



**SENATOR THE HON MURRAY WATT
MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS**

MS24-000954

Mr David Denney
Federal Safety Commissioner
Office of the Federal Safety Commissioner
Department of Employment and Workplace Relations
15 National Circuit
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Dear Mr Denney *David*

On 29 July 2024, I was sworn in as the Minister for Employment and Workplace Relations. As the responsible Minister for the administration of the *Federal Safety Commissioner Act 2022*, I am writing to provide you with a Ministerial Statement of Expectations.

As outlined in the Department of Finance's *Regulator Performance (RMG 128)* guidance, Ministerial Statements of Expectations should be issued or refreshed every 2 years for all Commonwealth entities with regulatory functions, or earlier if there is a change in Minister, change in regulator leadership, or significant change in Commonwealth policy. While noting your operational independence, clear expectations from government to regulators can help drive better regulator performance, providing an enabling environment that supports the implementation of best practice.

I would appreciate your response in the form of an updated Statement of Intent, outlining how you intend to meet the updated expectations. To ensure transparency and accountability, the Statements of Expectations and Intent should 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, by including a link to the published documents in relevant corporate documents) for best practice.

Thank you for your timely assistance with this matter. I look forward to your response.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Murray Watt'.

MURRAY WATT

12 / 12 / 2024

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FEDERAL SAFETY COMMISSIONER

STATEMENT OF EXPECTATIONS

Ministerial Statements of Expectations provide greater clarity about government policies and objectives relevant to the regulator in carrying out its statutory functions. As the responsible Commonwealth Minister for workplace relations matters and the regulation of workplace health and safety under the *Federal Safety Commissioner Act 2022* this statement sets out my expectations of the Federal Safety Commissioner.

I request that this statement of expectations be incorporated into relevant *Public Governance, Performance and Accountability Act 2013* (PGPA Act) processes that apply to the Federal Safety Commissioner where possible.

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.

Generally, the Federal Safety Commissioner is not subject to Ministerial direction with respect to the performance of the Commissioner's functions or exercise of powers under the FSC Act. Although, I may, as Minister, by legislative instrument, give written directions to the Federal Safety Commissioner specifying the manner in which they must exercise their powers or perform their functions under the FSC 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 to exercise their functions and powers in good faith and to the best of their ability.

I expect the Federal Safety Commissioner to act with integrity at all times when fulfilling the functions and powers of the FSC Act and undertaking activities related to the administration of the Scheme. I expect my office to be informed of any identified or reported misconduct associated with administration of the FSC Act and/or Scheme, including fraud and corruption. I expect the Federal Safety Commissioner to work with appropriate officials and agencies to support a full examination and response (if required) to allegations of fraud, misconduct or maladministration and to strengthen administrative arrangements where necessary.

The Federal Safety Commissioner should engage with the Department of Employment and Workplace Relations on performance reporting arrangements to support consideration of how the Federal Safety Commissioner can demonstrate the benefit derived from their powers and functions, and specifically whether workers engaged by companies accredited under the Scheme are better off.

Principles of regulator best practice

I expect the Federal Safety Commissioner to embed within their office, and act in accordance with, principles of regulator best practice set out in Resource Management Guide (RMG) 128 *Regulator Performance*, issued by the Commonwealth Department of Finance, as well as strive for continuous improvement consistent with these principles.

In exercising its functions and powers in accordance with these principles, I expect the Federal Safety Commissioner to have regard to:

1. Continuous improvement and building trust

- Stay informed, aware and responsive to the changing context and operating environment of regulated entities.
- Actively share lessons learned and insights by engaging with other regulators and stakeholders to encourage best practice.
- Build and maintain collaborative relationships with other regulators to minimise regulatory burden and reduce duplication.
- Hold themselves to account through internal accountability processes that foster a culture of continuous improvement and reflection.
- Actively develop staff capability, including ensuring staff have relevant knowledge to address stakeholder needs.
- Actively participate in external accountability processes encouraging procedural fairness, accessibility and responsiveness that builds public trust.

2. Risk-based and data-driven

- Use intelligence and data to inform a risk-based and proportionate approach to compliance and enforcement activities.
- Actively monitor and plan for risks, taking a preventative approach to non-compliance by raising awareness of common misconceptions and through early identification and remediation of compliance issues.
- Consider the risks, cost effectiveness and impact of regulatory action.
- Remain flexible and responsive to changes by adopting reasonable, supportive and transparent processes to build and maintain trust, accountability and integrity within the regulatory system to encourage compliance.

3. Collaboration and engagement

Open, transparent and consistent engagement with stakeholders, including building and construction companies, industry associations, unions, State and Territory WHS regulators, government and the broader community is crucial to maintain competent and innovative regulatory practices. Consequently, I expect the Federal Safety Commissioner to:

- engage genuinely and regularly with stakeholders, and to encourage, promote and facilitate meaningful engagement
- work cooperatively with stakeholders to encourage voluntary compliance in relation to building work undertaken by a constitutional corporation, the Commonwealth or a corporate Commonwealth entity
- be receptive to feedback and diverse stakeholder views
- be transparent in their operations, policies, and decision-making processes including by publishing performance results
- provide up-to-date, relevant, clear and easily accessible guidance and information
- provide informative and practical tools that help regulated entities to comply with their statutory obligations
- afford entities procedural fairness and the right to inform any final decision to take regulatory action, and
- embed processes to provide the industry with opportunities to provide feedback on operational regulatory design, including co-design of solutions where appropriate.

The government’s policy priorities and objectives

In addition to the core functions noted above, the government expects the Federal Safety Commissioner’s to observe and contribute to the following government priorities and objectives.

I expect the Federal Safety Commissioner to work consistently with the government’s policies regarding:

- the commitment to urgently build more social and affordable housing
- the participation of Indigenous businesses in the Scheme
- 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.

1. 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 also supports and advises me by providing advice on policy development and the performance of the portfolio’s regulatory systems. The department takes into account the knowledge and expertise of the Federal Safety Commissioner when considering changes to policy and legislation that impact on work health and safety in the building and construction industry.

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.

2. Innovation and regulatory change

I expect the Federal Safety Commissioner to continually monitor their operating environment to ensure 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 regularly, to ensure prompt and proportionate responses to the changing social, technological and commercial context in which it operates.

December 2024