



CPSU SUBMISSION

SENATE FINANCE AND PUBLIC ADMINISTRATION
LEGISLATION COMMITTEE

INQUIRY INTO

**Occupational Health & Safety (Commonwealth
Employment) Amendment (Employee Involvement &
Compliance) Bill 2002**

May 2004

Introduction

1. The CPSU is Australia's largest union in the area of Government employment and while it has membership in the private sector comments in this submission are made in support of the role the union plays under the Occupational Health and Safety (Commonwealth Employees) Act 1991 as proposed to be amended by Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002.
2. CPSU notes and supports the submission made by the ACTU and asks that this submission be read in conjunction.
3. Health and Safety is union business. Both unionists and non members regularly rate health and safety in the top two or three workplace issues that confront them. Both groups of people strongly support the ongoing and active participation of unions in health and safety matters.
4. CPSU submits that it has made a significant contribution to the Health and Safety of commonwealth employees over many years but particularly since it was given a recognised role by the 1991 Act.
5. CPSUs contribution has included
 - provision of advice to health and safety representatives
 - provision of advice to members
 - representation on issues to management
 - training of health and safety representatives
 - training of Delegates and activists in OH@S
 - seminars on topics of interest
 - ensuring elected representatives are in place
 - negotiating agreements with Commonwealth employers
 - negotiating agreements with Government Business Enterprises
 - participation in consultative committees at national level
 - participation in consultative committees at the state level
 - participation in consultative committees at the workplace level
 - advising and otherwise supporting reps at all levels
 - membership of the Safety Rehabilitation and Compensation Commission SRCC
 - regular consultation with Comcare
 - regular lobbying of Comcare and the SRCC
 - maintaining and supplying information on hazards
 - publishing a manual for Health and Safety Representatives
 - publishing booklets on issues such air conditioning, office standards and computer equipment
6. CPSU is totally opposed to the provisions of this Bill that seek to strip away the union's rights to do these things. It is submitted that this reduction in rights is not based on evidence, performance or good public policy but represents an excess of ideology.

7. As outlined in the ACTU submission academic evidence suggests a very strong link between union presence and involvement and improved outcomes. Why then would a parliament reduce those participation levels for its own employees.
8. That proposed reduction is achieved by:
 - Removing the unions right to ensure democratically elected and representative Health and Safety Representatives (HSRs) are elected in every Designated Workgroup and handing that role over to management
 - Removing the requirement that agencies reach an agreement with their relevant union on OH&S matters
 - Providing token consultation rights to registered organisations but also to any other association purporting to represent the interests of staff
 - Making that consultation contingent on the approval and conditions of a public servant.
 - Removing rights to participate in committees
 - Weakening a unions rights to request an investigation into a workplace
9. CPSU submits that these changes are designed to entrench management control over Health and Safety outcomes by removing independent accountability and independent employee support. CPSU acknowledges that as a general rule commonwelath employers do take their duty of care seriously but is also aware of the many competing priorities and conflicts of interest that intervene to downgrade attention paid to Health and Safety.
10. The fact that fifteen thousand workers compensation claims were successfully lodged in 2002/2003 is testament to the fact that the system needs strengthening not weakening.

Election Processes

11. CPSU has developed and has algely implemented a system of elections whereby nominations are called every two years as required by the Act or on vacancy as advised by the Workplace or employer. As provided by the Act unless there is unanimous agreement in the workplace the CPSU runs an election and then ensures that the successful applicant receives training as regulated by the Comcare training panel.
12. In 2001 CPSU conducted an audit into Health and Safety elections and found that in places where systems were already implemented and working representation was in order. In contrast in many areas where the CPSU had not been active representation was in disrepair. In some cases management

could not advise who HSRs were and in some cases election processes had not been done for periods long in excess of two years. CPSU has targetted the problem areas to bring the system fully up to scratch but submits that it highlights the need for an independent, ongoing role. All that was required was for the employer to advise CPSU that an election was required but even this was not happening.

13. CPSU submits that replacing the current sytem with an employer controlled process is a recipe for decline in independence, a decline in representation, a probable decline in the number of HSRs in the workplace and a consequent lowering of safety standards.

Health and Safety Agreements

14. The Act currently provides that agencies must make an agreement with the relevant union or unions. The agreement must include provisions for ongoing consultation and may include any matter the parties agree on. Typically it can set out an agreed work program in identified areas of need for the life of the agreement.
15. Attachment 1 is such an agreement made with Child Support Agency. This highlights the structures, the processes and the issues for ongoing work in the agency. It is a good cooperative model where the employees have been well represented, well supported and will actively participate in improving agency outcomes. It is also a live working document actively improving the woring life of CSA employees.
16. Attachment 2 is the documentation of the process entered into with the Department of Communications Information Technology and the Arts. Importantly this attachment shows how easily things fall into disrepair when left to the employer. In this case the agency thought all was in order but in reality it appears no-one was taking responsibility and as result meetings were not happening the HSR structure fell into disrepair until CPSU intervened.
17. As can be seen from the minutes in Attachment 2 a two-year hiatus was followed by an immediate increase in incident reporting following the CPSU intervention. That reporting will raise awareness, allow for remedial measures and will improve outcomes.
18. CPSU submits that this is a constructive role of benefit to employees and one which benefits agencies by improving outcomes.

Prosecution Provisions

19. CPSU notes that the Bill aims to partially lift the shield of the crown by allowing prosecutions of individuals for breaches of the Act. CPSU does not oppose this change but is of the view that the change should be total and agencies and Ministers made liable, not just individuals.

20. The offence of industrial manslaughter should be introduced for cases of death caused by the negligence or misbehaviour of individuals
21. CPSU supports the use of civil proceedings for offences of lesser nature as proposed in the bill.

Machinery Clauses

22. The Bill contains a number of minor machinery clauses to which CPSU has no objections.

Conclusion

23. Available evidence shows that Health and Safety outcomes are significantly better when the relevant unions are involved.
24. No case has been made out as to why the current provisions need to be changed other than ideological policy references.
25. The government proposals will not improve health and safety outcomes and may well make them worse.
26. The Australian Government should aim to be a leader in employment policy for its own employees and for that reason the Senate is urged to reject the proposed consultative structure changes.
27. CPSU has no objections to the machinery changes in the bill.
28. CPSU is supportive of changes to enable prosecution action to occur but is of the view that Ministers and Agencies should also lose the protection of the shield of the crown.

ATTACHMENT 1



Australian Government
Child Support Agency

Child Support Agency
Occupational Health and Safety Agreement

Employee health and safety in CSA is a responsibility shared by the Agency, its managers, its employees, Health and Safety Representatives and the CPSU

This agreement clearly outlines the structural arrangements in place and the responsibilities each of us has in ensuring CSA employees enjoy a healthy and safe work environment.

The Child Support Agency

*The Community and Public Sector Union
(CPSU)*

I, Catherine Ann Argall, sign this Agreement on behalf of the Commonwealth

I Shane O'Connell sign this Agreement on behalf of the CPSU.

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Dated:

Dated:

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STATEMENT OF CONTEXT

This agreement has been made in accordance with the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) which states that the employer must provide for the making of an agreement between the employer and unions. It has also been made in recognition of the obligations under Clause 35 of the *Child Support Agency (General Employees) Agreement 2002*. This Agreement should be read in conjunction with the Act.

The purpose of this agreement is to set the framework for the promotion of a healthy and safe workplace. Prevention of workplace injuries and reduced exposure to hazards, which may cause harm in CSA workplaces, will be achieved through union cooperation and agreement. All reasonable practical steps will be taken to protect the health and safety of CSA employees at work. This agreement will reduce the personal, community and financial cost of any such injuries and illness.

The CSA and the CPSU have jointly developed an Occupational Health and Safety Policy in accordance with s.16 of the Act. The parties to this agreement will jointly review this policy, at Attachment A, as and when required.

Consistent with its Occupational Health and Safety Policy, the CSA will take all reasonably practicable steps to improve the standard and practices of occupational health and safety in all our workplaces. The CSA will have regard to existing standards, regulations and codes of practice approved under the Act and other codes of the National Occupational Health and Safety Commission (Worksafe Australia) and Standards Australia, and such other standards as agreed to by the parties. CSA policies and instructions on occupational health and safety matters will meet this requirement.

The joint participation of management, health and safety representatives, employees and their unions in health and safety matters will be achieved through the following agreed structural arrangements and agreed responsibilities.

PARTIES BOUND

The parties listed in this clause are bound to the terms of this agreement.

Employer

The Commonwealth of Australia as represented by the General Manager of the Child Support Agency.

Unions

Community and Public Sector Union (CPSU).

DURATION

This agreement shall operate for a period of three (3) years from 28 January 2004 to 27 January 2007 (3 years). The parties commit to negotiate a new agreement, these negotiations to commence no later than six (6) months before the expiration of this agreement. The terms of this agreement shall continue to operate until a new agreement is negotiated. The parties acknowledge that this agreement may need to be varied, prior to its expiration, to take into account changes to occupational health and safety best practice and legislation and the parties will not unreasonably oppose any such proposed variations. This agreement may only be varied, prior to its expiration, with the agreement of the parties. Nothing contained in this agreement shall prohibit the CSA from complying with the requirements of occupational health and safety legislation or other relevant legislation, awards or industrial agreements.

PART 1 - ROLES, RESPONSIBILITIES & RIGHTS

Child Support Agency Responsibilities

See also s16, 30, 36 of the OHS Act

Responsibilities of all parties under this Agreement are outlined below. In accordance with legislative requirements, the CSA must take all reasonably practicable steps to protect the health and safety of its employees whilst performing duties for the CSA.

The CSA will consult with the union to provide a comprehensive occupational health and safety service that will include:

- a) evaluating and researching hazards and carrying out environmental monitoring programs;
- b) adopting standards and guidelines and preparing relevant hazard policies;
- c) organising and carrying out safety monitoring procedures, including regular hazard audits involving Health and Safety Representatives;
- d) advising on health and safety aspects relating to the design and purchase of workplace equipment;
- e) rehabilitating the sick and injured in a process which involves ongoing consultation with the injured worker, CSA, service providers and, where requested by the injured worker, a support person (including union representatives);
- f) providing advice to line management relating to the occupational health and safety of staff;
- g) ensuring that policies are developed to avoid the introduction of any new chemical, physical agent or related process which may be harmful to employee health and safety until all available data concerning their likely occupational health effects have been assessed against agreed standards;
- h) providing appropriate health and first aid services for employees;
- i) prominently displaying at the workplace the name and work location of the local Health and Safety Representative and Deputy Health and Safety Representative; and
- j) keeping an up-to-date list of all Health and Safety Representatives and Deputies and make this list available upon request to unions, Health and Safety Representatives, employees and any investigators appointed under the Act.

Where an investigation occurs, the CSA will provide as soon as they become available a copy of any investigation Notice and associated report to relevant Health and Safety Representatives and to the National Health and Safety Committee, and display any Notice prominently at all relevant workplaces.

The CSA will undertake to provide regular training to all staff to ensure their awareness of OH&S issues relating to their role in the agency. Additional training will also be provided to CSA management and supervisory staff and members of the

National Occupational Health and Safety Committee. Training will also be provided to Health and Safety Representatives and Deputy Health and Safety Representatives as required under the Act.

All training will be provided to employees without loss of remuneration or other entitlements, with all costs met by CSA:

- a) on commencement and then on a regular basis;
- b) if required, upon transfer to new duties; and
- c) when required to operate new equipment.

The CSA will draw appropriate training courses to the attention of health and safety representatives and committee members.

Supervisor Responsibilities

Supervisors must ensure that the CSA's occupational health and safety obligations are met with regard to workplaces and work systems under their control. As an integral part of their duties, supervisors will:

- a) consult with staff, their unions and health and safety representatives on measures to protect the health and safety of employees;
- b) arrange for their staff to be instructed in healthy and safe working systems and procedures, and supervise the practice of those procedures; and
- c) promote and apply the CSA OHS policy (as attached), and agreement.

The parties understand that there are ranges of activities that are undertaken from time to time that have occupational health and safety implications. At all times managers responsible for these activities must take all reasonably practicable steps to protect the occupational health and safety of CSA employees.

Any manager undertaking significant workplace activities (such as, but not limited to change in work processes and systems, change initiatives, and refurbishment) shall inform and seek advice and assistance from the National Occupational Health and Safety Committee. This should be done at the initial planning phase. To the extent that current policy does not cover the situations envisaged, the committee will ensure relevant policy is developed and that expert consultancy advice is available.

Union Responsibilities

Unions will cooperate with management to ensure that the CSA's obligations under the Act and this agreement are met by:

- a) advising management of occupational health and safety matters of concern, providing advice on such matters and jointly developing solutions to these problems;
- b) nominating union representatives for health and safety committees or working parties to investigate and to provide input on health and safety matters;

- c) conducting elections of Health and Safety Representatives and Deputies for DWGs;
- d) providing relevant information to maintain registers of health and safety representatives;
- e) encouraging employees to follow agreed safe work practices and occupational health and safety policies;
- f) promoting agreed safe work practices and occupational health and safety policies; and
- g) evaluating and researching occupational health and safety hazards in conjunction with the CSA.

Employee Responsibilities

See also S21 of the OHS Act

All employees have a duty to:

- a) avoid placing themselves and others at risk through their actions or omissions;
- b) follow safety instructions when using any equipment and follow agreed safe work practices; and
- c) cooperate with the CSA to the extent necessary to enable the CSA to fulfill its duties and obligations under the Act.

All staff play an active role in the prevention of work-related accidents, injuries and illnesses. All staff must report immediately to the supervisor or Health and Safety Representative potential hazards and occupational health and safety issues. Any incidents that do occur must be reported so that assistance may be provided.

Staff may cease to perform their duties where there is an unsafe or hazardous operation, involving an emergency or immediate threat to their health and safety. In such an event the staff involved must inform their supervisor or Health and Safety Representative immediately, so that the matter may be resolved. In this situation, staff may be directed by their supervisor to perform suitable alternative work. Staff will receive full pay and other entitlements for the time during which work was ceased.

Health and Safety Representatives Responsibilities

See also s25-29, 31-33 of the OHS Act

Along with their powers under the OHS Act HSRs will:

- a) promote and apply the CSA OHS policy (as attached), and agreement;
- b) advise CSA management of any OHS issue of concern; and
- c) work with CSA to develop solutions for these matters.

PART 2 – STRUCTURAL ARRANGEMENTS

Designated Work Groups

A Designated Work Groups (DWG) is a grouping of staff in a workplace that has been established so a Health and Safety Representative can represent staff within the group. Establishing or varying DWGs will be agreed between CSA and the CPSU.

DWGs will be created to best manage OH&S issues and will normally align to location and CSA management structures. A range of factors can affect the complexity of a DWG (e.g. inclusion of several Regional Service Centres in a DWG) and the resultant potential workload on a Health and Safety Representative. DWGs that are more complex may need reduced numbers of employees to keep Health and Safety Representative workload at a manageable level. Consultations relating to the establishment or variation of a designated work group must be directed principally at the determination of the manner of grouping employees:

- a) that best and most conveniently enables the employees' interests relating to occupational health and safety to be represented and safeguarded; and
- b) that best takes account of the need for any health and safety representative selected for that designated work group to be accessible to each employee included in the group;

and, for these purposes, the consultations must have regard, in particular, to:

- a) the number of the employees; and
- b) the nature of work performed by the employees; and
- c) the number and grouping of the employees who perform the same or similar types of work; and
- d) the workplaces, and the areas within the workplaces, where each type of work is performed; and
- e) the nature of any risks to health and safety at the workplaces; and
- f) any overtime or shift working arrangements at the workplaces.

Regional Service Centre (RSC) staff will be included in an appropriate site DWG. Where practical, RSC staff should be placed in the same DWG as their manager (in the relevant main CSA site). Where the RSC has an on-site Team Leader and where practical, RSC staff will be included in the same DWG as the next level manager (Stream Leader).

Health and Safety Representatives

Health and Safety Representatives (HSRs) are selected to represent the health and safety interests of all employees in each Designated Work Group (DWG) in accordance with the Act. A Deputy HSR may also be selected for each DWG.

HSR's:

- a) must be an employee of the DWG;
- b) are elected via an election process conducted by the CPSU;
- c) must undertake accredited training within six months of their election, but preferably within three months;
- d) are elected for two years or until they resign or cease to be a member of the DWG; and
- e) have statutory powers that are outlined under s28 of the OHS Act.

The HSR elected for each DWG shall be responsible for assisting management within their DWG on issues affecting the health and safety of staff. These include work processes, change initiatives, business undertakings, and work systems.

Time and Resources

HSRs will have access to the time, resources and facilities required to perform their role. This will include paid time and relief where appropriate. Each HSR shall advise their immediate supervisor when they have to spend time fulfilling their role as a Health and Safety Representative. Although time spent in HSR duties will depend on the nature of local OH&S issues, routine HSR work (such as inspections and liaison with management) should take on average one to two hours per week. It is accepted, consistent with the OH&S Act, that where circumstances dictate, more time may be required.

Facilities available to HSRs will include access to private interviewing rooms, office and photocopying facilities, a private filing cabinet, and notice boards. When required to investigate and report on the working environment, recording equipment such as cameras, tape recorders or monitoring equipment will be provided.

Networks

All CSA HSRs and Deputy HSRs from the site will participate in Site Health and Safety Representative Networks, where such exist (including at least one HSR attending any Occupational Health and Safety Committee meetings where CSA shares the building). These arrangements will facilitate the sharing of information relevant to particular buildings and sites. It should also circumvent duplication of monitoring and testing activities (e.g. biological levels in air-conditioning cooling systems).

CSA will provide appropriate access to telephone conferences and meeting rooms to allow all CSA HSRs (or, in their absence, Deputy HSRs) and Site Managers to participate in a National CSA Occupational Health and Safety Representative network. The network is permitted to meet in whole or part as demanded by the nature of occupational health and safety issues that they are considering. Face-to-face meetings of network participants will only occur where travel involved for the

meeting is local travel as determined by the relevant Site Manager. Participation in network meetings will be considered normal CSA work.

OH&S Issues

Local occupational health and safety issues will be dealt with by the CSA Site Manager (or equivalent — where no Site Manager exists, CSA will nominate a manager at the relevant site to act in this capacity for occupational health and safety purposes) in consultation with the relevant HSRs and Deputy HSRs.

The CSA Site Manager (or equivalent) will schedule regular contact with the HSRs. A meeting will be held if requested by a HSR at the site. Local occupational health and safety issues will largely determine the timing of contacts. A joint summary of relevant occupational health and safety activities within the site will be prepared quarterly for the consideration of the National Committee.

HSR Absence

When a HSR is absent, the Deputy HSR (where available) will take over the role. Should an urgent need arise, such as an occupational health and safety issue that requires immediate intervention, and both the HSR and Deputy HSR are unavailable, a HSR from another DWG may act on their behalf. This substitute HSR will report to and hand over any ongoing action to the elected HSR or Deputy HSR as soon as possible.

Regional Service Centre Site Inspections

Although the day-to-day health and safety of RSC staff will be protected through the Centrelink-CSA RSC Protocol, CSA will take extra steps to ensure the wellbeing of RSC staff. CSA will conduct a site safety audit at least once per year.

National Occupational Health and Safety Committee

There shall be a National Occupational Health and Safety Committee, which is established in accordance with the Act. The Committee is authorised to make recommendations on occupational health and safety matters and determine policy and standards, in accordance with the current CSA Occupational Health and Safety Agreement.

Membership

The National Occupational Health and Safety Committee shall have the following membership:

CSA Management	=	3 members
CPSU	=	3 members

CSA Management membership will be as determined by the CSA General Manager and will include senior management representation. Providing seven days notice of the meeting has been given, the quorum for the meeting of the Committee shall be a majority of the members of the Committee, which must include at least one management representative and one union representative.

Meetings

Noting the requirements of the Act, the National Occupational Health and Safety Committee will meet at least once every three months. Meeting locations will be rotated around sites as agreed by the National OH&S Committee. The Occupational Health and Safety representatives in the site within which the meeting is being held, shall be invited to attend as observers.

Agendas in respect of meetings of the Committee shall be issued at least seven days prior to the date the meeting has been scheduled. Management and the Unions can raise as an agenda item any matter that concerns the occupational health and safety of staff, consistent with the national focus and role of the Committee. Minutes of each meeting, including action items, shall be issued as soon as possible after that meeting and will be made widely available on noticeboards within each Office and be accessible via C3.

Strategic Role within CSA

In addition to its statutory responsibilities, the Committee shall have a strategic role with national responsibility to develop, implement, monitor and review measures designed to protect the occupational health and safety of CSA employees. These measures will have regard to impacts associated with work processes, change initiatives, business undertakings and workplaces. The Committee's role does not limit, and should support, CSA managers' and team leaders' responsibilities under the Act. The Committee can call upon expert external advice where required. Among other things, the Committee will:

- a) consider all matters arising from statistics on accidents, injuries and diseases together with recommendations as to how such accidents and injuries can be avoided in future;
- b) consider all relevant reports and information on matters relating to issues of substance resolved or unresolved at the workplace;

- c) consider any matter raised by management, union representatives or health and safety representatives concerning the health and safety of staff mindful of appropriate regional escalation processes;
- d) have oversight of occupational health and safety training within CSA; and
- e) work to ensure that relevant occupational health and safety legislation and policy is understood by staff.

The National Occupational Health and Safety Committee shall be the primary advisory body for occupational health and safety matters in the CSA. The Committee will aim to reach consensus on issues, recognising the CSA's legal responsibilities under the Act and CSA's final responsibility for making and implementing decisions concerning occupational health and safety. After consideration of relevant issues, full discussion, and unanimous agreement, the Committee may determine policy and standards that are binding on CSA employees. Such decisions will be subject to review by the General Manager and may be annulled or revised should they be in any way inconsistent with the General Manager's accountability for OH&S within the CSA.

The Committee shall raise with the General Manager, as appropriate, any issue that has significant national implications or any major issues that cannot be agreed by the Committee.

Time and Resources

All members of the Committee will have access to the resources and facilities required to perform their role. This includes the cost of travel when undertaking Committee business. Any member of the Committee will be permitted such time off work, without loss of remuneration or other entitlements, as is necessary for the member to adequately participate in the performance by the Committee of its functions. This will include paid time during normal working hours to prepare for and attend meetings. Relief will be provided where appropriate. Time spent on matters related to the Committee will be treated as normal CSA duties. Each member of the Committee shall advise their immediate supervisor when they have to spend time fulfilling their role in Committee functions. Should the immediate supervisor have concerns regarding the time spent on Committee matters, the immediate supervisor shall seek advice on the issue from the Committee.

Provisional Improvement Notices

Any manager who receives a Provisional Improvement Notice (PIN) shall inform the Committee of the contents of such a notice as soon as possible but no later than seven days after receipt of the PIN. The Committee shall be informed of any subsequent action, including the report written in respect of an investigation of that PIN, as soon as possible but no later than seven days after receipt of that report. A full copy of the PIN and written reports shall be furnished to the Committee when requested.

DISPUTE AVOIDANCE AND SETTLEMENT PROCEDURES

The CSA and CPSU will cooperate to avoid or settle any potential or actual disputes regarding occupational health and safety matters by measures based on timely notification and provision of information and explanation, and early consultation and negotiation.

The aim of the dispute handling process is to produce outcomes that are fair, equitable, in accord with sound personnel management practices and which have regard to the effectiveness of CSA and the maintenance of good workplace relations. All matters raised will be dealt with as quickly as possible in the belief that early resolution of any dispute is in the best interests of parties.

In the event of a disagreement regarding the operation of this agreement or any OH&S issue, the issue can be referred to the National OHS committee for consideration. If the dispute cannot be resolved at this level, dispute resolution procedures outlined in the CSA (General Employees) Agreement will apply.

At any stage when there is an urgent requirement to resolve the dispute, CSA management or the CPSU may enter into negotiations at the appropriate level to resolve the issue. Where this is done, they must advise the other parties involved in the dispute.

Regional Escalation Processes

The National Occupational Health and Safety Committee deals with matters that is national in scope. Local issues need a different forum and the regional escalation process below provides this. This escalation process deals with matters that are not about the interpretation of the CSA Occupational Health and Safety Agreement, not serious enough to warrant a Provisional Improvement Notice, and not emergency situations.

Where a health or safety issue arises that is not a national issue, it should be dealt with expeditiously by the local management (usually the Regional Registrar).

If such a local issue arises and no action has occurred within three working weeks, it will be appropriate for the matter to be escalated to the relevant Regional Registrar or Assistant General Manager.

If the Regional Registrar or Assistant General Manager has not resolved the issue within one working week, it can be brought to the attention of the General Manager as a dispute at Step 2 as per the dispute resolution process in the CSA Agency Agreement.

Emergency Situations

The parties acknowledge the right of an employee to refuse to perform an unsafe task, or refuse to perform a task that they reasonably believe would expose them to some unreasonable or unnecessary risk of injury. Accordingly, an employee who believes that they have been asked to perform an unsafe task should bring the matter to the immediate attention of their health and safety representative and/or manager/team leader.

When a health and safety representative has reasonable cause to believe that an emergency or immediate threat to employees' health or safety exists, the health and safety representative shall immediately inform the manager/team leader concerned. The manager/team leader will then take immediate and appropriate action to remove the threat, which may include evacuation or stopping work in a safe manner. If there is disagreement concerning the appropriate action, the matter will be referred for immediate consideration by the next senior management representative; work will be halted or the area evacuated pending this consideration. If work ceases because of an emergency, management will, wherever practicable, direct the employees to carry out suitable alternate work.

If the manager/team leader cannot be contacted immediately, or if the emergency or threat is of such a nature that there is no time to contact the manager/team leader, the health and safety representative will direct the employee(s) to evacuate or cease work in a safe manner. The health and safety representative is then to inform an appropriate manager/team leader of that action as soon as practicable.

Work will not resume until CSA management and the health and safety representative(s) are satisfied that there is no longer any unacceptable level of risk to the health and safety of staff. If agreement cannot be reached, immediate determination of the matter will be sought from Comcare Australia.

Home Based Work

The parties acknowledge that Clause 68 of the Child Support Agency (General Employees) Agreement 2002 ensures that occupational health and safety provisions apply in the home environment where CSA work is undertaken.

The National Occupational Health and Safety Committee will receive regular reports in relation to home based work applications to ensure that occupational health and safety assessments have been conducted in respect of each application.

It is envisaged that few, if any, employees will undertake regular home based work.

Attachment 2 –

OH&S in the Department of Communications Information Technology and the Arts

The point of this example is to demonstrate that in major department OH&S was simply forgotten as everybody assumed that things were happening when in fact they were not. It was CPSU driving the issue that got the infrastructure and activity back on track.

Sequence of Events

- DCITA and NOIE outsourced their HR functions to a private provider, Empower.
- In their 2000 -01 Annual Report, DCITA reported that they had met all their OH&S obligations
- CPSU believed this was not true, and disputed this with DCITA & NOIE

- CPSU found that there were no records of any OH&S activity, no meetings, no minutes and an outdated agreement. There was no "Accident or Near Miss" form in existence.
- In early 2001, CPSU wrote to DCITA & NOIE to point this out. Responsibility for OH&S was then given to a DCITA manager, Mr David Luck
- CPSU then utilised the union's delegate infrastructure and OHS network contacts and worked in cooperation with DCTA and Empower towards setting up an OH&S Agreement for the next 18 months.
- Elections were conducted for HSR 's, appropriate Comcare endorsed training was delivered, an OH&S Committee was formed and the Department started working on OH&S policy and procedures in accordance with the Act.
- Subsequent DCITA CA 's have included a pre-condition negotiated with CPSU to say that 1/2 % of the wage rise for 2 years would be predicated on an increased reporting of OH&S incidents.
- The new OH&S Agreement for DCITA was signed on 8/5/03.

Supporting Documents

(1) The 2001-02 Annual Report where they said they had met their OH&S obligations which CPSU disputed;

(2) Email showing CPSU taking up this issue with Dept & Empower in June 2002;

(3) Email re working out of OH&S issues within DCITA; and

(4) A DCITA Meeting minute from 25 June 2002 where it says that the first Cttee mtg since 2000 was held on 13 March 2002!

Extract from Annual Report

APPENDIX 8

Occupational health and safety

Department of Communications, Information Technology and the Arts

The Department recognises the Importance of achieving its corporate goals through healthy and productive employees and is committed to providing a safe and healthy work environment for all staff, In accordance with the requirements of the Occupational Health and Safety (Commonwealth Employment) Act 1991.

Managers and supervisors play an important role in promoting and implementing the Department's Occupational Health and Safety (OH&S) policies and In maintaining communication with staff, health and safety representatives and employee organlsatlons on workplace health and safety issues. The Department's occupational health and safety framework includes the Health and Safety Committee, Designated Work Groups and Health and Safety Representatives and occupational health and safety staff. --

The Department's Occupational Health and Safety Committee Is a staff/management consultative forum which discusses health and safety issues in the Department. The Committee comprises four management representatives, union representatives as agreed and an OH&S representative.

Training was provided throughout the year for OH@S representatives to assist then in fulfilling their roles in accordance with the Act. Ongoing first aid training was also provided during the year.

The Department has commenced a review of its OH&S policy. The review will be undertaken In consultation with employee organisations. SRC Solutions has been contracted to assist with this review and 10 continue to provide advice on all aspects of OH&S relating to:

- policy and procedures;
- 1.work-station assessments (providing recommendations on equipment and information on correct work practices and procedures);
- OH&S audits, accident and injury investigation and reporting; and
- rehabilitation and case management

The Department continues to operate a Healthy life and Work Program to raise awareness of health issues, promote better health and prevent health problems. Subsidised yoga classes are conducted weekly and copies of Health Your Self magazine are distributed monthly.

To ensure the Department's ongoing commltmenl to provide support mechanisms for staff and their families, the Department provides access to a professional confidential counselling service through its EAP program.

During the year there have been no incidents that required giving notice under Section 68 of the Act nor were there any investigations conducted during the year that relate to undertakings carried on by the employer.

Email extracts between CPSU organiser Vince Mc Devitt and EM Power and DCITA

Attached is a message I forwarded to Empower HR SERVICES on June 17 and their response of June 20. As Empower appear not to be in a position to address this issue, I now request a departmental response. Your prompt attention to this matter would be appreciated

Regards,

Vince McDevitt Industrial 'Organiser
CPSU

Forward Header

SubJect: RE: OH&S . Author: "Dillon Chris" <Chris.Dillon@dcita.gov.au> Date: 20/06/2002 4:49 PM

Vince

Thanks for the question. Unfortunately I am not in a position to provide you with a properly informed response. The Empower Group only took over the delivery of Departmental HR Services on 24 September 2001. It is my understanding that all annual report content was developed prior to this date.

Regards

Chris

Original Message

From: Vince_Mc Devitt@cpsu.org [mailto:vince_mcdevitt@cpsu.o~q]
Sent: Monday, June 17, 2002 9:31 AM

Hello gentlemen,

As you are aware DCITA's OH&S infrastructure has until recently been ineffective, and bordering on non-existent. This being the case I would be most interested in your interpretation of the Departments Annual Report in respect of this issue. The CPSU is concerned that the report does not reflect the reality and is potentially misleading in as

much as that any third party would assume DCITA had fulfilled its obligations under the Act for year 200-2001.

Vince McDevitt IndustrialOrganiser

CPSU

From: Name deleted
Sent: 9 December 2002
To: CPSU and others

Subject:

Hi all

The minutes of our first OHS committee meeting (minute fo agenda item 6) show that we had agreed that there would be an HSR and deputy HSR for each group in NOIE. The minutes from the October meeting say that we were going to discuss HSR numbers as part of the meeting with Margaret Warren (is that still happening?).

The reason I'm raising this is because I have moved from Government Services and Information Environment Group to Regulatory and Analysis roup, so I am no longer an HSR because I wasn't elected to represent my current designated work group -see s31 (1) (b) of the OHS(CE)Act.

Are there any plans for us to meet again before the end oflthe year -I think we need to resolve this.

Minutes of Meeting

Meeting: 25 June 2002 Agenda Item 7

Prepared by: HR Services

OCCUPATIONAL HEALTH & SAFETY

Purpose

To provide members with information about Occupational Health & Safety matters.

Background

Composition of the OH&S Committee Chair: David Luck

Management Reps: John De Salis, Mick Darragh

Staff Reps: Peter Allen, Mark Dossetor, Jeremy Thomas, Mike Desmond, Bill Haskett, Stephen Dunn.

Deputy Staff Reps: Jan Woodham, Pattie Collins, John Murray, David George. CPSU

Rep: Vince McDevitt, Industrial Officer.

As previously reported the Department's first Occupational Health & Safety Committee since 2000 was held on 13 March 2002. Since that date two further meetings have been held (9 April, and 21 May 2002).

Health and Safety Representative training was undertaken 13 -17 May 2002.

Update

Approved minutes of the April OH&S meeting is attached for information. These have been circulated to all staff via the intranet.

A significant increase in OH&S incident notifications has been noted by HR Services since the inclusion of related measures was discussed in recent certified agreement negotiations with staff.

Recommendation

Members note the:

minutes of the April and May OH&S Committee Meetings;
and increased level of OH&S incident reporting.