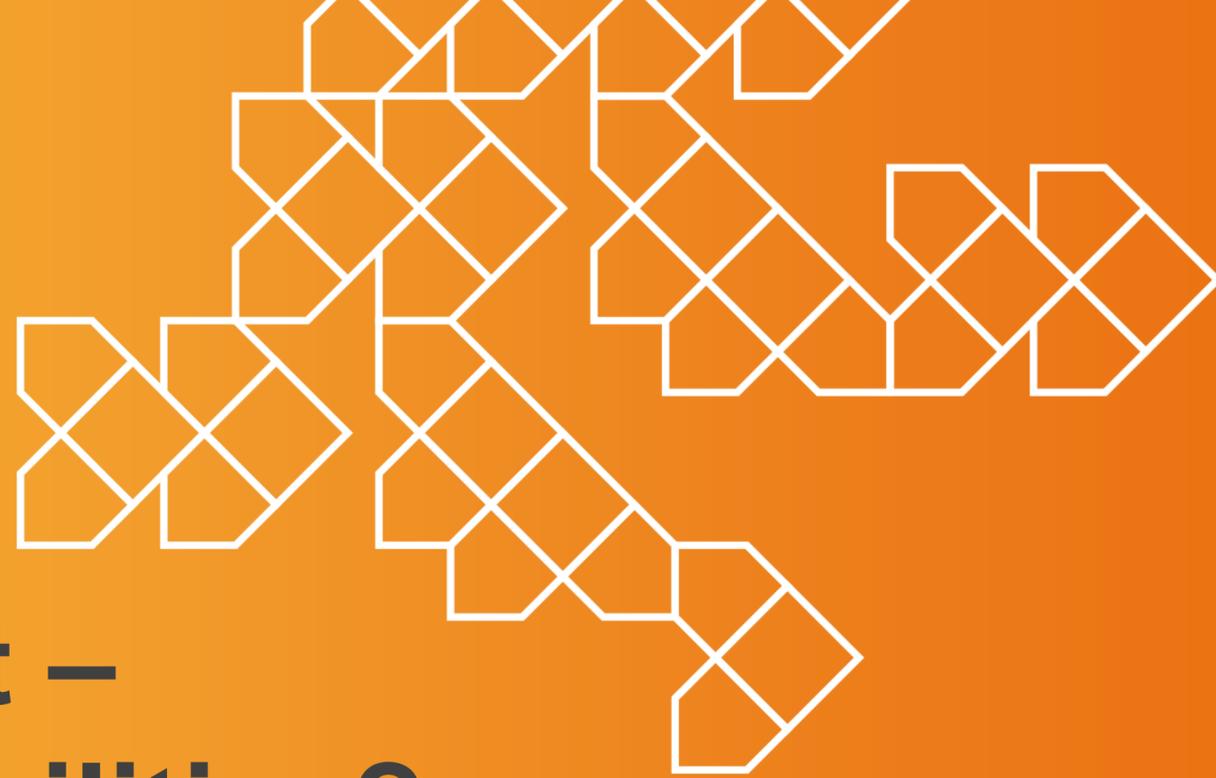




HEALTH AND SAFETY MONTH 2016

Planning for tomorrow





Contractor Management – What are your responsibilities?

Karen Willis – Owner, Snr OHS Consultant, TruSafety Solutions



Contractor OHS Management

- Employers, employees and contractors
- What are the responsibilities for each party?
- What steps to take
- Effective contractor OHS management systems
- Top 5 tips

Employers, employees and contractors

- **Employer** - person who employs one or more other persons under contracts of employment or contracts of training.
- **Employee** - A person employed under a contract of employment or contract of training, including labourers and apprentices. Includes a reference to an independent contractor engaged by an employer and any employees of the independent contractor.
- **Contractor** – provides goods or services or performs work. The contractor may be self-employed, have employees of their own or business partners.

What duties does the employer have?

- So far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health.
- Duties extend to an independent contractor engaged by the employer, and any employees of the independent contractor.
- In relation to matters *over which the employer has control or would have control* if not for any agreement purporting to limit or remove that control (Section 21(3) OHS Act 2004).

What does that mean for the contractor?

Contractors

- Engaged by employers, and their employees, have duties as *employees*, eg. Take reasonable care for their own health and safety and that of others.
- Where they have *control over the specific OHS matter* then they have the *duty* to for instance, eliminate or control the risks.

Employer

- May have some ability to influence and control the contractor.
- If the work is conducted at the workplace where employer has management and control of that workplace (means of entering and leaving is safe and without risks to health).
- Has a legal right of control to give direction.

Effective OHS contractor management / engagement

Employer

- Determine scope of services or works
- Who has expertise / control over what matters
- Planning, tender, contract

Contractor

- Scope of services, capabilities, expertise
- Level of control over what matter

Take reasonable steps

Employer

- Adequate evidence contractor is an expert - is suitably qualified, trained, competent or licensed and has knowledge to perform works
- Contractor has adequate safe systems of work, plant and equipment etc (for those matters)

Contractor

- Ensure own employees are suitably qualified, trained, competent or licensed (kept up to date) and have the knowledge to perform the works
- Safe systems of work, (eg. SWMS high risk construction work, safe plant and equipment) for those matters under their control

Control or influence over what matters and co-existing duties

Employer

- Maintain workplace
- Adequate facilities
- Eliminate or reduce risks
- Information, instruction, training and supervision to do their jobs safely
- Consult, communicate, induct, monitor

Contractor

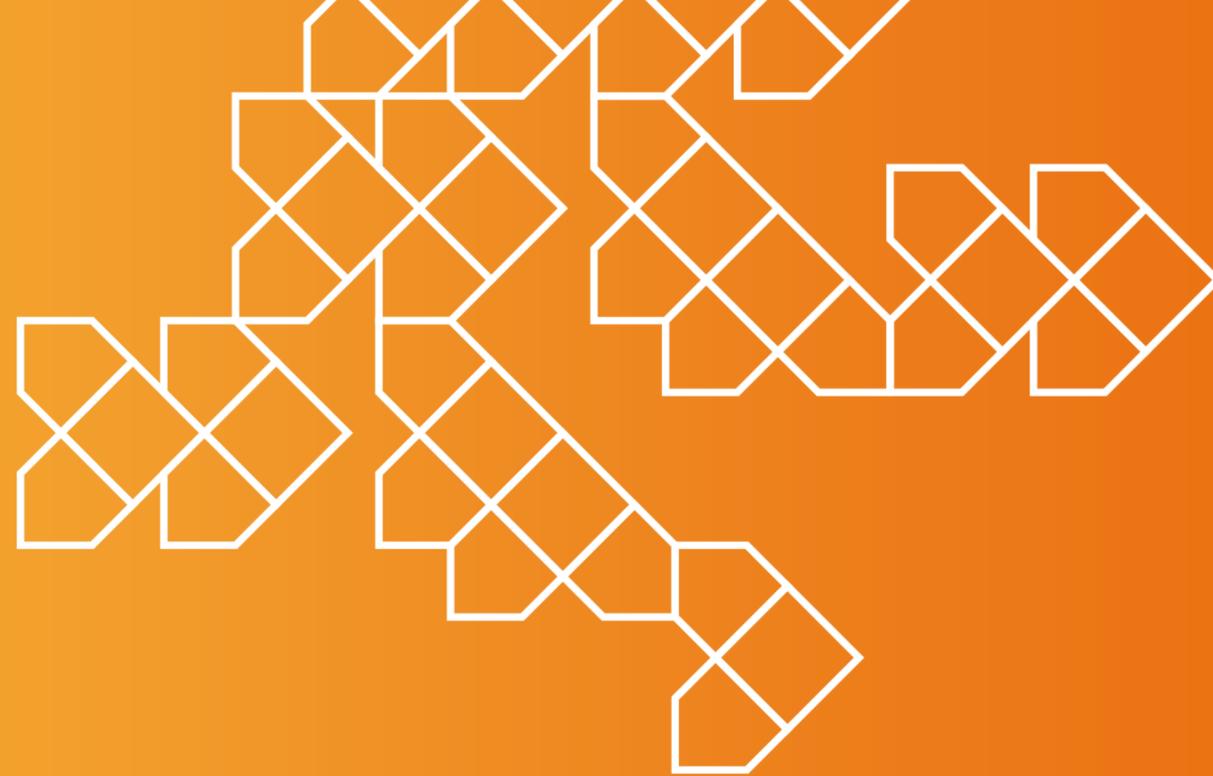
- Eliminate or reduce risks
- Information, instruction, training and supervision to do their jobs safely
- Consult and communicate

Balancing

- Extensive contractor management systems
- Simple system with adequate evidence
- Satisfied the contractor has capacity and knowledge to undertake the work safely
- Who has duties and control over what health and safety matters - cannot contract out the matters
- Adds value to the process rather than confuse, be administrative burden or have unrealistic expectations

Working together for better health and safety outcomes

1. Plan and take reasonable steps
2. Determine selection criteria
3. Work together to protect the health and safety of employees, other persons and the public
4. Communicate, instruct, consult, induct and supervise / monitor
5. Seek legal or specialist advice



Thank you.

