MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

WORKPLACE RELATIONS AND SAFETY POLICY

Have your say on Work Health and Safety

Summary of feedback from Roadshow meetings and submissions to the Public Consultation – June to October 2024

New Zealand Government

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Glossary

Term	What it means
Approved Code of Practice (ACOP)	ACOPs describe preferred or recommended methods that can be used (or standards to be met) to comply with regulations and the duties imposed by the Health and Safety at Work Act.
Part 1 of the Health and Safety at Work Act 2015 (the Act)	Sets out the Act's purpose, its general coverage and application, and definitions (such as 'reasonably practicable', 'worker', 'volunteer', 'PCBU', 'workplace', etc).
Part 2 of the Act: Health and safety duties	Sets out the Act's key principles, including in relation to risk management processes, overlapping duties, and overlapping regimes; duties of the four key duty holders (PCBU, worker, officer/director, and others at a workplace); offences and penalties; liabilities; the duty to notify harm and incidents.
Part 3 of the Act: Worker engagement, participation, and representation	Sets out provisions for worker engagement, participation, and representation worker engagement, participation, and representation, including work health and safety representatives and Committees, the right to refuse unsafe work, and prohibitions on adverse conduct.
Part 4 of the Act: Enforcement and other matters	Sets out enforcement and other matters, including different enforcement mechanisms, from notices through to prosecutions, and provisions relating to inspectors and their enforcement powers.
PCBU	PCBU means a 'Person Conducting a Business or Undertaking'. This is a broad concept that describes all types of modern working arrangements which we commonly refer to as businesses. Most New Zealand businesses, whether large corporates, sole traders, or self-employed, are classed as PCBUs.
WorkSafe New Zealand (WorkSafe)	WorkSafe is New Zealand's primary work health and safety regulator, established by the WorkSafe New Zealand Act 2013. There are two other designated work health and safety regulators: Maritime New Zealand (for work

	health and safety on ships and in major ports) and the Civil Aviation Authority (for work health and safety on aircraft).

1. Executive Summary

The Coalition Agreement between ACT and the National Party committed to reforming work health and safety law and regulations. New Zealand's work health and safety record remains worse than other comparable countries and has been slow to improve. Government has heard that businesses are struggling to understand their work health and safety obligations, and are unsure how to comply, which creates risks for workers.

To better understand where to best focus efforts for addressing these issues, the Minister for Workplace Relations and Safety, Hon. Brooke van Velden (the Minister), led a Government consultation seeking feedback on what is working well, and where improvements can be made.

This consultation featured the Minister undertaking a series of roadshow meetings across 11 towns and cities, 23 meetings and 15 site visits, inviting discussion and feedback from over 600 attendees.

A consultation document and online survey was also released, seeking feedback on the purpose and performance of the work health and safety regulatory system, across five focus areas covering different parts of the work health and safety system. 487 submitters responded, from across a broad range of sectors, regions, workers and employers, and small and large organisations.

Key themes from the roadshows and consultation survey

Feedback from the survey submissions tended to be relatively evenly split between positive and negative views across the system, and with less consensus about specific issues for improvement. Feedback from the roadshows was stronger in terms of the issues and themes emerging in relation to specific issues. High-level themes from the consultation surveys and roadshows about areas for improvement are as follows:

- ***There is need to increase certainty within the system, and reduce unnecessary compliance and red tape.*** There was a broad view that while the Act is generally working well, issues within the system are causing problems by creating uncertainty about what steps businesses should take, and driving costs (particularly for small businesses). In particular, the submissions highlighted outdated regulations such as the Health and Safety at Work (Hazardous Substances) Regulations 2017, up-to-date guidance and Approved Codes of Practice, and ambiguity within Part 2 of the Act (such as in relation to officers' duties and landowner liabilities). The Roadshows highlighted that this ambiguity has contributed to a proliferation of complex and costly work health and safety consultancies and paper-based systems, regardless of whether they are practical, useful or proportionate.
- ***Discrete problems within the Act require attention.*** At a broad level, Submitters were sharply divided about whether the work health and safety regulatory system's settings are correctly balanced. In addition to the need for improved guidance and certainty relating to certain parts of the work health and safety system, overlaps with other regulatory systems were identified as an issue.
- ***There is need for improvements to WorkSafe.*** Submitters' experiences with WorkSafe were highly variable, and sharply divided between both negative and positive responses. Roadshow feedback was much stronger, highlighting a need for more consistency, clarity and support for businesses regarding their work health and safety obligations. Roadshow feedback indicates that the status quo is driving costs and complexity for businesses as they look elsewhere for certainty (such as 'off the shelf' measures and consultants), or is driving fear of engagement.

2. Background

New Zealand's work health and safety system encompasses:

- the Health and Safety at Work Act 2015 (the Act);
- Its supporting regulations, safe work instruments, standards, approved codes of practice, and guidance that sits under the Act;
- Regulators that implement the law and support people to comply through engagement, enforcement, and standard setting; and
- People and organisations authorised by the regulator or regulations to certify or licence businesses for high-risk work and activities.

It has been 10 years since passage of the Health and Safety at Work Act 2015. Although New Zealand's work health and safety law is adapted from the Australian law, New Zealand's work health and safety record remains worse than Australia's and has been slow to improve. Government has heard that businesses are struggling to understand their work health and safety obligations, and are unsure how to comply, which creates risks for workers.

The Coalition Agreement between ACT and the National Party committed to reforming work health and safety law and regulations. The work health and safety system needs to be clear, sensible, proportionate, and effective. The steps businesses and workers take to protect worker health and safety should be appropriate and meaningful, rather than a tick-box exercise. Businesses and organisations should be focused on addressing the things that are causing workers harm, rather than being caught up in unnecessary compliance or trying to interpret and navigate complex and unclear rules and regulations.

To better understand where to best focus efforts for addressing these issues, the Minister led a Government consultation to seek feedback from New Zealanders of all backgrounds on what the role for government should be in the work health and safety system, what is working well, and where improvements can be made. This consultation is needed to inform policy options and decisions on the reform of the work health and safety system.

Roadshows and site visits

To support this work, the Minister undertook a series of roadshow meetings and site visits, inviting discussion and feedback on the performance of the work health and safety regulatory system.

The Minister visited 11 towns and cities, attending 23 meetings and 15 site visits across the country between June and October 2024. During these meetings and site visits, the Minister was able to hear from over 600 people representing a range of stakeholders, including business, workers, work health and safety professionals, local government and community organisations.

Public Consultation survey

In May 2024, Cabinet agreed to release a consultation document, *Have Your Say on Work Health and Safety*, supported by an associated online survey asking New Zealanders about what is working well and what needs to change.

The scope of consultation focussed on the purpose and performance of the work health and safety regulatory system, via a series of questions across the following focus areas:

- Focus area 1: businesses are best placed to understand and manage their risks.
- Focus area 2: the law is designed to balance flexibility and certainty.
- Focus area 3: worker engagement and participation.
- Focus area 4: an effective work health and safety system needs effective regulators.
- Focus area 5: the objective of the work health and safety system.

Number and type of submissions

Type of Submission	**Totals**
Consultation survey responses	289
Email responses	198
Road shows and site visits	These were attended by over 600 people

3. How the analysis was undertaken

Consultation ran from June to October 2024, with the Ministry of Business, Innovation and Employment (MBIE) receiving a total of 487 submissions (198 written and 289 via an online survey platform).

MBIE received submissions by email to its consultation inbox and survey responses through its online survey portal. Submissions were reviewed, and duplicate and blank submissions were removed. Many submitters used the submission survey form provided, and others responded via free-form letters emailed to the consultation inbox.

The structure of the summary

All submissions were analysed thematically and coded against an Excel framework based on the questions in the discussion document. The feedback from partial and letter-based responses was coded (and where necessary interpreted and summarised) under the specific questions of the Consultation Document to which they related.

We have organised the summary of feedback into the sequence of focus areas that were set out in the consultation survey. Each focus area includes a selection of illustrative quotes from submissions that generally reflect the overall themes of that particular focus area. We have also included a summary of feedback from roadshows that relate to the particular focus area.

Where graphs and tables have been included, these illustrate feedback from the submissions (which were more easily quantifiable), but not the roadshows.

Limitations

There were some limitations on the information collected through the consultation process. In some instances, a submitter's initial answer could be contradicted by responses to subsequent questions.

Some submissions misunderstood certain questions (such as whether they were being submitted on behalf of an organisation or employer).

Submission classification

Responses to particular questions across submitters were summarised using the following classifications for the proportions of responses. For example, if 20% of submitters replied 'yes' to a particular question, this has been assessed as '***some*** submitters responded yes'.

Classification	**Definition**
Few	3% to 10% of submitters *(0 to 2% was not included, to remove outliers)*
Some	10% to 25% of submitters
Many	26% to 50% of submitters
Most	More than 50% of submitters

It should be noted that where there are even or close proportions responding positively and negatively, this can still represent a significant number of submitters identifying issues and concerns (and vice-versa). For example, of 195 submitters answering the survey question about whether the system is clear, 59% responded generally positively. This still leaves a significant number of submitters that have identified concerns.

For many questions, submitters were able to choose multiple answers within a question (such as the different sources of information used to understand their obligations), which means that many percentages within the tables of this document do not sum to 100%.

Note: This report does not provide any identifiable information about individual submitters, and quotes within this document have not been attributed to an individual submission. Many submitters explicitly stated that they did not want their personal information to be publicly available or released under the Official Information Act 1982. MBIE officials took notes during the roadshow meetings, but as indicated to participants at the time, these notes do not attribute views or comments to any individuals.

4. Overarching statistics on submitters

There were 487 submissions in response to the public consultation documents and online survey, and feedback from around 600 attendees at the roadshows and site visits. Consultation feedback traversed a range of submitters, sectors and organisation sizes, as set out in the following charts and tables.

Chart 1. Breakdown of submitter types

Note: Many submitters likely misunderstood this survey question and entered 'organisation' (which is intended to cover entities such as a representative bodies) when they should have entered 'employer'. This means that the proportion of employers is likely to be larger, and organisations smaller.

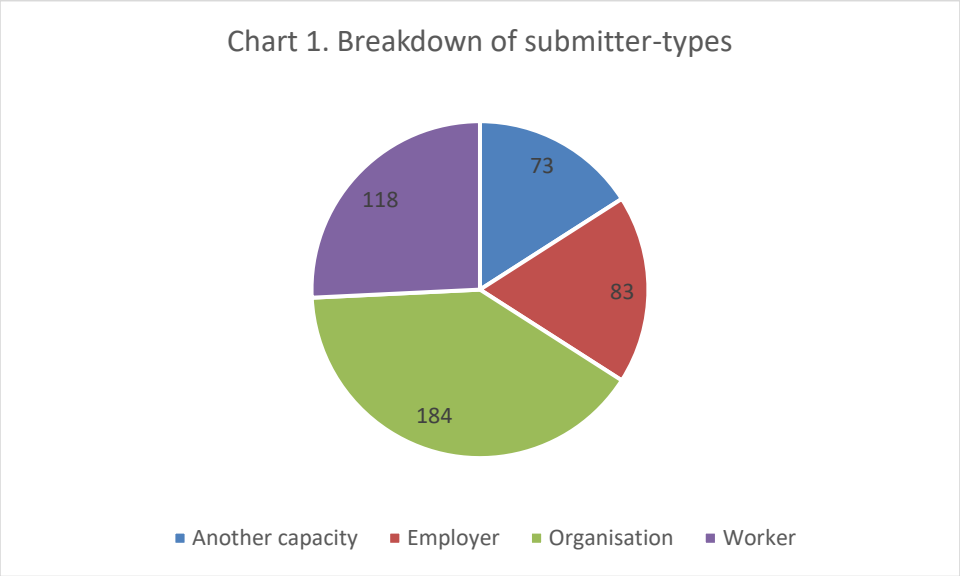


Chart 2. Breakdown of submitters by organisation size

Consultation feedback traversed small and large organisations, with around half of those that specified having more than 50 employees, and around a quarter with less than 20 employees.

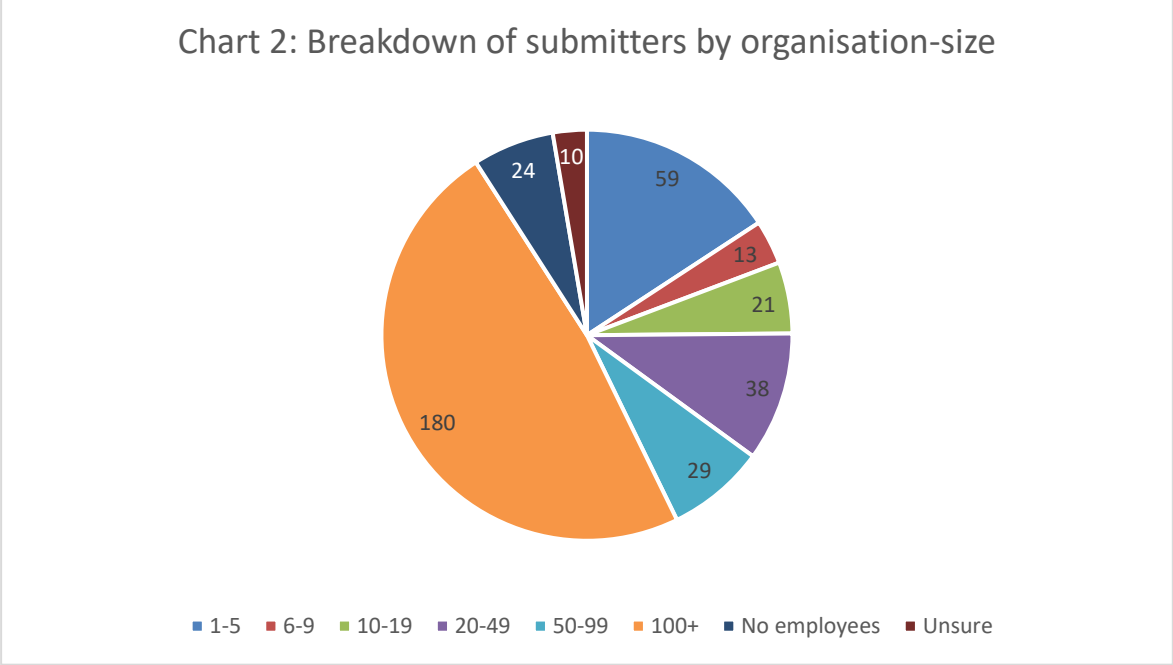


Table 3. Breakdown of submitters by region

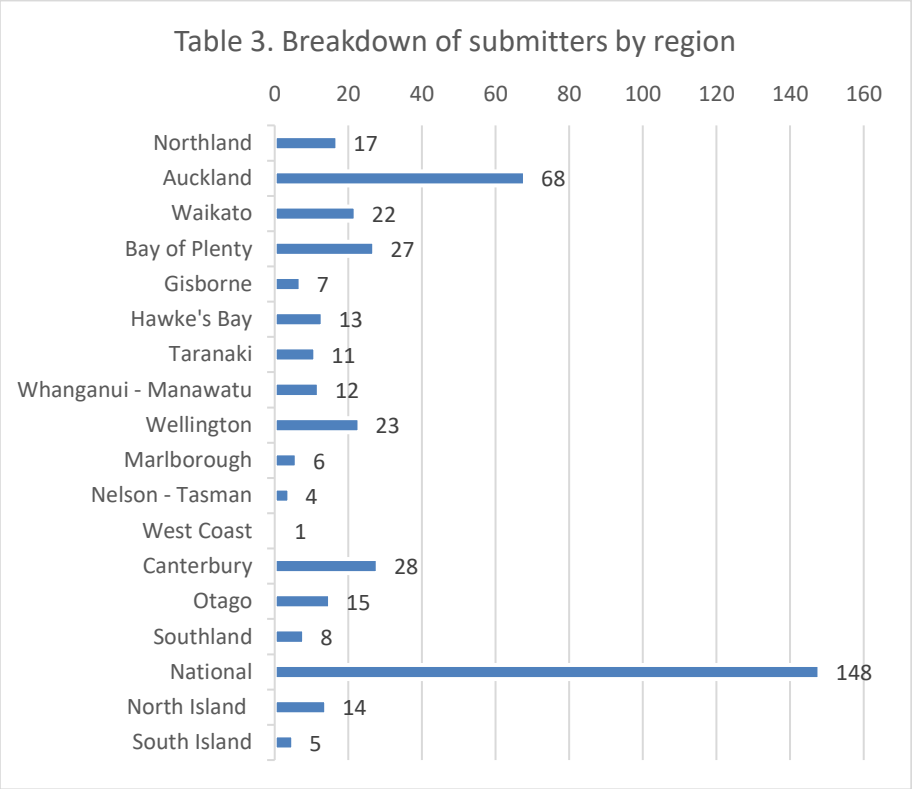
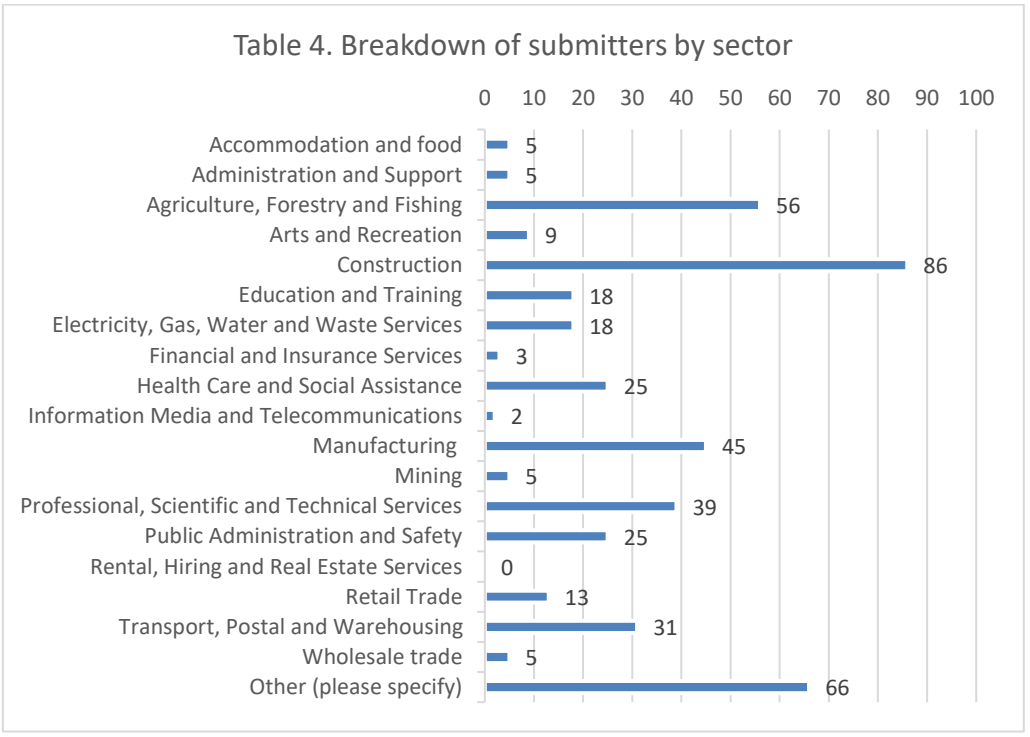


Table 4. Breakdown of submitters by sector



5. Key themes for improvement identified in the submissions and roadshows

Feedback from the submission surveys tended to be relatively even, with both positive and negative views expressed in relation to a range of matters across the system. Feedback from the Roadshows tended to be more pointed, with stronger views and themes emerging in relation to particular issues. Submitters and roadshow feedback on the Regulator most often related to WorkSafe rather than the other two designated Regulators (Maritime New Zealand and the Civil Aviation Authority).

The following high-level themes emerged from feedback on the consultation surveys and Roadshows, regarding areas for improvement:

There is need to increase certainty within the system, and reduce unnecessary compliance and red tape:

Feedback was clear that workers and businesses take their work health and safety responsibilities seriously and understand the importance of having have effective measures in place to address risks. There was a broad view that the Act itself is generally working well, though issues within the system are causing problems, creating uncertainty, and driving costs. In particular:

- There is a lack of clarity, guidance and outdated regulations relating to some parts of the system. Submitters commonly identified the Health and Safety at Work (Hazardous Substances) Regulations 2017, sections of Part 2 of the Act (though some felt it worked well), and a lack of detail and ambiguity regarding guidance and Approved Codes of Practice as problem areas.

- This was also reflected in the Roadshows, where some attendees noted they are trying to do the right thing, but compliance costs are too high, and there is a need for greater certainty about what they need to do under the Act (and how to do it), particularly from small businesses. Examples included that more clarity is needed on what is 'reasonably practicable' regarding actions and compliance under the Act, and the need for up-to-date Approved Codes of Practice and guidance across a range of sectors. Roadshow feedback also noted concern with sections of Part 2 of the Act, such as clarity around officers' duties and landowner liabilities for recreational land-use.

- A lack of certainty about what is required can drive unnecessary compliance and costs for businesses, particularly for small businesses. Some feel they don't know what to do and/or need to take disproportionate or unhelpful measures, such as through a proliferation of work health and safety consultancy advice and paper-based systems, regardless of whether they are practical, useful or proportionate. Roadshow feedback also included concerns about proliferation of pre-qualification requirements in procurement/tendering and subcontracting, ineffective paper-based compliance, or impractical risk management and training tick-box systems.

There are discrete problems within the Act that require attention:

At a broad level, Submitters were sharply divided about whether the work health and safety regulatory system's settings are correctly balanced, with relatively even proportions of negative and positive views on whether settings are over or under-cautious, clear, effective, flexible and durable, proportionate to the risk or balancing costs with risks. This indicates that as well as positive views, there are an equally significant proportion of negative views about whether the current balance is desirable.

In addition to the need for improved guidance and certainty within the work health and safety system covered above, uncertainty and confusion caused by overlaps with other regulatory systems was identified as an issue. The most common difficult overlaps identified by Submitters were between the Act and the Hazardous Substances and New Organisms Act 1996, the Building Act 2004 and the Land Transport Act 1998. Roadshow feedback also included confusion about overlaps, such as in relation to road cone use in traffic management, or evacuation of earthquake-prone buildings.

There is need for improvements to WorkSafe

Submitters' experiences with WorkSafe were highly variable, although there was a slightly higher proportion of strongly negative responses than positive. Much of the feedback was sharply divided between negative and positive responses, or with a large proportion of partial satisfaction in relation to different types of interactions with WorkSafe (such as queries, applications for licences, notifications, registering equipment, regulatory tools, workplace visits and education and training materials).

Roadshow feedback about WorkSafe tended to be more negative. It generally highlighted a lack of consistency in its advice to businesses, ranging between an absence of clarity to being overly prescriptive. This can drive either unnecessary costs as businesses look for alternative means to provide certainty (such as 'off the shelf' measures and consultants) or drives fear of engagement. This included:

- Businesses receiving inconsistent advice from WorkSafe for addressing similar risks, not being provided sufficient upfront certainty and support about what is 'reasonably practicable' regarding businesses' obligations, or quick to highlight ex post failings with hindsight bias.

- WorkSafe is not focussing on the most critical risks, or taking a "gold standard" approach to compliance with the fullest extent of controls in the regulations in situations where the regulations are also designed to allow flexibility for tailored approaches.

- There needs to be a greater WorkSafe focus on collaborative engagement, education and supporting businesses to do better, rather than punitive approaches.

- While some WorkSafe offices are helpful, there is a perception they are under-resourced.

6. Analysis of Consultation Focus areas

The following provides a summary of submissions received, following the structure of the consultation document. Where feedback was provided in a free-form fashion via letters and emails, MBIE incorporated this into the survey question to which the content related.

Focus area one: businesses are best placed to understand and manage their risks

This focus area sought feedback on how businesses and organisations currently make their decisions about work health and safety, and the reasons behind these decisions.

Submissions summary

- ***Most*** submitters noted that they had measures in place to identify and manage risk, with ***many*** taking these actions to manage risks, as good practice, or because the law requires it. ***Most*** consider their actions to be reasonable and effective.

- ***Most*** respondents understand their work health and safety obligations very well. Of those that answered negatively, ***most*** considered that clearer guidelines would help them to understand their obligations better. A generally even proportion of respondents considered that overlapping duties between PCBUs were managed well versus not well managed.

- Despite the high proportion of submitters answering positively about their understanding of obligations (89%), a lack of regulatory clarity and ambiguity was a common concern raised further below in Focus Area 2.

Illustrative quotes from submissions

Submission from a business in the manufacturing sector with fewer than 20 employees *– "there shouldn't be anything onerous about having good work habits embedded into an organisation. But sometimes commonsense and sheer practicality are pushed to one side in favour of over-prescriptive compliance requirements. We appreciate the need for a rigorous Health and Safety Act but we can, as a company, feel overburdened and bogged down by "red tape" even though we are a willing complier."*

Submission from a worker in a large construction business *– "Yes and no, these actions are good for managing the safety of individuals on a daily basis, however because we are creating a Health and Safety system to cater to the lowest common denominator, it has significantly reduced the next generation from using their own common sense therefore reducing skill levels by killing off a more practical approach to health and safety."*

Themes reflected during the Roadshows included:

- Most note they are trying to do the right thing, but compliance costs are too high, and there is a need for greater certainty about what they need to do under the Act, and how they need to do it.
- Risk management is a part of business as usual, and if it can be embedded at the start of a project, it is easier and less costly.
- A significant issue was the proliferation of pre-qualification requirements in the context of procurement/tendering, subcontracting and overlapping duties. These add to cost and confusion but do not necessarily improve work health and safety outcomes. Comments included:
    - Paper-based policies and attestations add significant cost but are filed away after tendering, as they do not provide any practical guidance on the ground.
    - Local and central government procurement practices drive a lot of paperwork/policies that don't impact work health and safety on the ground.
    - There is confusion about who is responsible on-site with multiple subcontractors and the perception that head contractors and procurers can force risks down onto smaller firms.
- Costs come when things change on the ground, in dynamic situations requiring workers to use their judgement.

Feedback on specific Focus Area One survey questions

Thinking about just the key actions your business or organisation takes to manage work health and safety risks:

What are these actions?

Of the 273 respondents that provided at least one action that their organisation took:

- ***Most*** noted that they or their employer had some kind of risk control in place or had methods to identify and monitor risk.
- ***Many*** noted that they or their employers put in place physical, training and administrative controls and engaged with workers to manage risk.
- ***Some*** noted that they or their employer employed qualified people or sought information to manage risk.
- ***Few*** employers noted that they worked with other PCBUs to manage risk.
- 1% of respondents reported having no actions to address risk.

A large proportion of workers answered this question by noting the actions they see business owners undertaking. This is why there are more responses to the 'employer' options as opposed to the 'worker' options.

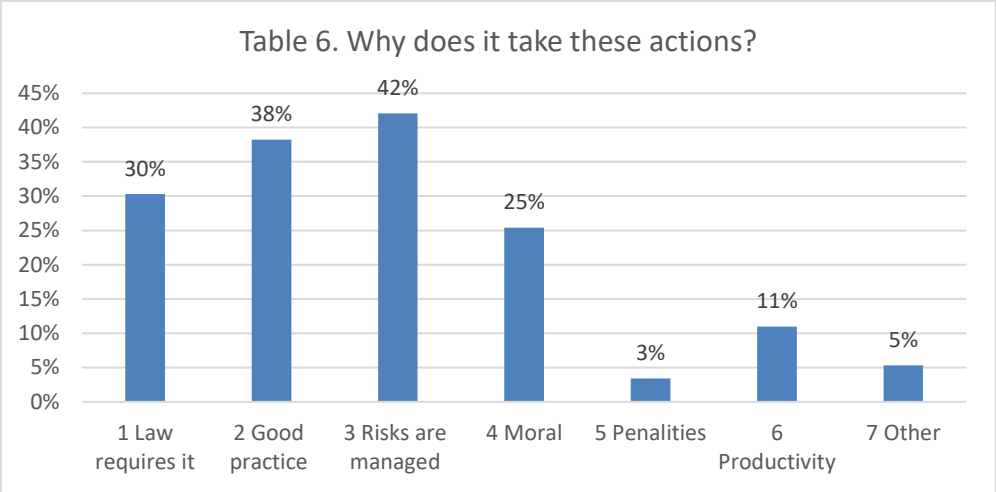


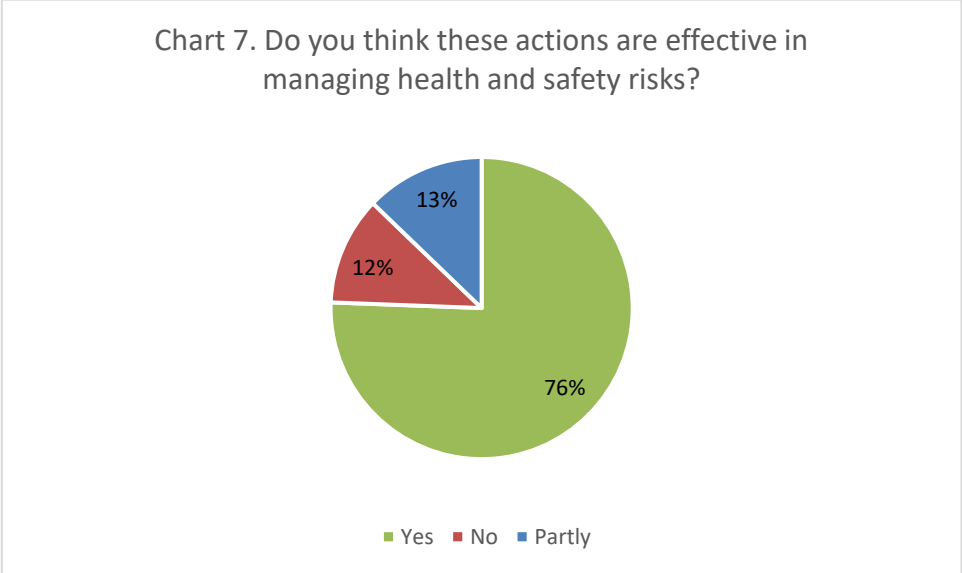
Why does your business take these actions?

Of the 264 respondents that answered this question:

- ***Many*** responders noted that their business took these actions to manage risks, or that it was good practice, or because the law required it.
- ***Some*** undertook these actions for moral reasons, or because it improved productivity.
- ***Few*** noted they undertook these actions to prevent penalties for breaching laws and regulations, or for other reasons.

- Of the 250 respondents that replied to whether they thought these actions are reasonable, 89% agreed that they were.
- Of the 250 respondents that replied to whether they think these actions are effective, ***most*** thought they were effective, and ***some*** thought they were partly or not effective.





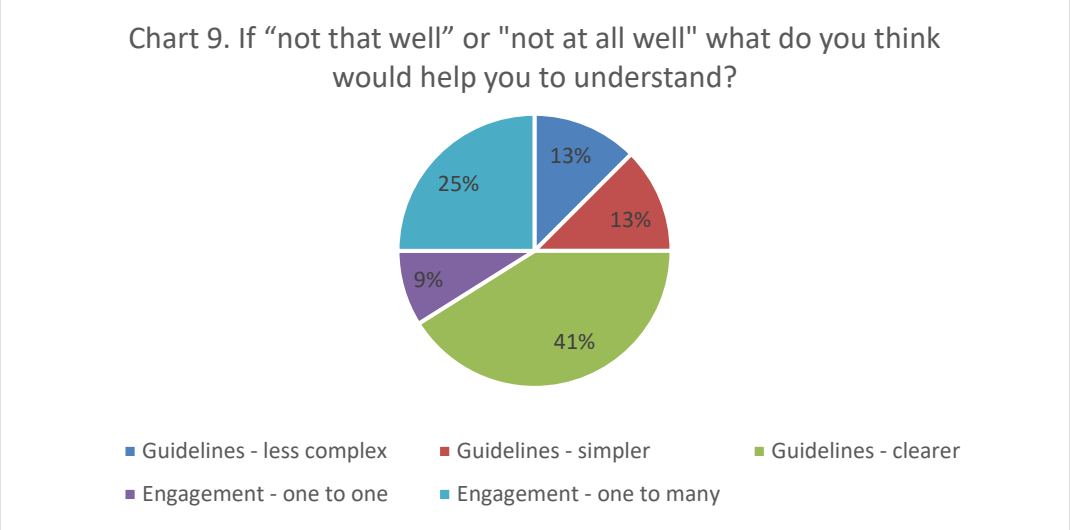
How well does your business or organisation understand its work health and safety obligations?

Of the 285 respondents that answered this question:

- ***Most*** understood their work health and safety obligations very well, ***many*** quite well, ***some*** not very well and a ***few*** not at all.
- Of those that answered negatively (not very well and not at all), actions that would help them improve their understanding included (50 respondents):

- ***Most*** identifying clearer guidelines.
- ***Some*** identifying guidelines being less complex, simpler or engagement with the Regulator on their responsibilities.

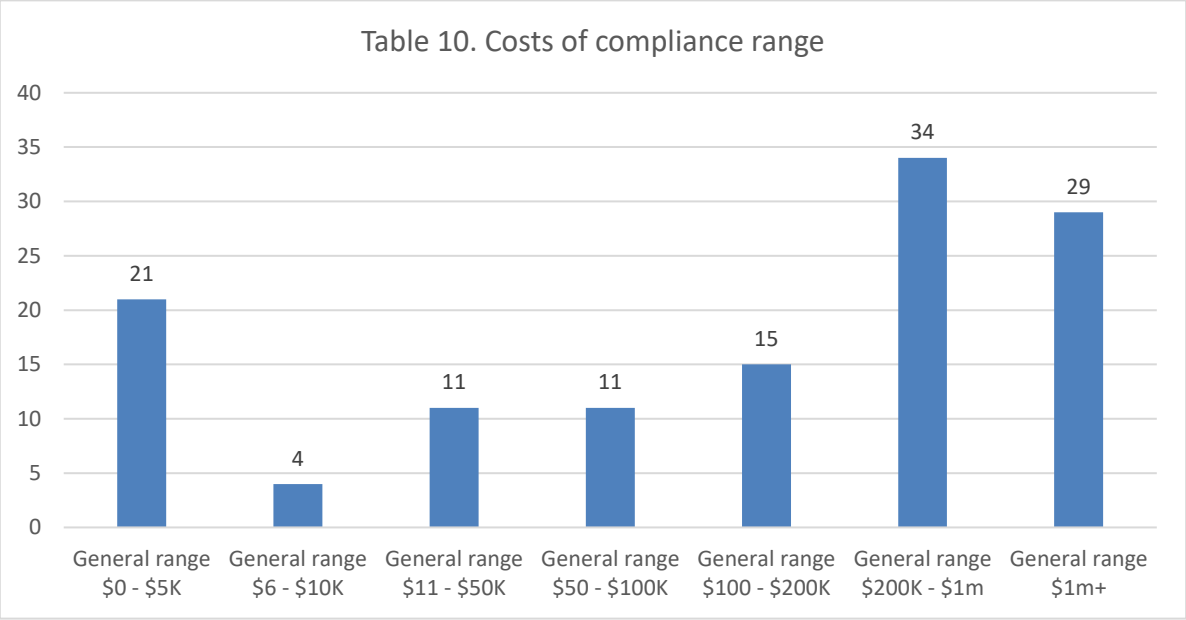




Thinking about just the key actions the business or organisation takes, about how much would it cost per year to comply with your work health and safety obligations?

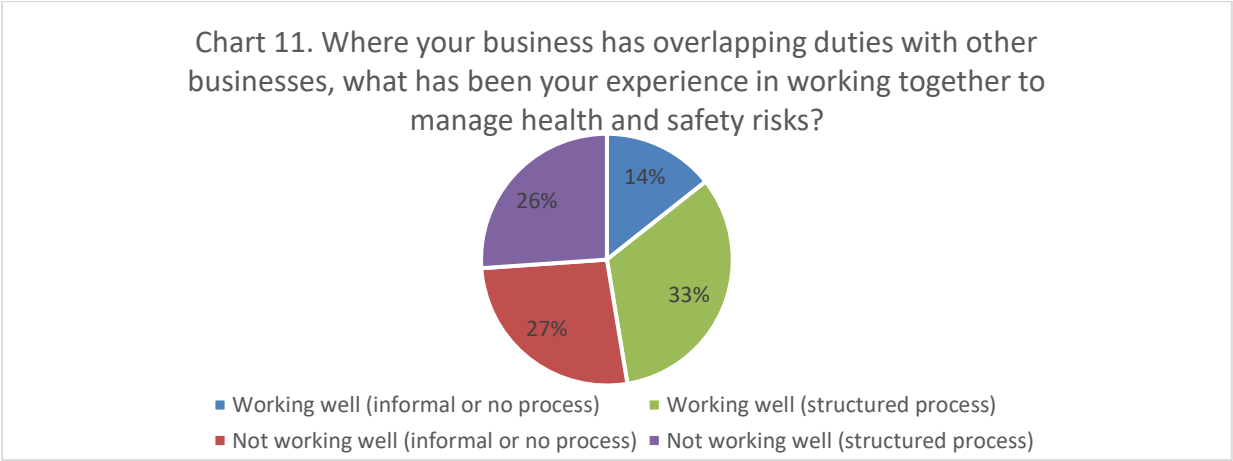
Submitters described their costs of compliance in different ways, making it difficult to calculate precise costs across different submitters. For example, some provided general descriptions such as ‘part of doing business’ or vague or partial descriptions of costs that were impossible to accurately quantify.

Of the respondents that provided specific per annum cost estimates, the most common proportions were within the $200K - $1m and $1m+ ranges, or less than $5K. This generally reflects the proportions of large and small employers that made submissions.



Where your business has overlapping duties with other businesses, what has been your experience in working together to manage work health and safety risks?

Of the 230 respondents that answered this question, there was a generally even proportion of those who considered that overlapping duties were managed well through informal or formal processes, and those who considered they are not managed well via formal, informal or by having no processes.



Focus area two: the law is designed to balance flexibility and certainty

This focus area sought feedback on whether the law strikes the right balance, or whether it may be too detailed in some cases, or not detailed or clear enough in others.

Submissions Summary

- ***Many*** noted that there was no problem with the Act in general, with those identifying problems commonly identifying the Health and Safety at Work (Hazardous Substances) Regulations 2017 and or sections of Part 2 of the Health and Safety at Work Act (which governs risk management processes; overlapping duties and regimes; duties (for PCBUs, workers, officers/directors, and others at a workplace); offences and penalties; liabilities and the duty to notify harm and incidents) as areas of particular concern.
- ***Some*** noted concerns about:
    - The general complexity of regulations and requirements, or that the requirements are generally overly burdensome.
    - Approved Codes of Practice and guidance.
    - Part 3 of the Health and Safety at Work Act (which covers worker engagement, participation, and representation).
    - Other Acts or Regulations than those of the Health and Safety at Work Act.
    - The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.
    - A requirement that they consider is needed but is not currently provided for in law.
    - Other Acts or Regulations than those of the Health and Safety at Work Act.
    - Health and Safety in Employment Regulations 1995.
    - Part 4 of the Health and Safety at Work Act (which covers enforcement, including notices and prosecutions and duties of inspectors).
- In response to the 'Requirements that are working well question' ***many*** also noted that Part 2 of the Act was working well – indicating that respondents may consider that some sections of Part 2 work well, and other sections do not.
- ***Many*** also noted that there was not enough detail or too much ambiguity in relation to Approved Codes of Practice and Guidance.
- ***Most*** respondents used laws and regulations, published guidance, Approved Codes of Practice, work health and safety advisors or consultants, the Regulator, third parties and industry associations to understand their work health and safety responsibilities.
- For Laws and Regulations, Guidance, Approved Codes of Practice, Health and Safety advisors and consultants and Third Parties authorised by WorkSafe, ***most*** generally considered these provide clarity about roles and responsibilities, necessary actions, relevance and is easy to find, with fewer (though still ***many***) considering them to be consistent and easy to apply. Fewer answered in relation to Social Media (most considered this relevant and easy to find) and Word of Mouth (most considered this relevant).
- ***Some*** noted that were no issues with overlapping legislation and the Health and Safety at Work Act, while ***some*** specified overlaps with the Hazardous Substances and New Organisms Act 1996 (regulated by the Environmental Protection Agency), the Building Act 2004 or the Land Transport Act 1998.

Illustrative quotes from submissions

A large business in the transport and warehousing sector *- "HSWA principles are generally robust and fit for purpose. However, there has not been sufficient progress made in developing industry sector guidance and regulation to help duty holders understand what they need to do to reach the threshold of managing risks to levels that are as low as reasonably practicable. E.g. ACOP for training operators of lift trucks. ACOP for the management of noise in the workplace."*

A manufacturing business with fewer than five employees *- "Diverse and conflicting requirements for similar equipment under the Hazardous Substances, Petroleum Exploration and Pipeline Regulations make it hard for our clients to comply".*

A worker from a large construction business *– "The word 'practicable' causes issues because the possibilities of what could be done to improve H&S are endless in their scope (and cost). There are no/few guidelines for different industries on what is practicable and how to efficiently and effectively comply with legislation, in practical terms."*

A not-for-profit organisation within the forestry sector *- I believe the legislation is fundamentally sound and still fit for purpose. There is opportunity to improve flexibility and certainty if there was improvement in the clarity and consistent interpretation of regulations on the part of the Regulator.*

A work health and safety professional *- The system is not broken. The Act and Regulations need to be updated as to be fit for purpose with sufficient flexibility to be effective across all work scenarios and workplaces. Fix it don't replace it. Also, better resource the Regulator to undertake its key functions.*

Common themes raised by stakeholders during the roadshows were:

- That the legislative framework has not arisen as a significant issue, and is generally seen as fit for purpose.
- There may be specific issues with certainty in some areas (director's duties, landowner duties and obligations), but it is not clear whether this is a problem with the legislation or with guidance (or both). This could be as a result of a key theme – people not having clarity regarding what they have to do to comply.
- That they are trying to do the right thing, but need greater clarity about what they need to do, and how they should do it. Particularly so for small and medium enterprises (SMEs) where:
    - There is a lack of written guidance, support and partnership from inspectors.
    - WorkSafe is not seen as providing a consistently proactive or ex ante view on what it thinks PCBUs should be doing to manage risks.
- Often businesses do not know what to do to comply, with not enough Approved Codes of Practice, up-to-date Guidance, or WorkSafe endorsement of Industry guidance. Some examples we heard from sectors included:
    - the forestry and cranes sectors have outdated ACOPs.
    - manufacturing sector receiving inconsistent and outdated advice on how to guard machinery.
    - small, lower risk businesses have little guidance on what to do.
    - wood manufacturing and supermarket sectors have impractical Workplace Exposure Standards for wood and flour dust.
    - Some schools noted a large variability in what people are expected to know.

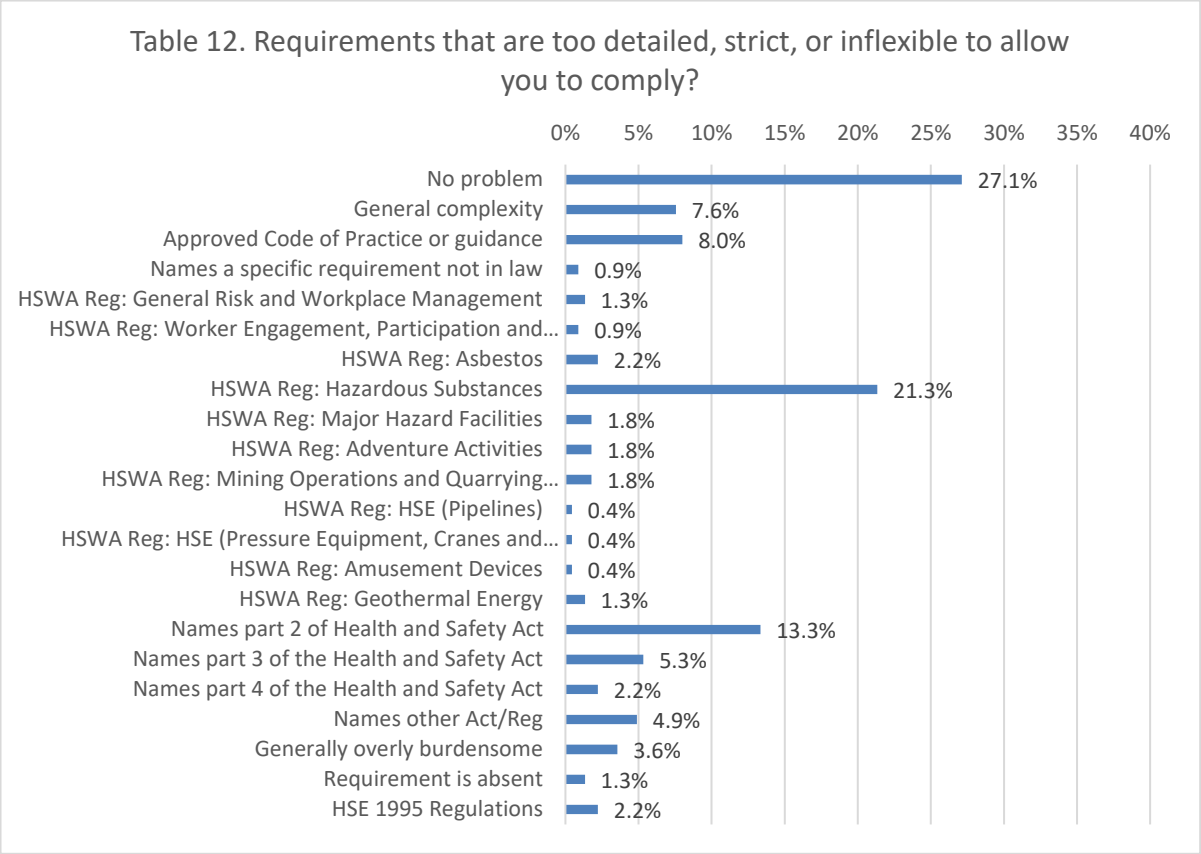
- Some stakeholders felt that 'reasonably practicable' is demanded by Courts when it is too late, and all reasonably practicable steps are subjective.
- SME's noted they are not getting paid for work until they have completed prequalifications, which sometimes do not add value.
- PCBUs feel they need to have documented policies, usually purchased from work health and safety consultancies, regardless of whether those policies are practical, useful or reflect what is effective and proportionate.
- There is a focus on unnecessary and ineffective paper-based compliance and reliance on consultants and ineffective risk management tick box systems.
- Businesses are confused about where work health and safety at work obligations stop and where other legislation starts or takes precedence. For example, road cone use in traffic management, or evacuation of earthquake-prone buildings.

Specific Focus Area Two survey questions

Can you provide examples of requirements that are too detailed, strict, or inflexible to allow you to comply?

Of the 225 respondents that answered this question:

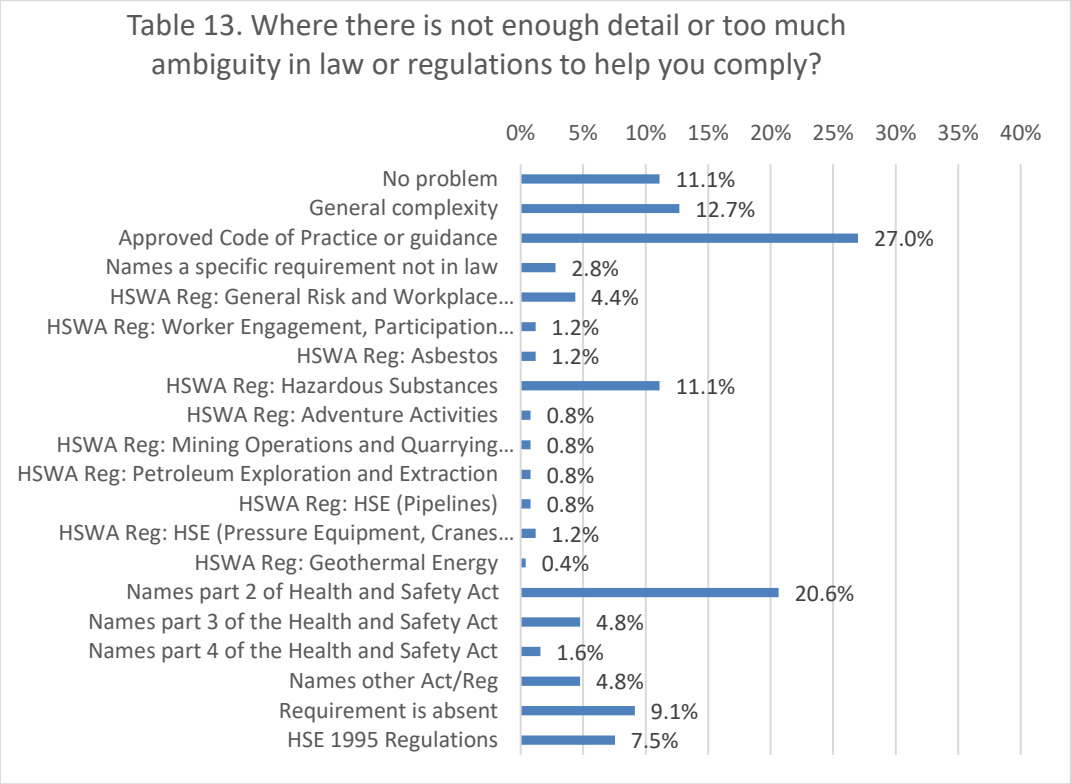
- ***Many*** noted that there was no problem.
- Of those who identified particular requirements, ***some*** noted the following as areas of concern:
  - The Health and Safety at Work (Hazardous Substances) Regulations 2017.
  - Issues contained within Part 2 of the Health and Safety at Work Act.
- A ***few*** noted:
  - The general complexity of regulations and requirements.
  - Approved Codes of Practice and guidance.
  - Part 3 of the Health and Safety at Work Act, which covers worker engagement, participation, and representation.
  - Other Acts or Regulations than those of the Health and Safety at Work Act.
  - Or that the requirements are generally overly burdensome.



Where there is not enough detail or too much ambiguity in law or regulations to help you comply?

Of the 252 respondents that answered this question, of those identifying particular areas of concern:

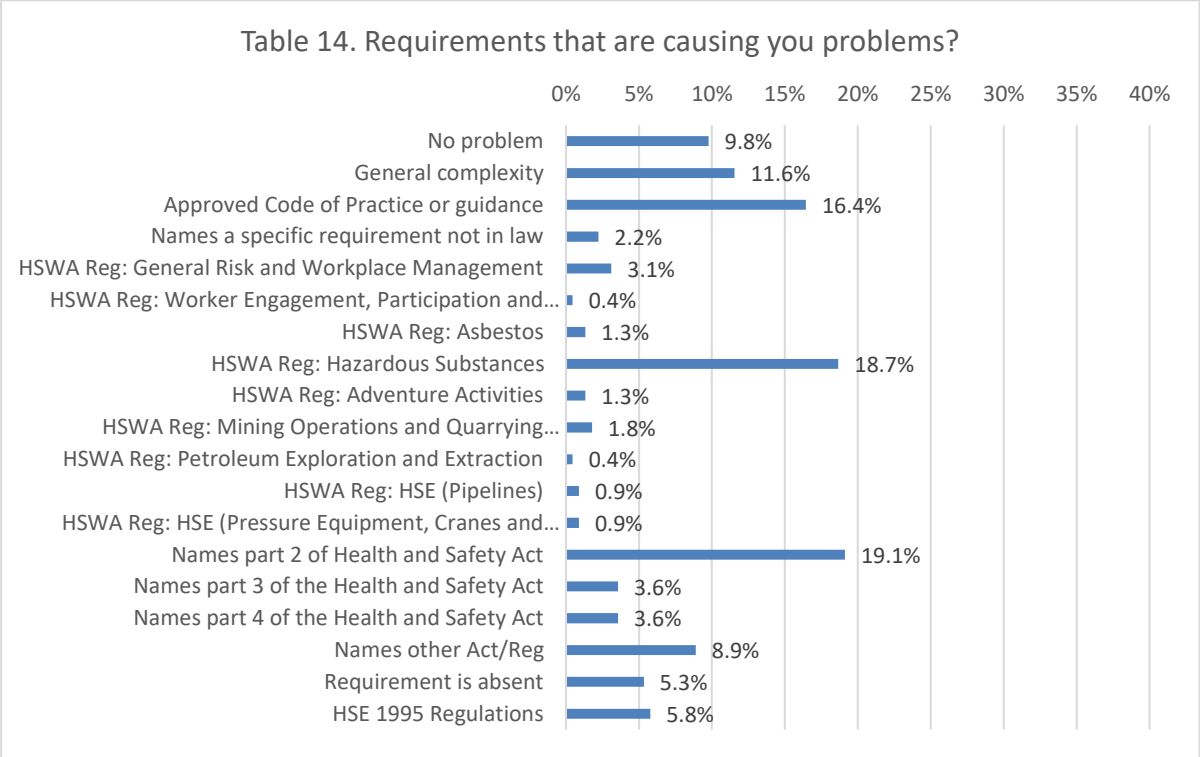
- ***Many*** noted Approved Codes of Practice and Guidance.
- ***Some*** noted that there was no problem, or identified the following areas:
  - General complexity of requirements.
  - The Health and Safety at Work (Hazardous Substances) Regulations 2017.
  - Part 2 of the Health and Safety at Work Act.
- A ***few*** noted:
  - A requirement that is not actually in law.
  - The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.
  - Part 3 of the Health and Safety at Work Act.
  - Other Acts or Regulations than those of the Health and Safety at Work Act.
  - A requirement that they consider is needed but is not currently provided for in law.
  - Health and Safety in Employment Regulations 1995.



Requirements that are causing you problems?

Of the 225 respondents that answered this question:

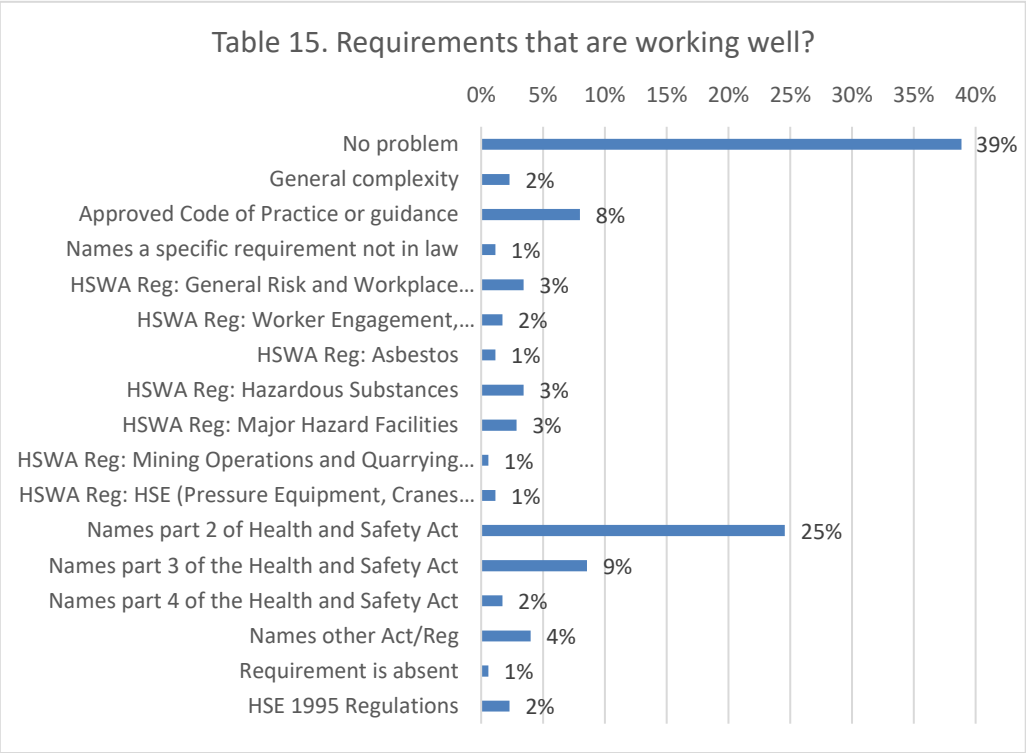
- ***Some*** responders noted that there was no specific problem with the Act in general, or at all, with others noting the following areas are causing them problems:
  - The general complexity of the Act and its Regulations.
  - Approved Codes of Practice or Guidance.
  - The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.
  - A requirement that they consider is needed but is not currently provided for in law.
  - The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.
  - The Health and Safety at Work (Hazardous Substances) Regulations 2017.
  - Part 2 of the Health and Safety at Work Act.
  - Part 3 of the Health and Safety at Work Act.
  - Other Acts or Regulations than those of the Health and Safety at Work Act.
  - Health and Safety in Employment Regulations 1995.
  - Part 4 of the Health and Safety at Work Act.



Requirements that are working well?

Of the 175 respondents that answered this question:

- ***Many*** responders considered that the Act was working well, and that Part 2 of the Act was working well.
- ***Few*** responders considered that the following areas were working well:
  - Approved Codes of Practice and Guidance.
  - The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.
  - The Health and Safety at Work (Hazardous Substances) Regulations 2017.
  - Health and Safety at Work (Major Hazard Facilities) Regulations 2016.
  - Part 3 of the Health and Safety at Work Act.
  - Other Acts or Regulations than those of the Health and Safety at Work Act.



What sources of information or advice do you use to help you understand your responsibilities under the law and how to comply?

Respondents were asked to select all the sources of information they used. Of the 251 respondents that replied:

- ***Most*** used laws and regulations, published guidance, approved codes of practice, work health and safety advisors or consultants, the Regulator, third parties and industry associations.
- ***Some*** used word of mouth.
- ***Few*** used social media or other sources of information.

In relation to the 185 respondents who reported that they used laws and regulations:

- ***Most*** considered that they provide clarity about roles and responsibilities, necessary actions, relevance and are easy to find.
- ***Many*** considered that these are consistent and easy to apply.

In relation to the 156 respondents who reported that they used Guidance:

- ***Most*** considered that these provide clarity about roles, responsibilities and necessary actions, relevance, are easy to find and easy to understand.
- ***Many*** considered that these are consistent and easy to apply.

In relation to the 143 respondents who reported that they used Approved Codes of Practice:

- ***Most*** considered that these provide clarity about roles and responsibilities, necessary actions, relevance and is easy to find, and are easy to understand.
- ***Many*** considered that these are consistent and easy to apply.

In relation to the 114 respondents who reported that they used work health and safety advisors and consultants:

- ***Most*** considered that they provide clarity about roles and responsibilities, necessary actions, relevance and are easy to find, and are easy to understand.
- ***Many*** considered they are consistent and easy to apply.

In relation to the 126 respondents who reported that they used work health and safety advisors and consultants:

- ***Most*** considered that they provide clarity about roles and responsibilities, necessary actions, relevance and are easy to find, and easy to understand.
- ***Many*** considered that they are consistent and easy to apply.

In relation to the 83 respondents who reported that they used third parties authorised by WorkSafe:

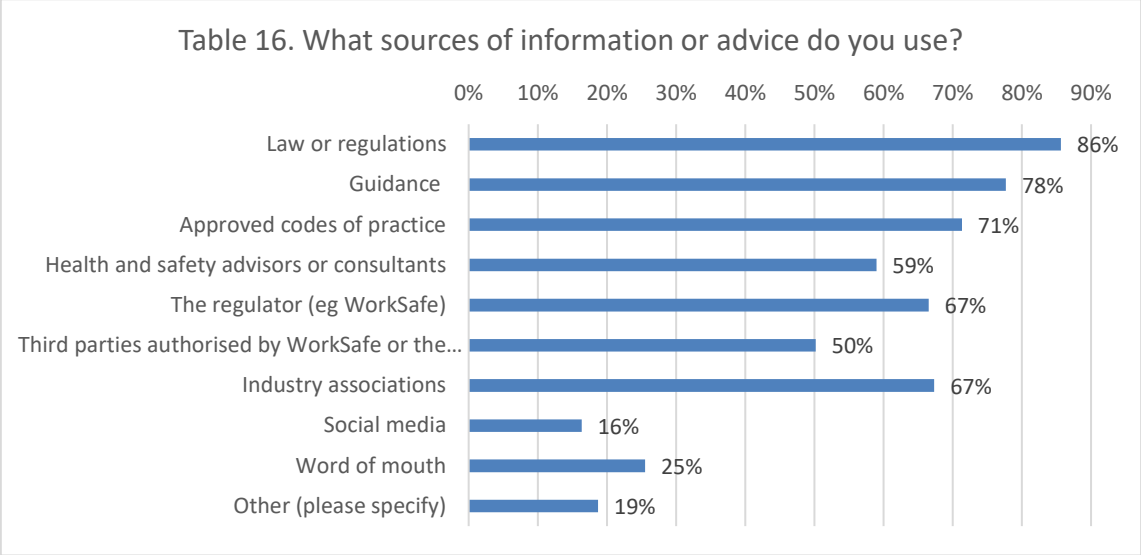
- ***Most*** considered that these provide clarity about roles and responsibilities, necessary actions, relevance and are easy to find, and easy to understand.
- ***Many*** considered they are easy to apply.
- ***Some*** considered they are consistent.

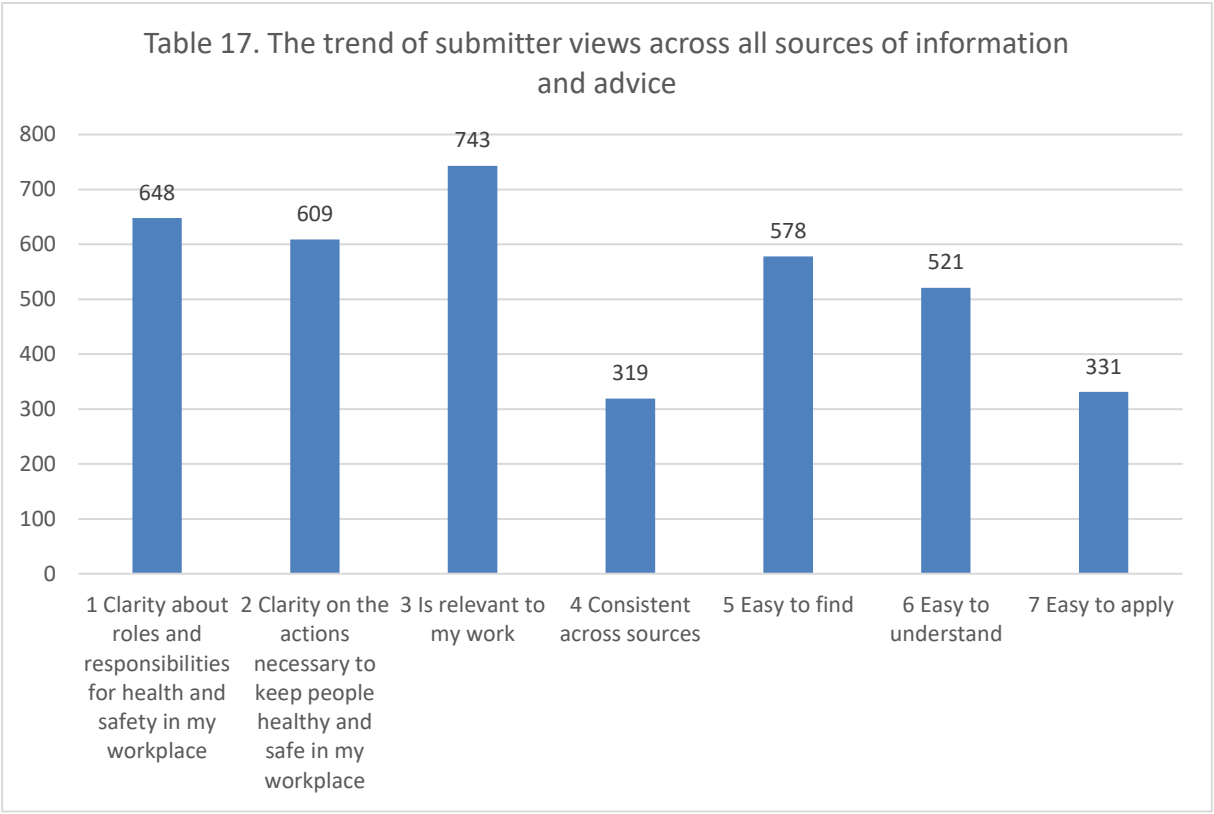
In relation to the 24 respondents who reported that they used Social Media:

- ***Most*** considered these to be relevant and easy to find.
- ***Many*** considered these provide clarity about roles and responsibilities, necessary actions, easy to understand and are easy to apply.
- ***Some*** considered these to be consistent.

In relation to the 42 respondents who reported that they used Word of Mouth:

- ***Most*** considered these to be relevant.
- ***Many*** considered these provide clarity about roles and responsibilities, necessary actions, easy to find, to understand and are easy to apply.
- ***Some*** considered these to be consistent.





Are you able to provide any examples of where you have had difficulties because of the overlap between work health and safety legislation and other requirements?

Of the 141 respondents that provided examples of difficulties between overlapping legislation and other requirements:

- ***Some*** noted that were no issues with overlap, or specified overlaps with the Hazardous Substances and New Organisms Act 1996 (regulated by the Environmental Protection Agency), the Building Act 2004, Land Transport Act 1998, or other.

- ***Few*** noted overlaps with legislation governing the Primary Industries, Biosecurity and Environmental legislation, Energy (electricity and gas) safety, employment relations and employment standards legislation and systems, and Maritime and Civil Aviation rules.

Focus area three: worker engagement and participation

This Focus Area sought feedback on how businesses and organisations engage with workers, how workers participate in work health and safety, and the impact this has on work health and safety.

Submissions summary

- ***Most*** respondents reported engagement between employers and workers via elected work health and safety representatives, informal work health and safety representatives or champions, work health and safety committees, a system for regular work health and safety communications, regular meetings where work health and safety is discussed and regular work health and safety briefings.

- ***Most*** thought these actions were either very or quite effective, with ***some*** considering them to be either not that effective or not at all effective.

- ***Most*** considered that workers are doing enough to keep themselves and their colleagues safe, with ***some*** considering they are partly doing enough or not doing enough.

Illustrative quotes from submissions

A manufacturing business with less than 10 employees – *"We have a very positive Health and Safety culture, and I believe it's because our workers are given the opportunity to participate positively and be heard in Health and Safety."*

A worker from a large manufacturing business – *"That is a really difficult question. People generally don't actively work to hurt themselves or others but in the process of work, sometimes this inadvertently happens. Distractions, time pressures, gaps in processes/systems, etc. can lead to 'unsafe behaviour'. In my experience (30 years) in Health and Safety, people do what they think they need to do to work safely and get the job done within the boundaries of what they are asked to do and what resources are provided for them, but we are all prone to make mistakes."*

Feedback from the roadshows included that:

- Culture is important and engagement works well when driven by those on the ground, not just formal processes.

- Some Unions considered that work health and safety representatives are key as some employers do not take work health and safety seriously.

- Work health and safety Committees can be too formal, and can struggle to get engagement, and there may be need to 'right-size' and reframe work health and safety representatives and committees as working alongside management to improve things on the ground.

- Training can be costly and time-consuming, but is often ineffective, paperwork-based, duplicative and impractical. This creates challenges, including:

- Workers taking work health and safety seriously is difficult when the paper-based systems do not reflect the reality of their jobs and the (often changing) risks they need to manage.
- Work health and safety is sometimes seen by workers as something that is done "to" them, and not something they have a stake in too.
- Some firms do this well by empowering workers to take responsibility, and making work health and safety practical and about how the job is done.

Specific Focus Area Three survey questions

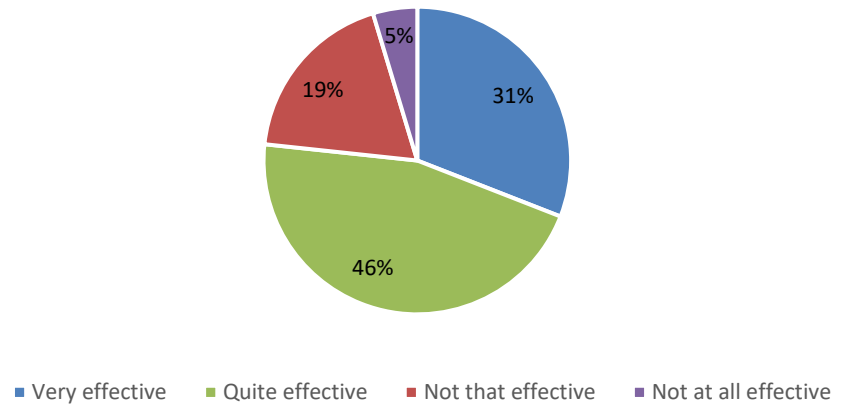
What worker engagement and participation measures do you have in place?

- ***Most*** respondents reported engagement between employers and workers via elected work health and safety representatives, informal work health and safety representatives or champions, work health and safety committees, a system for regular work health and safety communications, regular meetings where work health and safety is discussed and regular work health and safety briefings.

From your experience, either for a business or as a worker, how effective do you think the worker engagement activities that your business or organisation uses are?

- Of the 233 respondents that answered this question, ***most*** thought these actions were either very or quite effective, with ***some*** considering them to be either not very effective or not at all effective.

Chart 18. From your experience, either for a business or as a worker, how effective do you think the worker engagement activities that your business or organisation uses are?



From your experience, either for a business or as a worker, do you think workers are doing enough to keep themselves and their colleagues safe?

- Of the 216 respondents that answered this question, ***most*** considered that workers are doing either enough, with ***some*** considering they are partly doing enough or not doing enough.

- ***Most*** thought these actions were either very or quite effective, with ***some*** considering them to be either not very effective or not at all effective.

Chart 19. From your experience, either for a business or as a worker, do you think workers are doing enough to keep themselves and their colleagues safe?

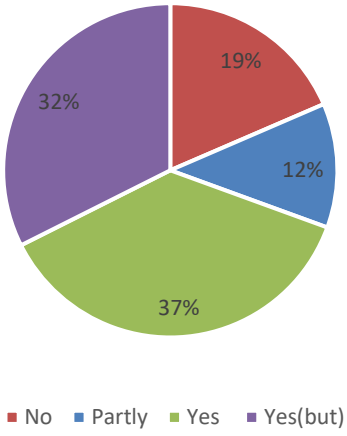


Table 20. From your experience, either for a business or as a worker, do you think workers are doing enough to keep themselves and their colleagues safe?

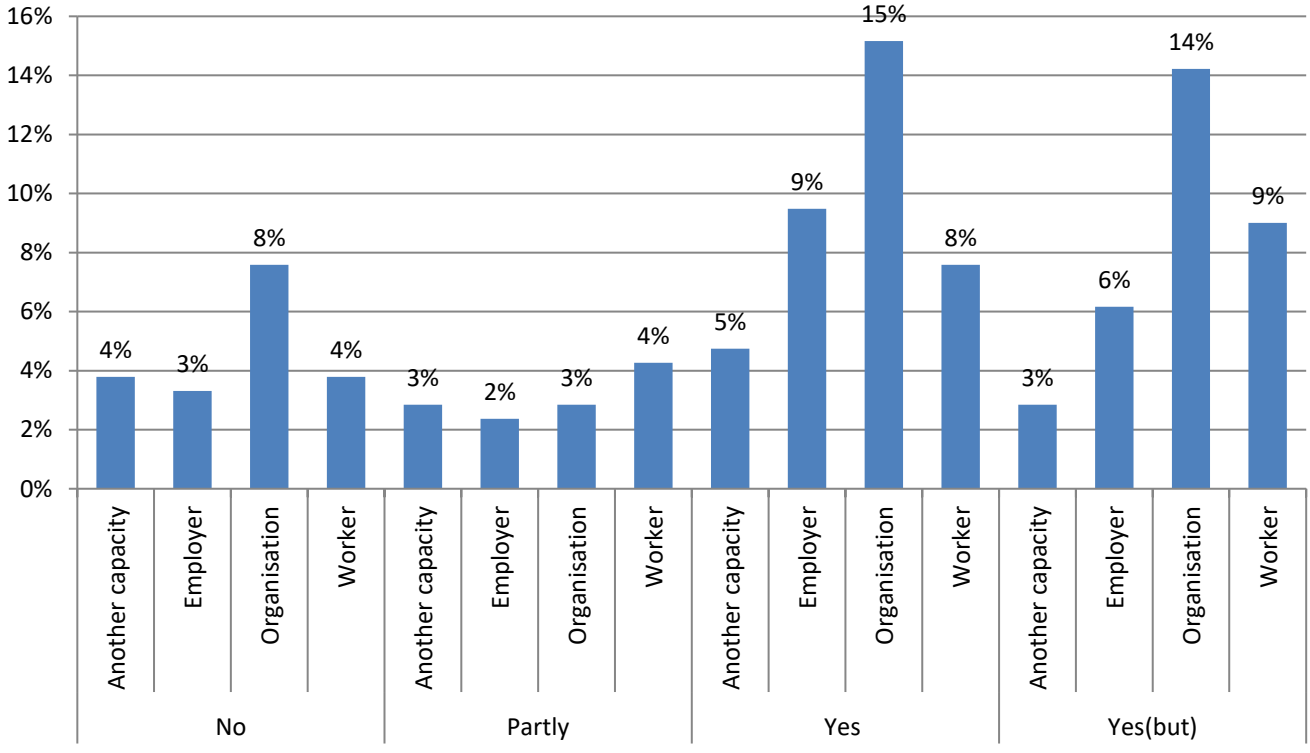
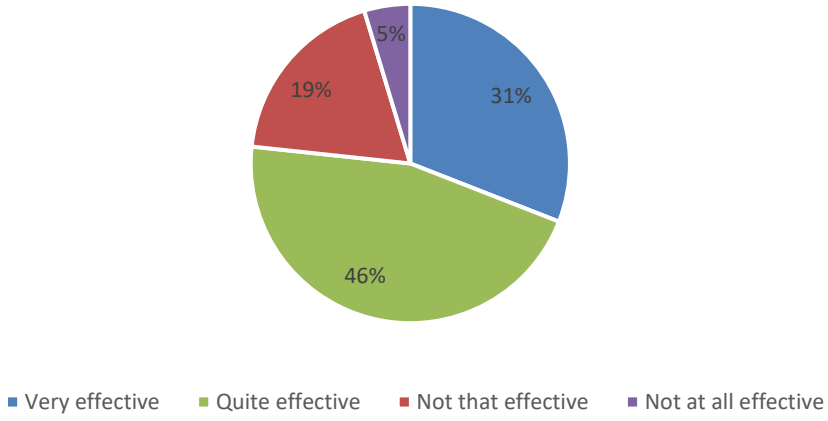


Chart 21. From your experience, either for a business or as a worker, how effective do you think the worker engagement activities that your business or organisation uses are?



Focus area four: an effective work health and safety system needs effective regulators

We sought feedback on experiences with the work health and safety regulators (WorkSafe, Maritime New Zealand and the Civil Aviation Authority – though respondents focussed on WorkSafe), and the people and organisations that have roles within the system.

Submissions summary

- ***Most*** reported that they interacted with WorkSafe or another work health and safety regulator via education and training materials, online and published information and resources, workplace visits, queries to the regulator and notifications, and ***many*** reported public campaigns, applications for licences, certificates, or exemptions, or interactions with regulatory tools (such as safe work instruments online).

- When asked whether respondents got what they needed from these interactions, those with the highest proportion of strongly negative responses (over 25%) related to:
  - Registering equipment (39%)
  - Public Campaigns (37%)
  - Queries to the Regulator (32%)
  - Workplace Visits (25%)

- Interactions with the strongest positive responses (over 25%) related to:
  - Applications for licences (48%)
  - Notifications (48%)
  - Registering equipment (39%)
  - Interacting with regulatory tools (30%)
  - Workplace visits (28%)
  - Education and training materials (25%)

- Registering equipment and workplace visits both had strong positive and negative responses, and the large proportion of partial satisfaction responses across all interactions described above indicates variable experiences across these.

- Similarly, experiences with the Regulator included ***most*** 52% responding negatively, with ***many*** considering this is due to the Regulator's poor sector-specific knowledge, and ***some*** considering this is due to poor people skills, disproportionate requirements and not making time available.

- ***Many*** (40%) responded positively, with ***many*** considering this is due to Regulator's good sector-specific knowledge, and ***some*** considering this is due to good people skills, proportionate requirements and making time available.

- Regarding interactions with third parties, ***many*** interacted with auditors, compliance certifiers, assessors or inspection personnel and ***some*** interacted with licencing bodies. ***Most*** responded positively when asked about their most recent interaction, with ***some*** responding negatively.

- ***Most*** respondents considered they knew the consequences for not complying with their work health and safety obligations, with ***many*** considering these to be generally balanced and reasonable. ***Many*** considered the scale of penalties in relation to actions to be disproportionate, with ***some*** considering the threshold of penalties to actions to be disproportionate. ***Some*** considered that penalties were too high, and some considered them too low.

Illustrative quotes from submissions

A District Council *– "It is REALLY hard to get a hazardous substances certifier now and especially to locate one who will come in a timely manner."*

A worker *– "There is also considerable fear that something may go wrong and that WorkSafe would be very heavy-handed with us as their idea of what is reasonably practicable appears to be 'every conceivable step possible with the benefit of hindsight'."*

A worker from a medium-sized retail employer *- "Generally useful interactions. The General Inspectorate are understanding of the challenges faced on sites throughout the country, although in the event of an accident the Investigations team often have a differing opinion to what is and is not acceptable. There is also often differing opinions and interpretations between individual inspectors and certifiers.*

A construction association *– "WorkSafe needs to apply a consistent approach to engaging with employers and managers, provide education on how to comply, and implement sound and appropriate controls, and only when those approaches haven't worked should they be looking to enforce."*

Feedback from roadshows included:

- WorkSafe is perceived as not providing consistent ex ante certainty or support, but quick to highlight ex post failings with hindsight bias.
- WorkSafe is not always focused on what is important, there is often a lack of good engagement, and the regulator needs to have a greater focus on education and supporting businesses to do better.

- Conversely, if an incident or accident occurs, WorkSafe is seen as too reactive in looking for fault, with hindsight bias and unrealistic expectations of what was reasonably practicable through an ex-post assessment.
- Examples of inconsistent treatment of the same risks by different inspectors (identical plant in different part of the country treated differently).
- Comments that WorkSafe takes a "gold standard" approach to compliance with the fullest extent of controls in the regulations in situations where the regulations are also designed to allow flexibility for tailored approaches (i.e. the energy sector).
- That some WorkSafe inspectors will not give an opinion as they do not want to be constrained from prosecuting if something "goes wrong" and leave it to organisations to manage risk.
- Some Inspector and Investigation practice has been described as disrespectful, demeaning, non-collaborative and inquisitorial, with a perception that Inspectors are encouraged to focus on issuing notices and being punitive. This uncertainty and lack of help leads to fear of engagement with WorkSafe.
- Some local WorkSafe offices have helpful people who are good to work with, but the perception is they are under-resourced. The High Hazards Unit is generally seen as helpful and giving good advice on critical risks. WorkSafe have involved the forestry industry on WorkSafe's forestry sector priority plan and have been listening to the sector's input.
- A consistent theme is that the Regulator was more helpful and engaging roughly ten years ago, and there is need for more industry-specific inspectors – *"Inspectors used to be generalists, then gained more subject matter expertise. They are now generalists again."*
- The Regulator should come in earlier and engage with businesses to innovate.

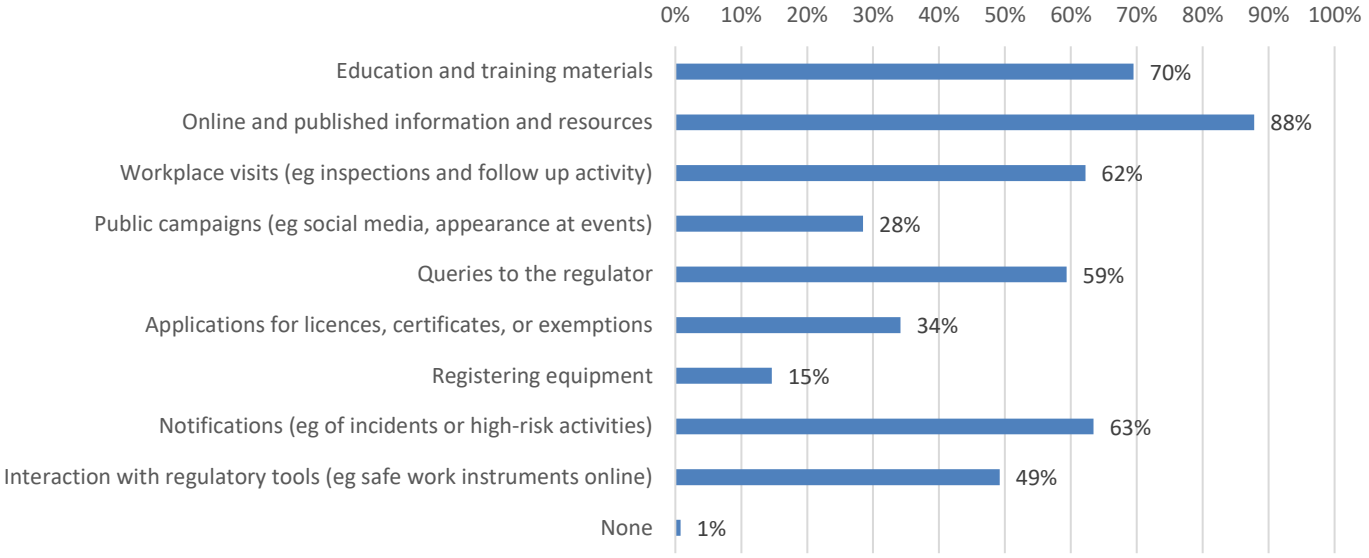
Specific Focus Area Four survey questions

In what ways have you interacted with WorkSafe or another work health and safety regulator?

Of the 246 respondents that answered this question:

- ***Most*** reported they interacted through education and training materials, online and published information and resources, workplace visits (e.g. inspections and follow up activity), queries to the regulator and notifications (e.g. of incidents or high-risk activities).
- ***Many*** reported public campaigns (e.g. social media, appearance at events, applications for licences, certificates, or exemptions, or interactions with regulatory tools (e.g. safe work instruments online).
- A ***few*** reported interactions through registering equipment.

Table 22. In what ways have you interacted with WorkSafe or another health and safety regulator?



When asked whether they got what they needed from these sources, those respondents reporting an interaction with specific sources answered as follows. Where respondents answered 'yes' (rather than 'yes completely', 'partially' or 'no') we have included these with 'yes completely' responses:

- Did you get what you needed from education and training materials:
  - ***Some*** answered yes completely
  - ***Most*** answered yes partially
  - ***Few*** answered no

- Did you get what you needed from online and published information and resources
  - ***Some*** answered yes completely
  - ***Most*** answered yes partially
  - ***Few*** answered no

- Did you get what you needed from workplace visits
  - ***Some*** answered yes completely
  - ***Many*** answered yes partially
  - ***Some*** answered no

- Did you get what you needed from public campaigns
  - ***Many*** answered yes completely
  - ***Some*** answered yes partially
  - ***Many*** answered no

- Did you get what you needed from queries to the regulator
  - ***Some*** answered yes completely
  - ***Many*** answered yes partially
  - ***Many*** answered no

- Did you get what you needed from applications for licences, certificates, or exemptions
  - ***Many*** answered yes completely

- ***Many*** answered yes partially
- ***Some*** answered no

- Did you get what you needed from registering equipment
  - ***Many*** answered yes completely
  - ***Some*** answered yes partially
  - ***Many*** answered no

- Did you get what you needed from notifications
  - ***Many*** answered yes completely
  - ***Many*** answered yes partially
  - ***Some*** answered no

- Did you get what you needed from interactions with regulatory tools
  - ***Many*** answered yes completely
  - ***Many*** answered yes partially
  - ***Some*** answered no

Would you describe your interactions with the regulator as useful, reasonable, and timely?

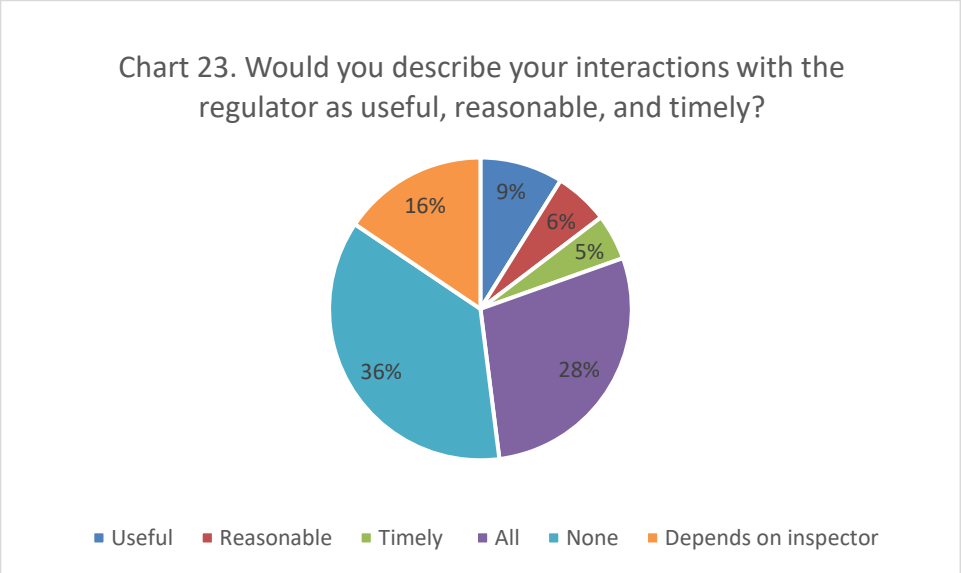
Of the 208 respondents answering this question:

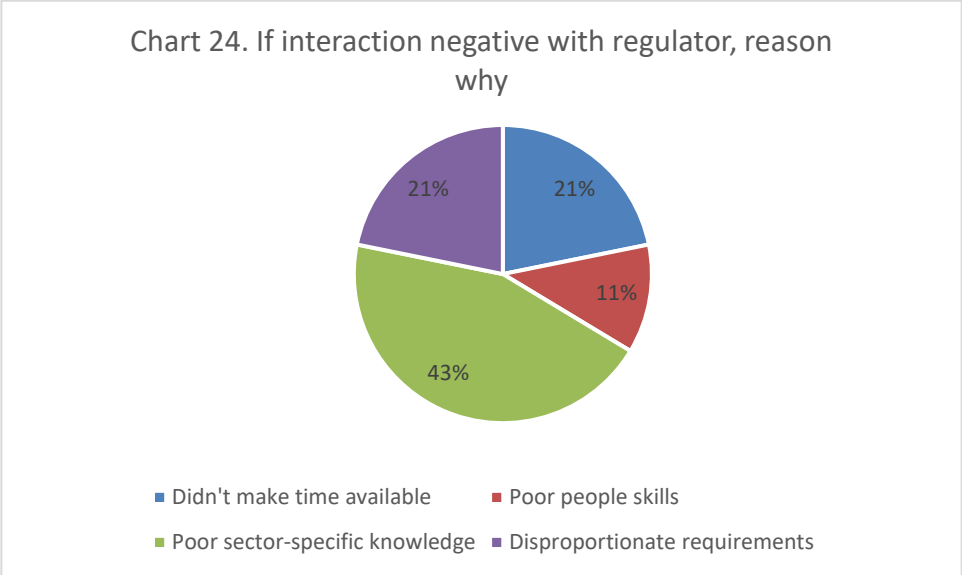
- ***Most*** (52%) responded negatively (neither useful, reasonable or timely, or that a positive experience depended on the inspector). The reasons for these responses were:

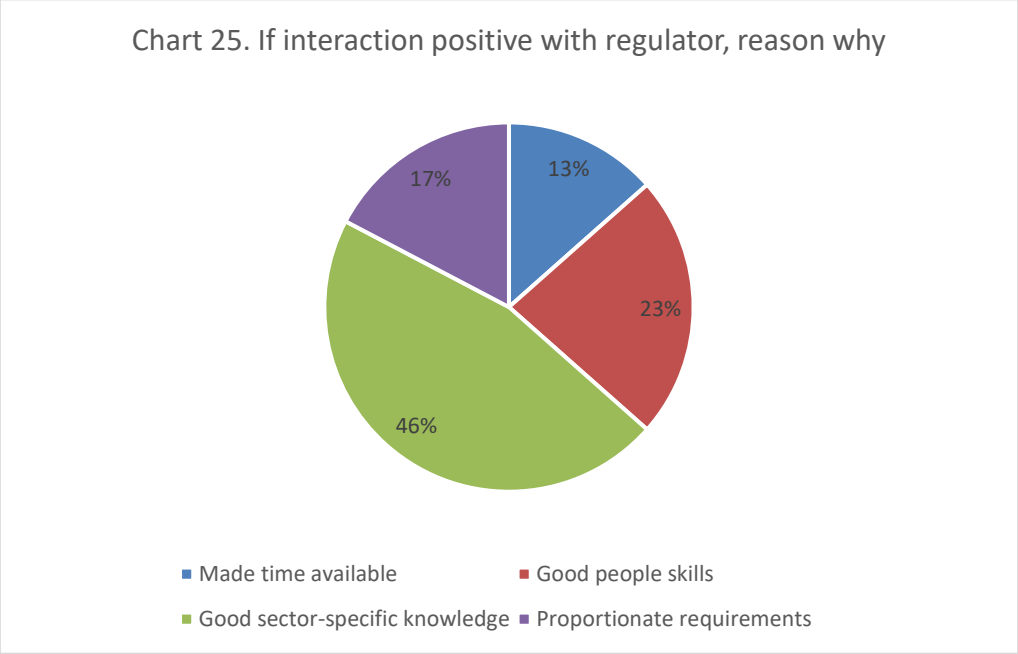
  - ***Many*** - poor sector-specific knowledge
  - ***Some*** - poor people skills, disproportionate requirements and not making time available

- ***Many*** (40%) responded positively (useful, reasonable or timely – or all of these), with those responding indicating that this is due to:

  - ***Many*** - good sector-specific knowledge
  - ***Some*** - good people skills, proportionate requirements and making time available





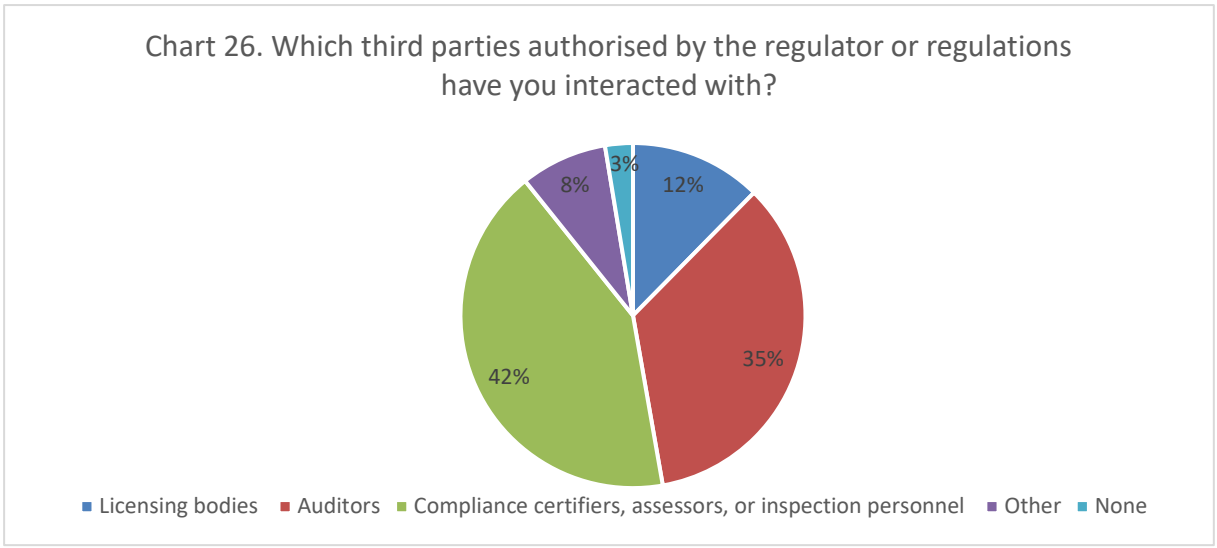


Which third parties authorised by the regulator or regulations have you interacted with?

The 180 respondents that answered this question noted that they interacted with the following third-parties:

- ***Many*** interacted with auditors, compliance certifiers, assessors or inspection personnel
- ***Some*** interacted with licencing bodies
- ***Few*** interacted with others or none

- ***Most*** responded positively when asked (thinking of their most recent interaction) whether they received what was needed to comply with work health and safety obligations, and whether their interactions were useful, reasonable, and timely. ***Some*** responded negatively.



Do you know what consequences you would face for not complying with your work health and safety obligations? Do you think these consequences are appropriately balanced and reasonable?

- ***Most*** of the 211 respondents considered they knew the consequences, with a ***few*** only partially understanding or not understanding the consequences.

- ***Many*** considered the consequences to be generally balanced and reasonable, with ***some*** considering them to be partially balanced and reasonable.

- ***Many*** considered the scale of penalties in relation to actions to be disproportionate, with ***some*** considering the threshold of penalties to actions to be disproportionate.

- ***Some*** considered that penalties were too high, and ***some*** too low.

Chart 27. Do you know what consequences you would face for not complying with your health and safety obligations?

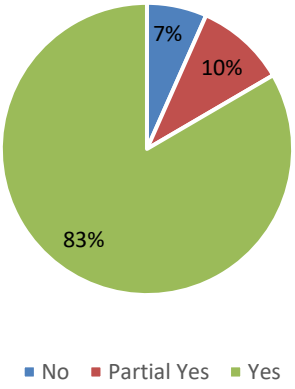
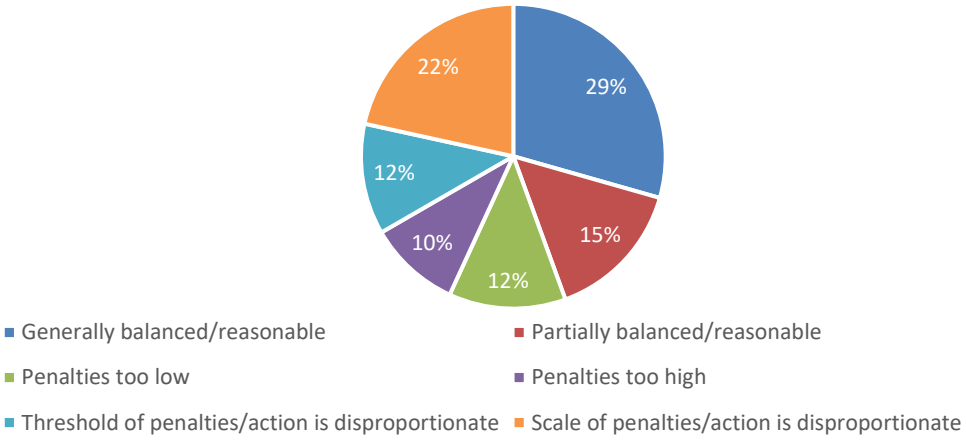


Chart 28. Do you think these consequences are appropriately balanced and reasonable?



Focus area five: the objective of the work health and safety regulatory system

We sought feedback on whether the work health and safety regulatory system is currently meeting its objective, via questions on its general thresholds and settings.

Submissions summary

- Submitters were generally divided about whether the work health and safety regulatory system's settings are correctly balanced, with relatively even proportions of negative and positive views on whether settings are over or under-cautious, clear, effective, flexible and durable, proportionate to the risk or balancing costs with risks.
- This indicates that as well as positive views there was an equally significant proportion of negative views about whether the current balance is desirable.

- Roadshow feedback included uncertainty about roles and duties within the system, its complexity and the need to prioritise what is most critical.

Illustrative quotes from submissions

An environmental care group – *"and more alarmingly, volunteers are electing to stop volunteering rather than go through the expensive, time consuming and arduous process of getting a Controlled Substance Licence."*

A recreational group *– "The 2015 legislation has created a perceived or actual risk of liability for landowners and land managers that permit recreational access, prompting them to respond conservatively by restricting or closing public access to their land."*

An organisation within the energy sector *– "electricity distribution businesses have observed that the cost of the temporary traffic management required by road controlling authorities when carrying out these works has become significant and, in our view, unreasonable and not proportionate to the risks present on site."*

Feedback from the roadshows included that:

- There is uncertainty about roles and duties within the system, including some officers that are unclear about the extent of their role and duty under the Act.
- From an SME perspective, the system is over-complicated and some are scared of work health and safety due to its complexity.
- Comments that WorkSafe takes a "gold standard" approach to compliance with the fullest extent of controls in the regulations in situations where the regulations are also designed to allow flexibility for tailored approaches.
- There is need to prioritise what is most critical, and to reframe work health and safety in this way.

Specific Focus Area Five survey questions

Specific Focus Area Five Questions:

- ***Most*** considered the threshold at which work-related risks need to be managed is about right, ***some*** considered it over-cautious and ***some*** considered it under-cautious.
- ***Most*** responded positively to whether the regulatory system is clear, but ***many*** responded that it is not clear.
- ***Many*** responded positively to whether the regulatory system is effective, but ***most*** responded negatively.
- ***Many*** responded positively to whether the regulatory system is flexible and durable, with ***most*** responding negatively.

- ***Most*** responded positively to whether the regulatory system is proportionate to the risk, with ***many*** responding negatively.

- ***Many*** responded positively to whether the regulatory system is balancing costs with risk, with ***most*** responding negatively (by a slim margin).

Chart 29. Do you think the threshold at which work-related risks need to be managed is:

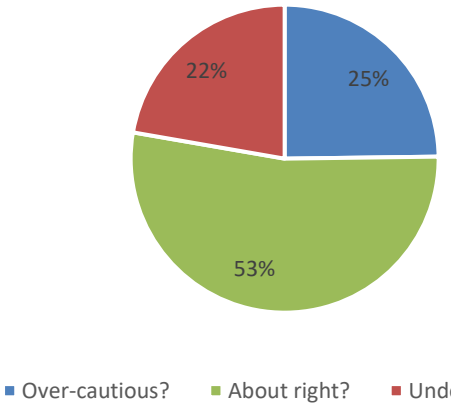


Chart 30. Do you think the work health and safety regulatory system is: balancing costs with risk

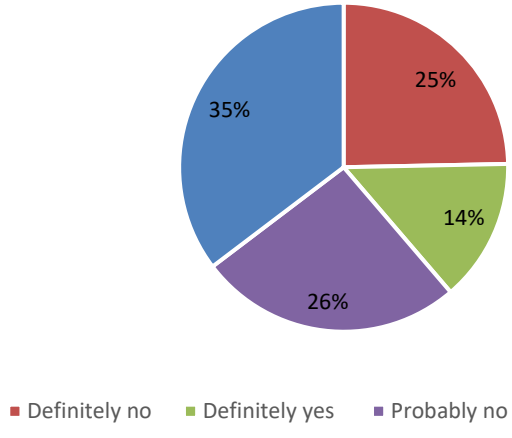


Chart 31. Do you think the work health and safety regulatory system is: clear

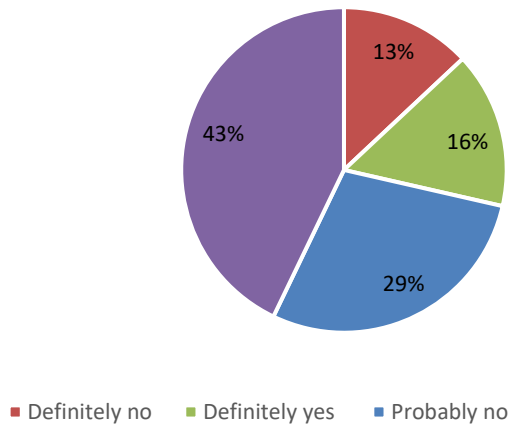


Chart 32. Do you think the work health and safety regulatory system is: effective

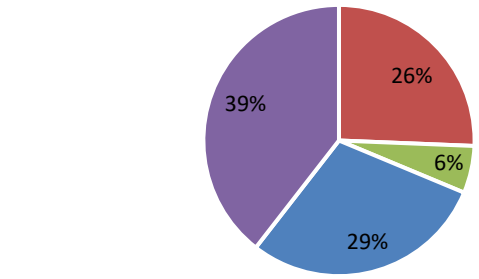


Chart 33. Do you think the work health and safety regulatory system is: flexible and durable

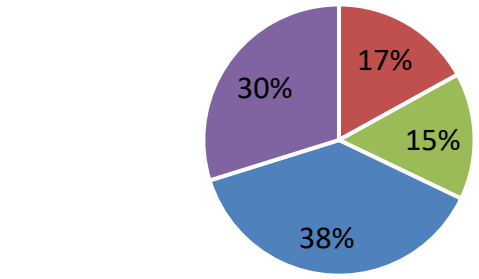


Chart 34. Do you think the work health and safety regulatory system is: proportionate to the risks

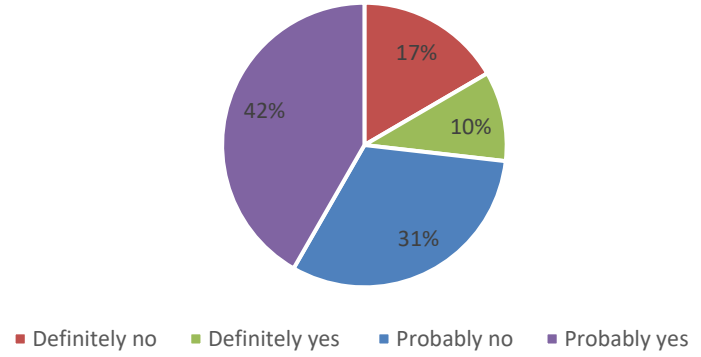


Chart 35. Do you think the work health and safety regulatory system is: balancing costs with risk

