30 years of OHS in Victoria
1985-2015

Is it time for a celebration?
After 30 years of OHS in Victoria is it a time for a celebration … and a change?

On September 1, this year, the Victorian OHS system reaches the BIG 3-0.

The independent OHS website, OHSIntros.com.au, has released a paper to mark the 30th anniversary of a system that began in financial turmoil under the Cain Labour Government in 1985 but in recent years has laid claim to being Australia’s leading health and safety regulator.

The paper plots the statistically history of the Victorian OHS system, and related compensation system, operated since 1996 by the Victorian WorkCover Authority, to show how it has evolved under five state governments and 11 different ministers.

The scheme was introduced as a “significant social and economic reform.” The hybridised workers compensation system and performance-based safety system were expected to reduce the number of workplace accidents and illnesses and at the same time reduce the cost of compensating workers for their injuries.

OHSIntros believes that by almost any measure the system has been a successful. Over 30 years claims have reduced from 64,564 to 26,588, reported deaths have dropped from 39 to 23 and compensated deaths have fallen from 251 to 28.

The paper aims to raise awareness of the anniversary and inform and encourage a debate in the OHS community in what appears to be a momentous year for the system on many fronts:

- improvement rate slowing for claims and deaths
- claims costs increasing
- downsizing and budget cuts
- loss of experienced and capable staff through restructures and redundancies
- a government review of the system in apparent secrecy
- requirement by a new government to lift enforcement and increase return to work
- changes in senior management forced by new government
- development of risk-averse culture after many years of innovation
- reduced engagement with stakeholders
- return of the WorkSafe brand after it was phased out by the previous government
- changes employment relationships and business environment
- relocation to Geelong
- resistance to harmonisation.

The big question is whether the system is still working satisfactory, and if it so, is the rate of improvement still acceptable?

Or is time for a change?

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30 years of OHS in Victoria 1985-2015
Is it time for a celebration?

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About this paper:
This paper (No 3 of a series on crucial OHS issues) has been prepared by OHSIntros for the information of the OHS community and others who might be interested in the achievements of the OHS system in Victoria over the last 30 years.

Earlier papers are available on request (No.1, November 2014, Restoring the balance: The case for the return of the WorkSafe brand, No. 2, 23. Deaths in Victoria 2014. See right).

About the author:
OHSIntros is an independent OHS website created by OHS consultant Barry Naismith. A former journalist, Barry spent 15 years working with the Victorian WorkCover Authority in a variety of roles, mostly with the WorkSafe arm of the agency. He is passionate about OHS and believes much is yet to be achieved in OHS in Victoria.

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1. Introduction

This year, 2015, is the 30th anniversary of Victoria’s safety and compensation scheme. It was introduced by the Cain Labor Government on September 1, 1985.

The scheme was heralded as a “significant social and economic reform”. It introduced a hybridised workers compensation system for injured workers and performance-based safety legislation.

Together, the compensation and safety regimes were expected to improve the welfare of Victorians by reducing the number of workplace accidents and illnesses and at the same time reduce the cost to the community of compensating workers for their injuries.

The scheme has spanned four decades and two centuries. It has evolved and grown over that time but the model is fundamentally unchanged. It was initially managed by three separate government agencies from 1985 including WorkCare which ran the claims part of the system. The Victorian WorkCover Authority (VWA) was set up in 1992 by the Kennett Coalition Government to manage the compensation scheme. Four years later the VWA also took charge of the safety system, formerly run by the separate Occupational Health and Safety Organisation, to create an agency that today is still responsible for the complete cycle of compensation and safety across the state. For information on the history of the system, see Appendix 2.

In 2001, the prevention arm of the VWA was restructured and given its own identity - “WorkSafe”. Under this distinctive brand the VWA developed into arguably the most effective OHS regulator in the country, and perhaps the world.

The anniversary has come at the most unsettling period in the system’s history. Under the Baillieu-Napthine Coalition Government, the VWA was downsized, restructuring and budgets cut. It struggled with its role as an OHS front-runner and showed little insight into how to drive safety to the next level. In March 2015, the chief executive and chair were sacked by the incoming Andrews Labor Government and a review commenced on the operation of the scheme. That was supposed to be completed by June 2015 but a report has still not seen the light of day. In the meantime, the VWA continues on in the environment of uncertainty.

This paper is not a complete history of the scheme or of the regulator, although some historical information is presented in the appendices. It seeks to lay out the progress of OHS in Victoria over the last 30 years using conventional performance measures used by the regulator. Although these measures are limited, and their accuracy and consistency is often doubted, these are the only measures available. The
basic nature of the information made public by the VWA means it is difficult to do in depth analysis. This is a continued weakness of the system.

This paper assumes that as a result of recent changes at the VWA, and renewed government policy around workplace safety and workers compensation, the Victorian scheme in poised to progress again and reassert in leadership in the OHS field in the way that was envisaged in 1985.
2. Injury claims

<table>
<thead>
<tr>
<th>Victorian workplace injury claims performance</th>
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<tbody>
<tr>
<td>1986–87 (first full FY figures)</td>
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<tr>
<td>2002–01</td>
</tr>
<tr>
<td>2013–14 (last full FY)</td>
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</tbody>
</table>

The primary object of the system when it began in 1985 was to cut “the number of workplace accidents and illnesses”. It was the beginning of a new era and there was no particular expectation or target put to the responsible agencies of those early days other than begin the process of reduction in claims and claims costs.

The then freshly printing *Occupational Health and Safety Act 1985*, in concert with the also new *Accident Compensation Act 1985*, made motherhood statements about the object of the laws and how the government agencies of the time would operate in managing the operation of those laws. This was fleshed out when the OHS Act was revised in 2004 by applying principles to safety that at least set a broad parameter for the work of improving safety performance in the community.

The most obvious measure of how the system was working was total claims for injuries at all Victorian workplaces. In the early days of the system it was no surprise that claims flooded in because benefits had been increased by 20 per cent. In the first full financial year, the system creaked under 64,564 standard claims, a sorry record that thankfully will never be broken.

The growing pains of the system were putting it under strain and even challenged its existence as a workable scheme. It has been well chronicled elsewhere how claims costs blew out, resulting in heavy losses. Government had no choice but to raise employer premium after crowing at the launch in 1985 that the average premium reduction of the new scheme would be 50 per cent.

The scheme promised a “greater emphasis on workplace safety”. After a shock of the formative years, claims numbers started to fall. The improved safety outcomes were urged on by increased enforcement of the new safety laws; better care and return to work for the injured as the compensation and rehabilitation system bedded in, and from what employers learned by investigating incidents and finding solutions to stop them happening again.

Within five years 10,000 fewer workers were reported as injured. When the VWA and the Health and Safety Organisation merged in 1996 to supposedly create greater scheme efficiencies, the number of injuries dipped below 40,000. It took just 10 years for the number of injured workers to halve.

That potentially meant thousands of workers had been protected from injury and a significant burden taken off the compensation system. “That potentially meant thousands of workers had been protected from injury and a significant burden taken off the compensation system.”

For more information, see Graph 1.
Graph 1: Total work injury and illness claims in Victoria 1985-2014
Note: standard injury claims lodged with WorkCover agents during FYs. Source: VWA/interpreted by OHSIntros

In the latter years it became harder to reduce total claims numbers or more correctly, it has been harder to increase the rate of improvement. For this reason, the VWA, under its WorkSafe Victoria entity, introduced a new measure in the early 2000s to more “accurately” plot the rate of improvement. This measure - claims per 1000 workers - took account of the growth in the state economy and in particular the growth in employment. In 2012 this was replaced by another new measure - claims per one million hours worked. This metric accounted for the shift to new employment arrangements such as the rise in part time and casual work (see Graph 2, over page).

It gave WorkSafe a way to shoot for measureable and realistic corporate targets. While these measures rightly allowed for changes in the state economy, they still showed that the reduction in claims was slowing, regardless of growth in the economy.

In the absence of any conclusive research into what is happening at the coal face, the explanation is unclear why a faster rate of improvement has not been achieved. Possible factors could be:

- an aberration to do with changing trends in work resulting in increased risk eg work intensification, fatigue and precarious work arrangements that will eventually be better managed. If true, this would mean that WorkSafe’s prevention strategies over 10 years plus will gradually result in workplaces getting better at risk management, learning from incidents, and progressively reducing injuries
- evidence of safety “hitting the wall”, or more correctly “hitting the floor”. This could mean that safety has entered a phase where many obvious risks are now managed in

“But there is no denying that over the 30 year history of the current system there has been a marked reduction in claims and that trend is continuing.”
workplace and only incremental reduction is possible with current strategies and workplace risk profiles
  
- structural changes in the local economy where new exposures to risk are slowing the improvement rate eg psychosocial, changes in work arrangement posing new challenges and tougher economic conditions moderating the amount invested in safety initiatives
- ageing workforce which means more vulnerable workers may be placed at risk of manual handling related (including slips, trips and falls) and other injuries where age may be a risk factor and that factor is not being managed well.

Graph 2: Claims rate in Victoria 1985-2014
Note 1 GREY denotes claims per 1000 workers based on injury claims lodged with WorkCover agents during FYs. BLACK denotes new measure introduced by VWA in 2012 to take account of changing working arrangements in workplaces- claims per million hours worked. Source: VWA/interpreted by OHSIntros

It must be pointed out that injury claims are a lag indicator. Their impact and any learnings for employers from an incident could take up to five years to show in the statistics. This is not satisfactory and shows there are limitations in what conventional claims data can provide and how it can lead improvement.

Graph 3: Claims in Victoria vs growth in employment 1985-2015
Note 1 RED denotes claims per 1000 workers based on injury claims lodged with WorkCover agents during FYs. BLACK denotes employment numbers and GREY denotes unemployment numbers. Source: VWA/interpreted by OHSIntros

But there is no denying that over the 30 year history of the current system there has been a marked reduction in claims. That trend is continuing. The result of the VWA’s work is even more marked when it is seen in the context of the growth in the Victorian economy (see Graph 3 above).

It is surprising that there has been little if any hard, qualitative research on how effective the VWA has been in influencing change and what other factors there might have been. Here are just some of the many WorkSafe activities that must have had an influence, but exactly why and to what extent is not known:
  
- increased compliance and enforcement activity by VWA inspectors (see page 17)
- increased coverage by regulation
- more prosecutions by the VWA and higher fines (see page 19)
- clarity on the hazards and risk that cause most injuries and safety measures necessary to prevent them eg gaining an understanding of the intractability of back injuries and related musculoskeletal injuries that put an immense burden on the system
- compliance improvement programs to target high risk by hazard, industry, task, size of workplace and age of worker
- more information and advice on how to comply
- focus on common solutions and the investment in new technology to work safer
- marketing campaigns to raise safety awareness among employers and workers
- engagement with and funding for stakeholder groups, and other specialist bodies to support VWA improvement initiatives.


![Graph showing Causes of injury in Victorian workplaces since 1985](image)

But to be fair, the success of these initiatives in combination has on the face of it resulted in or at least influenced improved safety performance at workplaces. Changes at many Victorian workplaces in that period include:

- higher priority for safety in business
- increased understanding of the common hazard and risks
- implementing lessons learned from safety failings
- more investment in safety
- understanding the real cost of safety failings and the benefits of improved safety performance
- more safety expertise in workplaces and easier access to advice
- introduction of new technology that reduces risk eg labour saving devices and safer machinery and equipment
- improved risk management
- shift to higher order risk controls
- more consultative approach to safety
- clarity on what is necessary to reach compliance.

“... the success of these initiatives in combination has on the face of it resulted in or at least influenced improved safety performance at workplaces.”

This improved understanding of the big picture by VWA in its early WorkSafe-branded years was also matched by analysis of what were major causes. This enabled more effective targeting for compliance and enforcement and “cut through” awareness raising campaigns over the years.

These graphs, 20 years apart, show the persistence of manual handling-related injury, falls and workers being struck by plant and materials. It also shows the concerning rise in psychosocial (stress) claims. Source: VWA/interpreted by OHSIntros

The data didn’t show anything radical but did confirm that injuries related to manual work were the biggest and most worrying source of claims, followed by falls and workers being struck by objects (often struck by moving plant or loads). See Graph 5 for the changes over the years. This data dictated the agency’s approach to compliance and enforcement this century and continues to do so.

What the data did do was show the first shift in trend that reflected the changing workforce environment. That was the rise in psychosocial claims, mostly due to stress. It resulted in the opening up of a new front in OHS but also the most difficult to assess and manage because it shows no physical injury that can be simply treated. It was harder enough to diagnose soft tissue injury and chronic pain from musculoskeletal injury but these claims were much more of a problem for the system.

Why it was happening may not be purely an OHS issue but is presenting as one. It is thought to be a symptom of the modern working life and the inability of organisations to prevent it and if it occurs, to manage it and then effectively handle the harm after it has occurred. That proved difficult in hierarchical workplaces and where work that by its very nature is “stressful” because it is time-based, inflexible and often under resourced which can result in fatigue.

When psychosocial risk was first flagged by the VWA as an “emerging issue” it was not certain how big the issue would be and whether applying conventional risk management methodology to this often complex matter might reduce the number of claims. Sadly claim numbers are rising while others are reducing in total numbers. Since 2002-03 there have been 32,749 claims and since 2008-09 it has cost the community more than $1.1 billion in claims costs.

Earliest data showed only five psychosocial claims in the first five financial years of the system. By 1998-99 it was more than 2000 (see Graph 6, over page for more information). They are now almost 11 per cent of claims according to the 2013-14 data. How was this possible? The conventional rationale in OHS is that when you identify and focus on a risk, the claims flood in. This proposition might have some logic in it but is untested.
This mass of claims is concerning when the most common and persistent type of claims - manual handling-related (including slips trips and falls) - account for around 50 per cent of claims, and that alone creates a lot of compliance work for the VWA. But it is worse than that. In total numbers psychosocial claims are now the third biggest source of claims. And it gets even worse: these claims are by far the most costly for the compensation system at present. In the 2013-14 financial year the average cost of a psychosocial claim was more than $88,000 compared with $67,000 for a manual handling-related claim, which is costly enough because of lengthy treatment to fix bad backs and the many other forms of musculoskeletal injuries. And that average cost is going up.
3. Fatalities

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986 (first annual figures)</td>
<td>39</td>
</tr>
<tr>
<td>2000</td>
<td>30</td>
</tr>
<tr>
<td>2014 (last annual figures)</td>
<td>23</td>
</tr>
</tbody>
</table>

Reduction in the number of reported deaths is one of the great achievements of the VWA under its WorkSafe-branded safety arm in the period following the turn of the century, see Table 1. The toll dropped from 38.5 reported deaths in the 1990s, a horror decade, to an average of 26 deaths a year during the most aggressive prevention-themed “WorkSafe” years 2001 to 2013.

But what has saved lives over the 30 years of the Victoria scheme? As noted previously, it was a combination of strategies, covering compliance and enforcement, new laws, promoting safety measures, improvement programs and creative advertising and marketing initiatives. It started with analysis of what kills workers (plant, falls, collapsing structures, electricity and working near roads) over the history of the scheme, how to prevent them and a declaration of “zero tolerance”. The mix of strategies employed to change perceptions of the hazards and risks that could result in death of workers raised the bar on what constitutes the acceptable level of safety standards.

But workers continue to be killed for the same reasons, simply because employers fail to implement the minimum known and acceptable level of safety for high risk tasks.

Graph 7 shows the terrible toll until the early 2000s when new approaches and programs took effect. Annual figures in the 40s and 30s were declared “unacceptable” as the new century began.
Shocking jumps in the tolls in the early WorkSafe years were usually the result of a spate of deaths in construction and agriculture.

The outcry from the union movement urged the regulator to “get tough” on employers. If there was a response, it was usually in the form of a short-term campaign targeting where the harm was greatest. In 1999 for instance there were 13 deaths on construction sites among the death toll of 39. This resulted in the formation of a tripartite industry forum to raise awareness of the issue. Six years later, in 2005, the construction industry was fatality-free for the first time.

The awful lowlights of 30 years of workplace deaths in Victoria include:

- the toll climbed to 43 in 1988 and reached 46 in 1992. The toll was above 40 for four of the six years between 1988 and 1994.
- the toll was at a record 46 in 1992 when the WorkCover system replaced WorkCare
- the death toll began to fall sharply during the early years of initiatives under the WorkSafe brand
- the toll reached record lows in two years under the WorkSafe brand but has since started to rise.

Facts about the death toll include:

- the official death toll since 1985 is 956 (up to the end of 2014)
- the average age of people killed at work is approximately 43 which reflects the age of the population. It is also on the cusp of the “vulnerable” worker range. More than 60 per cent of the dead workers, and others, were in the vulnerable age groups (<25 and >45), see Graph 8
- the death toll since 1985 has had an impact on the Victorian economy. Assuming most workers retire at 65, more than 21,000 working years has been lost from the state economy as a result of work-related deaths
- the cost to the community is incalculable. But using one measure of value of a productive life ($6 mill per person$), deaths at work have cost Victoria more than $5.7 billion in lost human resources since 1985
- older farmers are over-represented in the death toll because of the ageing demographic of that industry and the tendency of farmers to work on beyond the usual retirement age
- the first female to die at work was in 1988 when a mature age factory worker was caught in machinery. More than 35 women have been killed at work in Victoria since 1985
- although it occurred before 1985, Victoria’s and Australia’s worst workplace incident remains the collapse of a span of the West Gate Bridge. It cost the lives of 35 workers. The 1970 incident is remembered each year by a gathering at the memorial park near where the span collapsed on the Spotswood side of the river. A Royal Commission over the incidents spurred the development of the current safety system in Victoria
- the highest death toll in a single incident under the current safety regime was the death of three “bystanders” in the collapse of a brick wall on an excavation site in Carlton during March 2013

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1 Access Economics study 2008

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- the deaths of two workers in an explosion and fire at Esso’s Longford gas plant in September 1998 made the biggest impact on the community of any safety incident by affecting the state energy supply. The outcome of a Royal Commission, the second in Victoria over a workplace incident, was the development of strict new safety laws for Victoria’s hazardous facilities.

- the oldest person to be killed as a result of a work-related incident was a 94-year-old farmer whose ATV overturned during 2011. The youngest was a four-month-old boy who was hit by a forklift at an automotive repair shop in Geelong during 2014.

- there have been three double-fatality incidents including three this supposedly safer decade:
  - the deaths of the two Longford workers in 1998
  - a grandmother and her three-year-old grandchild were crushed to death when their ATV collided with a trailer on a farm in 2002
  - a father and son were electrocuted on a neighbour’s farm during 2010 when a windmill they were moving with a tractor touched powerlines
  - two DSE fire fighters were killed in 2013 when a tree fell on their truck.

Deaths like injuries have been reducing gradually since 1985 (see Graph 9), but in recent years the numbers have been fluctuating. After a drop in fatalities to a record low in 2011 (18), the death toll is defying the long term trend of fewer reported fatalities in Victorian workplaces. Once again farmers and those in construction are those who are dying.

The major advance since the system came into operation has been an understanding of what repeatedly causes deaths at work (see Graph 10) and the most effective safety measures to prevent them.

**Graph 9. Total deaths vs total injury claims in Victoria since 1985**

In the short term deaths (black) are trending up. Note - these totals do not take into account the increase in employment as the Victorian economy grows.

*Source: VWA/interpreted by OHSIntros*

**Graph 10. Causes of reported death in Victoria since 1985**

Includes all traumatic deaths required to be reported by employers to the VWA under OHS law. *Source: VWA/interpreted by OHSIntros*
4. Claims costs

<table>
<thead>
<tr>
<th>Victorian work injury claims costs</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1986-87 (first avail. FY figures)</td>
<td>$333 million</td>
</tr>
<tr>
<td>2000-01</td>
<td>$1.202 billion</td>
</tr>
<tr>
<td>2013-14 (last full FY)</td>
<td>$1.733 billion</td>
</tr>
</tbody>
</table>

Claims costs are rising while the number of claims and claims rate are falling. There has been a rise of approximately $530 million (more than 44%) in total costs during the WorkSafe era.

Total figure for 2013-14 was $1.733 billion. That has to be funded by annual premium coming out of the pockets of employers who are “paying” the VWA to manage the scheme effectively and efficiently.

It should be noted that claims benefits have gone up over the life of the scheme and are indexed but this doesn’t solely account for the rise in costs.

A major reason for a rise is the hike in the average cost of a claim. Up to half of all claims continue to be musculoskeletal injuries caused by unsafe manual handling. These are mostly soft tissue injuries, which can be debilitating and painful, long term and costly. So remains a concern for the regulator.

It is worrying that the proportion of musculoskeletal claims hasn’t change. What has changed is the jump in psychosocial (ie stress) claims. It has been reported they are now up to $273 million this last FY. The VWA explanation is that these type of injuries are often very complex and can require compensation and medical support over longer periods.

Rising claims costs are an argument for cutting the duration of a claim by improved rehabilitation and early return to work. It is also an argument for improved safety management to stop claims happening in the first place.

Payments for death claims (see page 15 for more information) are also going up, while claims have drastically reduced. So from a purely cost-benefit point a view, the correct balance must be struck between claims management to reduce costs and prevention to stop claims.
5. Death claims

<table>
<thead>
<tr>
<th>Year</th>
<th>Numbers</th>
<th>Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1986-87 (first full FY figures)</td>
<td>251</td>
<td>$1,027,863</td>
</tr>
<tr>
<td>2000-01</td>
<td>86</td>
<td>$26,119,966</td>
</tr>
<tr>
<td>2013-14 (last full FY)</td>
<td>28</td>
<td>$4,278,651</td>
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</table>

Traumatic deaths reported to the regulator are only part of the story of work-related deaths.

The other significant official measure of the scheme over its history is the number of “death claims”. Next of kin can make a claim under the state workers compensation law. One problem with this measure is that not all claimants are necessarily aware of the capacity to claim for financial compensation and for any pain and suffering that resulted from the death.

These claims are separate from, and some cases in addition to, any enforcement action taken by the VWA under the OHS Act that may have resulted in a penalty for an employer in the courts. So some reported fatalities are also included in the total for death claims which can confuse analysis of the true impact of work-related death.

The deaths that are compensated include those that happened some time after the work-related exposure to harm. They can be deaths from a serious injury that took time to cause death or exposure to health-related hazards eg exposure to a dangerous substance such as asbestos. It can be difficult after the passing of many years beyond work to determine if some of these deaths are work-related. For this reason, it is not feasible to prosecute employers for the harm and as a result many potential death claims are not captured in work-related statistics. Of course, if there is no next a kin, there is no death claim.

According to the VWA, work-related deaths claims accepted by the compensation system are mostly caused by disease from work exposures, trauma, vehicles and heart attack (see Graph 13 over page). These are roughly split between traumatic causes (51 per cent), which are often reported fatalities, and claims related to long term ill health leading to death (43 per cent).

There have been 4118 death claims since 1985. Causes are evenly split between traumatic injuries and health-related. Claims cost have exceeded $588 million.

Graph 12. Death claims in Victoria since 1985
Death claims paid each FY under the workers compensation scheme to next of kin. Source: VWA/interpreted by OHSIntros
Since the safety and compensation system started in Victoria in 1985, there have been more than 4118 death claims. This is in stark contrast to the 956 reported deaths under safety system over that same period.

Deaths claims since 1985 show a similar decline to that of reported fatalities. The total peaked at an alarming 343 in 1988-1989 but is now down to the number of reported fatalities (see Graph 12, previous page). However the long onset nature of health related claims make a continued reduction problematic. The reasons are the low priority by the regulator, and indeed employer, for exposure related occupational illness and the high number of workers with fatal asbestos related illness that are yet to show in the claims system.

Death claims are costly - the total for the time of the scheme is more than $588 million - and costs have been creeping up until the most recent financial year. But there is no comfort to be taken from that because of the unpredictable nature of these tragic types of claims in both number and cost of the individual claims eg most costly year for claims was 2012-13 at more than $31 million (see Graph 14) in spite of a low number of claims made.

The VWA’s first comprehensive fatality prevention campaign was launched in January 2002, using death claims figures. It asked the community to think about the tragic consequences of a death at work. It also clearly stated that “time and time again people are dying in entirely predictable and preventable ways”. Nothing has changed about how people die at work. The causes are well known and ways to prevent death are also well known.
6. Compliance

<table>
<thead>
<tr>
<th>Victorian workplace compliance (regulator actions)</th>
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<tbody>
<tr>
<td><strong>Year</strong></td>
</tr>
<tr>
<td>1990-91 (first avail FY figures)</td>
</tr>
<tr>
<td>2000-01</td>
</tr>
<tr>
<td>2013-14 (last full FY)</td>
</tr>
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More inspectors, an increase in visits to unsafe workplace and more prosecutions for employers putting their workers at risk, marked the development of VWA over the last 30 years. In the early years between 1985 and 1996, safety and compensation was conducted by separate bodies. The landscape changed in 1996 when the state compensation and workplace safety bodies merged under the VWA.

The VWA soon embraced “safety” as its hero work and in 2002 invested in a separate health and safety business unit with its own, unambiguous brand, “WorkSafe Victoria”. It helped change the perception of the VWA as an insurance system regulator and not much else.

It put workplace safety on the map in Victoria like never before. The inspectorate was revitalised and data was poured over to ensure the work of the inspectors hit harder by directing their work to high risk industries, high risk tasks and the most serious hazards. This meant an increased inspectorate presence and more compliance action at workplaces where employers had a consistently poor safety record.

A substantial change soon came over the work of inspectors in the WorkSafe era. They visited many more workplaces while issuing fewer notices, yet their influence was seen in reducing claims. The explanation was that “WorkSafe” strategy was to bring workplaces to compliance during the visits by whatever means available. That included a mix of approaches from rectification during the visit, notices to reduce specific risk over time to providing advice and referring to a wide range of technical and practical guidance information on how to manage safety. Often that meant spending more time on site advising dutyholders instead of writing out a swathe of notices.

The VWA sought the best to be the new face of the VWA. Inspectors were given more training to lift competency and effectiveness, equipped with new technology and supported by technical, legal, investigative and strategy specialists. Some of the most creative workplace safety marketing so far seen anywhere in the world brought new respect to the job of an inspector. It enhanced their capacity to improve safety incomes and made the job of the WorkSafe inspector, and indeed, any job with the regulator, a noble and attractive career prospect.
An important example of that support was how the data was drilled to open up new fronts. The most important was the initiative to target workplaces by the size - small, medium, large and government. It allowed better tailoring of compliance work and the established of a cohort of “improvers” to show how safety could be done better and even made the link to “business” gains for the first time.

This strategy brought together data on safety with data on claims to allow creative analysis of related groups of employers with similar hazard profiles and claims records. It even allowed drilling down to individual companies to enlist them in subsidised improvement programs that would lift their safety performance and better manage their claims.

Inspections can be a complex matters to organise and conduct. However inspectors primarily respond to incidents and conduct targeted visits where there is most risk and to employers with poor safety records.

Nothing significant in safety policy changed for many years. This consistency affirmed and embedded the approach of the WorkSafe years.

That era ended under the short-lived Ballieu-Napthine Coalition Government. During that government there were cutbacks and restructures that blunted and slowed the VWA’s safety activities. A change in government in late 2014 brought in the Andrews Labor Government and a renewed commitment to enforcing workplace safety including recruiting more inspectors.
7. Prosecutions

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases finalised</th>
<th>Total fines</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990-91 (first full FY figures)</td>
<td>76</td>
<td>$414,100</td>
</tr>
<tr>
<td>2000-01</td>
<td>105</td>
<td>$1,546,800</td>
</tr>
<tr>
<td>2013-14 (last full FY)</td>
<td>122</td>
<td>$3,673,100</td>
</tr>
</tbody>
</table>

The lack of prosecutions by the VWA in its early years was a sore point in the community. It led to the perception that the agency was still mostly about workers compensation side. But it was also a sore point for the VWA for another reason.

In the late 1990s, the regulator believed that employers, and indeed the community and the courts too, did not take OHS crimes seriously enough. Before you “get” tough on unsafe employers, you need to be sure you get a result in court that is more than just a corporate “speeding fine”.

A strategy to raise community outrage about the punishment fitting crime, involved resources devoted to investigation and prosecution, and the push to increase maximum fines under the OHS Act in 2004.

At the start of the system, the average fine given by the courts for all offences, including those involving in a fatality, was just $1500, whereas 25 years later it is closer to $50,000. The state government eventually took matters into its own hands by raising the maximum fine for a single offence from $40,000 to $250,000 in 1997 after five years at the minimal level. The maximum fine then increased from $250,000 to $1 million as part of the overhaul of the original OHS Act in 2004. It now sits at approx. $1.5 million (9000 penalty units x current indexed value).

Prosecution is the last resort for a state OHS regulator. It is resource intensive. So the VWA has only prosecuted where evidence is conclusive. It has given the regulator an impressive success rate which it used to great effect when it picked more targets. In the first year under the WorkSafe safety brand, 2000-01, the number of finalised prosecutions almost doubled (see Graph 16). Prosecutions remained at an unprecedented high rate for several years. The value of fines also increased, peaking at more than $7 million in 2010-11.

The prosecution pressure of the VWA and its predecessor organisations since 1991 (first available figures) resulted in more than 3000 cases against employers for unsafe work. Total fines to date exceed $68 million.
A top priority for any safety regulator is investigating fatalities. Since the beginning of the current OHS system, the regulator has successfully prosecuted 237 cases involving a death at work. The total fines over those deaths has amounted to $28.5 million, which is 42 per cent of all the fines (see Graph 17).

However only 25 per cent of reported fatalities are successfully prosecuted. This partly indicates the complexity, costs and duration of pursuing OHS cases. Still, the VWA has been consistent in the proportion of cases prosecuted.

The largest fine for a prosecution over a death at work was $2 million for Esso over the explosion and fire at its Longford, Gippsland gas plant in September 1998. There have only been two more OHS cases in Victoria where the courts have handed down fines of more than $1 million. For a list of the largest OHS prosecutions in Victoria, involving a fatality, see Table 3 below.

The pace of prosecutions has dropped in recent years to the level of before the WorkSafe age when even these numbers were considered insufficient in the strategic mix to deter unsafe work practices. This overall reduction coincided with cutbacks and restructuring of the organisation under the short-lived Ballieu-Napthine Coalition Government. The Andrews Labor Government came to power in late 2014 with a pledge to boost the VWA’s safety capacity.

TABLE 3: Largest total fines imposed under the Victorian OHS Act since 1985

<table>
<thead>
<tr>
<th>Defendant</th>
<th>Incident*</th>
<th>Court fine/date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Esso Australia</td>
<td>1998. Explosion and fire at Longford plant resulting in two workers being killed and eight injured.</td>
<td>$2,000,000 (2001)</td>
</tr>
<tr>
<td>AAA Auscarts P/L</td>
<td>2006. Woman driving a go-cart slowly around a track during a work function struck a tyre barrier.</td>
<td>$1,400,000 (2009)</td>
</tr>
<tr>
<td>Fosters Australia P/L</td>
<td>2006. Worker trapped while undertaking maintenance on an inadequately guarded palletising machine.</td>
<td>$1,125,000 (2008)</td>
</tr>
<tr>
<td>Hajel P/L</td>
<td>2006. Worker cleaning an ironing machine caught glove in a roller and was dragged into the machine.</td>
<td>$750,000 (2009)</td>
</tr>
<tr>
<td>Orbit Drilling P/L</td>
<td>2006. Employee from Western Australia died when an unsafe drill rig truck he was driving ran out of control down a steep incline.</td>
<td>$750,000 (2010)</td>
</tr>
<tr>
<td>Barro Group P/L</td>
<td>2005. Man died while carrying out maintenance on a mobile rock crusher.</td>
<td>$650,000 (2009)</td>
</tr>
<tr>
<td>Coates Hire Operations P/L</td>
<td>2007. Truck driver crushed while loading an EWP onto the trailer of his truck.</td>
<td>$500,000 (2010)</td>
</tr>
<tr>
<td>Depot Vic P/L (formerly Hyde Park Tank Depot P/L)</td>
<td>2007. Worker overcome by chemical fumes in a tank during cleaning.</td>
<td>$500,000 (2009)</td>
</tr>
<tr>
<td>P&amp;O Ports Ltd</td>
<td>2003. Worker struck by container and fell into hold of ship.</td>
<td>$500,000 (2006)</td>
</tr>
<tr>
<td>Hanson Yuncken</td>
<td>2010. Unstable ground underneath an EWP caused glazier to fall.</td>
<td>$475,000 (2013)</td>
</tr>
</tbody>
</table>
8. System funding and costs

<table>
<thead>
<tr>
<th>Year</th>
<th>Income (premium)</th>
<th>Cost of system (total)</th>
<th>Claims costs only</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992-93</td>
<td>$1,128,000,000</td>
<td>$351,000,000</td>
<td>$1,120,000,000</td>
</tr>
<tr>
<td>2000-01</td>
<td>$1,159,000,000</td>
<td>$2,173,000,000</td>
<td>$1,202,000,000</td>
</tr>
<tr>
<td>2013-14</td>
<td>$1,929,000,000</td>
<td>$2,598,000,000</td>
<td>$1,733,000,000</td>
</tr>
</tbody>
</table>

The transformation of VWA’s safety arm into the nation’s “leading safety regulator” was possible through the gradual improvement in the VWA’s financial position. It wasn’t an easy task and at many points in the evolution of the system it looked fatally wounded from a financial point of view.

The health and safety arm has been sustained by consistently positive funding from employer premium through the 2000s. This also allowed the easing of premium rate to the point where there was still sufficient income to cover claims payments and system costs. Prudent financial management kept the funding ratio within the acceptable parameter of above 90%.

In its early years the VWA’s parlous financial situation was a result of claims costs ballooning under the early form of the scheme. This was turned around in the early 2000s, few years into the Worksafe years. This allowed the agency to invest in prevention activities.

Despite claims costs sneaking up again and vagaries of investing premium in the financial system, the VWA is continuing to collect sufficient income from insurance operations to remain well funded (see Graph 18). This has allowed the VWA to reduce premium rate progressively to the point it is around the lowest of all jurisdictions. There were no other financial demands on the system, other than a requirement legislated by the Baillieu-Napthine Coalition Government to take a dividend from the agency for the first time (see spike in Graph 19). This ceased when the ALP returned to power in November 2014.

In the current financial year, the VWA remains fully funded. There is a solid relationship between funding ratio (increasing) and average premium rate (reducing). The challenge for the VWA is always how to maintain a funding ratio that allows sufficient investment in the prevention side of the business, which, if effective, contributes to reducing claims numbers and claims costs over the long term.
9. Campaigns

There is no disputing that the reduction in the injury and death toll has been influenced by the strong prevention initiatives of the VWA. Many of these initiatives were developed by the revitalisation and upgrading of the VWA’s prevention arm under its high profile “WorkSafe Victoria” safety brand.

The work of WorkSafe was built on the thinking that took place under the “WorkCover Safety” tag in the late 1990s. It was taken to a new level under the WorkSafe brand commencing in 2001.

Some of the initiatives targeting deaths and claims in the first decade of the 2000s were new and innovative which was what the new leadership of that time demanded. An unprecedented lift in compliance and enforcement was supported by a raft of prevention campaigns, proactive public relations and confronting, award-winning advertising to raise awareness of safety at work.

The sum of all this work was a gradual reduction in deaths and injuries. It has to be said that many of the injuries, and probably the near misses of the latter years, could easily have been deaths in the early years, if not for safety improvements imposed on workplaces by WorkSafe through its compliance programs. In its first death reduction campaign in 2002 - No one should die at work - the agency claimed there were 10 “near misses” for every death and traumatic injury that could have resulted in a death. A shocking statistic.

One of the challenges of safety improvement initiatives is they have a lag effect. It takes time to influence and embed change in work processes and safety behaviour. The impact of this work, started years ago, is most likely still influencing safety thinking in Victorian workplaces today, but momentum has its limits if the pace of changed drops away.

It also has to be said that it’s difficult to directly link these initiatives to a causal effect. There has been little published qualitative research on these successes, other than what has been recorded officially to meet simple corporate measures. The most optimistic view is that success was the result of a cumulative effect.

An essential ingredient in WorkSafe’s success was it attacked death and traumatic injury on all fronts - hazards, hazardous tasks, high risk industries, poor performing employers and by size of employers. It also tackled some specific issues as diverse as young workers, labour hire, tractors, forklifts, upstream supply and small to medium employers where high risk was most evident.
10. Summary

By almost any measures the VWA, mostly through its WorkSafe years, has been a successful health and safety regulator. Some would argue that progress has been slower than it could be but when achievements of VWA and its formative predecessors over 30 years of prevention are matched against regulators in other jurisdictions, it can readily claim the title of “Australia’s leading regular”.

In that time the agency stabilised its financial position and under a strong prevention push invested positively in health and safety to great effect. It mastered its data to identify areas of most risk for targeting its resources and backed it up with award-winning campaigns to raise awareness of the awful toll of injury and death.

In recent years there have been much publicised restructures and downsizing at the agency. Today it is a much more circumspect and risk averse organisation. Much of this can be attributed to the policies of the former Ballieu-Napthine Coalition Government which was one of the most interventionist governments of recent times. The result was a drift in compliance and enforcement and reduction in prevention initiatives. The current Andrews Labor Government committed to rebuilding the VWA prevention capacity as part of its election committed. In a short period senior leadership has been replaced and more inspectors have been appointed in this, the 30th year of the Victorian scheme, an accidental but welcomed contribution in this anniversary year.

What effect will this have on the level of injuries and deaths in Victoria and the enormous cost to the community from compensation? It is too early to tell but after 30 years of implementing the British Robens model of health and safety will it be more of the same? In substance the fundamentals of the system haven’t change radically since 1985. The critical difference is that the regulator now knows only too well the causes of injury and death and the best ways to prevent them. Getting more employers to meet their legal duties is the challenge of the future.

More of the same might maintain the trend to improved health and safety outcomes. However the figures show the rate of improvement has slowed and the costs of claims and operating the system are rising.

After 30 years, is it time for a rethink?

ends
Appendix 1
Launch of the system - 1985

WorkCare came into effect on September 1, 1985. The Premier of Victoria, John Cain, declared that day “WorkCare Day”.

WorkCare comes into effect on Sunday September 1. The Premier of Victoria, Mr John Cain, has declared that day “WorkCare Day”. WorkCare is, according to Mr Cain, “the most significant social and economic reform in this State for a quarter of a century.”

WorkCare replaces the old workers’ compensation scheme. It is a streamlined system that will improve the welfare of Victoria’s workers, cut down the number of workplace accidents and illnesses and at the same time reduce the cost of compensation to the community.

There are three agencies formed to deliver the elements of WorkCare. They are:

1. The Occupational Health and Safety Commission, to prevent workplace accidents by identifying problems and developing workplace safety standards.

2. The Accident Compensation Commission, to collect premiums, assess claims and pay benefits to injured workers.

3. The Victorian Accident Rehabilitation Council, to develop and oversee a new system of public and private sector rehabilitation facilities.

WorkCare offers a huge change to the old system. “It is so significant,” said the Premier, “that the Government has been able to increase weekly benefits to workers by an average of twenty per cent while at the same time providing for an average reduction in premiums of fifty per cent.”

This will be achieved by a greater emphasis on workplace safety and the removal of the adversarial system.

WorkCare Day will be celebrated in many places. Included in the celebrations will be free admittance for children on Sunday 1st September, to the Melbourne Zoo, Sovereign Hill Ballarat, the Pioneer Settlement Swan Hill and Coal Creek Korumburra.

Enclosed in this Press Kit is a lot of explanatory material. If you require photographs or further information, please call:

JIM McPHERSON
PRESS OFFICER - WORKCARE
625 2198 DIRECT LINE
848 6151 A. H.
27 AUGUST 1985
Appendix 2

The government-run system was put in place by the Cain Labour Government in September 1985 when two key laws came into effect - The Occupational Health and Safety Act (a streamlined law based on the British “Robens” safety model of the 1970s) and The Accident Compensation Act.

WorkCare

The WorkCare scheme replaced a compensation system run by more than 50 insurance companies. WorkCare was a “no fault” hybrid public-private compensation scheme for employers that gave Victoria’s injured workers access to compensation at a higher rate. On the safety side, The WorkCare scheme replaced a complex set of prescriptive safety laws and regulations (eg The Factories Act) largely administered by the Department of Labour, and based on old British industrial laws going back to the turn of the 20th century. By ending this confusing mix of old laws, OHS was given new focus, status, relevance and urgency in workplaces.

WorkCare had three separate arms - prevention policy and inspection (administered by a government department) and compensation and rehabilitation (administered by two separate agencies).

The simplified OHS laws were easier for employers to follow and easier to enforce. They were based on two key “Robens” principles – first was the idea of “general duties” to be followed by employers (which could be fleshed out by issue-specific regulation and supplemented by codes of practice) and the second was “self-regulation”. This allowed employers to decide how best to comply with the general duties in their workplace but in doing so they had to consult with their workers.

On the compensation side of the business, things didn’t go as smoothly. The problem with this scheme was insurers charged high premium to employers but delivered inadequate service. When claims started to flow into the new system at an increasing rate, swamp ing agents and slowing processing. It became clear that the amount of insurance premium collected from employers failed to cover the costs of benefits for injured workers when the intention was to have a self-funded system. At one point, the costs of the system more than doubled revenue from premium.

To keep the system running, the state government increased premium which placed unwelcomed cost pressure on Victorian businesses.

WorkCover

A review of WorkCare was conducted in 1987. In December 1992 a revised compensation system was introduced. Managed by a new body called the Victorian WorkCover Authority, it introduced an experience-based premium system that penalised employers who had a poor claims record and tightened up entitlements to benefits.

The funding deficit that dogged the early years of the scheme was gradually wound back (but it took until 2006 before the agency reached full funding). New safety programs under the
VWA contributed to a reduction in claims. There were improvements in claims management and rehabilitation and return to work rates were lifted.

In the meantime safety enforcement activities remained with the Health and Safety Organisation (previously part of the Department of Labour) until it merged with the Victorian WorkCover Authority in July 1996. The merger created an integrated system. Claims and prevention were seen as a “lifecycle”, where learnings from claims informed prevention measures in a more practical way which in turn acted to reduce claims.

Over the next few years the VWA introduced various hazard-specific safety regulations under the OHS Act in a renewed push on prevention. The overall objective was to raise public discomfort about the tragedy of people being killed at work and the enormous cost to the community for caring for those injured at work.

WorkSafe

In April 2001 the agency adopted a new trading name for its health and safety business unit - WorkSafe. This heralded in an unprecedented program of innovative, award-winning shock campaigns eg “Homecomings”, aimed at not just raising awareness of the importance of workplace safety but changing behaviour of employers and workers.

The campaigns were backed by a boost in compliance and enforcement activity. Claim numbers reduced gradually which allowed the government to lower employer premium.

In 2004, the original OHS Act was updated. In 2007 the various OHS regulations made under the 1985 Act were consolidated into a cohesive set of regulations which helped remove duplications of the earlier regulations and simplified provisions.

Following that, the compensation Act was revised to improve its operation and make it easier to understand. The other significant development of this period was the establishment of WorkHealth, a ground-breaking campaign to improve health and wellbeing in workplaces by linking health risk and work risk factors.

This consolidated period of modernisation of OHS in Victoria allowed WorkSafe to establish itself as Australia’s leading regulator. In 2012, Victoria claimed to be the safest state in the nation and the state with the lowest premium for workers compensation.

In 2013 the agency restructured, cut budgets and downsized its operations, mostly in the safety area. Priority shifted to improvements in the workers compensation Act. A revised Act came into operation in July 2014. On the same day the agency dropped its WorkSafe name and returned to its early VWA corporate brand to “better reflect” the scope of its operations.

The most recent VWA annual report after the temporary dumping of the successful WorkSafe brand. See over page for all VWA annual reports.

VWA Annual Report 2014
During the November 2014 election campaign, the Andrews Labor opposition pledged to rebuild the capacity of the capacity of the safety regulator. After its election, the WorkSafe brand was reintroduced, the CEO and chair were removed, others key senior managers departed the agency and additional inspectors were recruited.

Sources: OHS regulation in Australia (NRCHOHSR), Striving for a balance (ISCRR) and History (VWA) 2004

1996: Prevention has been given another boost with the amalgamation with the former HSO.

1997: The Authority moved steadily in shaping its philosophy regarding the use of its power (OHS Act).

1998: Health and safety is our new frontier. WorkCover is devising strategies to make H&S the highest priority.

1999: Workplace deaths have seized the community’s attention. They have saddened all of us who work to prevent it.

2000: It is time to recognise that WorkCover’s overall performance has reached a plateau.

2001: We have successfully put health and safety back on the map in Victorian workplaces.
2002: "We have been progressively implementing our strategy to meet the challenges we identified."

2003: "We have continued implementing our reform agenda and can now point to tangible signs of improvement."

2004: "There is no doubt that 2003/04 was a good year for the VWA, arguably the best in its history ..."

2005: "The past year was one of the best ever for Victorian employers, workers and the VWA itself."

2006: "From an organisational perspective, this has been one of the most rewarding years of the VWA."

2007: "We have developed a firm view of what can be accomplished in the future."
2008: "Our targets are ambitious, and in just the first year of the new strategy we have seen positive signs of success."

2009: "Despite the challenging economic environment, WorkSafe maintained the gains of previous years."

2010: "In always striving to be ahead of the curve, we have the next OHS frontier firmly in our sights - employee well-being."

2011: "Despite increased claims volatility as the economy recovered, Victoria maintained its long-term trend of workplace injury reduction."

2012: "During the period of Strategy 2012 thousands of people who in the past would have been injured at work, returned home safe."

2013: "During the first year of our new five-year strategy we delivered on our obligations. Injury rates continued to decline."

30 years of OHS in Victoria 1985-2015
Is it time for a celebration?