

---

**From:**  
**Sent:** Tuesday, 15 November 2016 5:53 PM  
**To:**  
**Cc:**  
**Subject:** RE: [REDACTED]  
**Attachments:**

Good afternoon .

I can advise WorkSafe attended the worksite following your request . in early August.  
A WorkSafe construction inspector inspected the site and issued some improvement notices to a company (employer) and also gave some verbal directions to a company (employer) covering all the issues raised in your August request to attend.

In addition improvement notices were issued to two individuals (workers) on the site.  
Subsequently the compliance slips for all the notices have been returned as complied with to WorkSafe WA.

WorkSafe has no knowledge of the serious injury to a worker on the site which your letter refers to.

As discussed on the telephone today please provide the name and contact details of the injured worker and the identity of his/her employer.

If there is a workers compensation claim form and a doctors first medical certificate these documents maybe useful to WorkSafe.

If the injury resulted in a medical certificate from a doctor stating the worker would be in the doctors opinion off work for 10 days or more from the date of the injury then such an injury is a notifiable injury event to WorkSafe by the employer of the worker.

Cheers



**Acting Executive Director – WorkSafe**  
**[Director - Construction, Regional & Primary Industries]**  
WorkSafe Division | Department of Commerce  
Address: Mason Bird Building | Level 1 | 303 Sevenoaks Street | Cannington  
Postal Address: Locked Bag 14 Cloisters Square PERTH WA 6850  
Phone: ( ) [Ext: ] | Email: ( )

**WorkSafe**

Want to keep up to date? Subscribe to our email service:  
<http://www.commerce.wa.gov.au/worksafe/subscribe-worksafe-newsletters>

---

**From:** [mailto:\_\_\_\_\_]\_\_\_\_\_  
**Sent:** Tuesday, 15 November 2016 4:54 PM  
**To:** \_\_\_\_\_  
**Cc:** \_\_\_\_\_  
**Subject:**

In Lex's absence please see attached letter. If you wish to discuss the matter please give me a call

Regards,

**OH&S Officer W. A**  
**CFMEU Construction & General Division**  
**Mob:** \_\_\_\_\_  
**Email:** \_\_\_\_\_

---

## **CFMEU**

Construction & General Division, Western Australia  
TRADES HALL, 80 Beaufort Street, PERTH, WA 6004  
PO BOX 8075, PERTH BC, WA 6849  
T: \_\_\_\_\_ F: \_\_\_\_\_

**Stand up. Speak out. Come home.**

---

**From:**  
**Sent:** Tuesday, 15 November 2016 4:54 PM  
**To:**  
**Cc:**  
**Subject:**  
**Attachments:** 20161115 - Letter to WorkSafe Commissioner - .pdf

In Lex's absence please see attached letter. If you wish to discuss the matter please give me a call

Regards,

**OH&S Officer W. A**  
**CFMEU Construction & General Division**  
**Mob:**  
**Email:**

---

## **CFMEU**

**Construction & General Division, Western Australia**  
**TRADES HALL, 80 Beaufort Street, PERTH, WA 6004**  
**PO BOX 8075, PERTH BC, WA 6849**

**T:**                   **F:**

---

**Stand up. Speak out. Come home.**

# CFMEU

CONSTRUCTION

15 November 2016

WorkSafe Commissioner  
Mason Bird Building  
303 Sevenoaks St  
CANNINGTON WA 6107

**CFMEU WA**  
TRADES HALL  
80 Beaufort Street  
Perth 6000  
PO BOX 8075  
Perth BC 6849  
Ph 08 9228 6900  
Fax 08 9228 6901  
[cfmeuwa.com](http://cfmeuwa.com)  
ABN: 77 538 246 780

**RE: Complaint about Occupational Health and Safety Breaches –**

Dear Lex,

I refer to CFMEU WorkSafe Complaint                      of 9<sup>th</sup> August.

I am writing to enquire if you are aware that on the 27<sup>th</sup> September a member of ours working at the same site fell 4 m whilst working at height off a ladder. He was rendered unconscious and sustained a badly fractured ankle. He will likely be off work for many more months.

Please advise if you took any action in relation to the above mentioned WorkSafe Complaint and if this second incident was reported to you. Please advise what steps were taken after my letter to prevent exactly the injury we predicted being sustained.

Absent a response within 7 days we propose to raise this direct with the Minister.

Yours faithfully

Bob Benkesser  
CFMEU WA Branch  
OH&S Officer

---

**From:**  
**Sent:** Tuesday, 28 February 2017 2:26 PM  
**To:**  
**Cc:**  
**Subject:** RE:

This is all nonsense.

It all relates to 'confidential' information. For myself, I am not happy to disagree. It actually saddens me.

The fact remains yours is the only department we deal with that is so obstructionist.

I really do think it is time for a fresh approach to how you deal with non-confidential information and building relationships with stakeholders.

**CFMEU**

Construction & General Division, Western Australia  
TRADES HALL, 80 Beaufort Street, PERTH, WA 6000  
PO BOX 8075, PERTH BC, WA 6849  
T: F:

**From:** [mailto:  
**Sent:** Tuesday, 28 February 2017 2:21 PM  
**To:**  
**Cc:**  
**Subject:** RE: |

Hi

Thank you for the invitation - There are many acts, regulations and regulatory instruments in place to protect the confidential nature of information supplied to the government.

I have copied and pasted a few provisions below. I am happy that we can agree to disagree on this matter.

Cheers

- 1) The Department of Commerce Code of Conduct – this provides as follows:

**Official information and use of information**

**Protection and integrity of information**

It is important that we ensure the integrity and security of confidential documents and information, respect the privacy of individuals and protect intellectual property. We should only discuss sensitive information with those entitled to access it in line with their duties and ensure that documents are accessed only by authorised people.

Official information or documents should only be disclosed publicly when the following circumstances prevail:

- it is in the course of our duty;
- proper authority has been granted;
- there is a requirement or authority to do so by law; or
- when giving evidence in court.

Confidentiality continues to apply after we have left the department. It is inappropriate for a former worker to use departmental information obtained during their employment for personal gain, in particular, intellectual property or information of a confidential nature. Departmental documents not available to the public should be returned. We should not give, or appear to give, former workers favourable treatment, or access to privileged information.

We must not use information gained in the course of our duties:

Official information and use of information

Protection and integrity of information

It is important that we ensure the integrity and security of confidential documents and information, respect the privacy of individuals and protect intellectual property.

We should only discuss sensitive information with those entitled to access it in line with their duties and ensure that documents are accessed only by authorised people.

Official information or documents should only be disclosed publicly when the following circumstances prevail:

- it is in the course of our duty;
- proper authority has been granted;
- there is a requirement or authority to do so by law; or
- when giving evidence in court.

Confidentiality continues to apply after we have left the department. It is inappropriate for a former worker to use departmental information obtained during their employment for personal gain, in particular, intellectual property or information of a confidential nature. Departmental documents not available to the public should be returned. We should not give, or appear to give, former workers favourable treatment, or access to privileged information.

We must not use information gained in the course of our duties:

- in ways which conflict with our impartiality;
- to cause harm or detriment to the department, our colleagues or other persons;
- to gain improper advantage for ourselves, or another person;
- to speculate in shares, commodities or property; or
- to take advantage of another person or an organisation for personal reasons.

Sensitive or confidential information should not be disclosed without proper authority, particularly to the media, lobby groups, organisations, private investigators, banks or credit agencies.

- 2) The State Records Act 2000 (SR Act) provides for the keeping of state records by a government organisation. A penalty can be applied for unauthorised disclosure of information.
- 3) Public Service Regulations 1988 made under the Public Sector Management Act - Regulation 8. Public comment An officer shall not — (a) publicly comment, either orally or in writing, on any administrative action, or upon the administration of any Department or organization; or (b) use for any purpose, other than for the discharge of official duties as an officer, information gained by or conveyed to that officer through employment in the Public Service.
- 4) The Criminal Code WA

Section 81

Part III — Offences against the administration of law and justice and against public authority

Chapter XII — Disclosing official secrets

81. Disclosing official secrets

(1) In this section —

“disclosure” includes —

- (a) any publication or communication; and
- (b) in relation to information in a record, parting with possession of the record;

“government contractor” means a person who is not employed in the Public Service but who provides, or is employed in the provision of, goods or services for the purposes of —

- (a) the State of Western Australia;
- (b) the Public Service; or
- (c) the Police Force of Western Australia;

“information” includes false information, opinions and reports of conversations;

“official information” means information, whether in a record or not, that comes to the knowledge of, or into the possession of, a person because the person is a public servant or government contractor;

“public servant” means a person employed in the Public Service;

“unauthorised disclosure” means —

(a) the disclosure by a person who is a public servant or government contractor of official information in circumstances where the person is under a duty not to make the disclosure; or  
(b) the disclosure by a person who has been a public servant or government contractor of official information in circumstances where, were the person still a public servant or government contractor, the person would be under a duty not to make the disclosure. (2) A person who, without lawful authority, makes an unauthorised disclosure is guilty of a crime and is liable to imprisonment for 3 years. Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

5) The FOI Act provides an exemption on the release of information

(1) Matter is exempt matter if its disclosure could reasonably be expected to — Law enforcement, public safety and property security, matter prejudicial etc. to

---

**From:**

**Sent:** Tuesday, 28 February 2017 1:31 PM

**To:**

**Cc:**

**Subject:** RE:

I invite you to provide to me the section of your legislation that says every single question we ask is governed by FOI. No other Govt department that we deal with requires us to use the FOI act to get simple information about the progress of enquiries.

If I report a crime to Police they do not tell me to do an FOI request to see if the robber has been caught.

Similarly, WorkCover does not tell us to FOI if we make a complaint about an employer.

They treat us as partner in ensuring appropriate behaviour by employers.

My personal view is that FOI is used by WorkSafe to prevent an exchange of information.

I invite you to prove that I am wrong.

### **CFMEU**

Construction & General Division, Western Australia

TRADES HALL, 80 Beaufort Street, PERTH, WA 6000

PO BOX 8075, PERTH BC, WA 6849

T: F:

**From:**

**Sent:** Tuesday, 28 February 2017 1:05 PM

**To:**

**Cc:**

**Subject:** RE.

Hi

I thanked you for the information supplied to WorkSafe and I thank you again now.

WorkSafe is treating the CFMEU no differently than any other organisation.

WorkSafe is an independent OSH regulator.

The WA parliament made the FOI Act and that is the vehicle available to everyone to obtain information from government departments.

There is no **Quid pro quo** ("something for something" or "this for that").

The FOI Act process is designed (by others) to ensure the fair and equitable release of government information while also protecting the rights to privacy of all the persons involved in an investigation.

I get that you do not like the FOI system and that names of person are blanked out etc.

The FOI system is the law in Western Australia it is what the parliament intended.

Cheers



**Director / Chief Inspector - Construction, Regional & Primary Industries**  
WorkSafe Division | **Department of Commerce**  
Address: Mason Bird Building | Level 1 | 303 Sevenoaks Street | Cannington  
Postal Address: Locked Bag 14 Cloisters Square PERTH WA 6850  
Phone: [Ext: ] | Email: [ ]

**WorkSafe**

Want to keep up to date? Subscribe to our email service:  
<http://www.commerce.wa.gov.au/worksafe/subscribe-worksafe-newsletters>

---

**From:**  
**Sent:** Tuesday, 28 February 2017 12:46 PM  
**To:**  
**Cc:** I  
**Subject:** RE:

I am not asking for all the details but some co-operation would be appreciated especially as we are assisting WorkSafe and making it easier for you to conduct your enquiries. You would not have known about this reporting non-compliance had it not been for the CFMEU providing you with this information.

All we are asking for is an update so we can assure our member that WorkSafe are being proactive and investigating the circumstances around his incident.

Has WorkSafe followed up to ensure the compliance certificates provided by the company were legitimate? (it appears by evidence of the incident involving our member that working at heights controls have not improved)

Has the company been approached in regard to not reporting the incident/injury?

Is the victim (our member) going to be interviewed to give evidence or are you going to take the companies word for it as is the case with the compliance certificates?

A positive response instead of referring me to the FOI process would go a long way to restoring a little bit of faith in your organisations commitment to working cooperatively with ALL stakeholders (including unions).

Regards,

**OH&S Officer W. A**  
**CFMEU Construction & General Division**

**Mob:**

**Email:**

---

## **CFMEU**

Construction & General Division, Western Australia  
TRADES HALL, 80 Beaufort Street, PERTH, WA 6004  
PO BOX 8075, PERTH BC, WA 6849  
T: F:

---

**Stand up. Speak out. Come home.**

**From:**

**Sent:** Tuesday, 28 February 2017 9:43 AM

**To:**

**Cc:**

**Subject:** RE: .

Good morning

Thank you for your email.

This matter is an open investigation at WorkSafe.

As you are aware at the conclusion of any WorkSafe investigation relevant details maybe be applied for under the Freedom of Information Act process.

The FOI process protects all involved and allows for the release of information in the lawful way and the WA parliament has provided for.

Cheers



**Director / Chief Inspector - Construction, Regional & Primary Industries**  
WorkSafe Division | **Department of Commerce**  
Address: Mason Bird Building | Level 1 | 303 Sevenoaks Street | Cannington  
Postal Address: Locked Bag 14 Cloisters Square PERTH WA 6850  
Phone: [Ext: ] | **Email:**

**WorkSafe**

Want to keep up to date? Subscribe to our email service:  
<http://www.commerce.wa.gov.au/worksafe/subscribe-worksafe-newsletters>

**From:**  
**Sent:** Monday, 27 February 2017 4:31 PM  
**To:**  
**Cc:**  
**Subject:**

Can you please provide information as to what has transpired in relation to information the CFMEU provided to WorkSafe (see attached emails) regarding the incident which resulted in an injury to  
We also provided you with additional information you requested (see attached emails) however we haven't received any feedback since.

Regards,

**OH&S Officer W. A**  
**CFMEU Construction & General Division**  
**Mob:**  
**Email:**

---

## **CFMEU**

Construction & General Division, Western Australia  
TRADES HALL, 80 Beaufort Street, PERTH, WA 6004  
PO BOX 8075, PERTH BC, WA 6849  
T: F:

**Stand up. Speak out. Come home.**

This email is from the Department of Commerce and any information or attachments to it may be confidential.

If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.

This email is from the Department of Commerce and any information or attachments to it may be confidential.

If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.

This email is from the Department of Commerce and any information or attachments to it may be confidential.

If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.

---

**From:**  
**Sent:** Thursday, 17 November 2016 8:29 AM  
**To:**  
**Cc:**  
**Subject:** RE: Postcard

You are making stuff up  
I will do a statement and have spent hours with your people who lack basic competencies.  
If it were not for my cooperation your office would still be trying to work out what happened.  
Get the statement in a form for me to sign as I have requested on 3 occasions and I will sign it.

Regards,

OH&S Officer W. A  
CFMEU Construction & General Division  
Mob:  
Email:

---

Construction & General Division, Western Australia TRADES HALL, 80 Beaufort Street, PERTH, WA 6004 PO BOX 8075, PERTH BC, WA 6849

T: F:

---

-----Original Message-----

**From:**  
**Sent:** Thursday, 17 November 2016 6:57 AM  
**To:**  
**Cc:**

**Subject:** Re:

I completely disagree with your generalisation WorkSafe is a very proactive OSH regulator.  
We are about objective facts and evidence whereas you and the CFMEU are about generally appealing to emotion with little or no follow through when requested to give supporting details.

The CFMEU provided those photographs to WorkSafe as a what we thought was a genuine attempt to help. But now we find when pressed the CFMEU are not co-operating so those photographs cannot be used.

It is you guys that don't get it.

Nil of your members are requesting the election of safety reps on construction sites. why?  
Your organisers go to sites and they must think they so ineffective that you feel you need to complain about every site visit to WorkSafe effectively wasting our time because when we do attend the site the employers and employees on the site have done what the OSH Act intended them to do "consult" and rectified the hazards.  
Go ahead blame WorkSafe if it makes you feel better.  
But stop wasting my time.

On 16 Nov. 2016, at 15:01, \_  
wrote:

You guys just don't get it. The reason the industry is in the mess it's in is because WorkSafe are not proactive. We will do our own post card to help high risk workers get home safe for Xmas. In the meantime as I explained to you yesterday I am waiting for your investigators to renumber the photos to align with my statement and I will then sign it.

Regards,

OH&S Officer W. A  
CFMEU Construction & General Division  
Mob: \_\_\_\_\_  
Email: \_\_\_\_\_

-----  
<image001.jpg>

Construction & General Division, Western Australia TRADES HALL, 80 Beaufort Street, PERTH, WA 6004 PO BOX 8075, PERTH BC, WA 6849

T: \_\_\_\_\_ F: \_\_\_\_\_

-----  
<image002.png><<http://www.standupspeakoutcomehome.org.au/>>

From:  
Sent: Wednesday, 16 November 2016 2:38 PM  
To:  
Cc: .

Subject: Postcard

Hi

Thank you for your email

WorkSafe have a current postcard educational program occurring that is not associated with HRWL rather workplace psychological health. (copy of that postcard is attached). I have no wish to distract resources away from that program. You are welcome to discuss this with \_\_\_\_\_ upon his return.

I am advised you have not provided WorkSafe construction inspectors with your signed witness statement regarding your observations at the Adelaide Tce fatality site last month. I urge you to promptly finalise the witness statement as without same WorkSafe will be unable to later admit all the photographs taken by you at the site into evidence.

I understand this to be a practical way of promoting workplace safety.

<image003.png>

Acting Executive Director – WorkSafe  
[Director - Construction, Regional & Primary Industries]  
WorkSafe Division | Department of Commerce  
Address: Mason Bird Building | Level 1 | 303 Sevenoaks Street | Cannington  
Postal Address: Locked Bag 14 Cloisters Square PERTH WA 6850

Phone:

| Email:

WorkSafe<<http://www.commerce.wa.gov.au/WorkSafe>>

Want to keep up to date? Subscribe to our email service:

<http://www.commerce.wa.gov.au/worksafe/subscribe-worksafe-newsletters>

From:

Sent: Wednesday, 16 November 2016 8:43 AM

To:

Cc:

Subject: HRWL Postcard

Attached is an excellent and timely proactive safety initiative by the Department of Transport W.A. Given that the construction industry is a high risk industry and there has been an increase in fatalities in recent times nationwide, that Western Australia recorded the highest fatality rate per 100,000 employees in the last recorded period and that we are coming into the Christmas period are WorkSafe Western Australia going to put out a similar initiative for holders of High Risk Work Licences? If not why not?

Regards,

OH&S Officer W. A

CFMEU Construction & General Division

Mob:

Email:

-----  
<image001.jpg>

Construction & General Division, Western Australia TRADES HALL, 80 Beaufort Street, PERTH, WA 6004 PO BOX 8075, PERTH BC, WA 6849

T. F:

-----  
<image002.png><<http://www.standupspeakoutcomehome.org.au/>>

This email is from the Department of Commerce and any information or attachments to it may be confidential. If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.

This email is from the Department of Commerce and any information or attachments to it may be confidential. If you are not the intended recipient, please reply mail to the sender informing them of the error and delete all copies from your computer system, including attachments and your reply email. As the information is confidential you must not disclose, copy or use it in any manner.