WorkSafe

TE PŪRONGO O MAHI HAUMARU AOTEAROA

1 January – 31 March 2024



Te Kāwanatanga o Aotearoa New Zealand Government



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About this report The purpose of this report is to provide an update of WorkSafe's performance over the previous quarter to the Minister for Workplace Relations and Safety and the Ministry of Business, Innovation and Employment (monitoring department). This includes WorkSafe's progress in achieving objectives as set out in its accountability documents, together with a review of WorkSafe's organisational health and financial performance.

The quarterly report is available on www.worksafe.govt.nz after each quarter.

WorkSafe's performance throughout the quarter has been steady.

WorkSafe's new strategy was approved in Q3 by the Board. It will be the basis for the new Statement of Intent 2024/25 -2027/28 and new Statement of Performance Expectations 2024/25. These documents are currently being developed and drafts will be submitted to the Minister's office by 1 May for feedback.

WorkSafe's new organisational structure was implemented on 1 February. These changes were intended to ensure WorkSafe can operate within the available funding envelope in 2023/24. WorkSafe is on track to balance the budget at the end of 2023/24.

On 13 March 2024, the Board Chair and Chief Executive appeared for the WorkSafe's 2022/23 Annual Review hearing before the Education and Workforce Committee.

Quarter 3 at a glance

WorkSafe people	There were 608 FTEs at the end of Q3 2023/24, a decrease of 36 compared to 644 in Q2, and a decrease of 138 from 746 compared to Q3 2022/23.
	All staff turnover for Q3 was 29.4%. This is an increase from 25.9% in Q2, and was expected, reflecting the impact of the organisational change.
Finance	WorkSafe has a surplus of \$7.9m compared to a budgeted deficit of \$2.3m at the end of Q3. This positive variance is mainly due to lower than anticipated depreciation and the impact of organisational change and attrition, with WorkSafe on track to be within budget by year end.
Performance measures	12 out of 12 measures reported in Q3 were met. One measure is reported six-monthly.
Strategic priorities	The work programme to implement the Strategic Baseline Review is on track. 19 of the 20 recommendations have a green status, with one amber status.
	WorkSafe's other six priority programmes are being progressed with reduced effort or being reprioritised. The new priorities based on the new strategy will be determined by 30 June.
Organisational risk overview	WorkSafe's internal environment has been subject to significant change which has influenced changes to a few strategic risks. These changes result from the stand-up of a new organisational structure on 1 February 2024, new executive leadership, and work to ensure WorkSafe remains on budget for 2023/24.
	As signalled in Q2, this has resulted in the People, Health and Safety risk being reassessed from High to Critical. Current work on the refresh of WorkSafe's strategy and development of the functional model is underway and, once implemented, is expected to positively influence the risk profile. There are some external uncertainties in the wider regulatory environment that may alter the risk profile. WorkSafe will ensure it can manage any changes resulting from legislative or regulatory reform.

Contributing to health and safety at work outcomes

1. WorkSafe focuses on what will make the biggest impact to reduce harm

Adventure Activities Amendment Regulations

The Adventure Activities Amendment Regulations 2023 came into force on 1 April 2024, making several changes to the Health and Safety at Work (Adventure Activities) Regulations 2016 (the Regulations) and the Safety Audit Standard. The changes are part of an improvement plan to strengthen the regulation of adventure activities following the Whakaari White Island tragedy. The changes aim to improve the health and safety outcomes for people participating and working in adventure activities in Aotearoa.

Changes to the Regulations include:

- the registration process applicants will apply directly to WorkSafe for registration and renewal of registration after completing their safety audit requirements
- the requirement for operators to take reasonable steps to tell people who want to participate in their adventure activities what the risks are
- greater powers by WorkSafe to suspend, cancel and refuse registration as well as to impose conditions on an operator's registration in the interests of safety
- new notifiable incidents (including natural hazard type incidents) which operators must report to WorkSafe.

Changes in the Safety Audit Standard include:

- a specific requirement to consider natural hazards in risk management planning
- having a clear policy in place to determine when to call an activity off.

Respirable Crystalline Silica (RCS)

WorkSafe is continuing to work with the engineered stone industry to ensure they manage the risks within current regulatory settings. WorkSafe is also continuing to support MBIE's analysis for regulatory options to address RCS risks and advice on regulatory options for the industry.

Geothermal bores in Rotorua

As a result of an enhancement to the 2021 agreement between the Bay of Plenty Regional Council, Rotorua Lakes Council and WorkSafe, design and construction standards have been incorporated within the resource consent process. This will ensure new wells are designed and installed correctly prior to use.

Safe work instrument consolidation

The Legislation Act 2019, Parliamentary Counsel Office guidelines and the Regulations Review Committee require that safe work instruments be easy to find, to understand and to use. As a result, WorkSafe is combining safe work instruments with any later amendments into consolidated instruments.

Three safe work instruments have been consolidated and published on the WorkSafe website. Development of the remaining two is progressing. One is approved and publishing is planned for early in Q4 and the other is expected to be completed in Q4.

Licensing system for refrigeration, heating, and air conditioning technicians

WorkSafe continues to support the implementation of MBIE led regulations for commercial and industrial refrigeration technicians working with flammable, toxic or very high operating pressure refrigerant gases. WorkSafe and the Hanga-Aro-Rau Workforce Development Council for manufacturing, engineering, and logistics, are developing new skills standards for technicians. These skills standards will be prescribed in a safe work instrument as part of the implementation of the new regime.

2. WorkSafe builds everyone's capability to do this well

Talley's Group Limited (TGL)

The Targeted Complex Intervention* of TGL has concluded. The purpose of the intervention was to influence TGL to understand its health and safety duties through a proactive engagement approach. TGL and its directors now understand their obligations and duties to ensure worker health and safety. While the intervention has ended, monitoring will continue and should TGL fail to meet its ongoing duties and responsibilities WorkSafe may respond through an enforcement (rather than engagement) approach.

*A Targeted Complex Intervention is a long-term intervention that focuses the full range of tools and capabilities available to WorkSafe to deliver long-term change in health and safety performance.

Memorandum of Understanding (MOU) with Maritime NZ

WorkSafe and Maritime NZ signed a MOU providing clearer lines of responsibilities and cooperation between the two organisations. The MOU formalises the transfer of Health and Safety at Work Act responsibilities on, around and outside ports. Maritime NZ's new designation as the work health and safety regulator for New Zealand's 13 major ports comes into effect from 1 July 2024.

Priority programmes and projects

Programmes to deliver strategy and improve internal capability

Strategic baseline review (to be closed by October 2024)

Implement 20 recommendations from the review which assessed WorkSafe's management of its resources.

Work to implement recommendations from the Strategic Baseline Review has led to the formation of the refreshed strategy and the development of a functional model. These reflect the organisation's role as a workplace regulator and will be key to WorkSafe's success. Work on the operating plan is underway to be ready to deliver in the new financial year. Most of the recommendations will be completed by the end of 2023/24.

Digital transformation (to be closed by June 2024)

Provide better services to help achieve better outcomes.

The roll out of Atlas (WorkSafe's new digital platform) to the General Inspectorate is complete and the Digital Transformation programme is progressing to closure in Q4.

A critical risk relating to the migration of historic data from the legacy MBIE system to Atlas continues to be worked through. MBIE and WorkSafe have signed an agreement and work is progressing to ensure a path forward.

Ngā paiaka | Strong regulatory foundations (closed in March 2024)

Strengthen operations and improve how WorkSafe administers its existing regulatory frameworks.

The closure report for the Ngā Paiaka programme was approved in January 2024 with the remaining work assigned within the business, and transition reports prepared.

ACC funding

WorkSafe receives up to \$15m per annum of funding from ACC to undertake harm prevention activities. This funding will cease by 31 March 2025.

In Q2, WorkSafe undertook a review of its ACC funded portfolio. Based on the review findings, it was agreed that WorkSafe would:

- transition away from funded partnerships with sector groups and Iwi
- shift its harm prevention business model to enable more targeted delivery of interventions aligned to strategy
- ensure that existing products and services remained fit for purpose.

In Q3 WorkSafe contacted partner organisations to advise them of the decision to transition away from being a 'funder' and to work through transition arrangements. WorkSafe is working closely with ACC to implement these changes. ACC has indicated it will strengthen its own partnerships and direct investment in sector lead and industry groups that are delivering change for businesses and workers.

WorkSafe has sought feedback from users and key stakeholders of the SafePlus tool (SafePlus is a voluntary, health and safety performance improvement toolkit for businesses) and the Puataunofo – Come Home Safety Programme for Pacific and migrant workers. This feedback will enable WorkSafe to evaluate current performance and identify improvements. Feedback on WorkSafe's Kaupapa Māori harm prevention approach and worker voice products will be sought in Q4.

Programmes to support health and safety at work outcomes

WorkSafe has deferred activity on the *Plant and Structures* programme while awaiting a date for the public consultation for the Plant and Structures regulations, which will be led by MBIE. WorkSafe will resume activity once a consultation date is set.

The *Support the worker voice*, *Promote good work design* and *Reduce harmful exposures* programmes will be reassessed when WorkSafe's new strategy is finalised, and priorities and resources re-aligned.

Regulatory activities

WorkSafe undertakes frontline delivery, including inspecting workplaces, specialist interventions, energy safety initiatives and managing hazards.

Key activities in Q3 include:

Whakaari/White Island trial

Legal proceedings in the Whakaari/White Island trial ended on 1 March. The trial resulted in the sentencing of the six parties who had either pleaded guilty or were found guilty of health and safety offences.

Six defendants were fined a total of almost \$3 million, and total reparations of over \$10 million were awarded to the victims and their families. A seventh party had earlier pleaded guilty and had been sentenced in March 2022.

One defendant who was convicted at the end of the trial, has recently filed an appeal against conviction.

NZ Police – Speed camera operators

WorkSafe accepted an enforceable undertaking (EU) from NZ Police following a high-speed collision in 2021, in which a speed camera operator was thrown from his parked van when it was struck by a car. This EU requires NZ Police to make more than 10 changes to policy and processes, including:

- new requirements of technical advisors, particularly regarding natural hazards.
- delivery of an enhanced traffic camera operator induction and training.
- creation of a dedicated critical risk team to implement a risk framework.

Forklift accident in Onehunga

A home improvement business was sentenced at the Manukau District Court after a customer in Onehunga was struck by a forklift in 2022 and left disabled. A fine of \$350,000 was imposed, and reparations (approximately \$140,000) were ordered.

Immediately after this incident, WorkSafe issued two improvement notices to ensure procedures were in place for forklifts operating near pedestrians. Both notices were complied with.

Construction accident in the Bay of Plenty

Following a fatal accident in 2022, two businesses were sentenced for health and safety failings after a building apprentice died. The two businesses were fined, and reparations paid to the family and a work colleague.

The death could have been prevented had the two businesses consulted each other on the installation plan and ensured that a mechanical aid (such as a crane truck) was used to unload and move the timber framing.

Tree felling in Nelson

A logging company has been sentenced and fined \$56,000 for a tree felling incident that put motorists at risk. The owner used tree felling techniques below industry standards, did not provide warning signage or traffic management, and had unqualified workers. The owner had already been issued Prohibition and Improvement Notices to encourage him to keep people safe but had persisted in poor practices.

Electrical worker sentenced

WorkSafe prosecuted an electrical worker for failing to test prescribed electrical work he had undertaken that resulted in a fatality. He was sentenced and subject to home detention of eight months and reparations of \$150,000. This sets an important precedent for all electrical workers highlighting the need to carry out mandatory testing to ensure their electrical work is compliant and safe to use.

Inspectorate capacity and recruitment

In Q3, a new cohort of 19 new Trainee Health and Safety Inspectors were recruited across Aotearoa.

		pectors per workers	Total number of
	Trainees included	Trainees excluded	WorkSafe inspectors
Q2	6.4	5.9	186
Q3	6.8	6.1	201

Regulatory statistics

Notwithstanding the organisational changes, Regulatory activity remained steady over Q3. WorkSafe continues to prioritise, and deliver on, its core regulatory functions.

Notifications received

Notifications are received from businesses and the public. Once received, they are triaged to assess an appropriate course of action.



* Indicative only and subject to revision

HSWA investigations initiated

An investigation is a process of inquiry which helps establish facts, discover information, and decide what action to take, if any.



Authorisations processed

Includes adventure activity operators, occupational diving, asbestos, and hazardous substance-related authorisations.



Increased numbers in Q2 reflect 91 re-registrations for adventure activities operators which are on a 3-year cycle with many due for renewal in that quarter.

Assessments

Assessment activity is either part of a planned programme or carried out as a response to a notification.



Enforcements

Enforcements include improvement notices, verbal directions, directive letters, prohibitions, infringement notices and enforceable undertakings.



Energy safety

Applies to the design, supply and fitting of electrical or gas appliances and related installations and networks.



There was a significant increase in audits completed in Q2 mainly due to a programme to identify electrical and gas practitioners not recording work in the Electricity and Gas High Risk Database as required. Figures in Q3 have returned to normal levels.

Performance measures

WorkSafe has 13 performance measures which are detailed in the **Statement of Performance Expectations 2023/24**. These reflect the quality, timeliness and quantity of activities undertaken across WorkSafe over the financial year.

At a glance

All reported measures in Q3 have met their year-to-date targets.

	Non-financial targets (#)			Financials (\$m)			
Activity area	Met	Not met	Not reported	YTD actual	Annual budget	% spent to date	
Lead, Engage and Influence	1	-	-	9.6	15.7	61%	
Educate, Inform, Guide and Learn	-	-	1	25.9	37.6	69%	
Build Capability and Worker Participation	1	-	-	3.6	6.7	53%	
Innovate, Design, Implement and Evaluate	1	-	-	6.5	11.0	59%	
Authorise, Oversee, Assess and Audit	4	-	-	15.8	21.8	73%	
Investigate, Enforce and Hold to Account	5	-	-	44.1	59.5	74%	
Total	12	-	1	105.5	152.3	69%	

Expected year-end result

As at Q3, WorkSafe expects to meet at least 12 out of 13 targets at year end. One measure (see below, 2.1, reported six-monthly) was 1% below the target of >65% in Q2.

The result is derived from an external survey and might have been affected by the information system transition which limited the available sample size. As a result of the transition, a full list of industries, workers, and businesses that access WorkSafe's guidance products was not available. Work is underway to resolve these issues, however this target may not be met by 30 June 2024.

Performance measures

	Performance measure	Annual target	YTD actual	Expected year-end
Activ	ity area 1: Lead, Engage and Influence			
1.1	The percentage of WorkSafe General Inspectorate assessments that include a focus on work-related health risks	>75%	80%	~

Activity area 2: Educate, Inform, Guide and Learn

2.1	The percentage of people who say our guidance is very useful or extremely useful	>65%	reported six- monthly	ТВС
			monuny	

	Performance measure	Annual target	YTD actual	Expected year-end
Activ	ity area 3: Build Capability and Worker Participation			
3.1	The percentage of inspections where the General Inspectorate engage with worker(s) and or health and safety representative(s) where available to improve worker participation in keeping workplaces healthy and safe	>85%	93%	~
Activ	ity area 4: Innovate, Design, Implement and Evaluate			
4.1	The number of workers receiving culturally relevant health and safety training by attending workshops facilitated by the Puataunofo Come Home Safely education programme	1,000	781	~
Activ	ity area 5: Authorise, Oversee, Assess and Audit		·	·
5.1	The number of energy safety audits (of products, suppliers, networks, distribution systems, installations) completed	>600	701	~
	There was a significant increase in audits completed in Q2 due to gas practitioners not recording work in the Electricity and Gas Hig			
5.2	The number of high hazard sites (including major hazard facilities, petroleum and geothermal, and mining, tunnelling, and quarry sites) inspected annually	>440	363	~
5.3	The percentage of completed Controlled Substances Licenses and Hazardous Substances Controls applications received which are processed within 60 working days	>90%	93%	~
5.4	The percentage of completed Occupational Diving Certificate of Competence applications received which are processed within 20 working days	>80%	85%	~
Activ	ity area 6: Investigate, Enforce and Hold to Account	1	1	1
6.1	The percentage of energy safety investigations (notifiable or non-notifiable incidents and unsafe situations) involving gas and electricity that are completed within 60 working days	>90%	92%	~
6.2	The percentage of investigation files to be referred for prosecution which in the first instance, meet the WorkSafe internal standard outlined in the Investigation File Review	>80%	100%	~

6.1	The percentage of energy safety investigations (notifiable or non-notifiable incidents and unsafe situations) involving gas and electricity that are completed within 60 working days	>90%	92%	~
6.2	The percentage of investigation files to be referred for prosecution which in the first instance, meet the WorkSafe internal standard outlined in the Investigation File Review	>80%	100%	~
6.3	The percentage of our prosecutions that result in a conviction or an enforceable undertaking	>80%	87%	~
6.4	The percentage of Mentally Healthy Work notifiers contacted by WorkSafe within 20 days of receipt of notification	>80%	97%	~
6.5	The percentage of investigations where a final decision is made and communicated to victims within 12 months of the investigation commencing	100%	100%	*

Organisational health

In Q3, WorkSafe's Wellington office moved to 8 Willis Street. This move provides cost savings and improved ways of working for kaimahi. WorkSafe co-shares these premises with the Ministry for the Environment and Stats NZ.

WorkSafe people

The impact of WorkSafe's commitment to streamline its activities is reflected in staff numbers and turnover.

There were 608 FTEs at the end of Q3, a decrease of 36 from 644 in Q2. The FTE figure is returning to levels similar to those seen in Q3 2020/21 when there were 617 FTE.

- The number of contractors continued to decrease over the quarter. There were 15 contractors in Q3, a decrease of 5 from 20 in Q2.
- All staff turnover was 29.4%. This is an increase from 25.9% in Q2. This was expected and reflects the impact
 of the organisational change.

Contractor

Staff numbers (FTEs)







Staff turnover for all leavers

Starters and leavers



Financial statements

Financial performance

At the end of Q3, WorkSafe has a surplus of \$7.9m compared to a budget deficit of \$2.3m. This is based on the revised budget after WorkSafe has undertaken cost reduction measures in light of an initial budget shortfall. The positive variance is mainly due to the impact of the organisational change process, which was completed in February, as well as reduced depreciation. WorkSafe is on track to achieve budget by year end.

Statement of comprehensive revenue & expenditure

\$000	Actual	Budget	Variance	Full Year Budget
Revenue				
Revenue Crown	104,269	103,402	867	136,710
Interest Revenue	1,210	992	218	1,000
Other Revenue	7,902	10,973	(3,071)	14,709
Total Revenue	113,381	115,367	(1,986)	152,419
Expenditure				
Personnel	72,414	78,729	6,315	101,372
Contractors	3,466	3,570	104	4,513
Depreciation	4,481	5,977	1,496	8,241
Other expenditure	25,159	29,381	4,222	38,193
Total Expenditure	105,520	117,657	12,137	152,319
Surplus/(deficit)	7,861	(2,290)	10,151	100

Revenue by area

Crown revenue is up on budget due to the contingency drawdown for Whakaari. Other revenue is up due to interest revenue streams and additional third-party revenue. ACC revenue is lower than budget, due to ACC programme activity occurring (which is aligned to ACC programme expenditure) and is expected to balance by year end.

\$000	Actual	Budget	Variance
Working safer levy	98,941	98,074	867
Major hazard facilities levy	2,018	2,018	-
Energy safety levies	3,310	3,310	-
ACC	6,731	10,274	(3,543)
Fees and Other Revenue	2,381	1,691	690
Total revenue	113,381	115,367	(1,986)

Expenditure by area

\$000	Actual	Budget	Variance	Full Year Budget
Core Delivery (excl. Depreciation)	82,784	87,554	4,770	112,876
Depreciation	4,429	5,977	1,548	8,241
Specific Delivery (tagged funds)				
Whakaari	2,900	3,320	420	3,320
Energy Safety/ MHF/P&G	5,480	5,605	125	7,565
Digital Transformation	2,064	3,000	936	4,000
ACC Programme	6,636	10,221	3,585	13,805
COVID-19 Enforcement	1,043	1,613	570	2,145
Thriving Infrastructure	101	160	59	160
Refrigeration	-	207	207	207
Plant & Structures	83	-	(83)	-
Total Specific Delivery	18,307	24,126	5,819	31,202
Total Expenditure	105,520	117,657	12,137	152,319

- Core Delivery (excluding depreciation) variance is 5.4% of budget (\$4.8m). Strong cost controls have been in place throughout the year to ensure that WorkSafe remains within budget through to the end of 2023/24. Personnel savings have been made through organisational change and holding vacant roles through the change process. The change process was completed in February, and these savings are taking effect.
- Core Delivery Deprecation is \$1.5m below budget. This is due to timing of capital projects and capitalisation.
- Whakaari is \$0.42m below budget due to the timing of the costs compared to Budget for the trial in Q1.
 Costs were increased in Q3 due to sentencing.
- Digital Transformation was underspent by \$0.94m due to the rephased roll out of Atlas and subsequent reduction in staffing required.
- ACC Programme is \$3.59m below budget due to some activities/work programmes being reviewed and rephased in 2023/24. This is expected to be underspent at year end.

Capital spend

\$000	Actual	Budget	Variance	Full Year Budget
ICT software	4,304	4,477	173	5,502
ICT hardware	30	300	270	400
Motor vehicles	196	1,508	1,312	2,010
Leasehold improvements	498	1,238	740	1,650
Total capital spend	5,028	7,523	2,495	9,562

- ICT software spend is lower due to the rephasing of spend for the Digital Transformation programme (Atlas roll out).
- Spend on motor vehicles has been delayed due to vehicle availability and rationalisation of organisational fleet requirements.
- The leasehold improvements spend is on new location fitouts and security work. With the focus on the moving the Wellington office and a review of property needs, capital projects in other offices have been delayed.

Memorandum accounts

\$000	Total Balance	YTD Actual
Major Hazard Facilities Levies		
Revenue	19,671	2,018
Expenditure	(17,872)	(2,203)
Total surplus/(deficit)	1,799	(185)
Add Crown Account Deficit	1,228	502
Total surplus/(deficit) - WorkSafe held levies	3,027	317

Current financial position

Statement of Financial Position

\$000	Actual	Budget	Variance	Full Year Budget
Cash and bank	19,711	12,878	6,833	12,183
Investments	10,000	17,300	(7,300)	22,800
Debtors	15,951	1,665	14,286	2,250
Fixed assets	41,495	41,591	(96)	41,367
Total assets	87,157	73,434	13,723	78,600
Creditors and payables	4,773	7,224	(2,451)	10,049
Employment liabilities	6,590	7,313	(723)	7,314
Income in advance	104	-	104	-
Crown Ioan	24,874	20,224	4,650	19,873
Total liabilities	36,341	34,761	1,580	37,236
Net assets	50,816	38,673	12,143	41,364
Equity				
Capital reserves	35,746	33,410	2,336	33,410
Memorandum accounts	2,278	1,108	1,170	1,108
Accumulated surplus/(deficit)	12,792	4,155	8,637	6,846
Total Equity	50,816	38,673	12,143	41,364

 Cash and bank are higher due to loan drawdown received in March for \$4.65 million (budgeted for Q4) and overall lower spending as budgeted.

- Investments are lower due to delayed timing of investment of excess cash for short term deposits.
- Debtors are higher due to ACC funding not yet received (\$1.8m), timing of accrued receivable for the PSPA (\$5.3m), and AMS payroll of (\$5.5m) compared to budget.
- Creditors and Payables are lower than budget due to lower expenditure for the quarter than budgeted.
- Crown Loan is higher than budget due to timing of the drawdown.
- Equity is higher due to actual surplus of \$7.9 million compared to budgeted deficit of \$2.3 million.

Statement of Cash Flows

The overall cash position is higher than budget. The individual differences when compared to the Budget reflects the variances in the Profit and Loss and Balance Sheet discussed above.

\$000	Actual	Budget	Variance	Full Year Budget
Operating cash flows				
Receipts from Crown	104,269	103,407	862	136,710
Receipts from other revenue or interest	3,825	13,563	(9,738)	16,946
Payments to suppliers/employees	(103,440)	(117,615)	14,175	(147,106)
Net operating cash flows	4,654	(645)	5,299	6,550
Investing cash flows				
Net investments	10,171	14,500	(4,329)	9,000
Net asset purchase	(5,684)	(7,523)	1,839	(9,563)
Net investing cash flows	4,487	6,977	(2,490)	(563)
Financing cash flows				
Capital contribution	-	-	-	-
Crown loan received/(paid)	4,650	-	4,650	(350)
Net financing cash flows	4,650	-	4,650	(350)
Cash movement				
Net (decrease)/increase in cash	13,791	6,332	7,459	5,637
Opening cash	5,920	6,546	(626)	6,546
Closing cash	19,711	12,878	6,833	12,183