

BRIEFING PAPER

Update on Health and Safety Representative Transition Training

Date:	27 June 2016	Tracker #:	16/00283
Security:	In Confidence		

ACTION SOUGHT

Minister	Action sought	Deadline
Hon Michael Woodhouse Minister for Workplace Relations and Safety	Note the information in this briefing.	27 June 2016

CONTACT INFORMATION

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Natasha Rave	Acting Principal Advisor, Workforce Development		-
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CONSULTATION

MBIE health and safety policy have been consulted.

Minister's Comments:

PURPOSE

The purpose of this briefing is to provide you with an update on the progress of Health and Safety Representative (HSR) Transition Training.

EXECUTIVE SUMMARY

In 2014, Government agreed to fund a time-limited transition training programme for existing HSRs to learn about how their roles will change and the new powers and functions of the HSR role, introduced by new Health and Safety at Work Act (HSWA). This decision was also predicated on supporting businesses to continue worker participation practices with the introduction of HSWA. The Ministry of Business, Innovation and Employment (MBIE) led the procurement to select a training provider to deliver transition training to an estimated 15,000 HSRs across New Zealand, targeting HSRs from high risk industry. In early 2015, Safety-N Action Limited was announced the selected provider. Training design, with support of both MBIE and WorkSafe New Zealand commenced once the *Services Agreement for Health and Safety Training* was agreed. WorkSafe has undertaken the day-to-day operational oversight of the programme.

To meet the varying learning needs of HSRs, a mix of online and face-to-face training was part of the design strategy. Registrations for training opened in October 2015 and training commenced in February 2016. To date, over 10,000 HSRs have registered, with many reporting the benefits of the course. Based on these numbers, training will likely meet the target of a minimum 10,500 (or 70 per cent of the estimated 15,000) HSRs by the close of training in June 2016.

WorkSafe will use data collected to build a register of HSRs. Further, monitoring and evaluation of the efficacy of the programme will continue in the last quarter of 2016. Both MBIE and WorkSafe anticipate that there may be several OIA requests about HSR transition training. Given this, a joint MBIE and WorkSafe proactive release of HSR transition training documents will be undertaken in July 2016.

RECOMMENDATION

WorkSafe New Zealand recommends that you:

- a. **note** the information in this briefing, including:
 - background information about transition training;
 - a progress update; and
 - next steps toward project completion.

noted

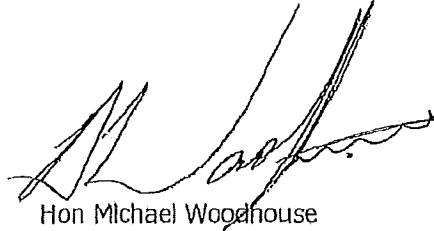
- b. **note** that a high-level overview of the progress-to-date of the project is attached at Appendix A for your reference.

(noted)



Kirstie Hewlett
GM Strategy and Stakeholder
Engagement
WorkSafe New Zealand

24 / 06 / 2016



Hon Michael Woodhouse
Minister for Workplace Relations and Safety

22 / 6 / 16

BACKGROUND

SUPPORT OF HEALTH AND SAFETY REPRESENTATIVE TRANSITION TRAINING

1. The Health and Safety at Work Act (HSWA) is a package of reforms to secure better health and safety outcomes in New Zealand workplaces. One aspect is worker engagement, representation and participation practice; HSWA places a greater emphasis on this. Practices are intended to be flexible to suit different workplaces. Health and Safety Representatives (HSRs) are one well-accepted form of worker representation already used in many, especially larger, businesses.

Continuity of worker participation systems under the new health and safety regime

2. In 2014, submitters on the Health and Safety Reform Bill (the Bill) to the Transport and Industrial Relations Select Committee raised concerns about the ability to continue their existing worker participation systems when the new law came into effect. As part of the work on the Bill, officials looked at transitional provisions to allow existing worker participation systems and HSRs to meet the requirements of HSWA. Transition training for existing HSRs would be a crucial part of supporting this to occur.
3. Transition training for existing trained HSRs would prepare them for the new law and support an understanding of HSWA.¹ HSWA includes changes to health and safety management, includes new concepts of PCBU and worker, and strengthens the HSR role.

Teaching HSRs about the new powers and functions related to the role

4. HSWA also provides clearer functions and powers, some stronger powers, and a system of checks and balances on the HSR role. Transition training could be undertaken by HSRs trained under the former *Health and Safety in Employment Act* to learn about how and when to use the new powers and functions when necessary.
5. Messaging to accompany transition training would clearly articulate that this training was an option for HSRs wanting a refresher and to learn about how to use the new powers and functions. It was also an opportunity to reinforce that existing HSRs who did not want to do training, could still continue to be HSRs – they are just unable to exercise the new functions and powers.

PROCUREMENT OF HSR TRANSITION TRAINING

3. Based on this information, in June 2014, the former Minister for Labour agreed that an underspend of the 2013/14 Employment Relations Education contestable fund totalling \$0.690 million be put toward the implementation of *Working Safer* by funding transitional arrangements for HSR training (refer to MBIE briefing 3415 13-14).
4. MBIE went to market in November 2014 with a request for proposal (RFP) to select a supplier or suppliers to provide HSR transition training.
5. The process undertaken followed the rules outlined in the Government Rules of Sourcing. A panel comprising MBIE and WorkSafe officials, and a representative from Industry Training Organisation, Skills (Skills ITO) were selected to evaluate the suppliers' proposals, based on their knowledge of the health and safety training space.

¹ Based on advice from ACC and a high level market scan, MBIE estimated there are at least 15,000 HSRs, trained in the last three years under the requirements of former *Health and Safety in Employment Act 1992*. This is indicative of the scope but not intended to preclude HSRs trained outside of the three year timeframe.

6. Eight responses were received and after assessment, the panel decided to shortlist three of the highest scoring providers who were then invited to present their proposals in more detail to the panel.

Outcome

7. Safety-N Action Limited was a clear leader throughout the entire evaluation process. Consolidated scores from both the initial evaluations and shortlisted evaluations demonstrate this. This supplier's proposal was the most compelling and show capacity and capability to deliver the project across all criteria. Safety-N Action's pricing was very competitive, offering a value-for-money solution for government.
8. During the shortlisted presentations, the panel unanimously scored Safety-N Action the highest, noting this entity's adept understanding of the industry, strong passion and ability to meet and in some cases, exceeded the expectations outlined in the RFP brief.

External audit of the procurement process

9. Following the completion of the supplier presentations, an external probity audit was completed by PricewaterhouseCoopers (PWC). [REDACTED]

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SERVICE AGREEMENT BETWEEN MBIE AND SAFETY-N ACTION

10. You agreed to approve the transition training programme for HSRs to be delivered by Safety-N Action, pending signing of the Service Agreement between MBIE and Safety-N Action. [Please refer to MBIE briefing Employment Relations Education Funding Course Approval 2995 14-15].
11. MBIE entered into negotiations with Safety-N Action in April 2015, with a view of signing a contract once negotiations were complete.

Charges

12. Safety-N Action has agreed to supply the following deliverables at a fixed charge of [REDACTED] GST (if any).
 - a. Marketing campaign, as per approved plan, delivered to pre-registrants and registration processes and system in place
 - b. Training content and materials developed and approved by MBIE for both online and face to face training
 - c. The Service Provider (at its cost in all matters) must use best endeavours to ensure:
 - i. Training completion by a minimum of 500 face to face participants
 - ii. 2,000 registered online trainees; and
 - iii. a competency 'pass rate' of 90 per cent from the target market. (Or as close to 90% as reasonably achievable. Service Provider will use best endeavours to exceed 90% pass rate).
 - d. Decommission and final delivery of training to a competency pass rate of 90 per cent (using best endeavours) (Or as close to 90% as reasonably achievable. Service Provider will use best endeavours to exceed 90% pass rate).
13. The remaining money of the \$0.690 million has been used to support the implementation of the programme. Once the contract was agreed, MBIE handed the day-to-day

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operations of transition training to WorkSafe, while keeping oversight through project governance arrangements.

SAFETY-N ACTION CHANGE OF OWNERSHIP

14. In June 2015, Safety-N Action advised MBIE that Safety-N Action shares were likely to be purchased by Aspire2 Ltd as part of a merger of approximately five Private Training Establishments in the education sector (including Safety-N Action Ltd) and a planned Initial Public Offering listing on the New Zealand Stock Exchange in August 2015.
15. Safety-N Action advised that,
"There will be no changes to Safety-N Action staff or its operations and no changes to the services or pricing submitted for MBIE HSR training. Rowan McKenzie will continue full time employment with Safety-N Action as the company's General Manager, along with the existing senior management team. The change of ownership will strengthen the position Safety-N Action Ltd in terms of management structure and financial investment."
16. Notwithstanding this written assurance, MBIE officials included an indemnity clause in the Service Agreement to protect MBIE in the unlikely event that transition training is affected as a direct result of the acquisition. This clause covered important aspects that protect MBIE in light of the acquisition, including financial conditions, ability to perform the contract and a provision that allows MBIE to impose reasonable conditions on the assignment in relation to the acquisition.
17. The additional information and indemnity clause were implemented based on advice received from MBIE commercial services and legal teams.
18. Further, Safety-N Action provided a letter from the acquiring company, Aspire2 Group Limited in support of the transition training programme of work to be delivered by Safety-N Action Limited.

Further due-diligence

19. As part of the contract negotiations, MBIE and WorkSafe officials visited three Safety-N Action training sites, their administration/head office operation site and attended an existing HSR training course. These site visits substantiate the initial view that the company has the facilities, knowledge, people, and systems to deliver the transition training.

DEVELOPMENT AND DELIVERY OF HSR TRANSITION TRAINING

20. Both MBIE and WorkSafe have been working with the selected provider to deliver transition training. WorkSafe however, has taken day-to-day operational carriage of the project to support the implementation of the programme.
21. For a critical period during the development and initial delivery phase, WorkSafe engaged a specialist project manager, using remaining funds for transition training, to oversee the development and delivery of the programme. This was essential because at the time, neither WorkSafe nor MBIE had the resources to devote solely to the management of transition training.

DESIGN DELIVERY OF TRANSITION TRAINING

Target HSRs

22. With the support of WorkSafe and MBIE, Safety-N Action designed and is in the process of delivering online and face-to-face (in class) transition training to the estimated cohort target 15,000 HSRs.
23. Of the 15,000 places available, a total of 3,000 places were to be delivered face-to-face for HSRs presenting from high risk sectors and the remaining 12,000 online places to be offered to existing HSRs around the country.

Design

24. During the design phase, WorkSafe and MBIE consulted the New Zealand Council of Trade Unions and Business New Zealand to get their input into the proposed training framework. Input from the social partners was limited however, because they also provide or support the provision of HSR training through other providers.² Feedback from these parties was incorporated to the extent of high-level design and key messaging.
25. Both online and face-to-face training programmes have been designed to suit the needs of the HSR. Online training for example can:
 - a Be undertaken at the pace of the HSR. HSRs are able to save, close and revisit modules as they need and do not need to finish the course in one go.
 - b Provide take out information, like an 'action plan' so the HSR can see how the training will have effect in their own workplaces.
 - c Suit the needs of different types of learners incorporating a mix of audio visual and written collateral, pitched at a level suitable for all learners.
26. An example of the user-friendly layout of online training modules is inserted below for your reference:

INTRODUCTION	[00 mins 16 secs]	00 mins 16 secs
Module 1 - What are the changes?	[03 mins 00 secs]	03 mins 00 secs
Module 2 - Worker Representation	[04 mins 03 secs]	04 mins 03 secs
Module 3 - Role of the HSR	[10 mins 23 secs]	10 mins 23 secs
Module 4 - Ceasing Unsafe Work	[13 mins 35 secs]	13 mins 35 secs
Module 5 - PINS in Practice	[17 mins 30 secs]	17 mins 30 secs
Module 6 - Provisional Improvement Notice Review	[16 mins 51 secs]	16 mins 51 secs
Final Quiz		

² For example, *Worksafe Reps* is the health and safety training arm of the NZCTU. [<http://worksafereps.co.nz/>]

27. Safety-N Action has provided WorkSafe with pieces of feedback from participants indicating that training is being well-received, for example:

"Was a really great course, the layout, the videos. Being on-line allowed me to train at my pace. Also allowed me to re-look at videos and read the PDF documents at my speed to help me understand quicker. I've give this on-line course 10/10."

Delivery and status update

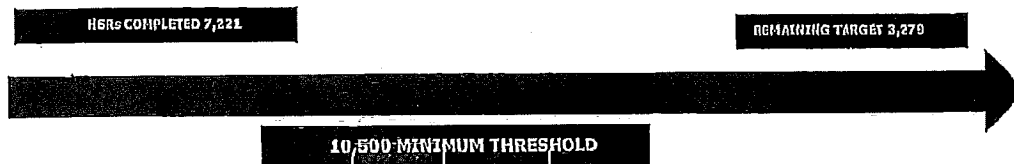
28. Face-to-face training commenced in January 2016, and online training commenced in February 2016. By mid-June 2016, 10,511 HSRs have registered for training.

REGISTRATIONS



29. Of HSRs registered however, 7,221 have completed training successfully. To meet targets an additional 3,279 HSRs need to successfully complete. Safety-N Action advises that the remaining 3,279 HSRs who are registered but yet to complete are predominantly online trainees, and they have received and will continue to receive reminders to complete training by the end date, 30 June 2016.

COMPLETIONS



30. Reporting from Safety-N Action shows that HSRs registered for transition training are from a range of industries have registered for training, especially from medium-to-high risk sectors, for example:

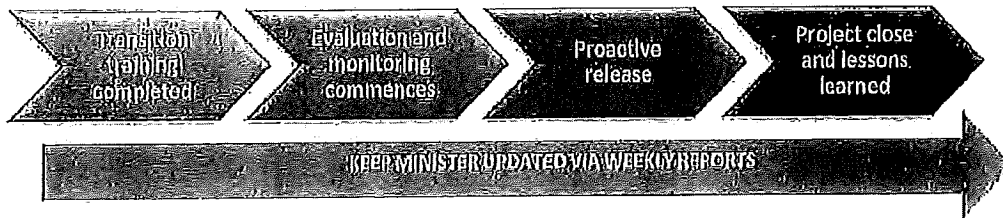
Industry
Arts and Recreation Services
Building Completion or Installation Services
Dairy Cattle Farming
Education and Healthcare
Electricity and Gas
Fertiliser Manufacture
Fishing
Forestry
Fruit and/or Vegetable Growing
Grain, Sheep and Beef Cattle Farming
Health and Disability
Heavy and Civil Engineering Construction
Local Government (Council)
Machinery or Equipment Manufacturing
Meat and Meat Product Manufacturing
Metal Product Manufacturing
Mining
Motor Vehicle or Transport Equipment Manufacturing
Non-Residential Building Construction
Nursery and Floriculture Production
Other Agriculture
Other Construction Services
Other Food Product Manufacturing
Other Livestock Farming
Other Manufacturing
Other Services
Pallet Manufacturing
Professional
Public Administration and Safety
Refrigeration & Air Conditioning
Residential Building Construction
Sawmilling, Timber Dressing or Other Wood Product Manufacturing
Seafood Processing
Transport, Postal and Warehousing
Wholesale and Retail Trade
Undefined Industry

Pass/fail rates

31. The Services Agreement outlines that the provider use best endeavours to ensure that at least 90 percent of participants pass the HSR transition training course. To date, data from Safety-N Action demonstrates that this is being achieved.
32. Small numbers of HSRs undertaking both online and face-to-face training have been assessed as 'not yet competent' by Safety-N Action. For face-to-face training, this means that a Safety-N Action assessor has deemed the HSR participant not competent based on an in class examination (multiple choice) conducted. For online participants deemed not competent, they have attempted the final twenty-question, multiple-choice quiz three times, and have failed each time.
33. HSRs who have not passed transition training have been provided with information about where they need to improve and an explanation of which questions they answered incorrectly. As with other HSRs wishing to be considered trained under HSWA, they are then directed to undertake the new HSR unit standard, recently registered to the New Zealand Qualifications Framework in March 2016 (at the cost of their PCBU).

NEXT STEPS

JUNE, JULY AND AUGUST 2016



Joint MBIE and WorkSafe proactive release of key documentation

34. Both WorkSafe and MBIE anticipate that information pertaining to the procurement of HSR transition training and the design and delivery of the online and face-to-face training will be requested under the *Official Information Act 1982*.
35. To manage this process, both MBIE and WorkSafe will work together on a proactive release of relevant documents.

Evaluation, monitoring and developing the HSR register

36. Transition training concludes on 30 June 2016. A requirement of the Services Agreement is that Safety-N Action provide both MBIE and WorkSafe with a list of all participants, in order to begin developing a register of existing HSRs.
37. Evaluation and monitoring of the project will also be conducted at the close of training. You will receive updates in via weekly reports as this information is collated.

Discussion

38. Should you wish, officials from both WorkSafe and MBIE can discuss this with you.

APPENDIX A

In agreement with the Ministry of Business, Innovation and Employment and WorkSafe New Zealand, Health and Safety Representative (HSR) transition training provider, Safety-N Action agreed to use best endeavours to meet a 70 percent target of the estimated 15,000 eligible HSRs for transition training (10,500 HSRs).

Progress update

On 17 June 2016 Safety-N Action reported:

- That there are 10,511 HSRs who have registered for HSR transition training.
- Of the 10,511 only 7,221 have completed training.
- There are 3,279 HSRs that need to complete training for the programme to meet the 70 percent target.
- Transition training will conclude on 30 June 2016, and to ensure that targets are met and that registered HSRs complete, Safety-N Action are encouraging HSRs to complete through a variety of mediums (including but not limited to: email, advertising and reminders).
- Safety-N Action report that they see spikes in completion rates, likely resulting from these reminders and advertising.
- These spikes average at 200 completions per day, based on these figures, and associated projections; it is likely that the completion target of 10,500 will be met.
- Further, Safety-N Action reports that an additional 25 face-to-face courses will be delivered between now and 30 June to help meet the completion target of 10,500 HSRs.
- You will continue to receive updates via weekly reports to show progress.