

Safer Construction Voluntary Code of Practice: Implications for SMEs

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Introduction

The majority of Australian construction firms are small businesses, with 97% of general construction businesses employing less than 20 employees and 85% employing less than five employees (Lin and Mills, 2001; Lingard and Holmes, 2001). The Australian Bureau of Statistics' definition of a small to medium enterprise was used for the purpose of this study (McLennan, 2000). This included small business employing less than twenty people and medium business employing less than 200 people. Although small to medium enterprises (SME) make up the major share of construction organisations in Australia, there is a paucity of published research in relation to occupational health and safety (OHS) issues for this group. Typically, SME organisations "are frequently undercapitalized and depend on continuous cash flow for their continued business" (Cole, 2003; 12). Research by Lin and Mills (2001) indicates that these factors influence the smaller operators' ability and motivation to achieve high levels of OHS compared to larger firms which tend to integrate OHS into their management systems. According to Lin and Mills (2001; 137) small firms "do not feel the need to focus on OHS in their management systems, instead they often believe that the control of risk is the responsibility of employees".

This report documents findings from a qualitative research study that examined SME organisations' views of a newly developed voluntary code of practice (VCOP), and ways in which they might implement the code in their businesses. The research also explored respondents' awareness of current safety issues in industry in the context of their personal experiences.

Data gathering and analysis

In this study, face-to-face semi-structured interviews were conducted with a range of key personnel in ten (10) SMEs operating within the construction industry in Western Australia. Of this number, five interviews were undertaken with designer organisations (Designers) ranging from an average of 35 employees to as few as two employees. Some of the businesses studied utilised up to 400 sub-contractors on a regular basis. A further five interviews were conducted with construction organisations (Builders) who directly employed 5 - 50 sub-contractors, with an average of 15 employees.

Data gathered for this study were analysed by coding to explore emergent themes and key categories that described common views and practices. QSR NVivo 7 software was used to store, sort and facilitate the coding processes.

Concept of 'industry initiative and safety' code of practice (VCOP)

Of the ten (10) respondents to this study, three Designers and two Builders expressed support for the concept of a VCOP. The interviewees stated that standards needed to be raised, and the voluntary aspect of a code of practice would only enhance that process. These respondents provided examples of providing basic instructions to employees and sub-contractors, such as the wearing of safety helmets and appropriate footwear, but considered more needed to be done to raise awareness of further action that could be undertaken before an accident happened, rather than after. As stated by one Designer:

I would suggest that [the] code of practice goes beyond legislation so I'm more than happy to endorse a voluntary code of practice. It wouldn't bother us at all.

Only one Builder was completely comfortable with the concept of a VCOP, and stated:

I think anything that keeps us top of mind awareness as many of these issues would be beneficial and I think to have such a mechanism and a systematic approach to anything that we could use would be applauded and should be taken up.

Conversely, three Builders and two Designers considered that a VCOP would have a negative impact on contractors and the building industry generally. Reactions ranged from, "I don't know, I have my doubts", to 'Well, I'd hate to see it happen'. These respondents considered a VCOP to be unnecessary, expressing satisfaction with current legislation and regulation and the availability of information to meet both. As stated by one respondent:

Well the idea of actually having something that would take it above the statutory requirements, now I think really is a waste of time because we have some good regulations. We have some good codes of practice and it's a matter of following them. Not a voluntary type of thing.

Examples of incentives towards safe practice, negating the need for a VCOP, included scrutiny by Worksafe and the Master Builders Association, insurance indemnities, requirement for licensing, and fear of litigation. Respondents also stated that the VCOP would not compensate for the need to provide contractors with correct tools, training and safety equipment to do the job, as well as sufficient time to get the job done,

...it's not rocket science what we do... it's just making sure people aren't rushed.

Management of client expectations was also put forward as a requirement for ensuring the VCOP made an impact on construction industry stakeholders. As explained by one respondent:

...if he [the client] wants a return on his money he doesn't want to keep paying out any longer than he has to...but once again the contractors don't stand up and say well, hey...you're putting timelines there that are unrealistic...

and at the same time,

...no one in this present climate is going to do a job that has got damages, liquidated damages per day for running over when you can't get people.

Incentives for an industry-based VCOP

The scope for provision of incentives featured significantly in the interviews. Five major areas for incentives emerged from the data as opportunities to encourage support for a VCOP. The most cited response was accreditation, followed by indemnity insurance, enhancement of industry reputation, regulatory and legal obligations, and possibility of a 'star system' approach, similar to that used in the Environmental Impact Campaign. These will be considered in further detail below.

(1) Accreditation

Five respondents (3 Designers and 2 Builders) considered that a VCOP aligned with industry accreditation would encourage compliance, along with motivation. Respondents stated they would market the VCOP as a factor towards gaining accreditation, thereby providing evidence of acceptability and achievement of higher safety standards. Although accredited providers were seen to be more costly, they were considered preferable to many respondents when it came to safety. For example,

So it does make you more aware of how you should do things, even like changing a light bulb. It cost us three hundred and fifty dollars but it does take that pressure off and when you think about it, 'cos I've been up ladders changing light bulbs and it doesn't take much to fall off. You become a statistic, so I think in that sense it's very positive. Costly but positive.

The Federal Government's accreditation for construction was put forward by several respondents as a strategy for creating further awareness of safety and to some extent forcing people to 'bow to the inevitable' and do the training and become accredited with the National Federal Safety Commissioner. This strategy was seen to have...

...started off at a value of about three million or five million, and then after about twelve months they bought it down to everything that was Commonwealth funded.

So I suspect that what they're doing now will come down and that anything, any builders that are doing Commonwealth funded work will have to comply and will have to be pre-qualified and so I suspect that is what will end up happening to us in a couple of years.

Worksafe Blue Card System

Six respondents (4 Builders and 2 Designers) referred to the 'blue card system' currently implemented, with mixed reactions to the effectiveness of this accreditation system. Most respondents were supportive and users of the system, considering it offered recognition within the industry of the need for safety and adherence to standards of care.

...what they're trying to do is get everybody that works in the industry, and that means everybody that even just walks on the site, must have minimum safety training.

Other respondents were less impressed and suggested that the system represented a 'bottom line' approach to safety rather than a higher standard. Further, the ability to gain the 'blue card' fraudulently through the internet was acknowledged; that is, the absence of verification of whether the person undertaking the course for the blue card is actually the signatory to the completion documents. In the words of one respondent:

Why introduce something like that and then let it become such an easy thing to attain? It shouldn't be that easy. Everybody should have to turn up. Everybody should have proof that they can read and write...that they actually answered the questions.

(2) Indemnity Insurance

Four respondents (all Designers) suggested the provision of an indemnity on insurance premiums with verification of a company's adherence to the VCOP. These respondents believed that such an incentive would reflect the seriousness by which industry viewed the VCOP, and in turn its adoption would be given serious consideration by contractors and other stakeholders.

(3) Reputation

In support of the above, four respondents (2 Builders and 2 Designers) stated that the success of a VCOP lay in its potential as a reputation-enhancer for companies that adopted it. Closely aligned with the proposed strategy for inclusion of adherence to the VCOP as a criterion for tender selection, one respondent stated:

It would have to guarantee that we'd win more work. I guess that would be the incentive for us, to make us more competitive so that we'd be given preference over other companies. That would be the main incentive.

(4) Legislation, Regulations and Duty of Care

Six respondents (4 Designers and 2 Builders) commented on awareness created through legislation and regulations. However, most of these respondents described the legislation as complex,

The legislative requirement for a start, which I'm not sure that I'm totally up on. You know, little things like how you're supposed to have safety data sheets of materials on site, you have your tools tagged, you have to have...

... it gets to basically court room stuff, you shall, you must...if people have to do something they will but if they don't, they wont.

The need to meet legal responsibilities, in particular duty of care, was put forward by five respondents (3 Builders and 2 Designers). While an acceptable level of risk was acknowledged in many aspects of construction, the legal risk associated with not providing a safe place of work was considered by these respondents not to be worth it...

...we obviously wish to ensure that our staff are safe but are also aware that if someone dies during their work then we are liable and culpable so that's an incentive in terms of support.

(5) Star System

A further suggestion put forward (by a Designer) was the adoption of a 'star system' currently used to indicate environmental accountability amongst companies towards implementation of a VCOP. The suggestion was indicated in the following statement:

...we're designing buildings which government is wanting to have a green star rating, for example, and developers are paid, you almost get a bonus concession if your building complies with the green star rating of four and a half or five. But in a similar sort of fashion, if the government regulates the industry and puts in place that if you achieve a certain rating... you're allowed to build an extra story on your building... I think there's gotta be an incentive in place for developers/owners to want to achieve high levels of safety.

Industry resistance to implementing the VCOP

There were two main factors associated with resistance to implementing the VCOP: costs and increased bureaucracy. Both of these factors are considered below.

(i) Costs

Eight respondents (4 Builders and 4 Designers) cited cost as the greatest challenge to the success of the VCOP, particularly relating to the 'voluntary' situation. While responding positively to the concept of a VCOP in theory, the practical aspects of providing training, overheads for having employees take time off work to undertake the training, and payments required for the infrastructure associated with a VCOP would prohibit the reality of its acceptance. As stated by a respondent:

If it costs the company too much to comply, and if it had no teeth, you would have people who would not comply.

Nonetheless, respondents also questioned why adherence to a VCOP would necessarily incur any further costs than adherence to legislative requirements. In other words:

I can't see anything that would be contained in the voluntary code that would force builders or organisations like ours to spend any more money than they have to meet the legislation anyway.

(ii) Increased bureaucracy

Four respondents (3 Builders and 1 Designer) stated that an increase in bureaucracy or paperwork, perceived or real, would create resistance to the adoption of a VCOP. In particular, concern was expressed that completion of required 'paperwork' to verify adherence to the VCOP would become the focus, rather than *actual* adherence to the VCOP:

...it seems like you've gotta have a piece of paper that proves that you've done something all the time, not that you doing it, but that you're proving or writing a piece of paper to say that you're doing it, which doesn't always necessarily mean that that is what people are doing.

Strategies for adopting and implementing a VCOP

Six (6) suggestions were put forward by respondents as strategies for adopting and implementing a VCOP. These included: government-funded safety training; industry consultation; ease of accessibility to the VCOP; monitoring of the VCOP's usage; inclusion of verified adherence to the VCOP as an essential criterion for tender selection; and development of web-based systems in support of the VCOP. These suggestions are considered in detail below.

a. Safety Training

A majority of eight (8) respondents (4 Designers and 4 Builders) supported the concept of safety training as the best approach for adopting and implementing a VCOP.

It was suggested that safety training for the construction industry should begin during secondary education (high school), so that it would...

Make it part of the culture of life, you have a safety officer that could come into the high school...girls and boys, whether you're going to be a construction worker onsite, whether you're going to work in a shop' it's all safety issues.

Half of the respondents (3 builders and 2 Designers) also commented on the need for funding support for training from government and industry agencies. The availability of funds would allow participation of groups in practical seminars or on-site demonstrations (as opposed to discussions), networking amongst industry stakeholders:

...we could get out and be practical, rather than have a discussion...really getting to the nitty gritty.

Concern was raised that small firms found the cost of having employees in training and paying for that training prohibitive. Respondents stated that they know '*...what we're trying to do...and commend it*'. However; as stated by one Builder:

At the moment we have to go and get paid outside contractors to teach us, you know, all about occupational health and safety. But a return from government would be good.

Strong emphasis was also placed by respondents (4 Designers and 3 Builders) on improving current training, and regulating the standards to be achieved by such training.

...they ran over all the witches hats and dropped two 44 gallon drums off the pallet and nearly ran over the instructor... but got the ticket....

I do think we need to be a little bit more diligent in how we train our staff.

In-house training was also identified as an important need, enabling companies to have control over the quality of content and judgment as to whether objectives were achieved or not. Inductions were cited as useful for raising initial awareness, and respondents stated that you could not have too many of them. If clients provided their own inductions on top of the company's induction, that was fine. Too much training was considered to be far better than none at all, and leaving it...*to chance, if we come across it.*

b. Industry Consultation

Six respondents (4 Designers and 2 Builders) commented on the need for industry consultation prior to and during the implementation of a VCOP. The opportunity to review the VCOP, comment on its effectiveness and the mechanism for implementation, would:

...be a form of easy learning about what its objectives and chance of application is.

c. Accessibility of the VCOP

Five respondents (4 Designers and 1 Builder) stated that some codes, rules and regulations appeared complex and over-extensive in their content. Emphasis should be on practical action required, avoiding use of technical jargon. The use of 'plain language' was also required, along with 'conciseness' in quality, as opposed to quantity of content, otherwise

...a two hundred page manual probably isn't going to be top of the priority list.

Concern was expressed regarding inherent costs that had previously been outlayed in seeking professional advice on the implications of some industry rules and regulations. There was also the issue of time involved in obtaining this advice, and disseminating resultant information to employees. These respondents stated that repetition of such experience had to be avoided, as previously

...one of the guys said if we'd been a bit higher up he would have jumped out of the window but the second level wasn't high enough – to get away from the paper.

Strategies for dissemination of information regarding a VCOP put forward by respondents included the use of trade magazines, television campaigns, brochures from the Builders Registration Board, and the use of well-known personalities in marketing promotions. John Cleese was rated as a good example of management development in practice though the power of personality channelled by the camera!

d. Web-based Systems

All five respondents from the Design industry suggested the use of web-based or technology-driven presentation for the VCOP to facilitate accessibility of the VCOP. Advantages of such systems included opportunity to provide interactive training programs through E-Learning throughout Australia, provision of information internally within companies through intranet, and distribution to wider audiences through internet and email.

Obviously anything that was user-friendly with that would be an advantage so we can easily distribute information.

e. Monitoring of the VCOP

Monitoring adherence to the VCOP was suggested by five respondents (4 Designers and 1 Builder). There was a sense that some stakeholders would not comply with a voluntary code, and resultant difficulty in monitoring compliance. In the words of one respondent:

...voluntary by definition can be ambiguous. And if it's not policed or enforced you'd have to wonder what the strength of it would be. You'd have to give it some teeth...

While half of the respondents expressed the need for monitoring, they did not provide strategies for how such monitoring should be undertaken. Nonetheless, the following strategy relating to tender selection provides some opportunity to consider the aspect of monitoring further.

f. Tender Selection

Five respondents (3 Designers and 2 Builders) suggested that tender selection should be linked to compliance with the VCOP, in support of its adoption. In selling the concept of a VCOP to the 'end user', property owners and government departments could stipulate evidence of adhering to the VCOP as an essential criterion within tenders. Respondents considered that the inclusion of this criterion would 'certify' the legitimacy and relevance of the VCOP, and companies would look to ways of providing that evidence.

Well, if you don't, you don't get the job. You could call that incentive.

Perceived support currently available for implementation of safety standards in the Construction Industry

Respondents (Builders and Designers) cited varying levels of perceived support currently available to them for the implementation of safety standards within their industry. This support was said to originate from consultants and unions. Perceived level of support varied from significant to no support at all.

Role of Consultants

Seven respondents (4 Builders and 3 Designers) stated that consultants provided the greatest source of support in relation to safety knowledge and assistance. Such consultants were frequently brought in on an 'as needed' basis in those companies that were considered too small to employ dedicated occupational health and safety staff. The consultants are used to develop and administer management plans within the companies, visit sites, monitor activities, and facilitate regular (usually monthly) meetings. The major criterion against which consultants are chosen for engagement is their understanding of current codes of practice, regulations and quality-driven work systems.

...we rely on regulations, and we also rely on our consultants and sub-consultants to go away and bring that information back to us.

Role of Unions

A smaller number of respondents (2 Builders and 1 Designer) identified the Unions as playing a significant role in improving safety on work sites. Their positive impact was described by two separate respondents as:

Unions play a huge role in the industry and as much as they get a lot of negative press about work stoppages and so on they have been instrumental in improving safety on the site and that's a credit to them...

and

...they'll go out to the site politely and take note of anything, just observe, onsite, not back from the office and no big fine, no stress...just competent practical help.

Worksafe

Worksafe was identified by seven respondents (4 Designers and 3 Builders) as being the main provider of information regarding safety standards and regulations. This Agency was considered to be a 'central vault' for information regarding terms of code of practice, and minimum best practice standards. Respondents appreciated Worksafe's availability at the end of the telephone to answer queries, give advice on problems, and point callers in the right direction to obtain information. As stated by one respondent:

They [Worksafe] are very very helpful. There's no doubt about that. I mean their job is not only to be policemen, but also to be advisers and give you good directions and assist you in making sure that you understand your obligations and then help you out if you're deficient.

Respondents also identified specific sources of information offered by Worksafe through the use of websites, bulletins, and brochures. Some respondents, nonetheless, expressed concern about whether this information is enough.

We've got some basic guidelines... we try and follow Worksafe guidelines but we don't have a safety system of our own.

Absence of support and presence of uncertainty

However, six respondents (3 Builders and 3 Designers) also reported that they did not receive any support in implementing safety standards in their industry. These respondents stated that the information was out there, but they had to get it themselves. Further, it was perceived that downsizing and outsourcing of functions within State Government agencies (e.g., Department of Housing and Works) meant that safety rules, guidelines and procedures continued to be documented, but there was little practical help in transferring that knowledge from policy into practice. As stated,

I don't see us getting much support from anywhere.

Nevertheless, those who identified an absence of support did not offer suggestions regarding what support they would like. Instead, a magnitude of uncertainty was evident in responses, reflected in the following example:

There doesn't seem to be a standard, if you'd like to say, a standard way of how we think, this is what we think is the safe way of doing something, so this is the standard you should aim for.

Emergent themes

Overall there were several areas in the study that generated strong support from respondents. Table 1 below sets out the main themes that emerged where eight or more respondents held the same view. This is further examined in terms of individual groupings, where either Builders or Designers strongly supported a particular view (four or more respondents out of a possible five from each category).

Table 1: Key emergent themes from SME data

Issues	Categories	Builders (n=5)	Designers (n=5)	Builders & Designers (n=10)
Incentives	Worksafe Blue Card System	4	2	6
	Legislation, Regulations & Duty of Care	2	4	6
	Accreditation	2	3	5
	Indemnity Insurance		4	4
	Reputation	2	2	4
Resistance	Cost	4	4	8
	Increased bureaucracy	3	1	4
Strategies	Safety training	4	4	8
	Industry consultation	2	4	6
	Accessibility	1	4	5
	Web-based system		5	5
	Monitoring	1	4	5
	Tender selection	2	3	5
Requirements to improve safety	Training	4	4	8
Support currently available	Employing consultants	4	3	7
	Worksafe	3	4	7
	Role of Unions	2	1	3

In examining the key themes that emerged from the study the focus from both Builders and Designers was based on the importance of safety training. Other studies have generated similar suggestions. For example, a study by Lingard and Holmes (2001) found that over half the participants in their study emphasised education and training for both workers and employers in relation to on-site procedures and hazardous working situations inherent in construction environments.

There was also a strong, and not unexpected, comment relating to costs associated with safety and training and how this would impact on small to medium operators in the construction industry. According to Cole (2003;12) small business “are frequently undercapitalised and depend on continuous cash flow for their continued business”. Additional cost associated with safety training would therefore not be a priority. As stated above, Lin and Mills (2001) suggest that in their study, many small operators believe that responsibility for risk and safety rests with the employee.

This study showed that designers were united in supporting improved indemnity insurance and felt that improved awareness was created through further regulation and legislation. However, capacity of smaller operators does need to be considered when legislators are determining safety regulations. The ‘one size fits all’ approach

does not consider the variation in OHS concerns of small companies with less than twenty employees, engaged in a single or small number of operations, in comparison with large construction organisations engaged in complex operations involving large numbers of employees and subcontractors. Builders typically found that they needed to engage safety consultants to assist in clarifying perceived complex information associated with safety compliance.

There was also a focus from the Designers on accessibility and using web-based systems as a mechanism for communication with this group that was strongly supported. Further, Designers were concerned that compliance with improved safety standards would need to be supported through monitoring strategies. This is in keeping with Lin and Mills' (2001) study that predicted a stronger emphasis on monitoring compliance, through regular site inspections and safety control, helping clarify the OHS responsibilities of small contractors working on projects.

Conclusion: Retreat or advance on the VCOP?

From the responses to the ten interviews, it appears that there are more perceived advantages to a VCOP, than disadvantages. Respondents acknowledged incentives for a VCOP incorporating:

- accreditation
- possibility of indemnity insurance
- enhanced reputation of companies
- support for meeting legislative requirements, and
- opportunity for a 'star system'.

Concerns with regard to a VCOP were also raised, namely

- increased costs, and
- increased documentation (bureaucracy).

Strategies for adopting and implementing a VCOP were put forward, and these included training, industry consultation, accessibility, provision of web-based systems, monitoring, and inclusion in tender selection. Sources of support for a VCOP within the Construction Industry were also identified by respondents, along with consideration of the uncertainty surrounding its implementation. Overall, respondents acknowledge the complaints around the concept of a VCOP, but also move on to identify the possibilities for safer practice through its conception.

As stated by one respondent, in the absence of a VCOP, it will be left to the events of accidents to establish awareness of safety issues on construction sites, and accidents will therefore always keep happening...

In a classic case, this actually happened on a building down south where a designer who designed this particular two storey house, put on a Juliet balcony... the Shire had approved the plans to give a building license. The balcony was not designed to take that many people, it wasn't meant to have a door on it, it was for show... The way it was structured, the way it was built, with the beam structure, there was no way the beam would support it because it wasn't tied back to the main structure and the guy... the owner sued him and the insurance company paid out half a million dollars...the Shire ducked for cover...three people on the balcony went straight through.

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