



**Australian Government**

**Department of Jobs and Small Business**  
**Office of the Federal Safety Commissioner**



# Regulator Performance Framework Report 2016-17

2016-17 Report



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The document must be attributed as the 2016-17 Report against the Regulator Performance Framework.

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## Executive Summary

In 2016-17, the Office of the Federal Safety Commissioner (OFSC) performed very well against all Framework Key Performance Indicator measures. The OFSC undertook a number of new initiatives, and continued to implement key activities of previous years. The OFSC obtained excellent results and feedback on its performance as assessed in the annual survey of companies accredited under the Australian Government's building and construction Work Health and Safety (WHS) accreditation scheme.

### Key initiatives

The OFSC improved its level of support for accredited companies (regulated entities) as well as those seeking accreditation. It achieved this through consultation, provision of improved guidance materials and active collaboration with regulated entities.

During 2016-17 the OFSC implemented a number of enhancements to online services to assist regulated entities. For example, it developed a new on-line database that will provide details of upcoming building projects and tenders that are funded by the Australian Government and require accreditation. It is expected the database, when released to the public in 2017-18, will make it easier for regulated entities to prepare for tenders and encourage more companies to become accredited. The OFSC also built on and improved the IT developments of the previous year, which enabled online access to audit reports and digitisation of all reporting functions, to continue to simplify and increase the efficiency of interactions with regulated entities.

The OFSC continued to implement its risk based compliance model in 2016-17. As at 30 June 2017, 67 per cent of accreditations have been given a risk rating (up from 45 per cent a year ago). The risk model has allowed the OFSC to better target resources to regulated entities that have a higher risk rating/profile. Strongly performing companies (ie regulated entities with a lower risk rating) are rewarded with a reduced compliance burden in terms of audits and related paperwork.

The OFSC was effective in collaborating with regulated entities to ensure all audits occur at a mutually agreed time and that all companies receive audit notification and criteria scope prior to audit, to ensure effective and efficient conduct of the audit.

The OFSC continued to develop and provide information on work health and safety and OFSC accreditation, including factsheets and reports. It also established a twitter account to raise the OFSC profile and connect with accredited builders.

## Key results

The annual survey, undertaken in June 2017, produced results consistent with the 2016 survey. It found:

- 97 per cent of respondents were satisfied with the level of service provided by the OFSC.
- 84 per cent of respondents considered the Scheme represents value for money.
- 98 per cent of respondents agreed that the OFSC guidance material was readily accessible and 84 per cent agreed the material was easy to understand.

The results for the OFSC's timeliness measures in 2016-17 indicate it is providing a timely service to regulated entities for key elements of the accreditation process, with:

- 93 per cent of accreditation applications assessed and contact made with the applicant within 10 working days.
- 87 per cent of audits reviewed and sent to regulated entities within 20 working days from their audit.
- 94 per cent of respondents to the OFSC annual survey rated OFSC's responsiveness as 'good' or 'very good'.

## Background

### OFSC

The OFSC administers the Australian Government building and construction Work Health and Safety Accreditation Scheme (the Scheme).

The Scheme is established under the *Building and Construction Industry (Improving Productivity) Act 2016* and the *Fair Work (Building Industry-Accreditation Scheme) Regulation 2016*.<sup>1</sup> The Australian Government uses its purchasing power to require building companies to be accredited if they wish to enter head contracts for Commonwealth funded building projects valued above certain financial thresholds.

The Scheme is voluntary and is designed to ensure that only best practice health and safety systems and procedures are in operation on Commonwealth-funded building projects.

During the 2016-17 period, the OFSC had 28 staff and had 27 consultants appointed as Federal Safety Officers (FSOs) to undertake Scheme audits.

### Regulated entities

For the purposes of this report, 'regulated entities' refers to construction companies that are accredited or seeking accreditation under the Scheme.

As at 30 June 2017 there were 421 companies accredited under the Scheme. There were 302 single company accreditations and 45 joint accreditations involving 119 companies. Over 2016-17, 37 companies achieved accreditation and 27 companies ended their accreditation due to withdrawing from the Scheme or not applying for reaccreditation at the end of their accreditation period.

Since the OFSC was established, it has been notified of 1597 directly and indirectly funded contracts for building work covered by the Scheme with a combined value of over \$97 billion.

### Regulator Performance Framework and the OFSC

All Commonwealth regulators that administer, monitor or enforce regulation are required to implement the Australian Government Regulator Performance Framework.

The Framework contains six pre-determined Key Performance Indicators (KPI) which are standard for all regulators. Individual regulators, including the OFSC, have developed a range of measures and identified relevant evidence that assess the success against each KPI.

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<sup>1</sup> The *Fair Work (Building Industry – Accreditation Scheme) Regulation 2016*, made under section 35 of the *Fair Work (Building Industry) Act 2012* (FWBI Act), was continued in force after the repeal of the FWBI Act as rules made for the purposes of section 43 of the *Building and Construction Industry (Improving Productivity) Act 2016* (see item 11 of Schedule 2 to the *Building and Construction Industry (Consequential and Transitional Provisions) Act 2016*).

The OFSC’s performance measures have been endorsed by the Federal Safety Commissioner (FSC) as the OFSC’s accountable authority, and approved by the then Minister for Employment.

The OFSC’s measures are summarised in Table 1 below and are available in full from the OFSC website at:

<http://www.fsc.gov.au/sites/fsc/resources/az/pages/regulator-performance-framework-measures> .

**Table 1 – OFSC Regulatory Performance Framework summary table**

| Key Performance Indicator  | Measure  |
|--|--|
| KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities.   | <b>1.1</b> OFSC uses appropriate methods to provide support and guidance for regulated entities in their dealings with the OFSC and continuously improves those methods in light of experience                     |
|  | <b>1.2</b> The OFSC engages with regulated entities and peak bodies to continuously improve by monitoring and refining practices and requirements where practicable  |
|  | <b>1.3</b> The OFSC undertakes periodic formal reviews   |
| KPI 2: Communication with regulated entities in clear, targeted and effective                  | <b>2.1</b> The OFSC provides information and advice that is up to date, clear, accessible, concise and appropriate to target audience to make it easier for regulated entities to comply with obligations          |
|  | <b>2.2</b> OFSC dealings with regulated entities are undertaken in a transparent and timely manner with clear advice about actions required and the reasons.   |
| KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed | <b>3.1</b> The OFSC applies a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. The risk-based compliance model is regularly re-assessed                |
|  | <b>3.2</b> OFSC recognises the compliance record of regulated entities including using earned autonomy for those with a strong compliance track record. All available relevant data on compliance is considered.   |
| KPI 4: Compliance and monitoring approaches are streamlined and coordinated.                   | <b>4.1</b> OFSC takes a streamlined and co-ordinated approach by working with states and territories to ensure maximum recognition of the Scheme as meeting the WHS components of their pre-qualification schemes. |
|  | <b>4.2</b> Regulated entities are provided with sufficient notice of intended site audits and mutually acceptable audit dates are negotiated to minimise business interruption.                                    |
| KPI 5: Regulators are open and transparent in their dealings with regulated entities.          | <b>5.1</b> The OFSC publishes its risk based framework, assessment criteria and a range of guidance material in a format which is clear, understandable and accessible.  |
|  | <b>5.2</b> The OFSC demonstrates responsiveness to requests from regulated entities and complaints.  |



| Key Performance Indicator   | Measure   |
|---|---|
| KPI 6: The Regulator actively contributes to the continuous improvement of regulatory frameworks. | 6.1 OFSC has co-operative relationships with regulated entities which makes it easy for them to contribute to improving the regulatory framework. |
|   | 6.2 OFSC has co-operative and collaborative relationships with stakeholders involved in WHS regulatory activities.                                |

This report discusses the OFSC’s performance outcomes against the six pre-determined KPIs and the associated regulator specific measures for the 2016-17 period.

## KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities

### Measure 1.1

*The OFSC uses appropriate methods to provide support and guidance for regulated entities in their dealings with the OFSC and continuously improves those methods in light of experience.*

#### Support and guidance for regulated entities

The OFSC takes a collaborative approach to the Scheme’s accreditation application and audit processes. It works with regulated entities until they reach the required standard or they elect to discontinue their application.

The OFSC provides comprehensive accreditation guidance material including key policy documentation, which is available on its website: [www.fsc.gov.au](http://www.fsc.gov.au). The OFSC’s online application system and reporting forms also include in-context guidance material which is written in plain language. Feedback from accredited companies in the 2017 annual feedback survey included that with respect to the OFSC’s online system:

*“FSC Online is easy to use and a time saving tool”*

As mentioned in the 2015-16 report, OFSC has responded to consultation feedback by developing a fact sheet to clarify Verification of Competency (VoC) requirements for mobile plant operators. The OFSC consulted with Safe Work Australia to ensure common message from both agencies and tested the fact sheet with FSOs. The [VoC fact sheet](#) was published on [www.fsc.gov.au](http://www.fsc.gov.au) on 8 February 2017.

The OFSC provides additional support to regulated entities via the FSC telephone assist line and mailbox. In 2016-17 the OFSC responded to 687 phone calls and 97 emails and responded to enquiries on average within one business day. Table 2 below provides a breakdown of enquires by category.

**Table 2 – Type and number of enquiries received by the OFSC during 2016-17**

| Enquiries by Topic              | Number of Enquiries* |
|---------------------------------|----------------------|
| Application Process Information | 141                  |
| Reporting                       | 106                  |
| Policy Advice                   | 102                  |
| Scheme Requirements             | 62                   |
| Audit Process and Requirements  | 43                   |
| E-Citizen/FSC Online            | 33                   |
| Roadshows                       | 31                   |
| Other                           | 266                  |
| <b>TOTAL</b>                    | <b>784</b>           |

\* Enquiries includes those received by the OFSC both by email and telephone

## Measure 1.2

*The OFSC engages with regulated entities and peak bodies to continuously improve by monitoring and refining practices and requirements where practicable.*

### Consultation with regulated entities and peak bodies

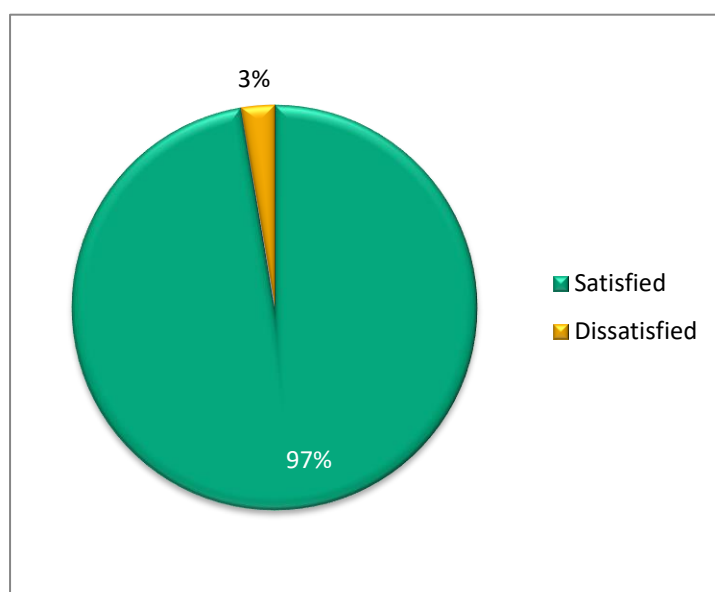
As part of its normal business, the OFSC conducted meetings and discussions with individual regulated entities, funding agencies, industry associations and WHS regulators. This included discussions about audits, audit results, fatalities and serious incidents. In addition, the OFSC met with its Industry Reference Group (IRG) consultative body in February 2017 (refer to measure 6.1 for further information) and undertook a range of broader communication and consultation forums to address whole of industry issues.

### Annual survey of regulated entities

In June 2017 the OFSC distributed its annual feedback survey to 348 accredited entities, of which 193 completed the survey. This represents a response rate of 55.5 per cent. This compares to a response rate of 62.7 per cent (225 out of 359 companies) in 2015-16.

Figure 1 shows that 97 per cent of regulated entities were satisfied with the level of service provided by the OFSC. This compares to 96 per cent in 2015-16.

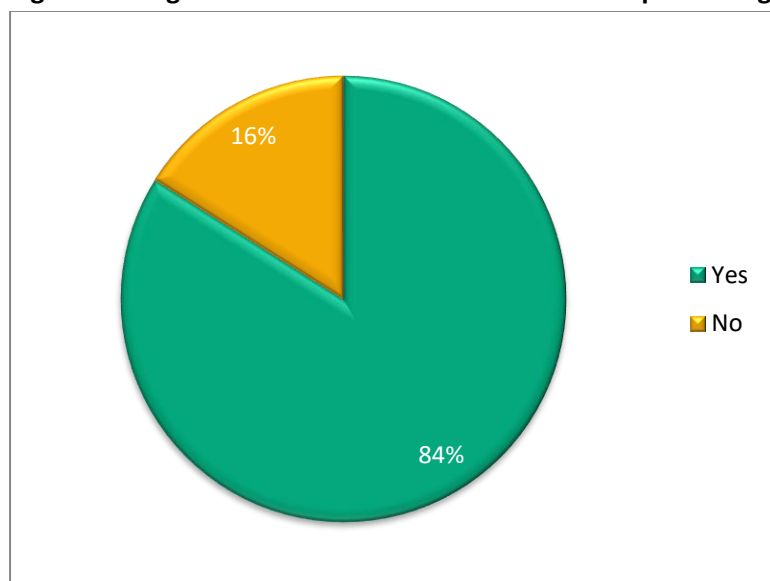
**Figure 1 – Regulated entities' satisfaction with the level of service by the OFSC**



The OFSC also asked regulated entities about the cost of accreditation relative to the value they receive from participation in the Scheme. While there is no direct charge for accreditation, there may be some costs for regulated entities in complying with the Scheme.

Figure 2 shows that 84 per cent of respondents considered the scheme represents value for money (down from 91 per cent in 2015-16).

**Figure 2 – Regulated entities’ view of the Scheme representing value for money**



#### **Audit feedback survey questionnaires**

The OFSC distributes voluntary feedback forms to regulated entities that have been audited to capture information on their audit experience. While OFSC achieved a lower response rate than for the survey (less than 10 per cent responded), the feedback was used to improve OFSC services.

The post audit feedback in 2016-2017 was an improvement on the previous year with the majority of respondents responding positively about audit processes. They consider FSOs to be knowledgeable and helpful and that their experience with OFSC staff is positive and collaborative. There were some concerns regarding the timely provision of audit notification letters and audit reports, and about FSO consistency in interpreting and applying the audit criteria consistent with the annual survey result.

As a result of this feedback, the OFSC continues to consult with industry representatives and FSOs, including at the meeting of the Industry Reference Group in February 2017 (refer Measure 6.1) and the FSO Forum held in April 2017. Discussions with FSOs at the forum addressed consistency in interpretation of the OFSC audit criteria and OFSC continues to monitor this in reviewing audit reports. In regard to timeliness, OFSC data shows 87 per cent of audit reports are delivered to regulated entities within 20 days of the audit date. This exceeds OFSC’s target of 80 per cent.

#### **Targeted initiatives in 2016-17**

In 2016-17 OFSC developed a new on-line database called *Agency Reporting Online*. The database enables all Commonwealth Government agencies to enter and update details of upcoming building projects and tenders that are funded by the Australian Government and require Scheme accreditation.

The aim of the database is to provide up-to-date building project information that regulated entities can use to identify future building opportunities. It is expected that with advanced notice of potential tender opportunities, building and construction businesses will have increased timeframes to prepare for tender, including to attain accreditation under the WHS Accreditation Scheme as part of tender eligibility requirements.

The OFSC adopted a user centred design approach to develop the database and engaged with industry and Commonwealth agencies to ensure it is fit for purpose. The database will be made available to the public in 2017-18.

### **Measure 1.3**

*The OFSC undertakes periodic formal reviews.*

#### **New review frameworks**

The OFSC undertook a comprehensive review of the Scheme in 2014. The review recommended that Scheme financial thresholds be reviewed every three years and a comprehensive review of the Scheme be undertaken every five years.

The aim of the Scheme threshold review, scheduled for 2017-18, is to ensure that as price movements and inflation increase the cost of building and construction activities, coverage of the Scheme and therefore regulated entities is not artificially expanded due to these industry price increases leading to smaller projects being captured by the static Scheme financial thresholds.

The next comprehensive Scheme review is scheduled for 2019-20. The OFSC has put in place a new review framework to guide the review process which will again include consultation with industry.

## KPI 2 – Communication with regulated entities is clear, targeted and effective

### Measure 2.1

*The OFSC provides information and advice that is up to date, clear, accessible, concise and appropriate to the target audience to make it easier for regulated entities to comply with their obligations.*

#### Quality assurance of information and advice

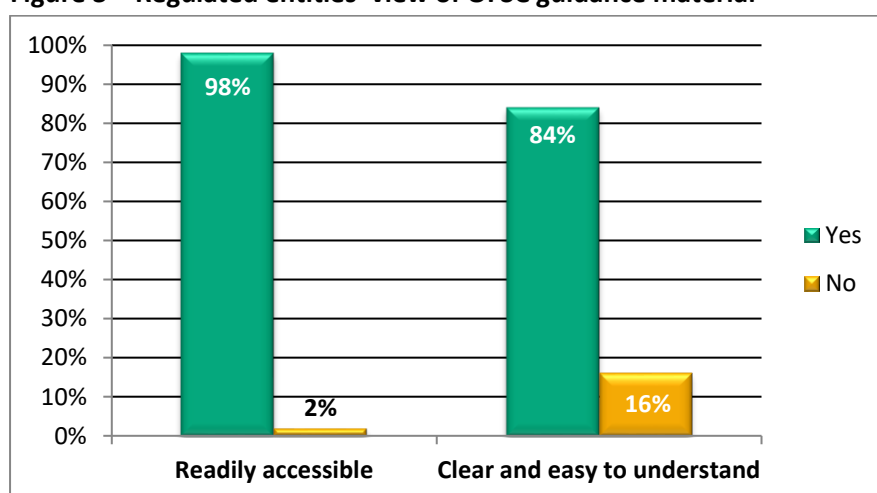
All OFSC material is subject to approval by the relevant Director and where appropriate, the FSC, to ensure the information is clear, consistent and targeted. All online material must also satisfy the Government’s web accessibility guidelines.

The OFSC’s guidance material is reviewed and updated in response to feedback from key stakeholders and emerging issues. Selected new guidance material is also tested through a range of stakeholders including the reference groups, industry associations, FSOs and government agencies prior to release.

#### Regulated entity feedback on guidance material

The 2017 regulated entity survey asked entities whether the OFSC’s guidance materials are readily accessible and easy to understand. Figure 3 provides a summary of regulated entity feedback. Overall, 98 per cent of respondents agreed that the OFSC guidance material was readily accessible and 84 per cent agreed the material was easy to understand. This is a similar result to 2015-16 (98 and 85 per cent respectively).

**Figure 3 – Regulated entities’ view of OFSC guidance material**



According to the survey about 16 per cent of regulated entities did not find the OFSC guidance material easy to understand. As was the case in 2015-16, most of these respondents commented that the audit criteria were difficult to interpret and apply.

The survey result contrasts with audit feedback where 90 per cent of respondents agreed or strongly agreed they could find the audit criteria on the internet and that the criteria were easy to understand. This compares to 94 per cent in 2015-16. Feedback from the 2017 annual survey of accredited companies included:

*“OFSC has provided clear criteria and required evidence on their website to enable us as a company to understand our obligations in meeting the accreditation system.”*

*“The [FSC audit] criteria and possible evidence along with the evidence guide has created consistency in what auditors should be looking for.”*

Nevertheless, the OFSC works with companies to support their understanding of and compliance with Scheme criteria, and will continue to update guidance material as required.

### **Website and FSC Online**

The OFSC provides regulated entities with comprehensive information about the Scheme through its independent website at [www.fsc.gov.au](http://www.fsc.gov.au). During 2016-17 the website hosted 53,936 visitor sessions, which is similar result to 2015-16 (55,572 sessions). 72 per cent of the sessions in the reporting period involved new visitors to the site compared to 64 per cent in 2015-16.

The OFSC has uploaded to its website the following material in 2016-17: the [Verification of Competency- Mobile Plant fact sheet](#), three biannual data analysis reports, the [results of the 2016 Survey of Accredited contractors](#), the [2015-16 Regulator Performance Framework Report](#) and [news articles](#). It also made revisions to key documents, including the [OFSC reporting guide](#), the [accreditation application form](#) and various [fact sheets](#).

In 2016-17 OFSC established a twitter account to raise its profile and connect with accredited builders. As at 30 June 2017 it has 190 twitter followers.

In addition to the OFSC’s website and social media presence, regulated entities can use ‘FSC Online’ (online application and reporting system) to submit applications and their Work Health and Safety (WHS) performance reports under the Scheme. Audit due dates and details are provided. Regulated entities can now download a copy of the audit report including Corrective Action Report analysis.

In 2016-17 OFSC has continued to maintain and enhance FSC Online through monitoring feedback from users and implementing changes as required. The system’s inbuilt guidance was subject to changes as well to meet the requirements of users. Feedback from the 2017 annual survey of accredited companies included:

*“Online processing is an improvement and records that relate to current and previous projects are easy to locate.”*

*“After 6 years in the scheme I can honestly say I have seen a vast improvement in submission and information availability.”*

*“The reporting system has been made easier with information being inputted onto the OFSC website, providing transparency and easier collation of historical safety data.”*

## Measure 2.2

*OFSC dealings with regulated entities are undertaken in a transparent and timely manner with clear advice about actions required and the reasons.*

### **OFSC transparency**

The OFSC ensures responsiveness by adopting a collaborative approach when working with regulated entities. Once they have applied for accreditation, regulated entities are given a designated contact within the OFSC that they can call if they have any questions about the process. The OFSC also maintains a telephone service and email enquiry mailbox to assist with handling questions or concerns from regulated entities. The OFSC returns telephone and email enquiries on average within one working day.

The OFSC publishes its performance against KPIs in the Department of Jobs and Small Business's annual reports and in its [Regulator Performance Framework Reports](#). The results of its [annual surveys](#) of regulated entities are published on its website as well.

OFSC correspondence provides details of a regulated entity's risk rating and how this has been determined, providing regulated entities with the ability to identify weaknesses in their systems and areas to focus on to achieve improvement and maintain accreditation. The risk rating system is discussed further under KPI 3.

In correspondence with regulated entities, the OFSC identifies relevant legislative provisions and other materials supporting FSC decisions or requirements of regulated entities. Timeframes and OFSC contacts are also provided. This is particularly relevant in correspondence about show-cause, revocation of accreditation and conditions of accreditation.

### **Performance against timeliness indicators**

The OFSC has timeliness KPIs (see below) to track its performance against key components of the accreditation process. It provides annual reports on these measures to its reference group meetings and invites feedback on them from group members. In 2016-17 the OFSC achieved its responsiveness targets in relation to activities associated with the accreditation of regulated entities:

- 87 per cent of applicants received an acknowledgement within 5 working days of lodging their application.
- 93 per cent of accreditation applications were assessed and contact was made with the applicant within 10 working days. This exceeds OFSC's target of 90 per cent.
- 87 per cent of audit reports were reviewed and sent to companies within 20 working days from the audit date. This is a new timeliness target which was introduced in 2016-17. The result exceeds OFSC's target of 80 per cent.

The 2017 survey asked regulated entities to rate OFSC responsiveness to enquiries. The survey results indicate 94 per cent of respondents rated OFSC's responsiveness as 'good' or 'very good'. This is the same result as in 2016.



## KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed

### Measure 3.1

*The OFSC applies a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. The risk-based compliance model is regularly re-assessed*

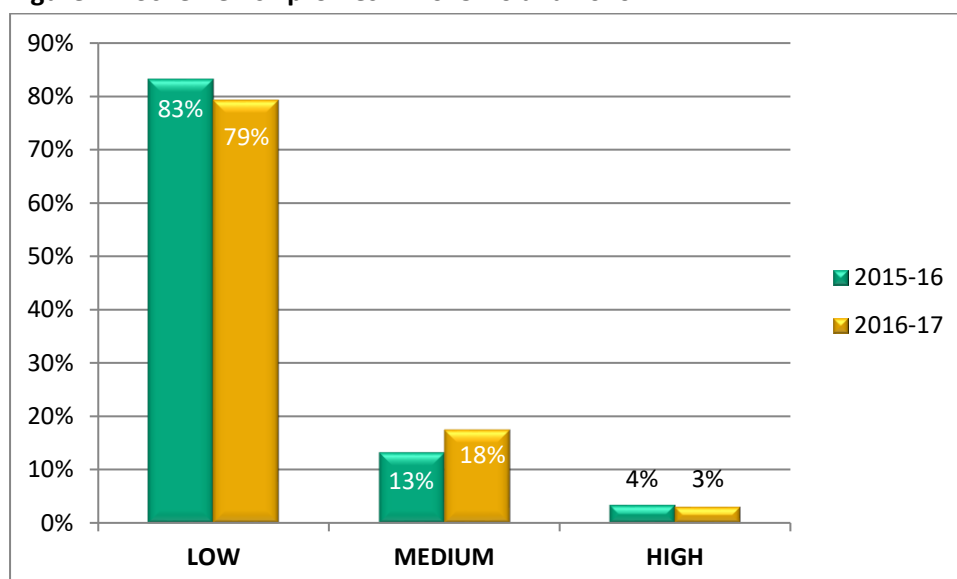
#### Risk rating statistics

The OFSC has a risk based accreditation model to target audit resources to regulated entities with a higher risk of non-compliance with Scheme criteria.

The OFSC implemented the risk model in 2015 and has been progressively rating regulated entities based on audit results. As at 30 June 2017, 67 per cent of accreditations had been given a risk rating (up from 45 per cent a year ago).

Figure 4 provides a breakdown of accreditations with a low, medium and high risk rating and compares the overall risk profile of regulated entities in the reporting period with 2015-16. It shows there has been a 5 per cent increase in the number of regulated entities with a medium risk rating.

**Figure 4 – Scheme risk profiles in 2015-16 and 2016-17**



The OFSC conducts periodic audits of all regulated entities but the compliance burden is reduced for 'lower risk' regulated entities that consistently demonstrate high performance in complying with the Scheme requirements over time (see Measure 3.2 for details).

For high risk regulated entities the OFSC undertakes early engagement to address issues, holds meetings between the FSC and company CEOs, increases audit frequency and, as a last resort, imposes conditions, suspends or revokes the accreditation of companies. In 2016-17 one company lost its accreditation due to poor safety procedures and performance.

## Measure 3.2

*OFSC recognises the compliance record of regulated entities including using earned autonomy for those with a strong compliance track record. All available relevant data on compliance is considered.*

### **Benefits to regulated entities of the risk based approach**

The OFSC takes regulated entity risk ratings into account in determining the number of site audits it conducts in monitoring accredited entities or assessing applications for reaccreditation.

The risk level of a regulated entity is determined by the entity's performance against specified risk indicators. These indicators emphasise performance at audit, including the number and nature of non-conformances, non-conformance closure rate, incident trends, fatalities, adherence to reporting requirements and whether the entity has any further conditions applied to its accreditation or any outstanding compliance action.

For regulated entities with a strong track record of compliance with these indicators, an annual audit is the only site based intervention undertaken by the OFSC. Further, at reaccreditation, good performance by a company will result in a streamlined and shortened application and reaccreditation audit process when compared to other companies with a lower performance and higher-risk rating. Other companies seeking reaccreditation will be required to undertake a full application process, which involves mapping all WHS systems against all accreditation criteria, and undergo multiple-day site audits where all relevant accreditation criteria are reviewed, with follow-up audits until all WHS issues are addressed.

High performing regulated entities will also receive the maximum available period of six years' accreditation, compared with other companies who may only receive three years' accreditation. As at 30 June 2017, 79 per cent of companies due for reaccreditation have been eligible for annual audits and a streamlined reaccreditation process. Feedback from the 2017 annual survey of accredited companies included:

*"Improvements to the reaccreditation process certainly made for a more streamlined and less onerous process."*

## **KPI 4 – Compliance and Monitoring Approaches are streamlined and coordinated**

### **Measure 4.1**

*OFSC takes a streamlined and co-ordinated approach by working with states and territories to ensure maximum recognition of the Scheme as meeting the WHS components of their pre-qualification schemes.*

#### **Recognition of Scheme by state and territory prequalification schemes**

As at 30 June 2017 all jurisdictions, except Tasmania, had agreed to recognise the Scheme as automatically meeting their state and territory prequalification work, health and safety requirements for builders wishing to undertake state and territory funded construction projects. The OFSC is working with Tasmania to achieve Scheme recognition.

Over 90 per cent of regulated entities surveyed in 2017 stated state and territory recognition of the Scheme is likely to benefit them and all accredited entities.

### **Measure 4.2**

*Regulated entities are provided with sufficient notice of intended site audits and mutually acceptable audit dates are negotiated to minimise business interruption.*

#### **Audit scheduling**

In 2016-17, the OFSC conducted 422 audits of regulated entities (11 of these were desktop audits). Some entities seeking initial accreditation may have been audited on multiple occasions in order to satisfy the Scheme requirements.

The OFSC works with regulated entities to identify appropriate worksites and dates to undertake an audit. The OFSC seeks to minimise the regulatory burden and avoid double up in audits by notifying relevant state and territory regulators twice a month of OFSC audits to occur in each jurisdiction. The OFSC is flexible in scheduling dates that don't coincide with a regulated entity's own obligations (for example in regard to certification and training).

All regulated entities receive an audit notification and criteria scope prior to OFSC audit to assist in effective and efficient conduct of the audit. Feedback from the 2017 annual survey of accredited companies included:

*“The audits and reporting has helped with overall compliance on site. Following all the system and safety performance criteria has helped us as a company to improve our systems. On site the work teams have been trained and updated on system and safety improvements and requirements to bring performance to a higher level.”*

## KPI 5 – Regulators are open and transparent in their dealings with regulated entities

### Measure 5.1

*The OFSC publishes its risk based framework, assessment criteria and a range of guidance material in a format which is clear, understandable and accessible.*

#### **Regulated entity access to information**

The OFSC has developed a comprehensive suite of information for regulated entities and client agencies, including [audit criteria and guidelines](#), [OFSC reporting guide](#), [OFSC compliance policy](#), [survey results](#) and [fact sheets](#).

Essential information is sent to regulated entities during the accreditation process and all information is available on the FSC's website [www.fsc.gov.au](http://www.fsc.gov.au). This includes the assessment criteria and guidance material for regulated entities and agencies. The OFSC is currently finalising a fact sheet on the risk based framework.

The FSC Online application and reporting system is discussed under Measure 2.1. As noted previously, the OFSC has developed its online resources to promote greater Scheme transparency and ease of access to audit and risk assessment results or plain language guidance material.

The 2017 annual survey indicated that 97 per cent of respondents considered all the information they needed was available on the OFSC website. This is the same result as in 2016. Feedback from the 2017 annual survey of accredited companies included:

*“OFSC has a recognised reputation for setting a high standard of safety compliance. There is a sound framework which organisations can use to support the implementation and management of a safety management system.”*

### Measure 5.2

*The OFSC demonstrates responsiveness to requests from regulated entities and complaints.*

#### **OFSC responsiveness**

As discussed in previous measures, the OFSC takes a transparent and collaborative approach to the accreditation and audit process and is highly responsive to requests for information or assistance from regulated entities. As noted on page 16, the OFSC survey results indicate that 94 per cent of respondents rated the OFSC's responsiveness as 'good' or 'very good'.

OFSC is responsive to the needs of all companies including small companies and those operating in remote locations. The audit criteria are adaptable to both the size of the company and the scope and nature of the building work undertaken. The OFSC is able to conduct audits Australia wide, including in remote locations. When scheduling audits, the OFSC will give priority to entities seeking accreditation in a tender situation or those engaging in short term works.

The OFSC assists international companies obtain accreditation. The OFSC provides a modified audit process commencing with a desktop audit of the international company's Work Health and Safety Management System (WHSMS) by an FSO. The company is provided with general findings against their WHSMS and an overseas audit is conducted by an FSO to allow the company to demonstrate implementation of its WHSMS. This overseas audit is comprised of two two-day audits with a single day gap between audits to allow the company to address any non-conformance issues. This approach enables international companies to achieve accreditation whilst maintaining competitive neutrality for domestic building companies.

### **Complaints**

The OFSC encourages regulated entities to engage with and resolve any issues with their dedicated OFSC audit contact in the first instance. Any issues that are unable to be resolved will be escalated, up to and including, the FSC.

The OFSC also has a formal complaints process whereby regulated entities can lodge a formal complaint through the audit officer, telephone assist line or the OFSC inbox. For a complaint to be investigated as a formal complaint it must be lodged using the [OFSC's Complaints Form](#).

In addition, the *Fair Work (Building Industry-Accreditation Scheme) Regulation 2016* lists a range of FSC decisions that can be reviewed. [The review process](#) is detailed on the OFSC website and commences with an internal review. If a regulated entity is not satisfied with the review decision it can take its concerns to the Administrative Appeals Tribunal.

During 2016-17 one formal complaint was lodged with the OFSC; and as a result of a decision to revoke a company's accreditation during this period an appeal was lodged in July 2017.

## KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks

### Measure 6.1

*OFSC has co-operative relationships with regulated entities which makes it easy for them to contribute to improving the regulatory framework.*

#### **Continuous improvement activity**

The OFSC has two stakeholder forums which provide feedback on continuous improvement options.

[The Industry Reference Group](#) promotes information sharing, facilitates feedback from industry and provides advice to the FSC. It has ten members drawn from a cross section of industry bodies and accredited entities to ensure a balance of views.

At the February 2017 reference group meeting members provided an update on work being undertaken by industry bodies in relation to safe use of elevated work platforms. Members suggested themes for best practice workshops being considered by the OFSC, and discussed the FSC's new audit function relating to compliance with National Construction Code performance requirements for building products.

[The Australian Government Agency Reference Group](#) is the consultation forum for client agencies. It has nine members drawn from major Australian Government construction procurement agencies. This forum did not meet in 2016-17, although bilateral meetings were held with agencies as required to develop the OFSC Agency Reporting Online database (refer Measure 1.2).

The OFSC's consultation activity is summarised under Measure 1.2. In the 2017 survey, regulated entities suggested a range of improvements to the Scheme and OFSC communications, which the OFSC is considering. They include matters relating to:

- the application, audit and reporting process;
- provision of training and information;
- promotion and recognition of the Scheme and safe work initiatives; and
- aligning the scheme with the WHS requirements of other regulators.

#### **Implementation of new regulatory function**

In December 2016 the OFSC received a new legislative function – auditing compliance with the National Construction Code (NCC) performance requirements in relation to building materials.

To give effect to this function, the FSC wrote to all accredited companies, making compliance with the NCC a condition of accreditation. The FSC also issued revised 'model clauses' for use in all tenders, contracts and funding/grant agreements for Commonwealth-funded building work covered by the Scheme, requiring that the NCC must be complied with as a condition of the agreement or contract.

The OFSC has also been scoping approaches to implement the audit requirement. This is being done in a manner consistent with regulator key performance indicators of:

- Not unnecessarily impeding the efficient operation of regulated entities.
- Communicating with regulated entities in a clear, targeted and effective manner.
- Proposing actions that are proportionate to the risk being managed.
- Compliance and monitoring approaches are streamlined and coordinated.
- Being open and transparent in dealings with stakeholders.

The OFSC has been working with regulated entities to identify auditing options and criteria, and assess how best to implement this function. The OFSC has worked with select companies to undertake pilot audits of proposed criteria. Regulated entities have expressed appreciation at being consulted as the OFSC develops the implementation approach for the new function.

## **Measure 6.2**

*OFSC has co-operative and collaborative relationships with stakeholders involved in WHS regulatory activities.*

### **Consultations with other WHS regulators**

In 2016-17 the OFSC held meetings with WHS stakeholders, including Safe Work Australia and state and territory WHS regulators. These meetings focussed on areas of broad concern to the industry and included consideration of the ways that Scheme reach could be used to highlight industry wide issues, examples of best practice, and solutions to WHS issues. These discussions are ongoing.

*“Having a government body drive industry best practice, and backing that up with the commitment to use contractors who embrace it, is a powerful driver of change.”*