.	<p>SafeWork SA provides written debriefs and regular training to assist staff members to learn from the outcomes of:</p> <ul style="list-style-type: none">• investigations and prosecutions• experiences in court• internal and external reviews, and• other comments received by SafeWork SA	<p>Debrief and Learning Framework</p> <p>The development of a framework has been finalised that determines the scope and method that will be undertaken to debrief staff and assist them in learning from outcomes from various matters.</p> <p>This will include learning and development for Inspectors/Investigators from:</p> <ul style="list-style-type: none">• investigation and prosecutions• experiences and outcomes from court• internal and external reviews• other comments received by SafeWork SA <p>The framework was trialled to determine whether it captures the required information prior to it being finalised.</p> <p>Recommendation closed following sign off at Meeting 16 – April 2022</p> <p>Functional Working Group</p> <p>A formal debriefing function was established by way of a functional working group.</p> <p>The group is comprised of Team Leaders, Inspectors and Investigators and will meet regularly to share information.</p> <p>The functional working group will assist in sharing information by providing:</p> <ul style="list-style-type: none">• a standardised forum for learning, development and sharing of knowledge.• terms of reference on how the group will be managed, facilitated, and conducted• an outline of standard areas that will be covered in the forum
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Number	Recommendation	Description and status of project addressing recommendation
		<ul style="list-style-type: none">• an outline of the behaviours expected and managed within the forum• an agenda will be focused on learning, development, and knowledge sharing. <p>The Forum is supported by an Inspector Forum Committee to manage the operation of the Forum is to ensure learning outcomes are known.</p> <p>Recommendation closed following sign off at Meeting 06 – December 2019.</p>
38.	SafeWork SA improves the audit capacity of its electronic systems by incorporating a robust audit system into any upgrades to the existing InfoNET and Joget systems, as well as making a robust audit system a prerequisite for the procurement of any future software that captures or holds sensitive information.	<p>Audit Capacity of electronic systems</p> <p>A review of the functionality of InfoNET along with the cost to provide support and maintenance InfoNet was undertaken in 2020.</p> <p>As the system cannot provide the functionality or flexibility required, the system will need to be replaced in order to ensure SafeWork SA can provide a modernised service to the public.</p> <p>To address this, SafeWork SA prepared and progressed a business case for a replacement system to Department of Treasury and Finance (DTF) for consideration.</p> <p>Approval to close this recommendation was given as the requirements for a new system will include a robust audit capacity tailored to SafeWork SA needs, however as this process will take a significant period of time.</p> <p>Recommendation closed following sign off at Meeting 16 – April 2022</p>



Number	Recommendation	Description and status of project addressing recommendation
39.	SafeWork SA provides all staff with training about the importance of maintaining the confidentiality of sensitive information; the appropriate way of dealing with sensitive information; and the way potential misuse of sensitive information should be reported.	<p>New Training – Confidential and Sensitive Information</p> <p>A training package was developed called 'Maintaining the confidentiality of sensitive information' that is mandatory for all SafeWork SA staff to complete.</p> <p>Training was completed in March-April 2022.</p> <p>Recommendation closed following sign off at Meeting 16 – April 2022.</p>



SafeWork SA Legal Review

In 2017 Special Counsel to the Crown Solicitor conducted a comprehensive review of the investigation and prosecution arrangements at SafeWork SA.

The review resulted in the preparation of legal advice and 18 recommendations.

The Crown Solicitor's Office (CSO) Advice was prepared by a senior prosecutor who was engaged as Special Counsel. She was 'tasked with reviewing the arrangements within SafeWork SA and the CSO for the investigation and prosecution of offences under the WHS Act in order to identify any areas for improvement'.

The review was not required to review the reasons for the failure of any particular prosecutions.

The CSO Advice contained 18 recommendations all of which were accepted by the government.

All recommendations have been addressed and are provided in Attachment 1.

Information has also been included where further work has occurred on the recommendations following their initial completion.



Number	Recommendation	Response
1.	<p>That all SafeWork SA personnel involved in investigating incidents ought to immediately receive appropriate foundational skills training in investigations. It is important that this training be given with reference to the legislative framework established by the <i>Work Health and Safety Act 2012</i> (WHS Act) and what is required to prove offences under that Act. Essential components of the training are:</p> <ul style="list-style-type: none">a. application of the s 155 and 171 compulsive powers in a practical context;b. conducting interviews;c. experts - when, why, who, how;d. what is admissible evidence.	<p>SafeWork SA partnered with Charles Sturt University (CSU) to deliver an investigations training program which provided a number of SafeWork SA employees to deliver components of the investigation training program. The SafeWork SA employees are internal trainers who have the skills and training tools to deliver the program to new and existing staff in SafeWork SA. The revised program was delivered to new employees recruited in the Regulator as at 1 July 2018.</p> <p>This program has formed part of the Inspector Development Program which is mandatory for all new SafeWork SA employees.</p> <p>The program has now been in operation for three years. As part of the continuous development and improvement the program is reviewed at the end of each program to understand and assess if the program is achieving the intended outcomes of the recommendation.</p> <p>This program will continually be subject to ongoing development and enhancement, which will include the implementation of a robust and regular cycle focussed on reinforcing key foundational knowledge and skills for all SafeWork SA Inspectors and Investigators.</p> <p>Concurrent with this work, all existing inspectors, investigators and workplace advisors attended a two day training course in root cause analysis delivered by Safety Wise utilising Incident Cause Analysis Method (ICAM). This training is industry standard root cause analysis training used by most construction companies and nearly all mining companies. This has been incorporated into the future training program for SafeWork SA.</p>



OFFICIAL

Number	Recommendation	Response
		<p><i>The contract with CSU was a five year contract, which has now expired.</i></p> <p><i>In 2021-22 – SafeWork SA internal trainers trained in delivering the Investigations Management Model conducted the training.</i></p> <p><i>SafeWork SA is looking at the future delivery of this program following a recent procurement process.</i></p> <p>This recommendation was closed on 17 January 2018</p>
2.	It would be beneficial if SafeWork SA investigations that are currently under way but not yet referred for legal advice were peer reviewed.	<p>A review was conducted of all SafeWork SA matters held by the investigation team in accordance with this recommendation at the time the review was released. The work was completed in September 2017 to determine what further investigations were required and which matters were potentially suitable for referral to the Crown Solicitor's Office.</p> <p>This work has been completed and was confirmed by the Manager, Investigations at that time, in March 2019.</p> <p>This recommendation was closed in March 2019.</p>

OFFICIAL



Number	Recommendation	Response
3.	<p>A training framework be developed, which identifies future and current training requirements, and for whom, for the ongoing delivery of training in relevant aspects of investigating and prosecuting breaches of the work health and safety laws.</p>	<p>A holistic training framework has been developed with consideration of current and future training requirements for SafeWork SA personnel (investigations and inspectorate). The framework identified and prioritised each section of the training. The following areas have been developed and regularly reviewed:</p> <ul style="list-style-type: none">● SafeWork SA Induction● Foundational Program (new Investigators and Inspectors) – this covers:<ul style="list-style-type: none">- Inspector Development Program- CSU Training- Technical Training- Critical Competency Record- Rotation of Inspectors/Investigators● Statement Training● Field Notebook Training● Principal Inspector Program● Team Leader Program● Manager Program <p>This further piece of work will need to occur in identifying and determining how ongoing training and refresher training will occur for investigators and inspectors in SafeWork SA.</p> <p>This recommendation was closed on 17 January 2018</p> <p><i>Since this recommendation was closed, refinement of each component of the training framework occurs and is continuously reviewed following training courses. Refresher training for inspectors and investigators forms part of the framework.</i></p>



Number	Recommendation	Response
4.	SafeWork SA continues with its review of the current staffing arrangements of the investigation team and any proposals as to classification.	<p>A revised investigation team structure was developed, approved and implemented. The objective of this new structure was to ensure that:</p> <ul style="list-style-type: none">• it aligned with other investigations teams across Government• the appropriate skills, experience and knowledge was clearly articulated and outlined in the job description• the 'right' people are appointed to the role of investigator. <p>The revised structure reflects the identification of baseline skills assessed as being required for investigators. The recruitment and selection process has shortlisting criteria to assess if the applicant has the baseline skills required for the role.</p> <p>This recommendation was closed in March 2018.</p>
5.	That there be an overarching review of current SafeWork SA procedures and practices relating to identifying which incidents will be the subject of an initial response, by whom, and what will be done	<p>A procedure has been developed for how SafeWork SA to manage initial response to incidents. This procedure outlines the criteria, procedure and responsibilities for SafeWork SA inspectors and investigators required to attend at incident scenes.</p> <p>This recommendation was closed in August 2019.</p> <p><i>The Initial Response Procedure was updated again since closure of the recommendation. The Procedure determines the actions that must be taken prior to attending an incident scene, arrival and at the scene, prior to leaving the scene and returning to SafeWork SA, including case conference.</i></p>



Number	Recommendation	Response
6.	Implementation of a rigorous case management and review regime for the management and review of investigations from the point of notification to conclusion. The regime should involve inspectors, investigators, managers, and legal advisers, and at relevant points, the Regulator.	<p>It was identified that the current system and processes in place can be utilised to create a rigorous case management and review regime. The release of the Compliance and Investigation Manual (the Manual) in July 2019 provided a documented framework and process for how the case management for files should be managed. The Manual is updated every four months, this is to ensure the Manual is always relevant and up to date. As gaps or anomalies are identified, these are reviewed and updated for the next release of the manual.</p> <p>The creation of the Operational and Legal Support Team, also provided an additional framework in relation to case management. This team has two Chief Advisors, one focused on the Inspectorate and the other on Investigation. Their role is to provide advice, identify opportunities and address issues as they arise, with the overall objective of creating consistency, implementing processes and systems that create accountability.</p> <p>The option of a fit for purpose system is being investigated, but due to the resourcing and time required, it was important the recommendation was addressed within the current state to ensure that there was rigor around all case management and review regime.</p> <p>This recommendation was closed in October 2020.</p> <p><i>Since this recommendation was closed, work has commenced on preparing a business case to replace SafeWork SA's case management system. The current functionality and future requirements of a new system are currently being prepared, noting significant funding requirement is needed to procure a new system.</i></p>



Number	Recommendation	Response
7.	That SafeWork SA staff receive education about the role of SAPOL when attending incidents which are also the subject of SafeWork SA investigations, with a view to being able to make informed decisions about what investigations must still be undertaken for SafeWork SA purposes. It would be helpful if the arrangements for investigation materials to be exchanged between the two investigation agencies could be pursued.	<p>Training has been provided to the investigation team as to the role and focus of police in workplace incidents. Included in the training has been the appropriate use of the relevant sections of the <i>Work Health and Safety Act 2012 (SA)</i> to formally facilitate the exchange of investigation materials.</p> <p>This recommendation has been further addressed through the whole of SafeWork SA training framework referred to in the response to Recommendations 1 and 3 previously set out.</p> <p>This recommendation was closed in November 2017.</p>
8.	As part of the case management and review regime, the role of the CSO out-posted solicitor ought to be clearly defined.	<p>Training on the role of out-posted solicitors has been delivered to SafeWork SA personnel. In addition, SafeWork SA has increased the number of out-posted solicitors in the agency from one to two. The out-posted solicitors are available to provide advice at appropriate stages of the investigation process.</p> <p>The out-posted lawyers are located within SafeWork SA to provide legal advice and support to SafeWork SA.</p> <p>This recommendation was closed on 25 February 2019.</p>



Number	Recommendation	Response
9.	<p>That SafeWork SA and the CSO revisit their respective requirements and expectations, and reach a common understanding, about:</p> <ul style="list-style-type: none">a. guideline timeframes for the delivery of briefs to the CSO, the CSO's initial advice, and commencement of any prosecution within the statutory two year period;b. the format and content of investigation briefs submitted to the CSO;c. the CSO's involvement in the engagement of experts by SafeWork SA, and in particular, when that will occur and in what form;d. the CSO's role in the process of discussions with PCBU's about EUs.	<p>Work was developed by the CSO and Investigations Team to implement initiatives with respect to these recommendations through specific projects.</p> <p>This recommendation was closed on 18 December 2018.</p>
10.	The CSO ought to work with SafeWork SA to compile and maintain a centralised repository at SafeWork SA of CSO advices and information on topics relating to the investigation and prosecution of WHS Act offences.	<p>A centralised online repository has been created on a share point platform. This provides a centralised repository of previous legal advice, guidelines and other information in support of investigation and prosecution activities, available to the Investigations Team and out-posted CSO lawyers.</p> <p>This recommendation was closed in February 2019.</p>
11.	The CSO ought to develop and maintain its own centralised repository of advices and information on topics relating to the investigation and prosecution of WHS Act offences that is accessible to all relevant CSO staff.	<p>See response to Recommendation 10 above.</p> <p>This recommendation was closed in February 2019.</p>



Number	Recommendation	Response
12.	That SafeWork SA explores ways in which it can identify and select people with appropriate expertise (experts) to contribute to investigations, and who have a full appreciation of their legal responsibilities with respect to giving expert opinions.	<p>In conjunction with the CSO, SafeWork SA has revised and enhanced its process and procedure to identify and engage suitably qualified persons to provide expert advice and opinion in the investigations of incidents. .</p> <p>The ongoing responsibility for the engagement of experts has been allocated to OLST to ensure appropriate and consistent processes. This includes the development, review and maintenance of an expert register, which includes an assessment of the suitability of individuals for any future engagement by SafeWork SA in providing expert opinion.</p> <p>This recommendation was closed on 17 June 2018.</p>
13.	That the CSO assists SafeWork SA with the drafting of a new template letter for engaging experts.	<p>A template engagement letter has been developed by CSO and added to the recommendation 12 to engage experts.</p> <p>This recommendation was closed on 7 June 2018.</p>



Number	Recommendation	Response
14.	<p>That the victim support services offered by SafeWork SA be reviewed. There should be formalised policies and procedures in place about which victims will be engaged with and how that engagement will occur, having particular regard to the requirements of the Victims of Crime Act 2001. The processes ought to include those for communicating with victims and next-of-kind for the purposes of assessing EU applications.</p>	<p>A structure has been implemented that currently has an out-posted arrangement with the Office of the Director of Public Prosecution (ODPP). This arrangement allows for an AHP2 Witness Assistance Officer from Witness Assistance Services (WAS) in the ODPP to be out-posted in SafeWork SA to provide the required Victim Assistance and Information Services for any case that requires contact with victims in SafeWork SA. A number of systems, procedures, handouts and a manual has been developed to ensure SafeWork SA is compliant with the <i>Victims of Crime Act 2001</i>.</p> <p>A formal Memorandum of Agreement (MOU) between the Director and Executive Director is in place. SafeWork SA had some outposted since July 2019.</p> <p>This recommendation was closed in June 2020.</p> <p><i>Since this recommendation was closed the arrangements were reviewed with the ODPP. SafeWork SA now has a Client Liaison Officer appointed.</i></p>
15.	<p>That the topic of the legal requirements as to particulars, and the CSO's recommended approach to their drafting, is revisited by the Crown Solicitor.</p>	<p>CSO performed a review of this issue and provided and legal advice to the Manager, Investigations, Director, Compliance and Enforcement and Executive Director, which was approved. This advice has been incorporated in the operations of the Investigation Team.</p> <p>This recommendation was closed on 18 December 2019.</p>
16.	<p>That SafeWork SA ought to review the current guidelines published under s 230(3) of the WHS Act in relation to the acceptance of WHS undertakings ('EUs'), with a view to rewriting and consolidating those guidelines.</p>	<p>The guidelines and template for Enforceable Undertakings have been revised and updated and are published on the SafeWork SA website.</p> <p>This recommendation was closed in June 2018</p>



Number	Recommendation	Response
17.	The reconsideration of the EU guidelines ought to include SafeWork SA reflecting upon its current practices in order to embed a coherent and consistent approach through adherence to the guidelines.	<p>The Director, Compliance and Enforcement is responsible to ensure that EUs are managed appropriately and consistently. Managers have direct responsibility for the management of an EU and ensuring the PCBU is compliant and appropriately follow up action and initiate any required action by the Regulator.</p> <p>OLST is responsible for the ongoing monitoring and auditing of compliance and ensuring reporting to SafeWork SA Executive regarding management of EUs.</p> <p>This recommendation was closed in June 2018</p> <p><i>A copy of EU's entered in to since 2018 is provided as Attachment A.</i></p>
18.	The Regulator may wish to seek the views of other regulators operating under the model WHS laws about whether their ability to exercise the compulsive powers past the point of when proceedings are commenced is impeded.	<p>Further advice was received regarding the use of compulsive powers past the point of when proceedings are commenced. The resulting clarity negated the need for further enquiry with other jurisdictions.</p> <p>It was identified that appropriate training needed to be provided so these powers are used correctly and appropriately. Refer to recommendation 3 and 5.</p> <p>This recommendation was closed in January 2018.</p>



Coroners Inquest – Death of Jorge Castillo Riffo

On 1 November 2018, the then State Coroner, Mr Mark Johns released his findings of the Inquest into the death of Mr Jorge Castillo Riffo who was fatally injured whilst working at the New Royal Adelaide Hospital construction site in November 2014.

The Coroner made six recommendations that in the opinion of the Court might prevent, or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the Inquest.

Recommendations

1. I recommend that the Elevating Work Platforms document dated September 2016 should be distributed on an annual basis electronically and in hard copy to all relevant building industry participants in South Australia. In addition, electronic links to the information sheet should be displayed permanently on SafeWork SA's webpage and be kept current. The associated minimum standard of training document should be brought into line to include references to clear lines of sight.
2. I recommend that the question of standardising scissor lift controls be given far greater impetus at a State and National level and that it be elevated to the Council of Australian Governments (COAG) for the commissioning of a project to pursue the standardisation of controls in scissor lifts.
3. I recommend that until the implementation of a system of effective standardisation of scissor lift control configuration across the country, that scissor lifts not be operated unless there is a person on the ground operating as a spotter who is available at all times to take steps to activate the emergency lowering mechanism should that be necessary.
4. I recommend that SafeWork SA consider whether the balance in the WHS Act and Regulations between safety being managed by risk assessment as opposed to express mandatory rules about what must occur in particular circumstances should be shifted in favour of more express mandatory rules and take that matter up with Safe Work Australia for consideration.
5. I recommend that SafeWork SA should investigate, consider and report upon the world's best practice engineering solutions to protect workers against the risk of crushing due to overhead surfaces, including the availability and design of secondary protective systems including operator protective alarms and operator protective structures and the options for reform to require that all scissor lifts in use in South Australia have a secondary protection system¹



6. I recommend that the Government provide, through the Legal Services Commission, funding to enable families to be legally represented in Inquests, for deaths in custody, and generally. I direct this recommendation to the Attorney-General.

On 17 October 2019 the Treasurer outlined the Government's position on the recommendations in a Ministerial Statement in the Parliament of South Australia.

To coincide with public release of the Government's position, SafeWork SA progressed with the required actions. The progress of the actions was coordinated by the Review and Reform Team as a project. A summary of the actions is provided in the Table below. Note SafeWork SA did not address recommendation six as it was directed to the Attorney-General.

SafeWork SA closed the project to address the recommendations in February 2021, however continues to monitor and contribute nationally to initiatives aimed at improving the safe use of elevating work platforms (EWP).



Number	Recommendation	Actions to address recommendations
1.	<p>That the Elevating Work Platforms document dated September 2016 should be distributed on an annual basis electronically and in hard copy to all relevant building industry participants in South Australia. In addition, electronic links to the information sheet should be displayed permanently on SafeWork SA's webpage and be kept current. The associated minimum standard of training document should be brought into line to include references to clear lines of sight.</p>	<p>This recommendation was accepted.</p> <p>SafeWork SA completed the following actions to address the recommendation:</p> <ul style="list-style-type: none">• The dedicated webpage for EWP safety remains on SafeWork SA's website and will continue to be updated accordingly.• The public report from the 2019 EWP Audit (2019 Audit) and the EWP information sheet, as referred to in the recommendation, was updated and distributed to all PCBUs identified in the 2019 Audit and relevant industry groups on 30 October 2019.• The updated EWP information sheet was also sent to SafeWork SA's email mailing list on 29 October 2019.• All EWP information sheets were consolidated into one EWP information booklet and published in February 2020. The information booklet was provided to inspectors in hard copy to distribute to PCBUs and workers that may use an EWP. This will continue to occur as required.• The EWP information booklet was again distributed by Inspectors during the most recent EWP audit campaign that commenced in July 2020.



Number	Recommendation	Actions to address recommendations
2.	That the question of standardising scissor lift controls be given far greater impetus at a State and National level and that it be elevated to COAG for the commissioning of a project to pursue the standardisation of controls in scissor lifts.	<p>This recommendation was accepted.</p> <p>SafeWork SA completed the following actions to address the recommendation:</p> <ul style="list-style-type: none">On 25 November 2019, SafeWork SA wrote to the Chair of Safe Work Australia seeking consideration of matters outlined in recommendation 38.3 and 38.6 of the Coroner's inquest.SafeWork SA requested that Safe Work Australia discuss the commissioning of a project to pursue the standardisation of controls in scissor lifts at their meeting in April 2020.SafeWork SA also requested that Safe Work Australia investigate matters outlined in recommendation 38.6 relating to the world's best practice engineering solutions to protect workers from crushing due to overhead surfaces.Safe Work Australia members considered SafeWork SA's request at their meeting in July 2020. Safe Work Australia members determined that it was their preference to monitor the outcomes of work already underway by Safe Work Australia, other jurisdictions and internationally, before committing to further projects.Safe Work Australia advised that they will continue to monitor developments on scissor lifts including the work of the International Standards Organisation.Work is expected to commence on the International Organisation for Standardisation (ISO) standard – 'ISO 21455:2020 – Mobile elevating work platforms – Operator's controls – Actuation, displacement, location and method of operation' (ISO 21455:2020).



Number	Recommendation	Actions to address recommendations
3.	That until the implementation of a system of effective standardisation of scissor lift control configuration across the country, that scissor lifts not be operated unless there is a person on the ground operating as a spotter who is available at all times to take steps to activate the emergency lowering mechanism should that be necessary.	<p>This recommendation was not accepted.</p> <p>SafeWork SA completed the following actions to address the recommendation:</p> <ul style="list-style-type: none">• Reference to assistance support personnel and AS/NZS1418.10 and AS/NZS 2550.10 (Cranes, hoists and winches - Safe Use - Mobile elevating work platforms) was included in the consolidated EWP information booklet which was published in February 2020.• The consolidated EWP information booklet was provided by inspectors to distribute to workplaces visited as part of a further EWP audit program which commenced in July 2020 until October 2020.• SafeWork SA conducted 521 site visits and 256 compliance audits as part of the audit program.• The use of ground support personnel was one of the areas of focus of the audit program.• The audit report outlining the activities undertaken during the audit was published on SafeWork SA's website and distributed to through relevant communication channels.



4.	<p>That SafeWork SA consider whether the balance in the WHS Act and Regulations between safety being managed by risk assessment as opposed to express mandatory rules about what must occur in particular circumstances should be shifted in favour of more express mandatory rules and take that matter up with Safe Work Australia for consideration.</p>	<p>This recommendation was accepted.</p> <p>SafeWork SA completed the following actions to address the recommendation:</p> <ul style="list-style-type: none">SafeWork SA continues to participate as a member on Safe Work Australia and the Heads of Workplace Safety Authorities and will contribute to any work undertaken nationally.SafeWork SA has contributed to the development of a national guides relating to EWP's: <i>Guide to inspecting and maintaining elevating work platforms</i> The Guide is designed to assist persons conducting a business or undertaking to understand their duties for inspection and maintenance of EWPs. The Guide has been published on Safe Work Australia's website and distributed through their communication channels including social media and their subscriber mail out. SafeWork SA has also published the guide on its website and has distributed it through relevant communication channels. The Guide includes:<ul style="list-style-type: none">the relevant legal requirements under the model WHS lawsdifferent types of inspections and monitoring of EWPswhen and how inspections need to be carried out, andrecord keeping and reporting.
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Number	Recommendation	Actions to address recommendations
		<p><u>Guide for managing the risks of elevating work platforms</u></p> <p>The Guide has been published on Safe Work Australia's website and distributed through their communication channels including social media and their subscriber mail out.</p> <p>SafeWork SA has also published the guide on its website.</p> <p>The Guide contains information based on the model WHS laws and gives an overview of managing the risks associated with the operation of EWPs. The majority of the Guide is based on existing Safe Work Australia guidance material for managing the risks of plant, particularly the suite of crane guidance. It also contains more technical information on the safe use of EWPs.</p>
5.	That SafeWork SA should investigate, consider and report upon the world's best practice engineering solutions to protect workers against the risk of crushing due to overhead surfaces, including the availability and design of secondary protective systems including operator protective alarms and operator protective structures and the options for reform to require that all scissor lifts in use in South Australia have a secondary protection system.\	<p>This recommendation was accepted.</p> <p>Refer to actions that have been undertaken at recommendation 38.3.</p> <p>Separate to this, SafeWork SA continues to participate in the South Australian Construction Safety Alliance (SACSA) who have received a commitment from all SACSA members to make it a mandatory requirement that only MEWPs with secondary guarding will be allowed on construction sites where a crush risk is identified.</p>



PriceWATERHOUSECoopers Compliance and Enforcement Audit

SafeWork SA as an agency under the Attorney-General's Department and previously under the Department of Treasury and Finance (DTF), participates in annual audits conducted by Department's appointed auditor.

These audit findings are provided to the Department's relevant Audit and Governance Risk Committee to monitor as recommendations are progressed and completed by SafeWork SA.

Compliance and Enforcement Directorate Audit – October 2021

SafeWork SA participated in an audit of the Compliance and Enforcement Directorate processes and the work around inspection and investigation capabilities.

The objective of the review was to assess the controls implemented by management to mitigate the risks in relation to SafeWork SA's compliance and enforcement processes.

The recommendations related to further improvements to the Triage Procedure and supporting Triage form to document decisions, the timeliness of follow up actions on improvement notices, monitoring of timeliness of recording of notifications and complaints, and file closure processes.

This is a significant improvement in comparison to a previous audit undertaken on the same matter in 2017 which resulted in 13 priority issues being identified.

One recommendation remains open and is being addressed. The remaining recommendations have been addressed.



Number	Recommendation	Action
PwC Audit 1.1 – Priority rating for Notifications and complaints	<p>The following should be documented in the Triaging Manual or in the Assessment Form:</p> <p>The requirements for triagers to document the rationale for changing the ratings that are automatically calculated in the Assessment Form.</p> <p>The requirements for changing priority ratings after the triaging process, including the approval required for this change.</p> <p>Requirement for triaging when notifications and complaints are directly received by the inspectors.</p>	<p>Recommendation actions</p> <p>The triage procedure will be reviewed, amended and updated to reflect these requirements.</p>
PwC Audit 1.2 – Priority rating for Notifications and complaints	<p>The requirements for inspectors/investigators to rely on the Assessment Form to identify the priority rating for the case should be documented in the Triage Procedure or the Compliance and Investigation Manual.</p>	<p>Recommendation actions</p> <p>The triage procedure will be reviewed, amended and updated to reflect these requirements</p>



Number	Recommendation	Action
PwC Audit 2.1 – Timeliness of follow-up on actions from Improvement Notice	<p>Overdue follow-up on actions from inspections and investigations should be monitored by the Team Leaders.</p> <p>Management should develop and review a report from InfoNET that identifies the overdue actions on a regular basis to ensure that overdue follow-ups are monitored and actioned appropriately. The number of overdue actions should also be reported to management on a regular basis.</p>	<p>Recommendation actions</p> <p>SafeWork SA will investigate the ability to mandate the recording of follow-up actions in InfoNET,</p> <p>File reviews with Team Leaders will include the review of compliance dates for statutory notices.</p> <p>InfoNET reports will be generated for Director, CAE for review of outstanding actions.</p>
PWC Audit 3.1 - Monitoring of timeliness of recording notifications and complaints	<p>Review of the timeline of recording notifications and complaints that are received via email in Joget should be included in the upcoming Quality Assurance Program which allows for the review of timelines on a sampling basis to ensure that notifications and complaints received via email are recorded in Joget timely.</p>	<p>Recommendation actions</p> <p>With system limitations the Education Team have implemented a KPI for their Business Plan to randomly audit a number of emails each month and report back to the Director, Workplace Education and Business Services on the outcome. This will provide an interim measurement and audit capability until a new software solution can be identified.</p>
PWC Audit 4.1 – File Closure	<p>Management should include a requirement in the File Closure Checklist for Team Leaders to review the quality of the field notes.</p>	<p>Recommendation actions</p> <p>Reference to the quality of field notes to be included in file closure checklist.</p>



Number	Recommendation	Action
PWC Audit 4.2 – File Closure	Management should reinforce the requirements for Team Leaders to review and sign off the File Closure Checklist in InfoNET and update the Compliance and Investigation Manual to include the requirement for Team Leaders to evidence their review for electronic File Closure Checklists.	Recommendation actions Management will review the electronic file closure checklist capability with a view to incorporating a mandatory field for Team Leaders to review and approve before closure can occur. On completion of the above, the compliance and investigations manual will be updated to reflect this procedural change.
PWC Audit 4.4 – File Closure	Management clearly document the required timeframe for the Manager of Investigations to close InfoNET files. An InfoNET report should be developed to assist management monitor the timeliness of closing investigations files.	Recommendation actions Agree to set performance indicators and monitor for the closure of investigation files once completed.
PWC Audit 5.1 – Response time	Management to ensure that the responding timeframe to an event is documented consistently in the Triaging Procedure and the Inspectorate Business Plan to remove the inconsistency.	Recommendation actions Business plans for this financial year have been finalised and do not include timeframes for responding to an event.