

# Office of Industrial Relations Regulator Performance Framework Report 2019-20

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## Glossary

Best Practice Review	<i>Best Practice Review of Workplace Health and Safety Queensland</i>
CMEP	Compliance Monitoring & Enforcement Policy
ESO	Electrical Safety Office
HWCA	Heads of Workers' Compensation Authorities
HWSA	Heads of Workplace Safety Authorities
IPaM	Injury Prevention & Management Program
IRPR	Industrial Relations Policy and Regulation
ISSC	Industry Sector Standing Committee
OIR	Office of Industrial Relations
SWA	Safe Work Australia
WCQ	WorkCover Queensland
WCRS	Workers' Compensation Regulatory Services
WHS	Work Health and Safety
WHSQ	Workplace Health and Safety Queensland



## Introduction

The Queensland Government has endorsed a Regulator Performance Framework to ensure that regulators report their performance against five model practices, with a focus on making sure that the policy objectives of regulation are achieved while balancing any regulatory burden on business, including small business.

The Office of Industrial Relations (OIR) comprises:

- Workplace Health and Safety Queensland (WHSQ)
- Electrical Safety Office (ESO)
- Workers' Compensation Regulatory Services (WCRS)
- Industrial Relations Policy and Regulation (IRPR)

OIR provides a range of regulatory and advisory services and initiatives, including:

- targeted initiatives that engage with workers, business and the community to build safety and productivity
- managing registration, licensing, certification and accreditation regimes for workplaces and electrical safety
- developing legislative, compliance and enforcement frameworks.

**Workplace Health and Safety Queensland (WHSQ)** is the primary work health and safety (WHS) regulator in Queensland, working to improve WHS and reduce risks of workers being killed or injured on the job. This office is responsible for several Acts, including the *Work Health and Safety Act 2011*, the *Electrical Safety Act 2002* and the *Safety in Recreational Water Activities Act 2011*. This office also enforces the *Work Health and Safety Act 2011*, investigates workplace fatalities and serious injuries, prosecutes breaches of legislation, and educates employees and employers on their legal obligations and practical ways of complying. WHSQ also focuses on being a facilitator or enabler who collaborates with businesses and workers to improve safety outcomes in a way which also supports business productivity.

The **Electrical Safety Office (ESO)** has primary responsibility for delivery of electrical safety services in Queensland. This office develops and enforces standards for electrical safety and promotes improved safety performance across the community. ESO is responsible for:

- advisory and enforcement activities to promote compliance with electrical safety laws and standards
- information, education and training activities to help industry employees and the community reduce the risk of death and injury from electrocution, fire and explosion, and improve electrical safety
- managing registration, licensing, approval (electrical equipment) and accreditation regimes required under the *Electrical Safety Act 2002*.

**Workers' Compensation Regulatory Services (WCRS)** is responsible for the Workers' Compensation and Rehabilitation Act 2003. Its diverse roles include those of regulator, facilitator of legal and medical resolution, and educator and promoter of Queensland's workers' compensation scheme. WCRS works closely with scheme partners and stakeholders to balance the needs of workers and employers to ensure a fair and efficient scheme that better serves industry and to ultimately ensure that injured workers are able to safely return to the workplace after a workplace injury.

**Industrial Relations Policy and Regulation** (IRPR) delivers industrial relations regulatory compliance services to Queenslanders and provides Industrial Relations policy advice to the State Government on the operation of Queensland's industrial relations system and the national workplace relations system to support fair and safe work; including licensing and compliance services to protect vulnerable labour hire workers and promote the integrity of the labour hire industry in Queensland.

IRPR has operational responsibility for the following Acts:

- *Industrial Relations Act 1999*
- *Trading (Allowable Hours) Act 1990*
- *Holidays Act 1983*
- *Anzac Day Act 1995*
- *Child Employment Act 2006*
- *Private Employment Agents Act 2005*
- *Pastoral Workers Accommodation Act 1980*
- *Workers Accommodation Act 1952*
- *Labour Hire Licensing Act 2017*

The Industrial Relations Act continues to regulate the state public sector, local government employees and the employees of a number of statutory authorities.

## ***Model Practice 1: Ensure regulatory activity is proportionate to risk and minimises unnecessary burden***

### **Principles**

- A proportionate approach is applied to compliance activities, engagement and regulatory enforcement actions
- Regulations do not unnecessarily impose on regulated entities
- Regulatory approaches are updated and informed by intelligence gathering so that effort is focussed towards risk.

OIR uses a wide range of activities and regulatory powers to promote, monitor and enforce compliance with the legislation framework. Decisions on regulatory activity are made on consideration of a proportionate approach to compliance activities, engagement and regulatory enforcement actions. OIR has developed a risk-based strategy for Queensland that builds on and supports the national policy and strategies.

WHSQ and ESO are strengthening compliance and enforcement activities through the development of a robust and contemporary risk-based and responsive regulatory strategy, supported by a suite of discipline-specific action plans and frameworks that identify and embed regulator priorities. The regulatory strategy has been informed through consideration of the public good, authorizing environment and operational capability<sup>1</sup> and application of modern regulatory theory<sup>2</sup>, as well as reference to a broad range of Australian and International regulatory strategies across WHS and other regulatory jurisdictions. It has been designed to be consistent with the Queensland Government Regulator Performance Framework.

The regulatory strategy applies elements of good practice identified from the strategic documents of other regulators, reflects the need to make strategic choices to shape regulatory response and to support these choices through the design of the organisation (regulatory partnerships; business processes; workforce capability; culture) and core enablers (physical assets; organisation structure; data, information and intelligence). It expands the regulatory approach to be responsive to the changing environmental pressures, resource constraints and mechanisms for effective behaviour change.

The regulator employs a highly collaborative approach to policy design and option development, by having its policy experts lead policy development through tripartite committees and groups that involve employer, worker and technical experts. This ensures that the regulatory approach remains current and that it is informed by on-the-ground experiences. The principles of co-design in the policy space provide for a continual assessment of the purpose for and necessity of any new regulation being drafted.

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<sup>1</sup> Moore's Strategic Triangle

<sup>2</sup> Risk-based regulation, responsive regulation and strategic enforcement, including reference to regulatory theorists such as John Braithwaite, Valerie Braithwaite, David Weil, Julia Black, Robert Baldwin and Cary Coglianese

To minimise unnecessary regulatory burden, the regulatory strategy embeds a risk-based targeting approach to identify and prioritise risks to OIR and develops a process to manage the regulatory challenge of these risks, including identifying broad or focussed regulatory responses to the highest priority risks (including both basic and innovative approaches). It responds to current trends in industry practice, WHS requirements, data, research and trends to identify appropriate intervention strategies and enforcement approach for the industry sectors (e.g. enforcement, advice, education). It also supports and reinforces the *Australian Work Health and Safety Strategy 2012-2022* and *Five-Year Strategic Plan for WHS in Queensland*.

The principles of Model Practice 1 are demonstrated in the current WHSQ [Compliance Monitoring and Enforcement Policy](#)<sup>3</sup> (CMEP) which was developed in response to the 2017 *Best Practice Review of Workplace Health and Safety Queensland*<sup>4</sup> (Best Practice Review) and is consistent with the National Compliance and Enforcement Policy<sup>5</sup> agreed nationally by WHS ministers to support model WHS laws. The Compliance and Enforcement Framework is aligned with Strategic Lever 4 'Regulating effectively' of the *Five Year Strategic Plan for WHS in Queensland*<sup>6</sup>. The CMEP covers the following legislation:

- Work Health and Safety Act 2011 (WHS Act),
- Work Health and Safety Regulation 2011 (WHS Regulation),
- Electrical Safety Act 2002 (ES Act)
- Electrical Safety Regulation 2013 (ES Regulation).
- Safety in Recreational Water Activities Act 2011 (SRWA Act)
- Safety in Recreational Water Activities Regulation 2011 (SRWA Regulation).

In accordance with the CMEP, the regulator focusses on contraventions identified as a high priority for enforcement by:

- monitoring compliance through observation, conversation and document examination at the workplace; and
- taking action to enforce compliance where there are unmanaged risks and contraventions with high levels of culpability leaving workers and others exposed to the likelihood of serious injury or illness.

The regulator uses enforcement measures to direct compliance or sanction non-compliance. Sanctions include infringement notices, licence suspension, enforceable undertakings (EU) and prosecution. There are currently 240 infringement notice offences for contraventions of

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<sup>3</sup> <https://www.worksafe.qld.gov.au/about/publication-scheme/our-policies/office-of-industrial-relations-policies/compliance-monitoring-and-enforcement-policy>

<sup>4</sup> <https://www.worksafe.qld.gov.au/about/who-we-are/workplace-health-and-safety-queensland/best-practice-review-of-workplace-health-and-safety-queensland>

<sup>5</sup> <https://www.safeworkaustralia.gov.au/law-and-regulation/model-whs-laws#national-compliance-and-enforcement>

<sup>6</sup> [https://www.worksafe.qld.gov.au/data/assets/pdf\\_file/0016/21508/whs-five-year-strategic-plan-booklet.pdf](https://www.worksafe.qld.gov.au/data/assets/pdf_file/0016/21508/whs-five-year-strategic-plan-booklet.pdf)

the WHS and ES legislation. The regulator has identified a smaller number as priority areas for enforcement. An inspector will have additional focus on these areas.

The regulator consults with worker, business and other stakeholders to develop and raise awareness of standards for work health and safety and electrical safety. Support is provided to comply with those standards, and monitoring and enforcement programs are used to detect and correct non-compliance. The focus is on sustained compliance and higher performance, rather than simply point in time compliance. The overall approach is summarised by Figure 1 (below), which is part of the CMEP.



Figure 1. Work health and safety and electrical safety regulatory approach.

### Adaptability to COVID-19 Challenges

OIR's regulatory approach is active and adaptable to situational factors. For example, in dealing with the unique challenges and changed workplace conditions resulting from the COVID-19 pandemic, OIR demonstrated its ability to update its regulatory approach so that effort maintains focus on continuing risk and the ability to manage emerging risk. At the peak of the pandemic in Queensland, OIR's key regulatory decision makers met weekly, utilising intelligence drawn from whole of government pandemic response discussions and the views

of worker, business and WHS/ES professionals, to temporarily adjust OIR's enforcement policies and practices. This was needed to ensure high ongoing levels of compliance and performance, for not only the emerging priority of COVID-19 related risks but also the ongoing WHS/ES risks which, in some cases, became more pronounced due to lower on-premises staffing levels at many businesses. An OIR COVID-19 Response Strategy and Dashboard supported monitoring of trends for information requests and guided regulator communication and guidance in response. To protect our own workers, WHSQ and ESO developed and applied a Risk Matrix for Frontline Inspector Work to assess which regulatory activities could continue to be provided in the pandemic environment. Additional communications and guidance for inspectors provided clarity where there was a higher risk of exposure to COVID-19, and on revised OIR enforcement expectations (whilst supporting the requirements of other government agencies by redirecting to other messaging from Queensland Health and other relevant agencies).

Another example typifying OIR's proportionate regulatory response relates to the coronial recommendations from the inquiry into the Dreamworld amusement park fatalities in 2016 which were released in February 2020. OIR is considering further regulatory amendments (in addition to May 2019 regulatory amendments) and content for the new amusement device code of practice to address issues raised in the Coroner's recommendations. As stakeholder consultation on a draft of the amusement device code of practice has been affected by the COVID-19 pandemic, OIR has prepared interim guidance to complement the major inspection requirement in the *Work Health and Safety Regulation 2011* until such time as the code is complete. The interim guidance will assist amusement device owners and engineers, particularly in relation to older amusement devices which have not previously had a major inspection but will be required to have a major inspection before 1 May 2021. OIR is developing guidance about preparing safety cases and officers are liaising with major amusement park operators to support development of their safety cases. Further training for WHS inspectors is occurring to ensure capability in assessing machinery and functional safety.

Similarly, WCRS worked with workers' compensation scheme stakeholders on the potential and actual impacts of COVID-19 to allow for business continuity, providing formal advice to all insurers in relation to expectations on the COVID-19 response in relation to claims management and advising all key workers' compensation scheme stakeholders on organisational responses and impact on critical services as a result of COVID-19 including virtual Medical Assessment Tribunals hearings. In June 2019, following extensive consultation with scheme stakeholders including insurers, unions, legal and industry groups, WCRS published the Workers' Compensation and Rehabilitation Act Compliance and Enforcement Policy and the Self-Insurer Performance and Compliance Framework.

Gathering and analysing intelligence is a core activity to support effective regulation. OIR develops and maintains an evidence base to inform workplace health and safety and workers' compensation policy and practice which helps to monitor and reduce the incidence of work-related injuries, fatalities and diseases in Queensland. Much of this information is publicly available on the OIR website. Additional intelligence was needed to support the development and approval of industry COVIDSAFE plans which were a key part of the Queensland Roadmap to easing of restrictions. WHSQ developed a COVID-19 specific survey and dedicated follow on workshops with key worker and business stakeholders (the Industry Sector Standing Committees – ISSCs) to identify industry issues, seek feedback on OIR's regulatory response and identify areas for improvement. WHSQ and the ESO provided updates on OIR's regulatory response to the COVID-19 pandemic and other related intelligence gathering activities to the WHS Board; Electrical Safety Board and Committees and ISSC members.

## **Model Practice 2: Consult and engage meaningfully with stakeholders**

### **Principles**

- Formal and informal consultation mechanisms are in place to allow for the full range of stakeholder input and Government decision-making circumstances
- Engagement is undertaken in ways that helps regulators develop a genuine understanding of the operating environment of regulated entities
- Cooperative and collaborative relationships are established with stakeholders, including other regulators, to promote trust and improve the efficiency and effectiveness of the regulatory framework.

OIR has formal consultation mechanisms, including the Work Health and Safety Board and Industry Sector Standing Committees (for work health and safety), the Electrical Safety Board and associate committees (for electrical safety), and the Consultative Committee for Work-Related Fatalities and Serious Injuries, which support OIR gaining a genuine understanding of the operating environment, while promoting trust, which allows improvements to the efficiency and effectiveness of the regulatory framework, particularly when investigating legislative changes or amendments to the regulatory or policy framework. OIR forms steering groups to advise on the development of and review of all Queensland-retained industry codes of practice. These steering groups ensure representation from appropriate areas of industry and worker groups in the process. Informal consultation mechanisms supplement the formal mechanisms and include participation in industry networks (e.g. manufacturing, transport and construction networks). OIR also actively engages with regulators in Federal, state and local government and regularly conducts client satisfaction surveys.

Collectively, OIR actively engages and collaborates with agencies and regulators at the local, state and national level to promote trust and improve the efficiency and effectiveness of the regulatory framework.

OIR has membership on high-level national consultative bodies for policy and regulatory issues with a view to developing recommendations for consistent operational policy across jurisdictions, and regularly corresponds and liaises with a variety of Ministerial Councils (or their Standing Committees), government departments, industry bodies and industry associations. Examples of these include representation on:

Safe Work Australia (SWA) – comprises Commonwealth, state and territory regulators as well as industry partners.

Heads of Workplace Safety Authorities (HWSA) - comprises Commonwealth, state and territory WHS regulators and Safe Work Australia and includes sub-groups such as the HWSA Small Business Network and the HWSA Inspector Forum.

Heads of Workers' Compensation Authorities (HWCA) - comprises Commonwealth, state and territory workers' compensation regulators and Safe Work Australia



These bodies develop guidance for national application with OIR support. For example, HWCA developing responses to a number of emerging issues in 2019-20 including silicosis claims and COVID-19 claims within the scheme, a review of the National Self-Insurer WHS Audit Tool, implementation updates on the National Injury Insurance Scheme, a National Certificate of Capacity and consideration of presumptive laws for first responders.

As an example of cooperation with other regulators, OIR is an active participant on working groups with cross-jurisdictional regulators for transport i.e. HWSA, the Department of Transport and Main Roads and the National Heavy Vehicle Regulator. The recent development and publishing of the 'Vehicles as a Workplace Guide' is a case in point example of successful cooperation and consultation with internal and external stakeholders across state, territory and national boundaries and jurisdictions.

OIR meets quarterly with NSW and Victorian regulators regarding strategic directions and proposed initiatives to identify collaborative opportunities specific to the Health Care and Social Assistance industry and regularly met with NSW iCare in the development of their new prevention strategy. Lessons learned from implementation of the Queensland Injury Prevention and Management (IPaM) program were shared.

WHSQ and ESO worked with other government agencies to review industry COVIDSAFE plans for the easing of restrictions and regularly collaborate with the Queensland Building and Construction Commission and the Resources, Safety and Health Regulator on matters of joint interest. The ESO also meets regularly with Queensland Office of Fair Trading, and the ACCC in relation to the regulation of product safety and prevent duplication of activities and worked with the Australian Energy Regulator in the co-regulation of electricity entities.

To ensure continuity in the agriculture industry through the COVID-19 pandemic, the Chief Health Officer made a directive mandating Workplace Health Management Plans for agribusinesses, commercial fishing business and agriculture labour hire providers that employ or provide seasonal workers. In May 2020, a compliance strategy was implemented under which the Department of Agriculture and Fisheries (DAF) was supported by WHSQ to design and deliver a compliance campaign targeting agribusiness who employ seasonal workers. To assist with this work, nine WHSQ Inspectors were trained and became Emergency Officers (General) under the Public Health Act. This enabled the inspectors to fully support DAF to monitor compliance with the Health Directive. Agencies involved in the program include, DAF, WHSQ, Queensland Police, Queensland Health, WorkCover Queensland (WCQ) and Australia Border Force.

WCRS engages regularly the National Injury Insurance Scheme (Queensland) and Queensland Treasury around the implementation and operations of the National Injury Insurance Scheme within Queensland. A combined formal consultation process currently underway with affected stakeholders and members of the public via a Consultation Regulatory Impact Statement to consider the benefits, costs and issues associated with regulating a preclusion period and conditions to be satisfied in order for a seriously injured person to re-enter the National Injury Insurance Scheme in Queensland, after opting out to take a lump sum damages payment for their lifetime treatment, care and support needs.

WHSQ informs and seeks advice from the WHS Board about WHS policies, strategies, allocation of resources, legislative arrangements, and implementation of recommendations from the Best Practice Review. ISSCs support the WHS Board through advice and recommendations about work health and safety in the industry for which it is established, this includes their perceptions of the effectiveness of the work health and safety regulatory approach. WHSQ also access the ISSC networks as informal consultative bodies, seeking feedback on proposed campaigns, assessment tools and programs. The ISSCs bring critical

industry intelligence, additional insights about risks and hazards and how to manage them; and bring emerging trends to the Regulators' attention. In 2020, WHSQ developed a COVID-19 specific survey and dedicated follow on workshops with the Industry Sector Standing Committees to identify industry issues, seek feedback on OIR's regulatory response and identify areas for improvement.

In the 2019-20 financial year, WHSQ engaged with the WHS Board and the Industry Sector Standing Committees through:

- Five general WHS Board meetings
- Nine meetings across the four Subcommittees (which focus on the four Strategic Levers: 1. Embracing innovation and technology, 2. Designing healthy and safety work, 3. Fostering a culture of health and safety, and 4. Regulating effectively), and
- Twenty-five meetings across six Industry Sector Standing Committees (ISSCs): Construction; Health and Community services; Manufacturing; Retail and Wholesale; Rural; and, Transport and Storage).

ESO informs and seeks advice from the Electrical Safety Board, the Commissioner, Electrical Safety, Electrical Safety Education Committee, Electrical Licensing Committee and Electrical Equipment Committee. Regular consultation occurs with the supply chain of electrical equipment on matters such as subordinate policy relating to the Electrical Equipment Safety System (EESS). This includes the Australian Industry Group, Consumer Electronics Suppliers Association, Lighting Council Australia, Australian Information Industry Association, Australian Cablemakers Association, Swimming Pool and Spa Association of Australia, National Retail Association, Australian Water Heating Forum. These industry associations represent over 80% of the electrical equipment supply industry.

The ESO hosts annual safety forums for prescribed electricity entities and accredited auditors which includes providing advice and information to duty holders. Formal and informal consultation with accredited auditors (including use of a LinkedIn group) was used to clarify governance requirements for the auditors. Feedback from prescribed electricity entities was sought and applied in the revision of entity governance documents.

The ESO participates in the

- Electrical Regulatory Authorities Council - comprises state and territory electrical safety regulators
- Standing Committee of Officials meetings to co-ordinate nationally consistent approach to household electrical equipment safety through the EESS.

WCRS routinely engages with all key scheme stakeholders including insurers (including WCQ and the 29 self-insurers), employers, unions, medical and legal associations. The high level of engagement is demonstrated by:

- 30 strategic insurer meetings
- 4 quarterly Association of Self-Insured Employers Queensland and WCQ meetings
- 116 self-insurer relationship meetings
- 4 Insurer forums
- 4 Medical Assessment Tribunal Chairs meetings
- 4 OIR/WCQ Rehabilitation and Return to Work Strategy meetings
- 8 meetings (4 with each group) with grant holders

Over 2019-20 this included active engagement on regulatory issues including:

- Working with workers' compensation scheme stakeholders on the potential and actual impacts of COVID-19 to allow for business continuity.
- Providing formal advice to all insurers in relation to expectations on the COVID-19 response in relation to claims management.
- Formally advising all key workers' compensation scheme stakeholders on organisational responses and impact on critical services as a result of COVID-19 including virtual Medical Assessment Tribunals hearings
- Stakeholder Reference Groups canvassing scheme-wide and legislative issues across a range of areas including:
  - Legislative proposals following the five-year operational review of the scheme
  - Dust diseases in the engineered stone bench top industry as well as mine dust lung disease
  - Post-traumatic stress disorders in first responders.
- Forums and consultation
  - On guidance and supporting materials to support recent legislative changes.
  - to develop the Self-insurance audit framework development.

IRPR engages with stakeholders including the major employer associations, the Fair Work Ombudsman, unions, industrial tribunals including the Queensland Industrial Relations Commission and the Industrial Magistrates Court.

### **Model Practice 3: Provide appropriate information and support to assist compliance**

#### **Principles**

- Clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience
- Advice is consistent and, where appropriate, decisions are communicated in a manner that clearly articulates what is required to achieve compliance
- Where appropriate, regulatory approaches are tailored to ensure compliance activities do not disproportionately burden particular stakeholders (e.g. small business) or require specialist advice.

OIR comprehensively delivers information and advice to support compliance through:

- OIR and Business Queensland websites, including online enquiry forms at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) and telephone call centre - 1300 362 128
- its wide-ranging consultation mechanisms discussed under Model Practice 2
- Newsletters and information alerts (which provide comprehensive information on how to prevent similar incidents reoccurring using the hierarchy of controls)
- Awareness events, conferences and information sessions, and
- responding directly when advice or information is sought, including through its information hotlines.

IRPR provides comprehensive information and advice on state industrial relations laws through its Infoline call centre and website. This approach aims to provide as much information as possible to assist in resolving matters early without the need for intervention by the inspectorate. The website material is continuously evaluated and updated to ensure accurate information is provided.

For Labour Hire Licensing there is a dedicated website, client service facilities and an online portal to assist providers to comply with the requirements of the Act and other relevant employment, taxation and superannuation and safety laws. Updates are provided regularly via email to the client base. Prompts for compliance with renewal and reporting obligations are delivered through the client management system in a timely manner to ensure voluntary compliance.

WCRS actively works with stakeholders to understand information and guidance needs and has developed a range of information and guidance products on specific issues raised by stakeholders over 2019-20. This includes on issues from a medical guideline for assessing engineered stone workers exposed to silica, to the ability for solicitors to be paid lump sum payments into accounts.

In order not to disproportionately burden stakeholders, from 2 March 2020, WCRS in conjunction with the Department of Natural Resources Mines and Energy and WCQ provided a single point of contact for past and present Queensland mine and quarry workers to support them in navigating the lifecycle from pre-health screening to accessing post workers' compensation claim support services and provide a single point of contact for any questions or concerns. This new approach has been developed in response to concerns

raised that the various schemes are difficult to navigate and that a single point of contact would be beneficial.

Due to COVID-19 impacts on supply chain and testing facility availability for electrical equipment, the ESO provided a nationally applied mechanism to allow importers and manufacturers of household electrical equipment to delay, for up to 6 months, the need to apply upcoming changes to relevant standards where those changes were not impacting on safety of the equipment.

OIR's regulatory strategy embeds a risk-based targeting approach to identify and prioritise risks to OIR and develops a process to manage the regulatory challenge of these risks, including identifying broad or focussed regulatory responses to the highest priority risks (including both basic and innovative approaches). This targeting ensures that the burden to comply is proportionate to the risk presented.

To assist compliance, OIR provides clear and practical guidance for the priority industries and regularly undertakes targeted campaigns. As an aid to ensure current and consistent advice, Inspectorate Policy and Support provides inspectors with responses to the more complex operational questions. There are also regular case reviews and oversight of decision-making by team leaders. A good example of clear and timely guidance and support is accessible to stakeholders and tailored to meet the needs of the target audience is the previously mentioned (under Model Practice 1) support given to amusement park operators including interim guidance, developing guidance about preparing safety cases.

WHSQ and ESO regularly undertake targeted campaigns designed to reduce workplace injuries and fatalities and improve health outcomes. This approach is based on detailed research and evidence undertaken into the high-risk industries and is designed to improve the capacity of businesses to identify and manage their own WHS risks. The campaigns typically involve the development of resources for the industry first, especially self-assessment tools, before an Inspector visits. For example, a self-assessment guide was developed for businesses to manage risks associated with electricity in potentially hazardous areas. The ESO also provided 'expectation' documents to electricity entities which included high level guidance to ensure adequate management of electrical risks. Campaign KPIs include enforcement notices issued, feedback surveys from workplaces involved in the campaign and network members consulted during the development of campaigns.

Guidance is developed in consultation with industry based on current understanding of risks and solutions and provide practical examples on how to manage these risks. In this way, businesses can understand what is reasonably practicable in a best practice type scenario. Another element is raising the awareness of the identified health and safety issues for industry prior to conducting enforcement activities. This information is typically disseminated across a variety of industry platforms (such as social media, industry associations and unions, media publications and other platforms) to increase awareness.

Compliance is also assisted by dedicated microsites for each industry type on the WHSQ website, which provides targeted resources for key focus areas. This includes a variety of products, including general guidance, case studies, webinars, short films, podcasts, short animations, self-assessment tools and campaign reports. Resources produced or in development include:

- 13 self-assessment tools,
- 5 general guidance items
- 7 industry case studies,

- 7 short films,
- 10 webinars, and
- 6 industry campaign reports.

The resources produced are evaluated through examining the number of practical guidance products developed and the number of downloads monitored, participation in industry engagement such as webinars.

The IPaM program works with employers across Queensland to prevent and manage the outcomes of workplace injuries. Employers participating in the IPaM program receive a tailored Business Improvement Plan. This plan is based on thorough assessment of the safety and injury management workplace practices and clearly articulates, and prioritises, what is required for the business to achieve systemic WHS improvements. A dedicated IPaM Advisor works with the employer's existing expertise to introduce or enhance injury prevention and management, develop a plan of action and support the employer through the implementation of that plan.

OIR also delivers a Basic Safety Management Systems workshops for small business throughout various metropolitan and regional locations across Queensland. In 2019-20, 823 employers participated in IPaM services, 93% were small to medium and 6% regionally located outside of the Brisbane City Council region, 72% from priority industries. Key Performance Indicators to judge effectiveness include program reach, workplace prevention activities undertaken, self-reported business outcomes and workers' compensation performance. Quantitative and qualitative data measure shifts in safety leadership capacity – impact, interviews, attendance at frontline leader workshops.

Consistent IPaM advice is aided by advisor decision making being overseen by Team Leaders and regular structured case file reviews to ensure consistency and delivery of timely information and support to employers.

## **Model Practice 4: Commit to continuous improvement**

### **Principles**

- Regular review of the approach to regulatory activities, collaboration with stakeholders and other regulators, to ensure it is appropriately risk based, leverages technological innovation and remains the best approach to achieving outcomes
- To the extent possible, reform of regulatory activities is prioritised on the basis of impact on stakeholders and the community
- Staff have the necessary training and support to effectively, efficiently and consistently perform their duties.

OIR is committed to the continuous improvement of its staff, systems and processes. Two recent reviews have ensured that the approach to regulatory activities is appropriately risk-based and the best approach to achieving outcomes: the 2017 *Best Practice Review of Workplace Health and Safety Queensland*<sup>7</sup> and the the 2018 *Five-Year Review of Queensland's Workers' Compensation Scheme*<sup>8</sup>.

OIR's extensive stakeholder and regulator consultation measures outlined under Model Practice 2 contribute to ongoing examination and improvement of the regulatory approach. For example, both WHSQ and Industrial Relations Regulation and Compliance supports continuous service delivery improvement through stakeholder feedback from regular client satisfaction surveys.

OIR's Service Delivery Transformation (SDT) began in 2017 to deliver process, people and technology change to WHSQ and ESO business areas of OIR and make OIR a more effective and efficient regulator and customer-centric. The program aligns to recommendations in the Best Practice Review and plans to enable organisational transformation across the OIR through the alignment of business and ICT to deliver contemporary, digital, and customer centric services. The program will deliver new ways of working enabled by a common ICT platform with modern and mobile ready solutions for both the CFS and ESO.

The Customer Relationship Management system, used to support Labour Hire Licensing, is an example of technical innovation being used to continuously improve business processes and refine risk detection using data and principles of behavioural economics to prompt compliance.

During COVID-19 the Medical Assessment Tribunals were able to successfully transition for the first time to virtual Medical Assessment Tribunal Hearings. Over this period, it also re-designed the initial referral stage of workers' compensation reviews to introduce a triage model and its approach to quarterly performance risk reporting for self-insured employers. Also, at this time, IPaM Advisors used videoconferencing software programs to engage

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<sup>7</sup> <https://www.worksafe.qld.gov.au/about/who-we-are/workplace-health-and-safety-queensland/best-practice-review-of-workplace-health-and-safety-queensland>

<sup>8</sup> <https://www.worksafe.qld.gov.au/laws-and-compliance/workers-compensation-laws/five-year-review-of-queenslands-workers-compensation-scheme-2018>

employers remotely and this has continued, allowing OIR to maintain progress with IPaM employers and will assist in reducing travel time, improving service efficiency, and increasing collaboration with dispersed regional stakeholders.

WHSQ and ESO have continual improvement processes in place to ensure the organisational approach to compliance, monitoring and enforcement is evidence-based, informed by data and proportionate to the evaluated risk. For example, notice and administrative response audits ensure validity and the appropriate response was undertaken.

Since the Best Practice Review, all industry codes of practice in Queensland are legislatively bound to be submitted to review every five years in order to ensure that they remain current with technology and WHS developments, as well as appropriate to the needs of industry stakeholders.

A 10-year review of IPaM is planned for 2020/21 with the purpose to assess the overall effectiveness of the IPaM program in achieving its objective to deliver state-wide advisory services that support Qld employers improve safety and return-to-work outcomes. It is proposed the review will consider:

Program effectiveness in achieving stated objectives such as:

- Scope of services to meet the needs of employers of all sizes and systems maturity and effectiveness in influencing system improvements; and
- Value in terms of costs of program delivery and outcomes such as business benefits, improved WHS capability and safety and workers' compensation performance.
- Effectiveness of the collaboration between OIR and WCQ in providing strategic direction to support program delivery;
- Understanding current stakeholder perceptions regarding the role of IPaM and determine if this aligns with IPaM's current objectives.

For OIR to achieve its goals, OIR recognises the need to ensure that its people have the capability required to perform effectively, and are inspired, empowered and valued. The People Strategy sets out our people priorities and key goals, creating a foundation for the development of our workforce, including 'supporting personal and professional growth' and 'developing and managing technical skills and capability'.

Inspectors complete the Diploma of Government (Workplace Investigation) to ensure consistent approach to training capability across OIR inspectorate. OIR supports continuous improvement of regulatory processes and inspector capabilities through providing feedback to the inspectorate on internal and external review outcomes from the issuing of enforcement notices and engaging with the inspectorate to provide education on dispute resolution processes and principles.

OIR is continuing its skills development program, consistent with recommendations of the Best Practice Review, to ensure inspector qualifications and competencies are those of a leading regulator. For example, the Legislative Inspector Foundational Training 'LIFT' has been developed to address the Best Practice Review recommendations that highlighted, for WHSQ/ESO inspectors to carry out a broad range of regulatory activities, they require high level understanding of the legislative requirements and high-level understanding of systematic work health and safety management. This contemporary prototype training course was trialled from July – November 2020, with a small group of inspectors, using a



participative approach to capture inspector expertise in its practical application - 'by inspectors for inspectors'.

This supports the aim to align OIR with international best practice in inspector competencies and training. Increasing inspector skill levels will enable an understanding of the growing complexity of work and the hazards and risks workers face, and position OIR strategically for the longer term. Training evaluation will determine the suitability of course content for induction training and professional development, the changes achieved for the learners and the organisation.

As set out under Model Practice 1, the regulatory strategy responds to current trends in industry practice, WHS requirements, data, research and trends to identify appropriate intervention strategies and enforcement approach for the industry sectors (e.g. enforcement, advice, education). OIR regularly reviews its approach to regulatory activities, collaborating with stakeholders and other regulators to ensure that decisions are risk based, leverage technological innovations and are the best approach to achieving policy outcomes.

OIR undertakes research to inform our regulatory approach and support to achieve compliance. Some recent examples include:

- OIR engaged the Centre for Accident Research and Road Safety - Queensland, Queensland University of Technology, to undertake research into the patterns and circumstances of electrical injuries and deaths in Queensland. Consistent with the evidence-base, the project draws upon relevant theoretical frameworks together the insights gained from analysis of the data linkages to inform the proactive and targeted electrical safety interventions.
- OIR is collaborating with four leading Australian experts to develop the 'Measures of Safety Culture' (MoSC) survey and toolkit. The MoSC survey is designed to be a practical yet scientifically robust tool that organisations of all sizes (albeit, particularly medium and large businesses) can use to measure their safety leadership and culture and take practical steps make improvements.
- The 'Safety Leadership in the Electrical Services Industry Project', is a joint initiative between WHSQ and the ESO. The aim of the pilot is to develop, pilot test and evaluate a safety culture toolkit based on the LEAD model and tailored for the electrical service industry. This collaborative initiative in the electrical services industry was designed to assist Queensland electrical businesses to demonstrate their commitment to safety leadership and take actions to improve their safety culture. Overall, over 130 people attended the frontline leader workshops. Participant feedback was highly supportive of the workshop content, facilitation process and duration. Learnings from this project will help improve further efforts in this sector.
- OIR is a partner in the Australian Research Council funded, and Australian National University led, research study "Working longer, staying healthy and keeping productive" research (<https://rsph.anu.edu.au/research/projects/working-well-working-wisely>). This has supported the provision of specific resources for workplaces to better support older workers on the Worksafe website.
- More broadly, OIR is a partner in the Australia and New Zealand Research collaboration for work health and safety and workers' compensation, as well as supporting research initiatives through Safe Work Australia.

This commitment to continuous improvement is underpinned by a comprehensive OIR evaluation framework. The framework defines a planning and implementation process to guide evaluation activities. It provides rigour and consistency when determining whether OIR

work results in the intended effects and whether intended outcomes have been achieved effectively and efficiently. It allows focus on determining what OIR work produces (outputs) and the changes that brings about (benefits), while supporting learning, and informing and enabling resulting decision making and action.

## **Model Practice 5: Be transparent and accountable in actions**

### **Principles**

- Where appropriate, regulatory frameworks and timeframes for making regulatory decisions are published to provide certainty to stakeholders
- decisions are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions
- indicators of regulator performance are publicly available.

OIR conducts itself in an open and transparent manner, using its professional judgement, authority and powers responsibly. OIR publishes its Compliance and Enforcement Policies, mechanisms available for review of administrative decisions, and other policies relevant to administration.

OIR reports regularly to its boards and committees on regulator activities.

For example, the quarterly performance reports provided to the Work Health and Safety Board and Electrical Safety Board (and supporting committees) which include data and information on all compliance and engagement actions, incidents, prosecutions, licensing, policy, organisational development and training. Where appropriate, the regulator provides the outcome of policy consideration and analysis of regulatory decisions to its industry stakeholders to ensure coherent regulatory approaches.

The Organisational Response Report – which covers both WHSQ and ESO - is used by the OIR Executive and external stakeholders to review responses to notified fatalities and serious incidents in a 12 month period, and also includes an analysis of investigation and prosecution trends. The report is refreshed at six monthly intervals. Senior executives also attend the meetings of the Affected Persons Committee as requested to provide updates and respond to issues that the committee may raise. OIR's effectiveness and efficiency measures are published annually in the Service Delivery Statements and the statistics pages on the Safe Work Australia website also provides information such as national comparisons e.g. WHS inspector performance.

WCRS manages self-insurance licencing, workers' compensation compliance and prosecution functions, and dispute resolution functions across the workers' compensation, work health and safety and electrical safety regulatory frameworks. Regulatory decisions are consistent with the requirements of legislation, case law precedent and principles of effective and fair administrative decision-making. Robust review processes include providing fair opportunity for parties to provide submissions and respond to information affecting their interests according to procedural fairness principles, requesting insurers to gather further information to clarify issues in dispute, and providing guidance to parties on how to seek further assistance from external sources where appropriate.

The [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) website provides detailed information for applicants about applying for administrative review of workers' compensation insurers' decisions and appealing review decisions to the Queensland Industrial Relations Commission. This includes information about timeframes for requesting statements of reasons for decision from insurers and lodging the review application with the Review and Appeals Unit or a notice of appeal with the Commission. Guidance is provided on which matters are

reviewable under the legislation and preparing for and navigating the review and appeals processes, including how to contact external sources of assistance.

OIR shows integrity in its efforts to learn and continually improve performance, such as the example set out in model practice 3 where Team Leaders perform regular structured case file reviews to ensure consistency and delivery of timely information and support to employers.

WCRS completes internal review decisions under WHS and electrical safety legislation within strict time limits, to avoid deemed decisions arising under the legislation. Review officers prepare detailed statements of reasons for decision that address legislative requirements and clearly apply relevant legislative elements and case law principles to the available facts to reach a conclusion on the issues for decision. This ensures the review process addresses applicants' disputes, clearly articulates the allowable scope of the review under the legislation and is defensible in the event of further challenge.

Compliance and enforcement policies which outline prosecutions as a powerful deterrent and ensures that those who contravene the legislation are held to account. It draws attention to the consequences of contravening the legislation. OIR conducted the investigation which resulted in Australia's first conviction and sentence for industrial manslaughter.

WCRS publishes all workers' compensation prosecution outcomes on the [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au) website for transparency and visibility and to educate stakeholders with key learnings to assist them to develop and implement appropriate processes to ensure compliance. WCRS is also working closely with WCQ to ensure that compliance action and outcomes regarding under and uninsured employers is published to ensure transparency and visibility.

Work Health and Safety and Electrical Safety prosecution outcomes are now published on the Office of the Work Health and Safety Prosecutor's website: [www.owhsp.qld.gov.au](http://www.owhsp.qld.gov.au)



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