



**The Hon Tony Burke MP**  
Minister for Employment and Workplace Relations  
Minister for the Arts  
Leader of the House

Reference: MS24-000025

Mr David Denney  
Federal Safety Commissioner  
Office of the Federal Safety Commissioner  
Department of Employment and Workplace Relations  
15 National Circuit  
BARTON ACT 2600

By email: [David.Denney@dewr.gov.au](mailto:David.Denney@dewr.gov.au)

Dear Mr Denney

I am writing to acknowledge the valuable work of the Office of the Federal Safety Commissioner (OFSC) and to provide you with strategic direction in the form of the enclosed Ministerial Statement of Expectations.

As outlined in the Department of Finance's *Regulator Performance (RMG128)*, Ministerial Statements of Expectations issued to a regulator provide greater clarity about Government policies and objectives relevant to the regulator in line with their statutory objectives, and the priorities the Minister expects them to observe in conducting their operations.

I would appreciate your response to this letter in the form of a Statement of Intent, outlining how the OFSC intends to meet the enclosed expectations.

For transparency and accountability purposes, I request the Ministerial Statement of Expectations and your responding Statement of Intent be published and made available on your website. These statements should also be incorporated into *Public Governance, Performance and Accountability Act 2013* processes, (for example, including a link to the published Ministerial Statement of Expectations and Statement of Intent in relevant corporate documents) for best practice.

Yours sincerely

A handwritten signature in blue ink that reads 'Tony Burke'.

**TONY BURKE**

27/3/2024

**Encl.**

## MINISTERIAL STATEMENT OF EXPECTATIONS TO FEDERAL SAFETY COMMISSIONER-2024

Ministerial Statements of Expectations provide greater clarity about Government policies and objectives relevant to a regulator in carrying out its statutory functions. As the Australian Government Minister responsible for Employment and Workplace Relations, my responsibilities include the *Federal Safety Commissioner Act 2022*. (This statement sets out my expectations in relation to the Federal Safety Commissioner and his office, The Office of the Federal Safety Commissioner.)

### Overview

The Federal Safety Commissioner is a statutory appointment under the *Federal Safety Commissioner Act 2022* (FSC Act) responsible for administering the Work Health and Safety Accreditation Scheme (the Scheme) and promoting building and construction safety.

Under the FSC Act, the Federal Safety Commissioner's functions are to:

- Promote work health and safety in relation to building work undertaken by a constitutional corporation, the Commonwealth or a corporate Commonwealth entity;
- Perform functions as the accreditation authority for the purposes of the Scheme;
- Promote the benefits of the Scheme and disseminate information about the Scheme;
- Audit compliance with the National Construction Code performance requirements in relation to building materials;
- Refer matters to other relevant agencies and bodies; and
- Any other functions conferred on the Federal Safety Commissioner by the FSC Act or by another Act.

The Government recognises and respects the independence of the Federal Safety Commissioner and their responsibility for the performance of their statutory functions. I expect the Federal Safety Commissioner and his office to exercise their functions and powers in good faith and to the best of their ability.

### Principles of regulator best practice

I expect the Federal Safety Commissioner to embed and act in accordance with the Government's principles of regulator best practice contained in *Regulator Performance (RMG 128) / Department of Finance* when conducting their operations.

In exercising their functions and powers in accordance with these principles, I further expect the Federal Safety Commissioner to reflect the following priorities:

#### 1. Continuous improvement and building trust

- Improve how they exercise their powers and deliver their legislated functions, while remaining flexible and responsive to changed circumstances.
- Take into account and respond to community expectations of good regulatory practice.
- Have external accountability processes encouraging procedural fairness, accessibility and responsiveness that builds public trust.
- Support the independent review of the Federal Safety Commissioner in 2023.

## 2. Risk-based and data-driven

- Adopt a risk-based approach which is informed by data, evidence and intelligence.
- Assess properly the risks of non-compliance and respond in a proportionate way to the harm being managed.
- Improve efficiency by prioritising limited resources on areas of greatest risk.
- Ensure regulatory approaches keep pace with changes in technology, industry practices and community expectations.

## 3. Stakeholder engagement

- Being transparent, open and responsive to feedback on how a regulator operates, engaging in genuine two-way dialogue with stakeholders - including building and construction companies, industry associations, unions and State and Territory WHS regulators - on performance.
- Should clearly communicate regulatory processes and be transparent about the decision-making criteria.
- Genuine consultation processes are in place to ensure that stakeholders are engaged in essential decisions that involve them, with critical information shared in a timely way.
- Embed processes to provide the industry with opportunities to provide feedback on operational regulatory design, including co-design of solutions where appropriate.

The Federal Safety Commissioner should incorporate performance reporting into their reporting processes, as required under the *Public Governance and Performance Accountability Act 2013* (PGPA Act), and the best practice principles of the *Regulator Performance (RMG 128)* mentioned above should be incorporated into their corporate documents and reporting processes to support greater transparency and accountability of their performance.

As part of the Federal Safety Commissioner's performance reporting arrangements, I expect consideration be given to how the Federal Safety Commissioner can demonstrate the benefit derived from their powers and functions, including whether workers engaged by companies accredited under the Scheme are better-off.

### **Innovation and regulatory change**

As a modern regulator, I expect the Federal Safety Commissioner to continually monitor the environment it operates in to ensure that regulatory approaches keep pace with changes in technology, industry practices and community expectations. I also expect it to regularly review, and where necessary, adjust policies, protocols and operating procedures, to ensure the agency can respond to the changing social, technological and commercial context in which it operates.

### **The Government Policy Priorities and Objectives**

I also expect the Federal Safety Commissioner to work consistently with the Government's policies regarding:

- The Buy Australian Plan and the Better Deal for Small Business;
- the National Construction Industry Forum;
- the Australian Work Health and Safety Strategy 2023-33; and
- ongoing work to address the risk arising to workers from exposure to silica and other dust.

### **Relationship with Minister and Portfolio**

The Federal Safety Commissioner plays an essential role in ensuring that the Government and I, as the Minister for Employment and Workplace Relations, are well placed to improve work health and safety in the building and construction industry.

The Department of Employment and Workplace Relations (the department) also supports and advises me by providing advice on policy development and the performance of the portfolio's regulatory systems.

Accordingly, I expect the Federal Safety Commissioner to work collaboratively with the department on significant issues relating to strengthening safety in the building and construction sector.

As the responsible Minister, I will provide an enabling environment for the Federal Safety Commissioner to consistently implement best practice by ensuring you are well informed of the Government's policy direction, as specific initiatives and strategies are being considered.

March 2024