

Confronting the crisis of workplace fatalities

The tragic Dreamworld accident in 2016, which resulted in the loss of four lives, was a crisis that unfolded under the weight of immense public attention and media interest. For many organisations, it also highlighted the importance of having a robust crisis management system.

UNWANTED PUBLIC ATTENTION

More than 200 workplace fatalities took place around Australia in 2016. Of these, 27 fatalities (including both workers and bystanders) occurred in the month of October¹, the same month of the Dreamworld accident, of which only a handful attracted national press or televised coverage.

So why did the deaths at Dreamworld attract so much public attention and the accompanying media frenzy? Dave Charlton, Workplace Health and Safety Senior Consultant at Marsh, suggests there is no hard formula and that every business needs to be prepared.



BOARD DISCUSSION

A well prepared organisation will have:

- a tolerability level established
- a team of professional advisors on hand, ready to be mobilised
- a crisis response plan that is supported and understood by both management and staff

“The Dreamworld incident was played out extensively in the media, which unfortunately created speculation while official investigations were still ongoing. It can be unpredictable which events the media will focus on but with Dreamworld’s iconic status as a family destination, combined with the fact the accident involved members of the public including children, the incident resonated loudly with the public,” says Charlton.

Charlton explains that media coverage typically draws a distinction between fatality in workers and fatality in customers or bystanders, paying greater attention to the bigger emotional impact on the public by the latter.

Unwanted public attention can hamper the recovery efforts of a business when a crisis is on hand. However, in some cases, media attention can also lead to better awareness and overall public safety. For example, the Dreamworld incident reportedly prompted a Florida based theme park to shut down a similar ride for precautionary reasons.²

“It is always encouraging to see businesses learn from one another and promptly mitigate risks where reasonable and practical to do so. For the Florida theme park, the business cost of shutting down the ride appears to have been reasonable and practicable in order to prevent a potential loss of life,” explains Charlton.

¹ Safe Work Australia, *Notifiable Fatalities December 2016 Monthly Report*

² www.news.com.au/travel/travel-updates/us-theme-park-ride-shuts-down-over-dreamworld-tragedy/news-story/c2b8a017511ff36ff54a576280e7d866

ARE WORKPLACE FATALITY RATES IMPROVING IN AUSTRALIA?

“The short answer is – it’s complicated,” says Charlton.

Charlton points out that of the key industries, only the construction and manufacturing sectors have shown noteworthy improvement, with a 20% decline and 38% decline in total fatalities respectively between 2010 and 2015. In contrast, the mining sector’s fatalities doubled in the same period.³

And while the total number of fatal and serious injuries has been trending downwards in the past decade⁴, Charlton believes that the decline should have been steeper when adjusted for factors such as the economic recession and downturns in construction and mining.

“Looking beyond the total number of fatalities, the *incidence rate* is also significant to understanding the overall picture. When you review the number of incidents against the number of workers employed in each sector, it’s clear the story is not as rosy,” says Charlton.



Key industries have experienced fluctuating or increasing workplace fatality incidence rates over recent years:

INDUSTRY	FATALITY RATE (FATALITIES PER 100,000 WORKERS) ⁵					
	2010	2011	2012	2013	2014	2015
AGRICULTURE, FORESTRY AND FISHING	15.5	18.7	16.7	17.3	13.9	16.7
TRANSPORT, POSTAL AND WAREHOUSING	7.7	8.3	10.9	7.8	7.8	6.6
MINING*	2.7	2.7	3.0	3.0	3.9	4.4
CONSTRUCTION	4.1	4.0	3.1	2.2	3.1	3.2
ARTS AND RECREATION SERVICES	2.6	2.9	2.4	3.4	4.9	3.1
ELECTRICITY, GAS, WATER AND WASTE SERVICES	0.7	1.4	2.0	2.7	3.4	2.8
MANUFACTURING	2.1	2.3	1.9	1.3	1.7	1.5
ALL INDUSTRIES+	2.1	2.0	2.0	1.7	1.7	1.6

* Mining fatalities include those that occur in coal and metal ore mining, oil and gas extraction, sand and gravel quarrying, exploration and support services.

+ Including other industries not listed in the excerpt above.

“Most fatalities investigated have come out of the blue, without any prior indicators.”

“Businesses shouldn’t be lulled into a false sense of security simply on account of fewer workplace fatalities. A serious incident usually occurs as a result of a confluence of factors so it takes continuous vigilance about preventative measures and up-to-date crisis management planning to head off the risks. Most fatalities investigated have come out of the blue, without any prior indicators,” warns Charlton.

It is worthwhile to note that not all serious incidents result in fatalities. Similarly not all incidents are recorded or investigated by organisations, nor are they necessarily notifiable to the relevant authority. Given the potential for under-reporting, the true magnitude and impact of workplace incidents may be much more extensive than what has been captured in official figures.

³ Safe Work Australia, *Work-related Traumatic Injury Fatalities Report Australia 2015*, October 2016

⁴ Ibid. 3.

⁵ Ibid. 3. Subject to a <http://creativecommons.org/licenses/by/3.0/au/deed.en> license.

HOW CAN BUSINESSES BE BETTER PREPARED?

No matter how safe and compliant an organisation may be, accidents happen. When tragedy strikes, it is usually unexpected, catching many businesses out due to lack of preparation.

“It’s important for management not to panic or rush around looking for contacts. It’s about having in place a trusted network of advisors for public relations, legal, crisis management, business continuity and risk management, who can work quickly and cohesively to help an organisation manage the aftermath of a serious incident,” explains Charlton.

There is no “one size fits all” solution. Each business needs to put in place a unique crisis response plan that is suitable to their size, operations, industry, clientele and risk tolerance level. It is also essential for organisations to undertake periodic review of these plans to ensure they remain relevant and practical.

“From our experience, more often than not, a fatality will lead to prosecution. In some cases, fatalities may be delayed. For example, a person dies 12 months after the original incident as a result of their injuries. The company’s crisis response plan needs to be robust and flexible enough to handle these various scenarios. This is where root cause analysis investigations can help with identifying and mitigating these future risks,” explains Charlton.

Charlton shares with us the following non-exhaustive checklists of key items and questions all businesses should consider before and after a fatality or serious incident.



PRE-INCIDENT CHECKLIST

- 1. Tolerability level:** Has the organisational “tolerability level” been established with strategic input from the CEO or CFO? The tolerability level varies for different businesses. It determines the organisation’s maximum level of risk tolerance for potential incidents and outcomes taking into account, for example, risks to public and worker safety, the threat to an organisation’s public image and the potential for the organisation to face public prosecution.
- 2. Exploring realistic scenarios:** What type of incident will potentially distress the organisation and its business significantly, or present a significant risk to safety? The business needs to set a suitable tolerability level to differentiate an incident that requires a WH&S response from an incident that requires a crisis management response.
- 3. Risk management:** Does the organisation have a robust risk management system (including crisis response plan) in place, which is functional, practical, understood and used by staff? I.e. not just a “paper” system.
- 4. Holding statements:** Has a set of short media statements, including those for social media, been drafted and agreed by the C-suite for a foreseeable significant event?
- 5. Senior management:** Has a process for mobilising senior management in the event of a significant event been established?
- 6. Insurance:** Does the organisation’s insurance policies have appropriate cover such as business interruption (BI) cover, including costs incurred from investigation by enforcement authorities? Public-facing businesses are often forced to shut down operations after a serious incident. It is important to have a good understanding of what cover is available under your policy in these scenarios.
- 7. Specialist advisors:** Does the business have access to third party specialist investigators, legal or PR advisors? Have costs for these specialists been agreed upfront or covered in your insurance policies? E.g. some insurers may offer special rates for solicitors on their panel. The business needs to conduct its own due diligence to ensure panel solicitors are specialists in the WH&S space.



POST-INCIDENT (SIGNIFICANT EVENT) CHECKLIST

Once it has been established that a significant event has occurred and the business' tolerability level has been reached, the organisation must act swiftly and carefully. Where practicable, the following actions should be undertaken within the first 24 to 48 hours following the event:

1. Provide first aid and medical assistance and other support services as required, including likely cases of delayed shock, or other appropriate initial response (e.g. for incidents involving environmental or hazardous materials).
2. Secure the scene of the incident to prevent disturbance of site and cross contamination, unless the area is required to be modified (e.g. for safety reasons) as instructed by regulators.
3. Inform the appropriate regulator via the fastest means (typically by telephone) and follow up with written notification within 48 hours.⁶
4. Complete a photo log of the incident area and its surroundings, from both inward and outward perspectives. Obtain and secure CCTV footage where available.
5. Engage a local team to establish initial facts of the incident and submit brief factual report to senior management.
6. Create a detailed record of persons involved including those injured or affected, witnesses, working in the general vicinity, and where each individual was situated at the time of the incident.
7. Where safe to do so, cease operations or activities that are similar to those being undertaken at the time of incident in order to mitigate future injuries and/or prosecution.
8. Notify senior management teams and key stakeholders (eg. emergency/crisis management teams).
9. Notify your insurance broker and insurers.
10. Seek legal advice from a specialist lawyer such as in relation to legal professional privilege and liability issues.
11. Prepare an initial media statement in conjunction with public/industrial relations and legal advisors.
12. As an extension to point 7, where appropriate and as determined by senior management and/or external advisors, cease similar operations or activities interstate, nationally or internationally. Apply the "reasonable and practicable" test (i.e. risk of harm versus cost of preventing harm).
13. Determine composition of investigation team. Consider external specialist investigator and subject matter/technical experts.
14. Commence detailed investigation.

LESSONS LEARNT

Recent events have demonstrated how a rare single event can potentially cause a business to cease trading. In the face of the snowball effect that follows a serious incident – from media attention or regulatory scrutiny, to reputational damage and public prosecution – a well prepared organisation will have a suitable tolerability level established; a team of professional advisors on hand, ready to be mobilised at a moment's notice; and a crisis response plan that is supported and understood by both management and staff.

Serious workplace incidents can take place in any organisation, even those observing the strictest safety standards. In such events, the steps outlined above, combined with sound occupational health and safety practices on a day-to-day basis, form the foundations of a safe work environment and may mitigate the effects of an incident on the organisation as a whole.

For more information or assistance on preparing your business for a crisis, please contact your Marsh representative.

⁶ Please note that this checklist is not State or Territory specific and each jurisdiction may have differing reporting requirements.

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