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WorkSafe Reference: **MB18-065**

26 November 2018

The Hon Adele Farina MLC  
Chair of the Legislative Council Standing Committee on Public Administration  
Legislative Council, Parliament of Western Australia  
4 Harvest Terrace  
WEST PERTH WA 6005

Email: [lcpcac@parliament.wa.gov.au](mailto:lcpcac@parliament.wa.gov.au)

Dear Ms Farina

**RE: INQUIRY INTO WORKSAFE WESTERN AUSTRALIA**

Thank you for your correspondence of 9 July 2018, about the Standing Committee on Public Administration's inquiry into WorkSafe Western Australia.

Please accept my apologies for the delay in responding to you. I am happy to help the Committee with its investigations.

I can provide the following information in response to the questions you asked:

**1.1 Does WorkSafe Victoria collect its own statistics on the number of fatalities and LTID's over periods of time to identify trends?**

Yes.

**1.2 If the answer to question 1.1 is yes, what types of statistics are collected by WorkSafe Victoria and how does WorkSafe Victoria collect these statistics?**

WorkSafe Victoria maintains statistics on the number of fatalities in Victorian workplaces and reports publicly on these. WorkSafe Victoria obtains these statistics when it is notified of a workplace fatality, either by the responding emergency services personnel, the Victorian State Coroner or from employers through mandatory notification provisions in the *Occupational Health and Safety Act 2004* (OHS Act), and through compensation claims made for fatalities. WorkSafe Victoria maintains data on fatalities by industry, mechanism of fatality, gender of the victim, age of the victim, location, region and hazard.

WorkSafe Victoria monitors occupational diseases and injuries through claims data and data on notifiable occupational injuries and diseases from the following sources:

- WorkSafe Victoria is notified by the Department of Health and Human Services of notifiable conditions under Schedule 4 of the Public Health and Wellbeing Regulations 2009, of conditions that concern occupational exposures or diseases.



WorkSafe Reference: **MB18-065**

- The OHS Act requires that employers and self-employed persons notify WorkSafe Victoria following incidents that result in death; needing medical treatment within 48 hours of being exposed to a substance; and immediate treatment as an in-patient in a hospital.
- The Occupational Health and Safety Regulations 2017 require employers to provide health monitoring for their employees when there is a reasonable likelihood of an adverse health effect occurring during the employee's time in the workplace, and where an employee is exposed to specified substances, lead risk work, asbestos, and where hearing protection is required to control noise. An employer must provide WorkSafe Victoria with a copy of this report if requested, or if the report identifies adverse health effects that may be attributed to a hazardous substance, or if the report makes recommendations to the employer to take measures to ensure an employee is not exposed to a hazardous substance.

WorkSafe Victoria uses this data to develop targeted prevention and compliance programs.

**1.3 If the answer to question 1.1 is no, where does WorkSafe Victoria obtain its statistical data from?**

N/A

**1.4 How does WorkSafe Victoria identify trends in workplace safety data or areas of concern?**

WorkSafe Victoria uses an annual Risk Based Strategic Framework (RBSF) in its strategic planning process designed to provide evidence-based results from both quantitative and qualitative analysis, that identifies the areas of strategic focus for the allocation of WorkSafe Victoria intervention programs and inspector resources. It combines a detailed analysis of injuries and risks to workers across industries and hazards, and a projection of likely trends in order to identify the areas of greatest focus for prevention over a three to five year horizon.

Emerging trends and themes are also identified through regular analysis of data collected from reporting of notifiable incidents, compliance and enforcement activities of WorkSafe Victoria's inspectorate and established working groups with industry on particular themes and focus areas.

**1.5 How does WorkSafe Victoria identify where to focus its priority investigations and initiatives? If you could provide the Committee with examples, that would be very useful.**

WorkSafe Victoria's investigation unit conducts both proactive and response investigations.

#### Proactive Prosecutions

- Prosecutions that are undertaken when there are no injuries, fatalities or diseases i.e. "pure risk" incidents that are detected by strategic interventions and programs, observation breaches or similar that are preventative in nature.

#### Responsive Prosecutions

- Prosecutions that are undertaken in response to mandatory work referred from the field including service requests and incident attendance, or from the public via a Section 131 request.

WorkSafe Victoria's investigations are all triaged through a comprehensive referral process that tracks key focus areas of the business. This referral form captures Health & Safety Priority Areas including mandatory/strategic/industry focus. The information is collected through this referral process and used to track enforcement activity against these business objectives.

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Please also find attached a form for 'referral for comprehensive investigation' which shows the key priorities for WorkSafe Victoria, these boxes are marked as part of the process.

**1.6 The Committee has heard evidence that businesses who do not want any recorded LTI/D's are returning injured workers to light duties to avoid an injury being recorded as a LTI/D:**

**1.6.1 Is WorkSafe Victoria aware of this practice in Victoria?**

From an insurance perspective, there is no evidence to support the practice of returning injured workers to light duties without claim lodgement. From a Return to Work (RTW) and recovery aspect, affirmation of injury only comes post claim lodgement. WorkSafe Victoria's RTW inspectorate conducts in excess of 2000 visits per year, to ensure that employers adhere to their RTW obligations.

**1.6.2 If the answer to question 1.6.1 is yes, how prevalent is the practice?**

N/A

**1.6.3 What (if anything) is being done by WorkSafe Victoria to:**

- require reporting of and/or collect statistical information on injured workers being returned to light duties and thereby not being recorded as a LTI/D; and
- collect information on the length of time the injured worker is on light duties?

WorkSafe Victoria has a series of programs in place to monitor and support sustainable RTW across the scheme; this oversight does not extend directly to light duties specifically.

**1.6.4 What (if anything) is being done by WorkSafe Victoria to investigate incidents where workers are assigned light duties after being injured at work?**

Sustainable and safe RTW post injury is a fundamental goal of workers compensation schemes, and Victoria is no different. Providing suitable duties post injury is a legislative obligation for Victorian employers and one that is enforced by WorkSafe Victoria. There are many instances where it is completely appropriate for a worker to RTW post injury on light duties, these duties are generally endorsed by the worker's doctor and an offer of suitable duties provided by their employer.

Our RTW Inspectorate conduct in excess of 2000 employer visits per year to monitor and support employers and their RTW practices. WorkSafe Victoria has not received any allegations or complaints about employees being pushed to undertake light duties post injury. If this was the case, our RTW Inspectorate team would investigate as per our standard approach.

Legislation, Policy and Information Services, would be happy to provide further information if required.

Yours sincerely

Clare Amies  
Chief Executive  
WorkSafe Victoria

Attachment 1: 'RTW Referral for Comprehensive Investigation 2018/19' form



WORKSAFE VICTORIA

# REFERRAL FOR COMPREHENSIVE INVESTIGATION 2018/19

## 1. Person Referring

Name

Address  
Select an Item.

Division  
Choose an Item.

Team  
Select team.

Date of Referral  
Click here to enter a date.

## 2. Referral Details

This section is to be completed by the person initiating the referral.

TRIM File Number (if applicable)

Notification/Incident Number (if applicable)

Other Ref. No.

Region  
Choose an Item.

Date of Incident/Offence  
Click here to enter a date.

Legal Entity

ACN  

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Site Address/Location

Postcode:

Inspector(s) Attended

Investigator(s) (if attended)

### 3. Referral Details (cont.)

\* This information is used to assist the decision making process in relation to the referral. It may not be necessary for all criteria to be satisfied for the referral to proceed.

<b>1. Legislation Potentially Breached</b>	Chose an Item.	
<b>2. Risk</b> <i>e.g. Fall from height, unguarded plant, psycho-social, traffic management, etc.</i>		
<b>3. Observation Breach</b>	Choose an item.	
<b>4. Level of Injury</b>	Choose an Item.	
<b>5. Notices</b>	<b>Status of notice</b>	<b>Was It reviewed</b>
<i>Has a Provisional Improvement Notice been issued?</i> Select.	Select.	Select.
<i>Has a Prohibition Notice been issued?</i> Select.	Select.	Select.
<i>Has an Improvement Notice been issued?</i> Select.	Select.	Select.
<i>Has a Non-Disturbance Notice been used?</i> Select.	Select.	Select.
<b>6. Witnesses</b> <i>Are the name/date of birth/address/contact numbers for all potential witnesses recorded?</i>	Choose an Item.	
<b>7. Photographs</b> <i>Have photographs been taken?</i> <i>Has the relevant procedure in the Field Operations Manual been followed?</i>	Choose an Item.	Choose an Item.
<b>8. Measurements</b> <i>Have measurements been obtained?</i>	Choose an Item.	
<b>9. CCTV</b> <i>Is there CCTV on site?</i>	Choose an Item.	
<b>10. Exhibits</b> <i>Has any "thing" been seized or obtained?</i> If 'Yes' describe:	Choose an Item.	
<b>11. Samples</b> <i>Have samples been taken?</i> If 'Yes' describe:	Choose an item.	
<b>12. Documents</b> <i>Have any documents been seized or obtained?</i> <i>Was a requirement for the production of documents used?</i>	Choose an Item.	Choose an Item.
<b>13. Notebooks</b> <i>Have all attending inspectors made notebook entries?</i>	Choose an Item.	
<b>14. Liaison</b> <i>Has this matter been previously discussed with the Enforcement Group?</i> If YES, who?	Choose an Item.	
<b>15. Other Agencies</b> <i>Are any other agencies involved in this matter?</i>	Choose an Item.	

Brief description of the facts of this referral

**3. Referral TRIM File Check List:**

<b>Trim File Number :</b>	<b>I</b>	<b>GL</b>
<b>3.1</b> Copy of the Referral for Comprehensive Investigation form	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.2</b> Copy of any current Inspector's Certificate of Appointment;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.3</b> Copies of any notes relating to the matter from the relevant Inspector's notebook;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.4</b> Copies of any entry reports, notices, directions, activities relevant to the alleged offence;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.5</b> Copies of any enforceable undertakings;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.6</b> Details of any previous referrals for that legal entity (successful and unsuccessful)	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.7</b> Photographs, sketches, inspector's notes;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.8</b> Copies of any documents seized;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.9</b> Witness names and contact details, including address and work and home telephone;	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.10</b> Name and contact details of injured person(s) including address and work and home telephone and email	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.11</b> Description of injuries suffered by the injured person(s);	<input type="checkbox"/>	<input type="checkbox"/>
<b>3.12</b> Observations / measurements, description of any samples and exhibits seized	<input type="checkbox"/>	<input type="checkbox"/>

Signing here will confirm you have checked the referral file and it has all the relevant information:

<b>Inspector:</b>	Click here to enter a date.
<b>Group Leader:</b>	Click here to enter a date.

**4. Referral from the Inspectorate to the Enforcement Group**

<b>4.1 People Leader</b> – Name of People Leader. <i>Do you support this referral?</i> Referral Trim File Number:	Date: Supported <input type="checkbox"/> Not Supported <input type="checkbox"/>
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**5. Health & Safety Priority Areas**

Mandatory	Strategic	Industry
Choose an Item.	<input type="checkbox"/> Manual Handling <input type="checkbox"/> Psychological Health <input type="checkbox"/> Vulnerable workers <input type="checkbox"/> Work Related Violence <input type="checkbox"/> Occupational Disease <input type="checkbox"/> Asbestos <input type="checkbox"/> Safe Design <input type="checkbox"/> High Risk Workplace <input type="checkbox"/> Events	Choose an Item.

<b>5.1 Director/Regional Operations Manager</b> – Choose Director/RÔM. <i>Do you support this referral?</i>	Date: Supported <input type="checkbox"/> Not Supported <input type="checkbox"/>
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*\*If this referral is not supported discuss the referral with the person referring at point 1*

Comments:



## 6. Regional Investigation Manager for Technical Assessment

**Regional Investigations Manager** – Choose Manager

Click here to enter a date.

Do you support this referral?

Supported  Not Supported

If "Not Supported", why: Technical  Capacity  Fatality  Other

Recommended ACTION Warning Letter

Confirmation that RIM SPOKE TO ROM

Comments:

## 7. Assessment by the Enforcement Group

**6.1 State Investigations Manager**

Do you support this referral?

Date:

Supported  Not Supported

**6.2 Director, Enforcement Group** – Choose an Item.

Do you support this referral?

Date:

Supported  Not Supported

## 8. Internal Governance Group – IGG

The IGG is a forum responsible for the oversight and assessment of referrals for comprehensive investigation and prevention.

The purpose and function of the IGG is to:

1. analyse and track current referrals submitted for comprehensive investigation;
2. ensure referrals for investigation are aligned with WorkSafe's strategic programs/project aims; and
3. to authorise an Investigation as part of the Extended Jurisdiction of the *Occupational Health and Safety Act 2004 (Vic)*.

**IGG Decision:**