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**Worker Voice and the Health and Safety Regulatory
System in New Zealand: An Interpretivist Case Study
Inquiry in the Commercial Construction Industry**

A thesis presented in partial fulfilment of the requirements for the degree of

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Abstract

The importance of involving workers in effective management of workplace health and safety (WHS) risks is well established. Transforming this rhetoric into sustainable practice continues to be a global problem. The siloed nature of industrial relations, WHS, human resource management and organisational behaviour debates has resulted in researchers talking past each other. Consequently, there is a dearth of literature drawing WHS research into contemporary debates exploring a broad range of direct and indirect forms of ‘worker voice’. The purpose of this thesis is to determine how and why the current statutory framework is contributing to enhancing workers’ involvement in workplace decisions that affect their WHS outcomes.

This interpretivist constructivist multiple-case study applies a *Multidisciplinary Analytical Model of Worker Voice* to demonstrate how a multidisciplinary approach bridges divides and facilitates rich understanding of a contemporary phenomenon. The thesis clarifies the ambiguity and misunderstanding of terms that influence the interpretation and enactment of duties in the Health and Safety at Work Act 2015 (HSWA). It identifies and maps the different forms of worker engagement, participation and representation (EP&R) that exist under the current statutory provisions in New Zealand, and more importantly, the influence of worker voice. This research enables us to understand how and under what conditions worker EP&R can thrive.

The two-phase study involved semi-structured interviews with 14 key stakeholders at the macro and industry levels, and 31 case study participants in three large commercial construction organisations at the meso level. Secondary qualitative data sources included 12 observations, and public and organisational documents. Hermeneutic analysis and interpretation revealed how the current HSWA stimulated improvements in leadership and risk management. The characteristics of effective worker voice systems were co-constructed with the key stakeholders and developed into an *EP&R Compliance Maturity Model of Worker Voice*. This model highlighted proactive and reactive responses to the HSWA in the organisations operating in a low-union, high-risk context.

The overarching perceptions of the HSWA reinvigorating interest in worker voice underpinned improvements in macro level tripartism and meso level engagement. However, traditional representation structures have been eroded rather than strengthened.

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Dedication

To my granddaughter, Amelia Kanoka, you kept my spirits high and my focus sharp during this rewarding exploration of talking, listening and acting with the intention of bringing people together to enhance workplace health and safety outcomes.

Be brave, be strong when the crashing stormy seas from the East and West collide testing your strength to not only survive but calm the stormy seas and make the world a better place.

Believe in your ability to survive and thrive crossing the depths of the cultural divides with fortitude, kindness, style and your beautiful smile.

Be careful in taking time to smell the fragrant flowers, listen to the birds sing, see the beauty around you and taste the salty fusion of flavours abounding across the seas. Most of all, feel the joy of sharing special times and blended traditions with others.

Be brave, be strong and know you are loved by your family as you navigate the complex challenges involved in making the world a better place.

Be brave, be strong as you calm the stormy seas.

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List of Abbreviations

ACC	Accident Compensation Commission
AUT	Auckland University of Technology
BLHSF	Business Leaders' Health and Safety Forum
CHASNZ	Construction Health and Safety New Zealand
CME	Coordinated Market Economy
CoP	Codes of Practice
CRSC	Canterbury Rebuild Safety Charter
CSC	Construction Safety Council
DSM	Deputy site manager
E&P	Engagement and participation
ECA	Employment Contracts Act
EIP	Engagement, involvement and participation
EMA	Employers and Manufacturers Association
EP	Employee participation
EP&R	Engagement, Participation and Representation
ER	Employment Relations
ERA	Employment Relations Act
EU	Enforceable Undertaking
FISC	Forestry Industry Safety Council
GDP	Gross Domestic Product
HASANZ	Health and Safety Association of New Zealand
HR	Human Resources
HRM	Human Resources Management

HSC	Health and Safety Committees
HSP	Health and Safety Professional
HSR	Health and Safety Representatives
HSROpM	Health and safety representative operations manager
HSWA	Health and Safety at Work Act
ICE	Information and Consultation of Employees Regulations
ILO	International Labour Organisation
IR	Industrial Relations
ITWHS	Independent Taskforce on Workplace Health and Safety
JCC	Joint Consultation Committee
JLP	John Lewis Partnership
LME	Liberal Market Economy
LP	Lean Production
LTI	Lost Time Injuries
MBIE	Ministry of Business Innovation and Employment
MCC	Mondragon Cooperative Corporation
NER	Non-union Employee Representation
NOHSAC	National Occupational Health and Safety Advisory Committee
NZCB	New Zealand Certified Builders
NZCTU	New Zealand Council of Trade Unions
NZISM	New Zealand Institute of Safety Management
OB	Organisational Behaviour
OHS	Occupational Health and Safety
PCBU	Person Conducting a Business or Undertaking

PIN	Provisional Improvement Notice
PMC	Project manager cadet
PPE	Personal Protective Equipment
QWL	Quality of Work Life
RCPR	Royal Commission on the Pike River Coal Mine Tragedy
RSM	Regional site manager
S&O	Strategic and operational
SCIRT	Stronger Christchurch Infrastructure Rebuild Team
SCM	Senior Construction Manager
SHI	Serious Harm Injury
SM	Site manager
SME	Small and medium-sized enterprises
STS	Social Technical Systems
TA	Task analysis
TUC	Trades Union Congress
VoC	Varieties of Capitalism
WEPR	Regulations Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016
WHO	World Health Organization
WHS	Workplace Health and Safety
WHSMS	Workplace Health and Safety Management Systems
WSMP	Workplace Safety Management Practices (audit programme)

1 Introduction

1.1 Introduction

This thesis explores how the current statutory provisions for ‘worker voice’ in workplace health and safety (WHS) contribute to engagement, participation and representation within the high-risk commercial construction industry in New Zealand. Drawing WHS into management debates overcomes fragmentation and exclusion of relevant research that places power to influence strategic choice at the heart of preferences for traditional or contemporary worker voice structures. The purpose of this chapter is to outline the research problem, purpose and structure of the thesis. Key concepts are defined, and the conceptual model is developed in Chapter 2. Worker voice structures are explored in Chapter 3.

1.2 The Research Problem and Purpose

The importance of involving workers in the effective management of WHS risks is well-established in academic, policy and practitioner debates. This importance is clarified in international standards that inform the enactment of national health and safety policy and regulatory frameworks. Transforming this rhetoric into widespread sustainable practice continues to be a global problem. The failure of the self-regulatory approach in supporting independent empowered worker voice in WHS decisions that affect workers in the contemporary context, has been attributed to the model being developed in the 1930s to accommodate a largely stable workforce that participated in a meaningful way. Working for a single employer, workers had regular contact with their health and safety representatives (HSRs). The impact of the fragmentation of large organisations and emergent practice of devolving authority and a degree of autonomy to smaller organisational units failed to enhance the organisation of WHS in industrialised countries. Moreover, economic and labour market pressures induced a reduction in prioritisation of WHS within the public sector.

A history of failed attempts at improving industrial relationships using ‘hard’ statutory provisions and ‘soft’ partnership programmes resulted in New Zealand lagging behind other neoliberal countries adopting the Robens’ self-regulatory approach. The Pike River mining disaster in 2010, where 29 workers died, acted as a pertinent reminder of the plethora of research demonstrating the relationship between worker voice and WHS

outcomes. Within the complex subcontracting system at the Pike River Mine, many fatalities were subcontracted service providers, not miners (Lamm & Lips-Wiersma, 2018). The current statutory framework is based on the latest iteration of the Robens' self-regulatory approach, albeit a weaker version of the Australian Model H&S Act 2011 (Dabee, 2018; Pashorina-Nichols, Lamm, & Anderson, 2017). Employers' calls for more flexibility to respond to global pressures masked the broader sociopolitical employment relations environment. Low unionisation in the private sector underpinned ongoing employer opposition in the most recent attempt to strengthen traditional worker voice structures in the current Health and Safety at Work Act 2015 (HSWA) (Rasmussen, Foster, & Farr, 2016). Instead, the HSWA has provisions for flexible alternative representation structures and supports managers' prerogatives to make the final decisions about the type of worker voice structures an organisation adopts.

Academics and stakeholders have raised concerns about the disregard of literature that enabled the erosion of provisions in the repealed Health and Safety in Employment Act 1992 (HSEA) (Pashorina-Nichols, Lamm, & Anderson, 2017; Sissons, 2016). The HSEA provided for all employees in high-risk industries to be represented by traditional empowered HSRs. Even the Ministry of Business Innovation and Employment's (MBIE, 2015b) advice about the potential 'negative impact' of flexible alternative representation structures minimising the impact of the provisions for empowered HSRs was neglected. The failure to listen to experts reveals a need to explore how worker voice is integrated in relevant management debates. This study addresses the persist dearth of research exploring WHS voice within the broader employment relations context in which it occurs. A gap highlighted by Quinlan and Johnstone (2009) and Quinlan (2018).

Management debates generally reflect the fluctuating interest in worker voice. The latest wave was stimulated by the global decline in unions (Barry & Wilkinson, 2016; Gollan & Patmore, 2013; Walters, Quinlan, Johnstone, & Wadsworth, 2016; Wilkinson, Donaghey, Dundon, & Freeman, 2014). Also, the technology-driven desire for more flexible work arrangements and the associated increase in vulnerable work (Lamare, Lamm, McDonnell, & White, 2015; Lamm, 2010, 2012; Weil, 2014). Terms defining worker voice are used interchangeably with various objectives and meanings (Wilkinson, Gollan, Marchington, & Lewin, 2010). The problem with a lack of universal definitions of terms is academics talking over each other (Dundon, Wilkinson, Marchington, & Ackers, 2005). This is exacerbated by diverging organisational practices fragmenting

disciplinary debates, because researchers focus on either indirect or direct forms of worker voice.

Industrial relations and law scholars predominantly explore indirect representative participation in the form of union collective bargaining and social partnership practices. Complementary ‘employee voice’ practices emerged in the 1970s as traditional industrial relations and managerial decision-making practices expanded to capture individual employee rights (Rasmussen, 2009). However, union representation was still the recognised form of employee participation until the decline of unions in the 1980s (Gollan & Xu, 2015). These traditional worker voice structures were founded on Fox’s (1966, 1974) Ideological Frames of Reference. The pluralist perspectives have been developed by political and social science scholars’ interest in industrial democracy. Human resources management (HRM) (Barry & Wilkinson, 2016; Marchington, 2015a) and organisational behaviour (OB) disciplines (Morrison, 2011; Mowbray, Wilkinson, & Tse, 2015; Van Dyne & LePine, 1998) reflect unitarist assumptions that support a functionalist management approach focusing worker voice at the task level (Kaufman, 2014).

It is this point of ideological divergence in beliefs about the level to which workers are empowered that gets to the heart of worker voice (Barry & Wilkinson, 2016; Coetzee, 2011; Donaghey, Cullinane, Dundon, & Wilkinson, 2011; Dunlop, 1958; Foster & Farr, 2016; Geare, Edgar, & McAndrew, 2006; Lukes, 1974, 2005). Nevertheless, Marchington (2015a) and Poole, Lansbury and Wailes (2001) note this conceptualisation is absent from HRM and OB debates. In a siloed debate, prominent WHS academics challenge the unitarist approach, as it conflicts with the balanced tripartite relationships between employers, workers and a strong independent regulator (James, Johnstone, Quinlan, & Walters, 2007; Lamm, Massey, & Perry, 2007; Walters & Nichols, 2007, 2009). Tripartism is often referred to as the three-legged-stool foundation of effective self-regulatory models (Gallagher & Underhill, 2012).

Overall, different direct (Geare, 1976; Strauss, 2006), indirect (Behrens & Dribbusch, 2020; Patmore, 2016), and cooperative participation structures through which worker voice can be heard have been tested overseas (Cathcart, 2014; Storey, Basterretxea, & Salaman, 2014) and in New Zealand (Anderson & Nuttall, 2014; Boxall, Haynes, & Macky, 2007; Lamm, 2010; Mylett & Markey, 2007). Attempts to improve worker voice at the statutory level have come under pressure from employer resistance and ideological

shifts from successive governments. Voluntary participative structures have had some success in larger organisations. Unfortunately, employer and union resistance, and the experimental nature of voluntary initiatives have been stumbling blocks to their success.

1.3 Significance of the Research Contributions

As noted, there are concerns regarding the relevance of the self-regulatory approach accommodating the contemporary industrial relations context. Some researchers challenge the relevance of having statutory provisions for worker voice in neoliberal sociopolitical environments that lean towards unitarist industrial relations systems (Bogg & Novitz, 2014; Quinlan & Johnstone, 2009; Walters et al., 2016; Weil, 2014). Others question the potential for labour institutions and power structures to prevent workers from exercising legitimate rights to have a voice (Barry & Wilkinson, 2016; Donaghey et al., 2011; Donaghey, Dundon, Cullinane, Dobbins, & Hickland, 2019). The significant changes in the current statutory framework within a low-union LME context provided an opportunity to address these theoretical concerns. Using an instrumental multiple-case study, this research aims to understand and describe how current statutory provisions for worker voice contribute to enhancing engagement, participation and representation at the macro, industry and meso organisational levels.

At the same time, this study contributes to the dearth of research adopting a holistic approach to explore how worker voice structures facilitate worker involvement in high-risk industries. Most of the WHS literature focuses on the nature and role of traditional HSRs and health and safety committees (HSCs) (James et al., 2007; Walters & Nichols, 2007, 2009). Some comparative research has explored direct and representative worker voice in low–medium risk industries operating in the public and private sectors within New Zealand’s liberal market economy (LME) and Denmark’s coordinated market economy (CME) (Markey, Harris, Knudsen, Lind, & Williamson, 2014). However, this research was conducted before the statutory changes. And while Hasle, Seim, and Refslund (2016) included organisations operating in high and low-risk industries, this research explores the role of HSRs within a very high HSR density. Under Danish statutory provisions, all workplaces with more than 10 employees are required to have an elected HSR. In a rare WHS study applying the Ideological Frames of Reference, Walters et al. (2016), examined traditional representation structures in all coal mines in the context of a strong union culture embedded in Queensland, Australia.

As for multidisciplinary debates, there have been attempts to adapt Fox's (1966) *Ideological Frames of Reference* to accommodate the neoliberal context (Budd, Bray, & Macneil, 2015; Greenwood & Van Buren, 2017; Heery, 2016; Johnstone & Ackers, 2015). Wilkinson, Townsend, and Burgess (2013) applied Marchington's (1992) *Dimensions of Employee Involvement and Participation* to explore the purpose, meaning and impact of participation. And Pateman's (1970) conceptualisation of *Pseudo, Partial and Full Participation* has been applied in industrial relations and WHS research (Budd, Lamare, & Timming, 2018; Knudsen, Busck, & Jens, 2011; Markey, Harris, Ravenswood, Simpkin, & Williamson, 2015). When Markey et al. (2015) applied Pateman's (1970) model with all forms of participation in the hotel industry, they found that direct *Pseudo Participation* did not necessarily lead to a good quality work environment. Whereas representative *Partial Participation* had the potential to provide a better work environment. However, the wellbeing measure of the quality of work environment has the potential to distract attention away from the broader range of factors influencing strategic choice. When Innes and Watson (2004) applied the two dominant theories used in political and economic debates, they found Posner's (1974) *Public Interest Theory* useful for identifying effective and ineffective regulatory performance. Whereas Stigler's (1971) *Capture Theory* facilitated deeper understanding of continuing failure. Therefore, the latter is integrated within the *Favourable Conjectures Model* (Poole et al., 2001), the industrial relations foundation of the *Multidisciplinary Analytical Model of Worker Voice*.

Firstly, in applying a holistic multidisciplinary approach, this study demonstrates how theoretical limitations are overcome to facilitate understanding of a phenomenon. The research explores the following question:

How are the current statutory provisions for worker voice in WHS contributing to engagement, participation and representation?

To gain rich insights, the study explores four related subquestions:

1. What is worker voice and how is the concept understood (rhetoric)?
2. How do macro level external factors impact the forms of worker voice that exist at the industry and organisational levels?

3. How does worker voice manifest in practice at the industry and meso organisational levels?
4. What effect has the current legislation mandating worker voice had on engagement, participation and representation (reality)?

Secondly, this thesis has practical implications for all stakeholders interested in enhancing worker voice and ultimately WHS outcomes. This study clarifies the ambiguity and misunderstanding of terms that influence the enactment of duties in the HSWA. It identifies and maps the different forms of worker EP&R that exist under the current statutory provisions in New Zealand within a low-union and high-risk context. And more importantly, the influence of worker voice, enabling us to understand how and under what conditions worker EP&R can thrive. The research builds on extant compliance models by developing an *EP&R Compliance Maturity Model of Worker Voice* to help key stakeholders measure, monitor and review EP&R systems. The model is founded on the three elements of effective WHS management systems (WHSMSs). Effective WHSMSs are characterised by 1) competent employers willing to demonstrate leadership by; 2) involving and empowering well-trained and informed workers in the; 3) systematic management of WHS risks (Campbell, 1995; Gallagher & Underhill, 2012). Key concepts are outlined in Chapter 2.

Applying macro and meso levels of analysis provides a multi-level description of the key employer, worker and regulatory stakeholders' roles and power to influence strategic choice. Extrapolating the intermediary role of the construction industry groups uncovers their influence on the traditional and contemporary practices adopted within the commercial construction sector. The study applies the Decent Work Index macro and meso levels of analysis (Bonnet, Figueiredo, & Standing, 2003) aligning with the Favourable Conjunctures Model (Poole et al., 2001). These levels accommodate Marchington's (2015a) factors within and beyond an organisation. Applying similar definitions in a positivist WHS study Niskanen, Louhelainen, and Hirvonen (2016) found the aggregated variables at the different levels affected each other. The definitions applied in this study are:

1. The *macro level* recognises the external social, political, technical and economic factors influencing organisational practices, e.g., the hard statutory framework that supports or undermines traditional representation structures.

2. The *industry level* is extrapolated from the macro level to explore the impact of industry forces in shaping and embedding statutory provisions at the meso level, e.g., industry involvement in the development of the Blackhat supervisor accreditation programme.
3. The *meso level* explores the factors influencing worker voice practices within an organisation, e.g., size and dispersal of establishments, and devolution factors.

Thirdly, the failure of previous statutory provisions for worker voice in strengthening independent representation in New Zealand stimulated this study. Therefore, a key contribution is providing multidimensional explanations of how conflict between the purpose and parts of the current HSWA influence the establishment and maintenance of EP&R systems that either support or silence workers. In addition, exploring weaknesses in the enforcement of the self-regulatory system provides opportunities to draw on evidence-based lessons to avoid ongoing regulatory failure. It is hoped that the empirical findings will inform policy, processes and practices aimed at enhancing workers EP&R in matters that affect their health, safety and wellbeing.

1.4 Research Design

Researchers commonly adopt a range of qualitative and quantitative case study designs to develop theory and explore worker voice using data triangulation techniques (Denzin & Lincoln, 2008; Farquhar, 2012; Lincoln & Guba, 1985; Simons, 2009; Stake, 1995; Yin, 2009). The multiple-case design facilitated a deep exploration of the similarities and differences of worker voice structures, processes and practices within the workplace relationships occurring in complex supply chains accommodated in the current HSWA. Although supporting primary interview data with secondary data from relevant documents and observations is more common in recent case studies, this study expands the scope of observed events. Data collected from a range of planned WHS meetings and WHSMS processes supported interviewed participants' perceptions of the informal and formal opportunities for workers to engage and participate in WHS. A rigorous qualitative research design balancing the depth and breadth of data sources with triangulation techniques assisted in overcoming the limitations of each data collection method. This approach facilitated an accurate co-construction of how statutory worker voice provisions in the HSWA were understood and embedded in practice.

1.5 Thesis Outline

This thesis provides a comprehensive insight into how the current statutory provisions for worker voice in WHS were facilitating worker engagement, participation and representation in the commercial construction industry. The chapters follow a traditional thesis structure (Perry, 1998). The introduction, literature review, background and methodology chapters outline the theoretical justification for the research and present the research design and methods (Chapters 1–4). The empirical research consists of two phases of qualitative data collection and analysis: Phase 1 at the macro national and industry levels and Phase 2 at the meso organisational level. Chapters 5–8 present the key stakeholders’ and case study participants’ perceptions of the rhetoric, and the reality of worker voice structures in practice. The final chapters building our knowledge of the phenomenon contribute to the development of theory and have practical implications for policy and practice. Chapter 9 integrates the key findings with the literature and develops the theoretical and practical frameworks. Finally, Chapter 10 highlights the key findings, discusses the research limitations and identifies areas requiring further research.

Chapter 1: Introduction

This chapter outlines the importance of worker voice in WHS matters and the purpose of the study. It explains the research problem and establishes how the exploration of the research question contributes to theoretical knowledge. Then justifies the adoption of the research design and presents the thesis structure.

Chapter 2: Literature Review and Theory Development

This chapter systematically reviews industrial relations, workplace health and safety, human resources management and organisational behaviour literature. Theories, models and frameworks embedded in worker voice debates are identified. The worker voice structures that form the pillars of Robens’ self-regulatory model are discussed. New Zealand’s statutory framework is modelled on the latest iteration of this approach, the Australian Health and Safety Act 2011. This section examines the key differences between the previous and current statutory health and safety frameworks in New Zealand. Then engagement, participation and representation (EP&R) in the workplace and in the HSWA are defined. A key part of the chapter is the development of a *Multidisciplinary Analytical Model of Worker Voice*. The progressive development of the analytical model is mapped through Tables 2.1 and 4.1 and Figures 2.2, 5.1 and 9.1. By investigating

worker voice in WHS through a multidisciplinary conceptual framework, this chapter highlights the inextricable link between worker voice in WHS and the industrial relations context.

The preliminary literature review and initial development of the conceptual framework for exploring worker voice were presented in the following paper:

Farr, D., Laird, I., Lamm, F., & Bensemann, J. (2019) . Talking, listening and acting:

Developing a conceptual framework to explore ‘worker voice’ in decisions affecting health and safety outcomes. *New Zealand Journal of Employment Relations*, 44(1), 79–100. Retrieved from

<https://nzjournal.org/NZJER44%281%29.pdf>

Chapter 3: Voluntary and Statutory Structures that have Shaped Worker Voice and the Construction Industry

Chapter 3 examines the broader industrial relations context in which worker voice in WHS matters occur. Some of the voluntary and statutory worker voice and participation structures through which worker voice can be heard, that have been tested overseas and in New Zealand, are explored. The evolution of these indirect, direct and cooperative structures are traced, as they formed part of experimental reforms. The next section outlines the historical background of efforts to establish statutory and voluntary worker voice structures in New Zealand and in the construction industry. These sections focus on the worker voice structures and major reforms in New Zealand, with the most recent being the post-Pike River reforms of the statutory WHS framework. The *Multidisciplinary Analytical Model of Worker Voice* is then applied to explore the sociopolitical context and outline key factors in this case study in the commercial construction industry.

Chapter 4: Methodology

This chapter starts by describing the *interpretivist constructivist* research paradigm used to conduct this in-depth exploration of how the current statutory provisions for worker voice were understood, implemented and enforced in the high-risk commercial construction sector. The rationale for adopting the instrumental multiple-case study research methodology explains how this approach retains the holistic characteristics of real events occurring within a specific natural setting. This section outlines how the case

study design facilitated the opportunity to gain deeper understandings of how macro level external forces shaped the forms of worker voice embedded in practice at the industry and meso levels. Purposeful sampling is justified as a means of selecting the balanced group of key stakeholders interviewed in Phase 1. Whereas the theoretical replication technique assisted in uncovering anticipated differences between the Phase 2 case study organisations adopting traditional and/or contemporary representation structures. The application of triangulation techniques that assisted in portraying a trustworthy picture are discussed. Multiple sources of qualitative data were reconstructed and alternative explanations for the findings explored. This is followed by consideration of the ethical research practices informing the research. Establishing and maintaining a comprehensive chain of evidence proved to be a valuable tool that underpinned rigorous data collection, analysis and interpretation of a large dataset. This chapter concludes with an outline of the criteria for evaluating the quality of this interpretivist research inquiry.

The methodology was peer reviewed at the following presentation:

Farr, D. (2018, January 31–February 1). *A new way: Converging and diverging perceptions of “genuine” worker involvement in health and safety*. Paper presented at the 6th International Conference on Precarious Work and Vulnerable Workers, Auckland University of Technology, Auckland, New Zealand.

Chapter 5: Phase 1 Findings: Principal Stakeholders’ Perceptions of how the HSWA Contributed to Worker Voice

Chapter 5 explores the Phase 1 findings of the semi-structured interviews with 14 key stakeholders representing regulators, employers, unions, and construction industry representatives. To gain the most in-depth understanding of this phenomenon, the discussion focuses on the stakeholders’ perceptions of worker involvement in WHS, and the issues encountered in the early stages of the implementation of the new statutory regime. The characteristics associated with worker voice are developed into an *EP&R Compliance Maturity Model of Worker Voice* and tested in three case studies (Chapters 6-8). The conceptual development of the compliance model is traced through Figures 5.1 and 5.3 and Table 9.1. The enthusiasm for task focused working groups (non-union/contemporary representation), sometimes complementary to traditional HSRs and HSCs, informed the scope of the Phase 2 data collection tools. The chapter concludes with reflections on the converging and diverging perceptions revealing how structural

factors shaped strategic choice. The policy implications emerging from these findings justified the adoption of a multiple-case study design.

Chapters 6–8: Phase 2 Findings: Case Study Participants’ Perceptions of Effective Worker Voice in Practice in the Commercial Construction Industry

The case study findings are presented separately to develop a holistic portrait of the patterns of practice adopted in each unique organisation operating under the same statutory conditions. These three chapters explore the participants’ understandings of the statutory duties (rhetoric), and perceptions of the direct and indirect forms of worker voice implemented in practice in each of the case study organisations. As well as their perceptions of the impact of the HSWA, and the regulators’ performance. The case study organisations, becoming progressively larger in subsequent chapters, adopt distinct labour practices and representation structures. Although the initial regional research boundary was extended to include a workplace with a union presence, no union presence emerged in any of the participating organisations. However, the extended scope enabled the phenomenon to be explored within a government funded tripartite WHS context.

Chapter 9: Discussion: Worker Voice and the Health and Safety Regulatory System in New Zealand

The chapter explores the research question through the four subquestions. Based on the overall cross-case analysis, the chapter discusses and compares key themes across the cases, and considers how the thesis contributes to theory, policy and practice. Understandings of the statutory duties and how these are embedded in practice reveal how ideological beliefs shaping preferences resemble the fragmentation within academic debates. It demonstrates how the application of a multidisciplinary analytical model draws worker voice in WHS into general management debates.

The discussion reveals how employer and union organisations used their power to push back on the factors influencing strategic choices on the institutional arrangements for worker voice in WHS. In so doing, this study demonstrates how a complex range of macro, industry and meso level factors contribute to the effectiveness of traditional and contemporary participation structures. The study shows the cyclic nature of how statutory institutions both shape and are shaped by key stakeholders’ strategic choices.

Chapter 10: Conclusions

This chapter highlights the key conclusions revealing how the HSWA was contributing to enhancing EP&R at the macro and meso levels, outlines the research limitations and identifies areas requiring further research. Recommendations for reviewing specific parts of the HSWA and the terms of reference for soft government initiatives, aimed at embedding the current statutory provisions, are made and final conclusions presented.

2 Literature Review and Theory Development

2.1 Introduction

The aim of this chapter is to review the research literature concerning worker voice and related concepts of engagement, participation and representation (EP&R) in workplace health and safety (WHS). This chapter first outlines the literature review method. A systematic review of different perceptions of worker voice across industrial relations (IR), health and safety, human resource management (HRM) and organisational behaviour (OB) academic perspectives follows. Section three considers the usefulness of frames of reference for exploring the social context and ideological beliefs about workers' rights to have voice. Then identifies the key factors necessary for achieving effective worker voice and examines the concept of worker silence. The fourth section discusses the relevance of Robens' self-regulatory statutory structures. Then explores the key differences between the previous and current statutory health and safety frameworks in New Zealand, before defining the forms of engagement, participation and representation (EP&R) in the workplace and in the Health and Safety at Work Act 2015 (HSWA). The final section expands the IR Favourable Conjunctures Model by integrating factors and theoretical frameworks from siloed academic debates. Applying the *Multidisciplinary Analytical Model of Worker Voice* throughout the thesis addresses the dearth of research capturing the link between worker voice in WHS and the broader IR context within which it occurs. My research answered the unanimous call for research exploring multiple forms of direct and indirect worker voice.

2.2 Literature Review Method

A systematic method of literature searching, and selection was employed in the preparation of this review that was conducted between 2016 and 2020. The principal sources of information included: Scopus, Business Source Complete, Web of Science, Google Scholar, and the Discover Database. Websites of key international research institutions, government agencies, industry associations, and media were examined. Search parameters included: year of publication (1980–2020); English full text; peer reviewed articles; search for the author; search within the citation. The search strategy included using keywords such as employee voice; engagement; participation;

representation; health and safety. Alternative terms for keywords, such as worker voice; involvement; and non-union employee representation integrate cross-disciplinary debates. Search results were refined using the additional terms of empowerment; trust; decision-making; management choice; and organisational culture. References from prominent articles were searched using keywords. Original articles were sourced if they had potential to contribute to the explored theory or case study. Seminal research identified in the literature includes literature from as early as 1958. Personal communications with key researchers and informants provided advice and guidance on practices and programmes.

The current HSWA provides for both traditional and contemporary forms of worker participation. The boundaries of the literature review started with a broad scoping of the different types of direct and indirect, formal, and informal structures and practices that have been used to provide opportunities for workers to be involved and participate in organisational and WHS decisions. The results found a substantial body of international and national research spanning the efforts to engage, involve and empower employees and workers to participate in workplace decisions. Chapter 2 focuses on understanding the meaning of terms defining participation and exploring different perceptions of the purpose of worker voice across the siloed debates. The reviewed literature was refined to explore the factors influencing the context within which worker voice in WHS occurs. The ongoing failure to enhance worker voice in WHS in New Zealand underpinned a refined search of voluntary and statutory participation structures discussed in Chapter 3.

2.3 Different Perceptions of Employee and Worker Voice

Interest in employee and worker voice has fluctuated over the years and has generally been motivated by a desire to increase employee productivity and organisational profitability (Morrison, 2011; Van Dyne & LePine, 1998), and/or an interest in improving social and economic outcomes (Anderson & Nuttall, 2014; Barry & Wilkinson, 2016; Lamm, 2010; Marchington, 2015a; Rasmussen, 2009). The latest wave of academic interest in worker voice has been stimulated by the universal decline in unions (Gollan & Patmore, 2013; Walters et al., 2016; Wilkinson et al., 2014), new technology with the associated drive for more flexible work arrangements, and an increase in vulnerable work (Lamare et al., 2015; Weil, 2014). High-performance work systems and associated concepts became popular in the new millennium, such as employee voice (Jackson & Lepine, 2003; Johnstone & Ackers, 2015; Kwon, Farndale, & Park, 2016; Mowbray et

al., 2015; Wilkinson, Gollan, Kalfa, & Xu, 2015), employee involvement (Budd, 2014; Gollan, Kaufman, Taras, & Wilkinson, 2015; Marchington, 2015a) employee engagement (Arrowsmith & Parker, 2013; Barton, 2018; Foster & Farr, 2016; Houghton & Lovelock, 2016; WorkSafe New Zealand, 2016b), and worker EP&R (Anderson & Nuttall, 2014; Lamare et al., 2015; Pashorina-Nichols, 2016; Sissons, 2016).

The literature review revealed that employee voice, involvement, engagement and participation, empowerment, and control had been explored within multiple disciplines including, but not limited to, employment law (Anderson & Nuttall, 2014; Bogg & Novitz, 2014), ER (Barry & Wilkinson, 2016; Markey et al., 2015; Wilkinson et al., 2014), HRM (Marchington, 2015a), OB (Van Dyne & LePine, 1998), and occupational/WHS (Burton, 2010; Lamm, 2010; Walters & Nichols, 2009; Walters et al., 2016). Even though these terms are used interchangeably, and the meanings of terms vary, some disciplinary distinctions emerge (Budd, 2014; Gollan & Xu, 2015; Wilkinson, Gollan, Kalfa, & Xu, 2018). Broad definitions and interpretation of the terms applied in the HSWA are discussed in Section 2.4.2.

The terms defining the employment relationships are also used interchangeably with some researchers referring to ‘worker’ (Lamm, 2010; Ramsay, 1977; Smith, 1978; Wall & Lischeron, 1977; Walters & Nichols, 2007), while others ‘employee’ (Arrowsmith & Parker, 2013; Blyton & Turnbull, 2004; Marchington, 2015a; Marchington et al., 1992; Pateman, 1970; Rasmussen & Tedestedt, 2017). The transition to including all workers is evident in WHS debates in the new millennium (Fidderman & McDonnell, 2010; Walters et al., 2016). Adopting the term workers in this study fits with the transition in New Zealand research and practice (Barton, 2018; Dabee, 2018; Lamm, 2014). Workers applies in the current HSWA provisions, which have extended coverage to a wider scope of workers in non-standard forms of work and subcontracted labour practices. The terms ‘occupational health and safety’ and ‘workplace (worker) health and safety’ have varied over time. While the former is still present in contemporary research, this study applies the latter as it fits with the current HSWA.

Practices vary at the industry and workplace levels and may include a range of direct and indirect employee voice structures and mechanisms. Direct informal mechanisms include ad hoc individual and group interactions, meetings, and complaints to line managers. Direct formal mechanisms include planned meetings and grievance procedures. Indirect

formal representation may occur through union representation and collective bargaining structures and/or non-union employee representation (NER) such as joint consultation committees (Barry & Wilkinson, 2016; Marchington, 2015b; Markey et al., 2013).

Clearly, the differences in objective and meaning of employee voice highlights how macro level contextual factors such as the social, political, economic and technical environments, have influenced the forms of participation that have emerged and coexisted in organisations (Wilkinson et al., 2010). For example, ideologically driven attitudinal differences shape decisions about the intended purpose, form, scope, and outcome of worker voice initiatives selected at national, industry and organisational levels. The next section considers the ideological assumptions, as these are applied in the worker voice in the health and safety debate.

2.3.1 Using Frames of Reference to Explore Ideological Beliefs About Worker Voice

Alan Fox originally identified the unitarist and pluralist frames of reference in the 1960s (Fox, 1966), adding the radical frame of reference in a critique of his work in the 1970s (Fox, 1974). These ideological assumptions have withstood critical review by commentators on work, with supporters adding different variants to adjust to the changing beliefs of the actors in an individualist neoliberal environment (Budd et al., 2015; Greenwood & Van Buren, 2017; Heery, 2016; Johnstone & Ackers, 2015). Unitarists believe that management have a legitimate right to make decisions. As the success of the organisation is mutually beneficial, unions are an unnecessary intrusion in the employment relationship, and statutory frameworks should provide minimal protections that do not impinge on the employment relationship (Rasmussen, 2009). Pluralists argue that management should act as a coordinator of converging and diverging employer and employee interests. With unions acting as legitimate representatives of all workers' interests, the State's role as the referee is embedded in statutory institutions providing for conflict resolution. There is, nevertheless, agreement on the importance of employees having an independent voice in WHS matters (Barton, 2018; Lamm, 2014; Markey et al., 2015; Walters et al., 2016). Thus, the subjective ideological beliefs about managerial prerogatives to make decisions help explain how the various actors view the world of work (Barry & Wilkinson, 2016; Marchington, 2015a; Poole et al., 2001).

Pluralist perspectives of employee voice originated from political science scholars' interests in industrial democracy. The *IR and employment law disciplines* predominantly focus on indirect representative participation (i.e., union collective bargaining and social partnership practices). Union representation was the recognised form of employee participation until the decline of unions in the 1980s (Gollan & Xu, 2015). The *HRM and OB disciplines* reflect unitarist assumptions (Kaufman, 2014). Employee involvement and engagement is popular in HRM which essentially utilises employee voice as a motivational tool to enhance employee commitment and raise organisational performance (Gollan & Patmore, 2013). OB scholars explain employee voice as a “discretionary, pro-social, largely, informal behaviour” (Van Dyne & LePine, 1998, p. 262).

Occupational Health and Safety (OHS) Voice. The debate demonstrates how research can explain and support the normalisation of beliefs and practices. The ‘safety pays’ unitarist approach to improving OHS risk management aligns with the HRM and OB disciplines. The functionalist unitarist management-led approach assumes that “there is no inherent conflict between the goals of WHS and profitability” (Brown & Butcher, 2005, p. 2). Research shows this approach is widely embedded in New Zealand where managers identify with unitarist assumptions at work, even though individual managers espouse pluralist beliefs (Geare et al., 2006; Geare et al., 2014). However, OHS scholars in New Zealand (Lamm et al., 2007) and internationally (James et al., 2007; Markey & Patmore, 2011; Quinlan & Johnstone, 2009; Walters, Nichols, Connor, Tasiran, & Cam, 2005) were challenging the unitarist approach even before the catastrophic Pike River event. Rare attempts to adapt these frames of reference in the contemporary WHS context show how coordinated market economies (CME), such as Denmark, adopt pluralist ideological cooperative decision-making frameworks; whereas liberal market economies (LME) such as the UK and New Zealand, adopt unitarist principles favouring deregulation and flexible provisions in self-regulatory statutory frameworks (Hasle et al., 2016; Markey et al., 2014).

The health and safety literature includes critiques of proposed institutional reforms and reflections on the effectiveness of established reforms. Browne (1973) and Robens (1972) focused on the shift towards deregulatory institutions that follow the Robens' model established in the UK. Others explored the shift towards de-collectivist employment relations in New Zealand (Anderson & Nuttall, 2014; Jeffrey, 1995; Pashorina-Nichols et al., 2017; Wren, 1997) and Australia (Quinlan & Johnstone, 2009). As New Zealand

laws and institutions have been influenced by systems in the UK and Australia, it is worth noting the changing focus on health, safety and wellbeing. The early legislative minimum standards in the UK and New Zealand were concerned with the conditions of workers' health, rather than safety, and especially the conditions of females and children (Campbell, 1995). The first safety legislation enacted in the UK was the Health and Morals of Apprentices Act in 1802, followed by the Factories Acts. This focus shifted to safety (almost excluding health), to the current commitment of a more balanced approach. Yet, changes in New Zealand, including requirements for managing workplace stress and fatigue and involving employees in the effective management of WHS risks, had little impact on improving health and safety outcomes (Anderson & Tipples, 2014; Pashorina-Nichols et al., 2017). The post-Pike River lobbying for regulatory safety interventions follows the pattern of responses to catastrophic industry events, largely in the mining industry (Campbell, 1995).

Concerns about implementing the Robens' light model in a largely individualist private sector in New Zealand, indicate that it may be challenging to establish sustainable tripartite systems at organisational and enterprise levels (Sissons, 2016; Pashorina-Nichols et al., 2017). The problem with a flurry of experimentation is that it often results in modest nationwide sustainable adoption (Poutsma, Ligthart, & Veersma, 2006), with many experiments fading away as ineffective fads (McGraw & Palmer, 1995; Patmore, 2016; Ramsay, 1977). The waves and cycles theories used to explain recurring interest in worker participation are discussed in Section 2.5. Three different types of participation initiatives are explored in Chapter 3. Neither employer willingness (Kaufman & Taras, 2010; Marchington, 2015a), nor statutory provisions are sufficient (Lamare et al., 2015; Pashorina-Nichols et al., 2017; Walters et al., 2016). The reviewed literature indicated that statutory frameworks are essential, but other key factors are necessary for achieving effective worker influence in organisational and WHS decisions.

2.3.2 Key Factors of Effective Worker Voice

The key factors identified in Walters and Nichols' (2009) seminal work have been supported in the New Zealand context (Lamm, (2010). These key factors were incorporated with the *Organisational Structures and Processes at the Firm Level* in the multidisciplinary analytical model key factors presented in Figure 2.2. The first two key

factors of effective worker EP&R in WHS listed below highlighted the link between the broader approach to IR and WHS within the organisation:

1. the influence of a broader cooperative approach to employment relations
2. longstanding social partnerships
3. statutory requirements
4. supported by rigorous enforcement of health and safety regulations and regular inspection of workplaces
5. adequate, available and accessible training programmes for managers and workers, and mandatory for health and safety representatives (HSRs)
6. an organisational climate conducive for participation and collaboration
7. employer and worker agreement on the function of health and safety committees (HSCs) and worker representatives
8. sufficient resources, including time allocated to HSRs and proper support.

2.3.3 Worker Silence

Another stream of research explores the meaning and purpose of worker silence. In this discourse, power is central to IR concepts of worker voice, as power and control are perceived to stem from labour institutions and power structures that prevent employees from exercising voice (Barry & Wilkinson, 2016; Donaghey et al., 2011). In a recent case study, it was demonstrated ‘how’ *management* either resisted the EU Information and Consultation Directive or avoided union involvement (Donaghey et al., 2019). The organisations adopted a minimalist compliance approach in response to pressure, and management commitment declined once the issue subsided (Donaghey et al., 2019). Whereas OB concepts traditionally focus on ‘why’ *employees* choose to remain silent (Morrison, 2011; Van Dyne, Soon, & Botero, 2003). Despite the statutory provisions and protections, worker ‘silence’ prevails in WHS literature as workers’ fears of retribution and HSRs’ reactive ‘resistance’ to management decisions, when management-imposed decisions fail to prevent or control hazards in the high-risk mining industry (Walters et al., 2016). Exploration of the Pike River Mine tragedy reveals corporate suppression was exacerbated by the broader social, economic and political context, which resulted in

systemic silencing of individuals involved in the mine (Lamare et al., 2015; Macfie, 2013).

Overall, this literature suggests that there may be some ideological tensions between traditional HRM/OB approaches and the current WHS approach, regardless of the apparent convergence in efforts to consider both direct and indirect worker voice across the reviewed disciplines. It is within these national, industry and organisational contexts that worker involvement in WHS occurs. Yet, Quinlan (2018) noted a persistent dearth of literature exploring the link between WHS and IR. Figure 2.1, presented in Section 2.5, illustrates how the two theoretical models in this section were integrated within the IR Favourable Conjunctures analytical model (Poole, et al, 2001). The *Key Factors for Worker Voice in WHS* helped explore how these factors influenced worker voice. Fox's (1966, 1974) *Ideological Frames of Reference* helped explain how the principal actors, referred to as stakeholders, viewed the world of work at the macro level, and explain why different patterns of practices were adopted in the three case study organisations operating under the same statutory conditions. Table 2, presented at the end of the chapter, summarises how and why additional theories were included.

But we first need to understand the key elements of the self-regulatory statutory framework. Then explore the differences between the previous and current Acts; and define and discuss the terms applied to worker voice in the HSWA.

2.4 Self-regulatory Statutory Worker Voice Structures

The original self-regulatory model for achieving continuous improvements in WHS outcomes was based on the assumptions constructed by labour lawyers in the 1930s (Johnstone, Quinlan, & Walters, 2005) as:

An identifiable and stable workforce able to participate in OHS in a meaningful way; a workgroup employed by a single employer; and health and safety representatives and committees that had regular contact with those workers. (Gallagher & Underhill, 2012, p. 228)

In fact, the fragmentation of larger organisations in the public and private sector in industrialised countries resulted in a devolution of authority and degree of autonomy to smaller units that failed to enhance the organisation of WHS (Gallagher & Underhill,

2012). Economic and labour market pressures even reduced the prioritisation of WHS in the public sector (Frick & Walters, 1998).

The self-regulatory model rests on balanced tripartite relationships between employers, workers and the regulator. Effective WHSMS are characterised by three elements: 1) competent employers willing to demonstrate leadership; 2) involving and empowering well-trained and informed workers; and 3) the systematic management of WHS risks (Campbell, 1995; Gallagher & Underhill, 2012). The importance of these characteristics has been demonstrated in research showing worker participation is effective in identifying hazards, increasing the development of practicable solutions, motivation to implement solutions (Frick & Walters, 1998), and improving WHS management practices and compliance with regulatory standards (Johnstone et al., 2005). Independent worker representation has been consistently associated with reduced injury rates and improved WHS outcomes, particularly in unionised workplaces. However, researchers found that workers were having limited involvement in the risk management process, that consultation tended to be restricted to the results of the risk assessment, and workers were not engaged in planning and operating the system (Johnstone et al., 2005).

Neither organisational structures nor employment relationships reflect the conditions about the way work was organised that existed when the self-regulatory model was developed in the 1980s (Quinlan, Mayhew, & Bohle, 2001; Weil, 2011). The potential for WHSMS to provide opportunities for greater worker influence may be bound by a lack of experience or motivation by HSRs, which may be compounded by poor management, lack of employer willingness or resources (Walters & Lamm, 2004). Worker voice may be further undermined by contemporary employment and labour market challenges associated with non-standard forms of work, such as contracted, casual, temporary agency and other precarious forms of employment (Lamm, Moore, Nagar, Rasmussen, & Sargeant, 2017; Quinlan et al., 2001).

Changes to IR laws compounded the problems associated with flexible arrangements and declining union density, by weakening the statutory provisions for worker participation in WHS and accommodating work practices that undermined WHS standards Anderson (Anderson & Tipples, 2014; Anderson & Quinlan, 2008; Lamm et al., 2017; Quinlan & Johnstone, 2009). This literature highlights the impact and importance of complementary IR and WHS laws protecting workers' rights. The type of statutory provisions supporting

worker voice influences the nature of participatory approaches (Johnstone et al., 2005). Sweden, Denmark, Germany and France, with clearer more prescriptive requirements, have closer and more proactive relationships, compared with countries with more distant and reactive relationships, such as Australia and the UK (Johnstone et al., 2005). The broader voluntary and statutory structures within which worker voice in WHS occurs are explored in Chapter 3.

2.4.1 Key Differences Between the Previous and Current Statutory Health and Safety Frameworks in New Zealand

Both the Royal Commission ([RCPR], Royal Commission on the Pike River Coal Mine Tragedy, 2012) and the Independent Taskforce on Workplace Health and Safety (ITWHS, 2013a) recommended strengthening provisions over worker participation and greater union representation in WHS. The importance of respecting worker voice and fear of reprisal emerged in the taskforce report. However, concerns have been raised about employers consistently blocking attempts to adopt statutory requirements for HSRs and HSCs. Neither is tension between recognising the importance of joint management and worker participation in the effective management of WHS and employer resistance to mandatory standards novel. This tension is evident in employer submissions on the recent reforms proposed in the Health and Safety Reform Bill (Sissons, 2016) and preceding the enactment of the Code of Practice for HSRs and HSCs 1987 (Mullen, 1990, 1991). The attempts at major statutory reforms are explored in Chapter 3.

When comparing the two Acts, the Health and Safety at Work Act 2015 (HSWA) ("Health and Safety at Work Act, No.70," 2015) is more explicit than the Health and Safety in Employment Act 1992 (HSEA) ("Health and Safety in Employment Act, No.96," 1992), both in its entirety and specifically concerning worker EP&R in health and safety matters (for a full analysis see Appendix A). Several statutory changes impact on worker EP&R. The *primary duty of care* resides with the person conducting a business or undertaking (PCBU) who must ensure the health and safety of workers and others affected by the work it conducts. The PCBU must consult, cooperate and co-ordinate with other PCBUs where there is a shared worksite or when part of a contracting supply chain. 'Officers' of PCBUs have a positive duty of *due diligence*; this includes directors and others who make decisions at the governance level.

The intention to establish a system to facilitate tripartite collaborative relationships to achieve continuous improvement in WHS outcomes is captured in both Acts. Duties to ‘involve employees’ in WHS matters, outlined in general duties in the HSEA, required providing reasonable opportunities for employees to participate effectively in the management of WHS in the employees’ places of work. But there is an explicit requirement for tripartite worker voice in the main purpose of the HSWA. More detailed duties and provisions follow.

There are new regulations prescribing how minimum standards are to be implemented and maintained Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016 ([WEPR Regulations], "Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations (2016),"). Whereas the HSEA only provided for third party worker representation through HSRs, HSCs and unions, the HSWA interpretation extends the scope of a worker representative to include “any other [appropriate] person the worker authorises to represent the worker” (§16). However, “if the workers are represented by a health and safety representative, the engagement must involve that representative” (§59 (2)). More detail clarifies the expectations necessary to manage WHS in complex contracting and supply chain situations. The use of the term ‘worker’ reflects a wider scope accommodating the changing nature of work. The repealed HSEA provided for employees. Finally, the current Act and regulations allow considerable flexibility, as intended by Robens’ model. But there are concerns about exclusions of PCBUs employing less than 20 workers and some high-risk industries from duties to establish formal worker EP&R systems (Pashorina-Nichols et al., 2017; Sissons, 2016).

2.4.2 Defining Forms of EP&R in the Workplace and in the HSWA

This section explores the broad definitions of EP&R. Each definition is viewed in the context of how they have been interpreted in the New Zealand.

At the international level, employee rights to have a say are recognised by the World Health Organization (WHO) (Burton, 2010) and in the principles of the International Labour Organisation (ILO) Convention 87 (Freedom of Association) and Convention 98 (Right to Organise and Bargain Collectively). In defining engagement, the WHO refers to involvement, influence and representation. Leadership engagement is critical for providing permission, resources and support, and is the first step and key feature of the

continuous improvement process in WHS (Burton, 2010). The scope of leadership includes all stakeholders: owners, senior managers, union leaders or informal leaders. The second key feature of ‘worker involvement and influence’ in work and decisions is crucial for effective sustainable WHS initiatives. Burton (2010) reported that few change initiatives have succeeded when a strong collective voice is absent. As two of the WHO core principles, leadership engagement and worker involvement are more than just steps in a process. Therefore, how workers must be involved is clarified:

The workers affected by the programme and their representatives must be involved in a meaningful way in every step of the process, from planning to implementation and evaluation. Workers and their representatives must not simply be ‘consulted’ or ‘informed’ of what is happening, but must be actively involved, their opinions and ideas sought out, listened to, and implemented. (Burton, 2010, p. 62)

While New Zealand laws, policies and practices, to a large extent, reflect the principles outlined in Convention 98 (ratified in 2003) and Convention 155 (ratified in 2007), there are still some concerns regarding the limitations of the statutory provisions, duties and regulations for worker EP&R (Anderson & Nuttall, 2014; Foster & Rasmussen, 2017; Rasmussen et al., 2016).

The HSWA duties requiring employers to engage, inform and consult with workers on WHS matters that may affect the individual(s), leaving the decisions about the forms of worker voice to management are confusing on two counts. Firstly, it minimises the scope of the ‘representation’ principles in the ILO conventions and the WHO principles. Secondly, the current flexibility and freedom in decision-making about how duties are implemented in practice appear to be at odds with balanced influence implicit in fair and effective representation in the purpose of the HSWA.

In the following sections, the concept of engagement, participation and representation are unpacked to understand its practical application in the HSWA. The original concept of employee voice is retained in the historical context but is extended to worker voice in this research.

2.4.2.1 Engagement

‘Employee engagement’ (Kwon et al., 2016) and ‘employee involvement’ (Marchington, 2015b; Markey et al., 2015; Pateman, 1970), are management driven direct forms of involvement aimed at increasing positive organisational outcomes. Pateman (1970) proposed that although management may consult employees, the aim is for them to accept management decisions. Pateman (1970) called this ‘pseudo’ participation, as influence is purely an unintended consequence of the organisational gains, and employees and workers would only be involved in operational and task level decisions on a narrow range of issues (Blyton & Turnbull, 2004; Markey et al., 2015). Worker engagement is mainly concerned about the purpose, intent and outcome of worker voice initiatives.

However, the HSWA duties on management and workers to agree to procedures for engaging and involving workers in WHS matters and decisions that are likely to affect health and safety appears to assume of equal power in decision-making ("Health and Safety at Work Act, No.70," 2015). The regulator, WorkSafe, expects management in PCBUs to provide reasonable opportunities for workers to be involved in two-way conversations about WHS, and “everyone involved in health and safety must be able to contribute and have their opinion considered when decisions are made” (WorkSafe New Zealand, 2017a, p. 1). Citing Safe Work Australia’s 2017 advice to employers, (Barton, 2018) interprets engagement as “part of employer attitudes towards worker involvement” (p. 9). Participation refers to the physical activity of worker involvement in making a workplace safer. Thus, engagement is more of a mental state, whereas participation is a description of practices related to that mental state, and representation is a sub-set of participation practices. Although the Australian statutory duties to consult workers are stronger than engagement (Pashorina-Nichols, 2016), this mental state is shaped by moral and ideological beliefs about why and how workers need to be involved in workplace decisions that affect their work, health, safety and wellbeing.

2.4.2.2 Participation

Some define ‘worker participation’ as encompassing all direct and indirect forms of voice that involve workers in decisions about their work (Gollan & Xu, 2015; Marchington, 2015a). These forms of participation processes make up worker involvement systems and impact the degree of influence workers have on management decisions. Others require participation to be between groups of employees and their manager (Budd, Gollan, &

Wilkinson, 2010). Markey et al. (2015) confine employee participation to collective indirect representation by unions, HSRs or other employee representatives. Pateman (1970) argues that:

The whole point about industrial participation is that it involves a modification, to a greater or lesser degree, of the orthodox authority structure; namely one where decision-making is the 'prerogative' of management, in which workers play a part. (p. 68)

Situations where employees have some influence over some tactical and strategic level decisions within a context of unequal power are classified as, 'partial' participation. 'Full' participation is founded on equal power between management and workers. The level of leadership openness to share decision-making and the amount of participation will be influenced by a range of individual and organisational factors (Tannenbaum & Schmidt, 1958). The stakeholders need to agree on how workers will participate, at what level of the organisation they will participate, the range of subject matter they will talk about, and what degree of influence they will have in management decisions. As the power to influence decisions and Pateman's (1970) theory are incorporated in the analytical model, these are discussed in more detail below.

Even though management and workers must agree on engagement and participation procedures, the HSWA allows PCBUs management to determine the best way to meet their duties to provide reasonable opportunities for workers to participate effectively in improving WHS on an ongoing basis (WorkSafe New Zealand, 2016a). This flexibility accommodates workers' views and needs, organisational size, and nature of WHS risks. Moreover, PCBUs are allowed to keep existing engagement and participation practices if employers deem, they are effective and comply with the HSWA (WorkSafe New Zealand, 2017d).

2.4.2.3 Representation

'Worker representation' includes traditional forms of indirect union bargaining and workplace HSRs and HSCs. These may be replaced or complemented by non-union employee representation structures (NERs). NERs are useful for short-term task focused working groups, but the HSWA requires that elected HSRs must be involved. The practice of combining union representative voice with individual voice is not a new phenomenon

(Gollan & Xu, 2015; Kaufman & Taras, 2010; Wilkinson et al., 2010). Complementary practices first occurred in Anglo-American countries in the 1970s as traditional ways of conducting IR, and managerial decision-making was expanded to accommodate individual employee rights (Marchington, 1992; Ramsay, 1977; Rasmussen, 2009).

The effectiveness of traditional forms of representation in WHS is well-established (Quinlan, 2008; Sissons, 2016; Walters et al., 2016). Elected HSRs and HSCs facilitate worker participation in the continuous improvement of WHS outcomes. Independent regional roving HSRs (Burton, 2010; Frick & Walters, 1998; [NZCTU] New Zealand Council of Trade Unions, 2012; Walters, 2010) and industry HSRs (Walters et al., 2016) are valuable in supporting worker voice and participation in high-risk industries and small and medium-sized enterprises (SMEs). Kaufman and Taras (2010) note that employer-led voluntary NER systems, such as joint consultation committees (JCCs), aim to enhance organisational flexibility and efficiency in identifying and resolving workplace matters. However, effectiveness depends on the purpose and extent it is used to integrate employee involvement or bargaining (Kaufman & Taras, 2010; McGraw & Palmer, 1995). Markey (2007) found that the Australian regulatory environment constrained the formation of a genuine independent non-union works council-style employee participation initiative and encouraged union substitution. These findings suggest that even when the legal aim is to enhance worker participation, NERs may undermine unions.

Research on motivations for establishing voluntary NER JCCs to meet statutory duties in Australia, shows these forms require similar conditions as those for compulsory HSCs, including management commitment and responsiveness to issues raised by the JCC members; provision of adequate resourcing and training; effective interpersonal communication between JCC members, JCC representatives and employees; inter-JCC links within organisations; ensuring employee representation and participation is genuine; and gaining union support (McGraw & Palmer, 1995). The JCCs tended to deal with relatively trivial organisational issues, and either complemented union collective bargaining or competed with unions' efforts to improve productivity. Kaufman and Taras (2010) concurred with McGraw and Palmer (1995) proposal that NERs are challenging to manage successfully and require considerable employer commitment, attention and investment. As NERs can quickly atrophy researchers need to consider the degree of power and permanence. However, NERs are relatively ineffective as a forum for distributive bargaining and employee interest representation because they lack power,

independent resources and autonomy to exert leverage on a company (Haynes, 2005; Haynes, Boxall, & Macky, 2005; Kaufman & Taras, 2010; McGraw & Palmer, 1995).

There are detailed provisions for HSRs and HSCs in the HSWA and new regulations, yet representation is only one form of participation (WEPR Regulations). Further changes and concerns about the exclusion of many small PCBUs from the duty to use traditional indirect forms of participation are noted above.

While there is evidence that the new statutory duties are encouraging employers to improve the management of WHS, weaknesses and areas for improvement are apparent. The most recent results from annual surveys, started in 2012, show 49% of businesses making significant changes to their WHS policies and systems (MBIE, 2013a, 2014, 2016, 2018c). This is a statistically significant increase compared to previous years (34% in 2015/16, 24% in 2014/15, 20% in 2013/14 and 24% in 2012/13). How the business involved their workers in WHS was only the fourth most common change made by these employers (49%). Employers appeared to be more concerned about developing policies or systems (75%), the training of workers, including inductions (63%) and risk management (53%) (MBIE, 2018c). Foster and Farr (2016) found some employer willingness to engage workers in SMEs, and Rasmussen and Tedestedt (2017) argued that employee participation has been embedded in the statutory provisions. Annual reports suggest there has been some recent improvements in EP&R within some State sector organisations that are modelling good practice (Department of Corrections, 2018; New Zealand Police, 2018).

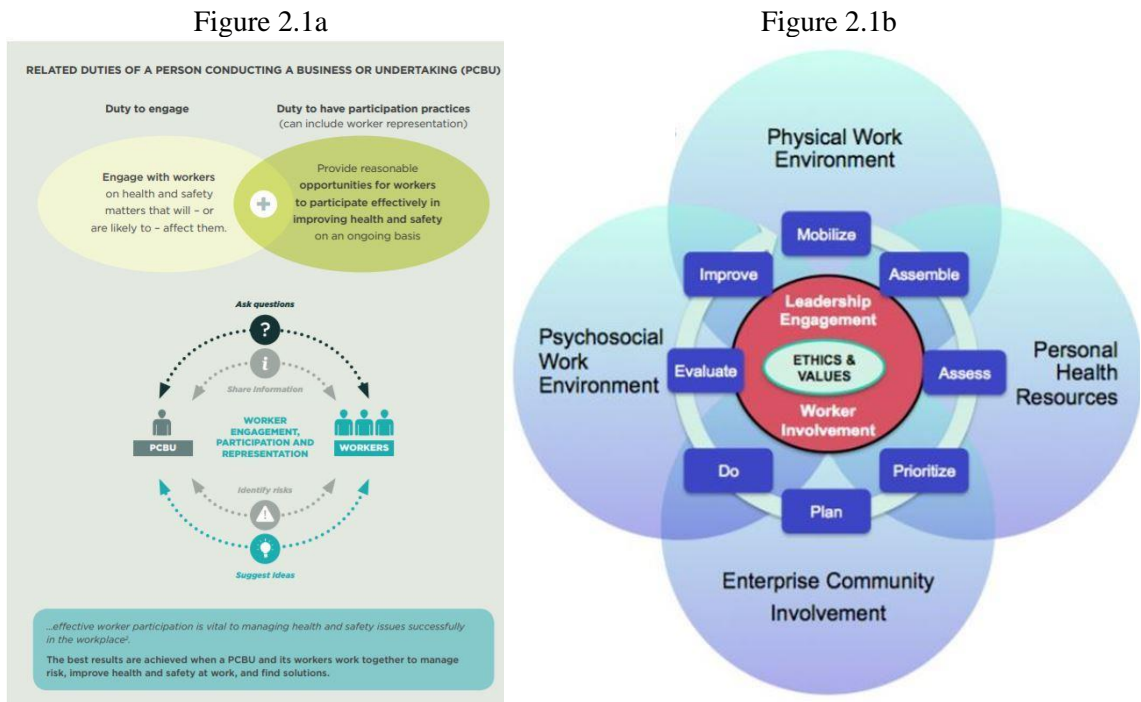
Another annual survey highlighted significant differences between employer and worker perceptions of how statutory WHS duties are implemented in practice (Nielsen, 2015, 2017a; WorkSafe New Zealand, 2017b). Weaknesses in complex PCBU EP&R systems were starting to emerge in enforceable undertakings accepted by the regulator (WorkSafe New Zealand, 2018a, 2018b). Annual MBIE surveys from 2012–2017 show decreasing numbers of informal HSRs, trained HSRs and HSCs in New Zealand. There were concerns about the Labour Party not delivering on their election promise to extend the right for workers to elect an HSR to all workplaces (Rudman, 2019). However, there was a commitment to ensure all workers have the right to elect HSRs in the Labour Party's manifesto for the 2020 election. In the briefings to the incoming Minister of Workplace Relations and Safety, MBIE and WorkSafe have put this commitment as one of the

priorities for the Minister. WorkSafe admitted that “PCBUs need to engage with, and encourage participation and representation from workers, their representatives and unions” (WorkSafe New Zealand, 2020a). The regulator explicitly committed to their role to address the “ongoing need to educate all system participants about WEPR; to support it to occur; and to enforce the relevant provisions in the HSWA” (p. 10). This is a significant change from the 2017 briefing when it was only a secondary priority (MBIE, 2017).

There have been numerous attempts to develop conceptual models to explore the nature and extent of participation, and bridge multidisciplinary divides. But researchers agree all disciplines need to broaden their scope when exploring worker voice. For example, ER scholars recognise the need to complement collective voice with individual voice in the contemporary work environment (Barry & Wilkinson, 2016; Wilkinson et al., 2014; Wilkinson et al., 2013). The literature suggests it is the intent, purpose, depth, breadth and intersection of worker EP&R structures, processes and practices at the national, industry and organisational levels that will impact on the effectiveness and sustainability of WHS initiatives. This research adopts the term ‘worker EP&R’ to explore direct and indirect forms of worker engagement, participation and representation between management and employees, contracted workers, and PCBUs and worker representatives.

Finally, Wilkinson et al. (2018) recently concluded that the term employee voice is weaker than other terms such as participation, “because it does not denote influence or power sharing and may thus be at times no more than a trickle up voice” (p. 711), and furthermore, proposes that voice is a prerequisite for participation practices. However, the WorkSafe interpretation of worker EP&R duties of PCBUs (presented in Figure 2.1a) does not appear to encompass the broader WHO conceptualisation of leadership engagement or the context of continuous improvement common in WHSMS (presented in Figure 2.1b). While Barton (2018) agrees that engagement is a precursor and element of continuous improvement participation processes, his suggestion of the distinction between engagement and participation being insignificant appears to deviate from this body of reviewed literature.

Figure 2.1. WHO Healthy Workplace Model: Avenues of Influence, Process, and Core Principles (Burton, 2010, p. 3), and Figure 2.1b WorkSafe Worker EP&R Duties of a PCBU (WorkSafe New Zealand, 2016b, p. 12) ¹



2.5 Theoretical Frameworks and Models

The multidisciplinary research debates highlight the need for the development of analytical tools to help comparative researchers talk to each other, rather than over or around each other. To this end, empirical research shows mixed results supporting or rejecting the modification of classical theories for explaining contemporary worker voice initiatives. This section discusses existing theoretical frameworks used to explore worker voice and develops the *Multidisciplinary Analytical Model of Worker Voice*.

‘Waves’ and ‘Cycles’. Researchers have adopted these approaches when reviewing types of worker voice initiatives that have emerged over the last two centuries. When Ramsay (1977) explored worker participation initiatives introduced in the UK from the early 1860s-1970s, he found the initiatives’ cycles corresponded to periods when management authority was challenged. The initiatives were introduced as a means for management to

¹There are no copyright restrictions on use of WorkSafe resources provided they are reproduced without any change and the WorkSafe reference is acknowledged. Figure 2.1b is reproduced from Burton, J. (2010), WHO Healthy Workplace Framework and model: Background and supporting literature and practice, Page 3, Copyright 374330 (2021).

regain control of decision-making. As initial interest waned, initiatives weakened or faded away. Later, Marchington, Goodman, Wilkinson, and Ackers (1992) adopted the concept of 'waves of interest' when focusing on the impact of voluntary employee involvement (EI) on the organisation and their employees. The researchers suggest the concept facilitated in-depth analysis as it recognised employee involvement "may have different roots, processes and consequences, secondly that it does not assume an automatic repetition of events in a historical pattern and thirdly it recognises that employee involvement may be driven by different actors and perhaps in different directions (ibid.)". Researchers who adopt the waves approach argue it overcomes the limitations of cycles (Blyton & Turnbull, 2004) and acknowledges within and between group differences (Rasmussen & Tedestedt, 2017).

Waves may reflect a long-term lifespan of strategic level interest and support for an initiative. Blyton and Turnbull's (2004) interpretation of cycles having little impact in progressing worker voice objectives and outcomes may help distinguish between strategic level organisational choices of forms of worker voice and understand challenges to the sustainable implementation of strategic choices at tactical and operational levels in complex supply chains and subcontractor networks.

The Favourable Conjunctures Model helps account for the complexity and diversity of forms of participation within a country (Poole, Lansbury, and Wailes, (Poole et al., 2001). Patmore (2016) agrees that the favourable conditions help explain why some worker voice experiments persisted at the enterprise level in the inter-war period in the USA, UK, Germany, Canada and Australia. Poole et al.'s (2001) Favourable Conjunctures framework incorporates two major theories outlined in Rasmussen's (2009) critique, namely, systems theory and conflict theory (ideological frames of reference). Basic systems theory, based on the inputs (capital, labour, technology and information), conversion processes (applying management skills and work processes) and outputs (products, services, and profits), is a useful foundation for interpreting theory in practical models. Dunlop's (1958) expanded IR system helps understand a broader range of contextual factors that influence worker voice and can be applied at a macro level. The IR system inputs draw attention to how the actors, ideology and external level contextual factors influence IR matters. The conversion processes are concerned with how the inputs are transformed into outputs. IR processes include direct worker and management actions, indirect negotiation and bargaining, and statutory interventions. According to Rasmussen,

the formal and informal, procedural, and substantive rules are the main output of Dunlop's IR system (ibid.). Fox (1966, 1974) refined the ideological frames of reference (unitarism, pluralism and radicalism). This multidisciplinary review supports Rasmussen's observation that ideological frames of reference are widely used despite criticism.

The literature revealed how researchers use complementary theories to answer research questions and overcome limitations of individual theoretical models. Methodologically, it was Patmore's (2016) inclusion of enterprise level case studies, alongside the examination of national and industry level factors, that provided insights into organisational choice regarding forms of worker representation. Poutsma et al.'s (2006) survey results support Poole et al.'s (2001) model for explaining varying performance of HRM practices in European private sector organisations. However, where Poole et al. (2001) and Poutsma et al. (2006) rejected the Cycles Theory, Patmore (2016) argued that both Cycles Theory and Favourable Conjunctures are useful for evaluating the performance of contemporary initiatives. While Marchington's (2015a) classification of four types of participation (i.e., downward, upward problem-solving, financial involvement, representative participation, such as bipartite JCCs) have been justified conceptually using quantitative methods, Marchington acknowledged the time-consuming nature of more complex analytical models. Despite his amended model explicitly highlighting the sociopolitical factors that shape decisions about the objectives and meaning of worker voice, some factors may continue to have limited consideration in industry and organisational level empirical studies.

There are some concerns about the relevance of current theoretical frameworks in the contemporary global environment defined by the "gig" economy (project work, IT platforms and precarious work) (Budd et al., 2015; Heery, 2016). These concerns are supported by calls to learn from the past (Barry & Wilkinson, 2016; Budd et al., 2015; Patmore, 2016) and a need for more in-depth research on how health and safety systems function and the role of HSRs (Hasle et al., 2016; Lamm, 2014; Markey et al., 2015; Walters et al., 2016). Current contextual factors must accommodate the gig economy (platforms and projects) with the related increases in precarious work arrangements (contract, casual, part-time).

As Poole et al.'s (2001) Favourable Conjunctures Model for exploring industrial democracy and participation has been tested in an IR context, this model was adapted to explain the impact of the legislative changes on worker voice in WHS.

2.5.1 Developing a Contemporary Conceptual Model for Exploring Worker Voice

The Favourable Conjunctures Model recognises tensions between employee aspirations for voice and employer preference for HRM forms of worker voice that retain managerial prerogative in decisions. It includes a broader range of factors than are applied in HRM and OB approaches to employee engagement, involvement and participation (EIP) (Barry & Wilkinson, 2016; Marchington, 2015a; Poole et al., 2001). The power that principal management, labour, and State actors (referred to as stakeholders in this research) have as initiating agents, is a central factor in the Favourable Conjunctures Model. Contingency Theory, developed within the OB debates, focuses on managerial behaviours and adapting organisational structures and processes to the environment (Poole et al., 2001). Three other factors shaping industrial democracy are the broader macro level sociopolitical technical and economic structural conditions; stakeholders' strategic choices; and organisational structures and processes at the firm level (Poole et al., 2001).

Research suggests that these different factors influence industrial democracy (Poole et al., 2001) and participation schemes (Marchington, 2015a) in different ways and at different levels. The technical and economic conditions help explain the growth of industrial democracy. Subjective factors may either promote or constrain industrial democracy in a particular country; whereas statutory frameworks and policy may be used to promote industrial democracy through participation schemes, such as works councils (Marchington, 2015a; Poole et al., 2001). Soft government initiatives have the potential to stimulate sufficient interest in different forms of worker voice to withstand statutory changes driven by successive governments' ideological beliefs (Marchington, 2015a). Outcomes are dependent on how the specific type of industrial democracy (in this case statutory requirements for worker voice in WHS), are implemented in IR systems (Poole et al., 2001). There is some consensus that the establishment of a particular practice is influenced by the *strategic choices of the actors*. It is these patterns of practices that may help us understand the differences between firms operating within the same or similar macro conditions (Marchington, 2015a; Poole et al., 2001).

The IR research highlights the critical nature of the distribution of power between the principal stakeholders (Barry & Wilkinson, 2016; Donaghey et al., 2011; Dunlop, 1958; Geare et al., 2006; Lukes, 1974; Lukes & Haglund, 2005; Poole et al., 2001). Not only has power been found to be relevant for understanding the origins of the various power sharing schemes, but the effectiveness of participation is also largely dependent on various rules and regulations (typically stemming from supportive legislation), employee mobilisation (that is, the strength of unions), and leadership style. For instance, the WHS literature previously discussed concurs with the IR research in that employment relations institutions (such as the Employment Court) and hierarchical power structures can deter workers from speaking up (Barry & Wilkinson, 2016; Donaghey et al., 2011). Contemporary employment practices, such as casualised work and probationary periods, at both the organisational and firm levels, have further impacted worker empowerment and control. For example, restructuring and delayering organisational hierarchical structures have led to broadening worker responsibility and autonomy at the task level. Whereas technological advances underpinning the HRM focus on the individual and the costs of collective bargaining have contributed to the decline of union representation at the firm level (Poole et al., 2001). These pressures jointly contribute to eroding worker empowerment. For more detailed discussion of power see Lukes (1974, 2005).

2.5.1.1 Bridging Multidisciplinary Debates with Marchington's Dimensions Measuring the Depth, Breadth and Scope of Worker Voice

Analytical tools aimed at understanding the outcome of different forms of worker voice practices have the potential to span multidisciplinary debates. The addition of Marchington's (2015a.) four dimensions for measuring EIP help clarify the direct and indirect forms of worker voice in WHS. The four dimensions of EIP applied to worker involvement practice are:

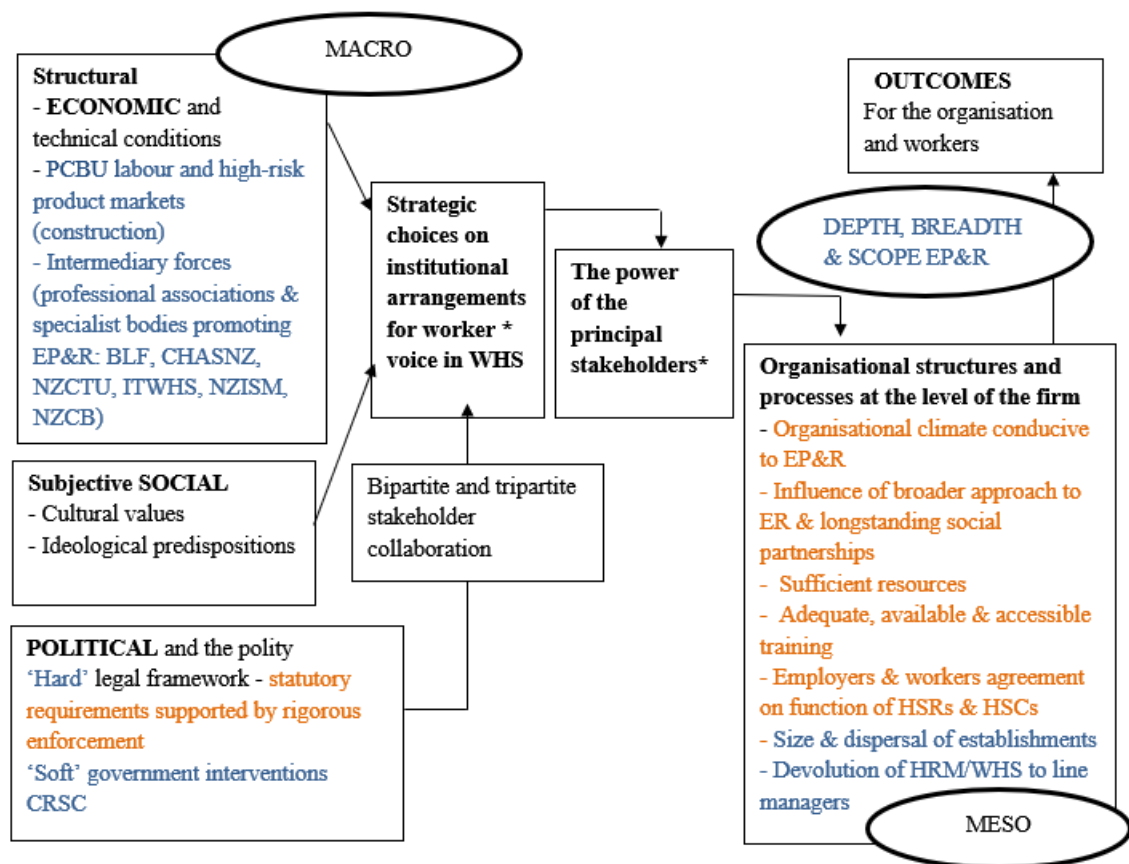
1. ***The degree or extent*** to which workers were able to influence management decisions; informed of change, consulted, make decisions.
2. ***The levels*** at which workers participate within organisational hierarchies; (i.e., at the task, departmental, establishment or corporate level).
3. ***The range of subject matter***; from relatively trivial matters to strategic decisions.

4. *The forms of participation* ranging from formal and informal direct face-to-face or written communication between managers and subordinate individuals concerning daily job activities; to worker suggestion schemes; and indirect participation through union and/or non-union representation; different patterns of the forms of participation practices applied in voluntary initiatives and statutory worker voice structures as described in Chapter 3.

Marchington's (2015a) forces within and beyond the organisation shaping EIP correspond with and help define Poole, et al's (2001) structural factors influencing strategic choice on institutional arrangements for worker voice in WHS. Additional theory allows consideration of alternative explanations of how key stakeholders influence worker voice in WHS, within and beyond, an organisation. Fox's (1966, 1974) ideological frames of reference help explain how ideology influences strategic choices on institutional arrangements for worker voice. Pateman's (1970) levels of involvement and power help explain the centrality of power in the selected worker voice practices. Bernstein's (1972) regulatory Capture Theory moves beyond analysing hard and soft regulatory frameworks (Marchington, 2015a; Poole et al., 2001) to uncover deeper understandings of how regulatory frameworks are formed, the nature of regulatory operations, policy issues and regulatory outcomes.

This *Multidisciplinary Analytical Model of Worker Voice* presented in Figure 2.2 distinguish between differences and similarities in the case studies operating under the same statutory framework, overcoming a limitation of VoC theory. The remainder of this chapter discusses how and why the three explanatory theories were triangulated in this research.

Figure 2.2. Multidisciplinary Analytical Model of Worker Voice



Note: * The broader concepts of workers and stakeholders replaced the original focus on employees and actors. The Favourable Conjunctures factors (Poole, et al., 2001) are presented in bold black font. The additional factors for effective EP&R in WHS (Lamm, 2010; Walters & Nichols, 2009) are orange. The blue additions clarify structural factors and explain the purpose of different forms of worker voice (Marchington, 2015; Marchington, et al., 1992).

2.5.1.2 Evaluating Worker Voice with Pateman's Levels of Involvement and Power

Industrial Participation. In searching for theoretical conceptualisations with the potential to bridge comparative divides, Pateman's (1970) political perspective of 'industrial participation' has been tested in recent WHS research focusing on industrial democracy (Budd et al., 2018; Markey et al., 2015), the work environment and wellbeing (Knudsen et al., 2011), and productivity and wellbeing (Ravenswood, 2011). This political classification of industrial participation is incorporated to explore the level of power stakeholders have in decisions about the form and function of formal EP&R systems, with Marchington (2015a) guiding analysis of the depth, breadth and scope of direct and indirect forms of worker voice.

There are numerous continuums classifying worker voice and influence. According to Pateman (1970), the intention of industrial participation is to mediate managerial prerogative in decision-making. The levels of involvement and power in decision-making may vary within an organisational hierarchy. At one end of the continuum, strategies aimed at getting workers to accept management decisions are classified as ‘pseudo participation’. ‘Partial participation’ occurs within a context of unequal power when workers have some influence over some tactical and strategic level decisions. At the other end, ‘full participation’ is only possible in situations where employers and workers have equal power. Marchington et al. (1992) proposed that degree of influence is intentional and progressive. Their ‘escalator’ measuring the degree to which different forums allow employees and their representatives influence in final decisions captures a wider range of voice and influence. Management informing workers of management decisions is the lowest form of employee involvement. Organisations ‘evolve’ through step changes developing skills in communication, consultation and coordination until reaching the highest level of shared control. Continuums may be useful for explaining the level of worker influence in WHS, although terms may need to be added to reflect current understanding and practice.

2.5.1.3 Applying Capture Theory to Understand Regulatory Failures

The literature and reports revealed statutory provisions have had limited impact in strengthening collective bargaining and worker voice in WHS since the decline in unions. Political and economic debates provide established theory to help understand why regulatory systems fail, particularly failures of regulatory regimes charged with public safety and occupational health and safety. Capture Theory was incorporated to help understand how statutory systems fail, as well as identify potential barriers that arise in the early stages and strategies to mitigate failure in current and future statutory frameworks.

Supporters of Marver Bernstein’s Capture Theory, developed in 1955 to explain the regulatory failure of the Interstate Commerce Commission, propose that regulatory agencies tend to follow a four-stage pattern based on a human ‘life-cycle’ (Etzioni, 2009; Howlett & Newman, 2013; Newman, 1985). This view dominated political and economic regulatory debates for 20 years.

The 'gestation' stage of being captured begins when problems are identified. Pressure from stakeholder lobby groups for legislative solutions leads to the establishment of new regulatory agencies with "a vague statutory mandate". In the early 'youth' stage, the statute is championed by a neutral government agency which steers the Bill through the parliamentary system of select committees (Etzioni, 2009; Howlett & Newman, 2013). Ideally, the agency acts in public interest (Etzioni, 2009), but at this early stage, the boundaries of their powers of enforcement and authority will not have yet been clarified by the judicial system (Howlett & Newman, 2013). This ambiguity can result in the regulatory advantage passing to private interests, which happens at the same time the public, believing the statutory solution has been achieved, focus their support and attention on other issues (Howlett & Newman, 2013).

'Maturity' is reached when a stable regime emerges whose powers and duties are agreed upon by all sides, and in which the autonomous regulatory body acts as a tribunal of the regime (Howlett & Newman, 2013). It is characterised by increasing bureaucratisation and growing distance from the group(s) initially responsible for setting the regulatory objectives. In the maturing phase, regulatory agencies were found to be drawn closer to the industry they were supposed to regulate, and away from serving the public interest (Etzioni, 2009). In 'old age', when an industry has fully captured the regime, the regulatory agency's main role is to retain the status quo (Howlett & Newman, 2013, p. 109). According to Etzioni (2009), regulatory capture signals the transition from maturity to old age. In fact, political theorists, such as Theodor Lowi and Gabriel Kolko from the political left, and George Stigler and Richard Posner from the right, found attempts to create independent adversarial agencies failed because relationships between the regulator and the regulated changed over time (Etzioni, 2009).

Although Newman (1985) discarded Capture Theory when exploring the regulatory failure of the 1970 OSHA Act in the USA because it did not adequately account for political battles, the research highlighted the importance of having an evidence-based and comprehensive strategic plan. Developing and applying an alternative compliance-resource model, the research suggested regulatory failure was linked to "misguided technical strategies", such as limiting focus to injury rather than including health standards. Moreover, under-resourced regulatory agencies had devolved specific duties to third party agencies with their own agendas. Where the regulator required specific technical knowledge, limited availability of skilled personnel in the labour market may

be insufficient to allow the regulator and regulated industry to operate effectively and independently. Regulatory reliance on organisations for information, organisational lobbying, and the propensity for regulators to identify with the regulated were reported to have a greater impact when personnel moved backwards and forwards between the regulator and the regulated organisations. In a subsequent study, Etzioni (2009), challenged the assumption of a benevolent regulator central to ‘public interest theory’. Etzioni defined the main ways capture occurs: 1) special interests shape regulations, 2) dilute existing regulations, 3) weaken enforcement of existing regulations, 4) repeal existing regulations, 5) switch or manipulate regulators, and 6) set prices and rates. Thus, Capture Theory provides alternative explanations for why regulatory failure occurs—“a crisis of compliance resources caused by a flawed legislative mandate” (Newman, 1985, p. 29).

More recently, Howlett and Newman (2013) argued Bernstein and other researchers focused largely on the maturation, old age and declining policy termination stages. Further, that understanding the influences of forces and processes in the early stages of a new regulatory regime is necessary for understanding subsequent actions that follow the maturation, such as de- and re-regulation. Howlett and Newman (2013) developed a more comprehensive analytical tool in their study of WHS risks, which provided opportunities for identifying more nuanced activity in ‘infancy’, ‘childhood’ and ‘youth’ stages. Drawing on hazard management studies, Howlett and Newman (2013) tested their theory on seven cases of health and safety risk regulation in the USA and UK. One of the cases explored the events that led to establishment of the independent Health and Safety Executive and regulations that followed a catastrophic explosion at a chemical processing plant in 1974. Their findings concurred with research showing regulatory regimes proceeded along a similar linear pathway of elements and events, but the length of time in each stage differed and was prone to sector and national contextual variations. Whereas they could not account for these differences, Poole et al. (2001) argued the Favourable Conjunctures helps account for the complexity and diversity of forms of participation within a country.

In summary, this section highlighted the incremental nature of theory development and provided evidence-based lessons for understanding ongoing regulatory failures around worker voice (Newman, 1985). For example, how failure to identify and target issues may position a regulatory regime to fail. Health, wellbeing and worker voice in WHS were

similarly largely ignored in New Zealand until amendments to the HSEA included duties to manage contemporary workplace risks related to fatigue and stress, and provisions for worker representation ("Health and Safety in Employment Amendment Act, No.86 (2002),"). Although these are amongst the major issues in the current HSWA, reports exposed the absence of specific targets at the time of this research (MBIE, 2018a). The omission suggested there may be some barriers to achieving sustainable improvements in more recently identified issues.

2.6 Conclusions

The literature demonstrates how scholars have defined and constructed the characteristics of worker voice in different ways, depending on the discipline and the aim of the study. These differences underpin the diversity in the purpose and forms of worker voice that have been implemented in workplaces. The plethora of worker voice research mirrors management trends and the orthodox theories provide opportunities to identify lessons from the past that shape expectations and decisions in contemporary workplaces. Firstly, the importance of worker voice in effectively managing WHS is well documented. Yet, the catastrophic Pike River mining tragedy highlighted the limitations of the Robens light national health and safety system that had been operating in New Zealand for almost two decades. Secondly, the review suggested that it would be challenging to achieve widespread improvements in worker voice in an LME with predominantly small to medium enterprises with low union presence.

Although, the current HSWA aligns with ratified ILO conventions, there is the potential for employers to avoid the requirement to adopt statutory requirements for traditional HSRs and HSCs. Analysis of the relevant parts of the previous HSEA and current HSWA suggested that attempts to clarify and strengthen worker voice in regulations have been undermined by parts of the HSWA. Given the moral imperative to enhance worker voice in WHS decisions, in-depth analysis determining similarities and differences in practices in organisations operating within the same statutory conditions has theoretical, policy and practical implications. The purpose of this thesis is to bridge disciplinary divides by uncovering how and why the Health and Safety at Work Act 2015 is enhancing workers' involvement in workplace decisions that affect their WHS outcomes.

Table 2.1 summarises the *Multidisciplinary Analytical Model of Worker Voice* used to explore the research question. The analytical model guided the development of the data

collection tools, analysis and interpretation of the data. The inclusion of additional theories expanded the potential to provide alternative analytical explanations. This model of worker voice informs the structure applied at the macro and meso levels with strategic and operational units of analysis. The *Multidisciplinary Analytical Model of Worker Voice* enabled me to map the different forms of worker participation and representation, and in particular, the right to worker voice. By identifying the different forms and influences of and on worker voice, we can understand the conditions under which worker participation and representation can thrive. In addition to bridging siloed debates, this study contributes to research exploring the link between worker voice in WHS and the IR context in which it occurs and moves beyond a bounded focus on either collective or individualist forms of worker voice.

Chapter 3 focuses on the broader voluntary and statutory structures within which worker voice in WHS occurs. Then, applies the analytical model to present the background of worker voice in New Zealand in the construction industry.

Table 2.1. Applying the Multidisciplinary Analytical Model of Worker Voice

Favourable Conjunctures factors (Poole, et al. 2001)	Analytical outcomes	Additional theory and discipline	Analytical outcomes	Applying the model (Section 3.4)
1. Macro level structural conditions - Technical and economic conditions	Macro factors help explain the growth of democracy	Fox 's (1966, 1974) Ideological Frames of Reference (industrial/employment relations)	Help explain how principal actors view the world of work	1. Structural factors influencing statutory provisions for worker voice <ul style="list-style-type: none"> • Labour and product markets - International standards - International labour and economic market conditions • Intermediary forces (professional associations and specialist bodies promoting EP&R) • Social ideological approaches – Frames of Reference • Influence of the broader sociopolitical approach in New Zealand
- Intermediary forces Subjective factors - Cultural values - Ideological predisposition	Helps explain how these forces shape participation, but not the precise impact	Ideological Frames of Reference	Helps explain why statutory frameworks fail	2. Political structures influencing strategic choices on statutory arrangements for worker voice in New Zealand <ul style="list-style-type: none"> • 'Hard' statutory framework - <i>Enforcement</i> • Intermediary forces influence in soft government intervention • WorkSafe's focus on EP&R
Political and the polity – Hard statutory frameworks - Soft government intervention	For understanding how government strategies may be used to promote industrial democracy through participation schemes such as works councils	Bernstein's (1961a; 1972) Capture Theory (politics and economics)	Helps explain how the forms of worker voice mediate managerial prerogative in decision-making	3. Power of principle stakeholders to influence statutory voice in New Zealand <ul style="list-style-type: none"> • Employers' role in facilitating worker voice - <i>Voluntary benchmarking standards – Business leadership in WHS in the construction industry</i> • Union role in supporting worker voice in conditions of work and WHS
2. Strategic choices on statutory arrangements for worker voice in WHS	Help explain the different patterns of practices adopted at the firm level, under the same or similar statutory conditions	Ideological Frames of Reference		
3. Power of the principal actors (stakeholders)	<i>Most critical factor</i> for understanding scheme origins. Effectiveness of participation dependent on rules and regulations, employee mobilisation and leadership style	Pateman's (1970) Levels of Involvement and Power in Decisions (industrial democracy)		

Favourable Conjunctures factors (Poole, et al. 2001)	Analytical outcomes	Additional theory and discipline	Analytical outcomes	Applying the model (Section 3.4)
Industry level				4. The construction industry <ul style="list-style-type: none"> • Economic product and labour market <ul style="list-style-type: none"> - <i>Workforce demographics</i> • Workplace health and safety performance in the construction industry • Worker engagement, participation and representation in WHS matters <ul style="list-style-type: none"> - <i>Overcoming barriers</i>
4. Meso level organisational structures and processes at the firm level	For understanding how contemporary HRM practices impact on the depth, breadth and scope of forms of participation, Linked to empowerment	Marchington's (2015a; 1992) Forces Shaping EIP, and Four Dimensions of EIP (HRM) Pateman's (1970) Levels of Involvement and Power in Decisions Walters & Nichols (2009), Lamm (2010) Key Factors for Effective Worker Voice in WHS (OHS/WHS) Three Elements of Effective WHSMS (Campbell, 1995; Gallagher & Underhill, 2012)	Influencing forces correspond with the Favourable Conjunctures factors, degree, and dimensions facilitate cross-disciplinary debate Helps understand the factors influencing effective worker voice in WHS	
Outcomes	Dependent on how the specific type of industrial democracy is implemented in the IR system at the firm level	Refer to 2. Strategic choices		

3 Voluntary and Statutory Structures that have Shaped Worker Voice and the Construction Industry

3.1 Introduction

The differing definitions, forms and purpose of worker voice were considered in Chapter 2. Four forms of participation were identified as informal, formal, direct or indirect through representation structures. The purpose of this chapter is to examine the broader industrial relations context of worker voice in which voice in workplace health and safety (WHS) matters occur. Firstly, some of the voluntary and statutory worker voice and participation structures through which worker voice can be heard and that have been tested overseas and in New Zealand are explored. These are characterised as indirect, direct and cooperative worker-ownership structures. This section then traces the evolution of these structures as they formed part of experimental reform initiatives.

The chapter then explores the historical background of efforts to establish statutory and voluntary worker voice structures in New Zealand and in the construction industry. These sections draw on research literature, government and industry reports, and media articles and focuses on the structures and major reforms in New Zealand—the most recent being the post-Pike River reforms of the statutory WHS framework. Specific changes were discussed in Chapter 2. This section applies the *Multidisciplinary Analytical Model of Worker Voice* to explore the economic and technical factors locating the research in New Zealand and the commercial construction industry. The literature demonstrated the centrality of power in understanding the origins of participation structures and the potential of hierarchical power structures to silence workers. Thus, the key stakeholders' powers and capacity to influence, support and enforce the embedding of the current duties for worker engagement, participation and representation (EP&R) is examined. Finally, the contextual factors influencing worker voice in the construction industry, and proactive and reactive efforts to overcome barriers to enhancing worker voice are outlined.

3.2 Worker Voice and Participation Structures

Participative structures for worker voice are not new. In the first century, a Roman farmer recognised the benefits of consulting with his slaves. He noticed that the perception of having a say that may influence workplace decisions increased the willingness to work

but did not impinge on his managerial prerogative (Columella, 1941, as cited in Budd et al., 2010). Some scholars are concerned that the early conceptualisation of worker voice has often been overlooked in contemporary debates (Budd et al., 2010; Gollan & Patmore, 2013; Kaufman, 2014). They explore the struggles of labour to have their voice heard through the early work of notable economists. For example, Kaufman (2014) traces the early conceptualisation of *employee voice* from Adam Smith (1981) and Karl Marx's (1906) interest in the way employees expressed their voice. Scholars then explored Sidney and Beatrice Webb's (1913) philosophical ideas of *industrial democracy* of workers having a say individually and collectively, and having influence in decision-making, before considering John. R. Commons' (1921) ideas about the *differing interests* between the employer and employee and the part played by inducement through the establishment of *institutions and legislation*. This section discusses a variety of the indirect representation, direct participation and cooperative worker-ownership participation structures.

3.2.1 Indirect Representative Participation Structures

Interest in joint industry works councils was stimulated in response to economic and political instability, and industrial unrest that followed the First World War. The prevalence and success of experimental initiatives varied in different countries. Most attempts at establishing bipartite employer-worker works councils between 1919 and 1940 had limited impact (Patmore, 2016; Ramsay, 1977). The Whitley Councils established in the UK dealt with a wide range of workplace issues including workplace safety. The consultative advisory power of committees left the decision-making power to management (Patmore, 2016). All stakeholders lost interest over time. Unions lost interest after gaining some bargaining rights, employers found they could not deal with conflicting interests within the cooperative structures, and the Government lost interest when the initiative failed to help employers (Ramsay, 1977). This coincided with a deepening recession that shifted the power balance to employers who returned to entrenched voluntarist IR traditions that did not fully recognising unions at all levels (Ramsay, 1977).

German works councils were established in the 1920s for the private sector as part of a broader German co-determination model and became mandatory in 1952 (Behrens & Dribbusch, 2020). They occurred in a cooperative IR context where multi-employer

collective bargaining and union access in the workplace were and (are still) accepted by management and unions. Although the works councils are not required to be unionised (Mylett & Markey, 2007), weak uptake in small and medium organisations has been attributed to union organisation disruption of managerial prerogative (Behrens & Dribbusch, 2020). Owner-managers in medium-sized organisations were most likely to obstruct employee participation rights, including resistance to establishing works councils. These types of councils have been most successful in CMEs such as Norway and Denmark that have statutory provisions requiring the establishment of WHS or workplace committees (Mylett & Markey, 2007), but the IR context was starting to change. Anti-union behaviour that was rare in complex large organisations had become rife in the last decade in new organisations and organisations using advanced technology; across core manufacturing and peripheral private service sectors; and new industries with no traditional union presence (Behrens & Dribbusch, 2020). The low level of unionism was the reason why the USA rejected the notions of Whitley or German works councils, the IR context was considered unfavourable for these to flourish.

American employers preferred non-union employee representation plans as a means of improving communication and commitment to the organisation (Patmore, 2016). The next section maps the evolution of union and management-led initiatives aimed at improving productivity by changing workplace practices through cooperative participation structures.

3.2.2 Direct Participation Structures

One example is the Scanlon plan designed by a union official, Joseph Scanlon, to encourage employees to help save a struggling organisation (Geare, 1976; Rasmussen, 2009; White, 1979). Implemented in the 1940s, the plan was characterised by joint support from management and trade unions, and never intended to undermine unions. A two-tier committee structure facilitated productivity improvements through consensual decision-making. Employees were actively encouraged to engage through department level works committees located throughout the enterprise. The shift away from autocratic leadership requiring managers to “improve their listening skills, implement worker suggestions that will lift productivity, and if an idea cannot be implemented, explain why not” (Rasmussen, 2009, p. 505), fundamentally required attitudinal change. Scanlon variants were popular in the USA and New Zealand until the 1980s (Frost, 1982; Boxall,

1986 cited in Rasmussen, 2009). White (1979) found organisational/CEO and managerial attitudes and expectations about the potential level of success; and high levels of employees' perceived participation characterised successful plans. But Geare (1976) was sceptical about unrealistic expectations for these plans. White's (1979) findings showing size and technology were not significant factors in a union friendly context diverges from Behrens & Dribbusch's (2020) research suggesting both contribute influence union avoidance behaviours.

Global interest in the quality of work life (QWL) and human growth needs in the 1960s and 1970s led to job redesign experiments with various forms of direct and representative participation structures, such as joint union-management consultative committees in the US automotive industry initiated through collective bargaining, and Volvo's autonomous work groups (Strauss, 2006). By the 1980s and 1990s, there were attempts to move away from traditional ways of working in a mass production world, such as functional divisions of labour, low-trust industrial relations and standardised low-quality products (Applebaum & Batt, 1994; Piore & Sabel, 1984). No one best way emerged; however, there were some commonalities across the models adopted in different countries. Germany adopted the co-determination model; Scandinavian countries, the social technical systems (STS) model; and Japan, the lean production (LP) model. In the USA, a mixture of lean production and the American team production model emerged, sometimes described as a high-performance workplace (Foster, 1995; Patmore, 2016). These were widely copied because they were promoted to management and practitioners by employers and consultants (Foster, 1995; Patmore, 2016)

A wide range of other contemporary management practices have often formed part of workplace reform initiatives (Boxall & Macky, 2009; Budd, 2014; Dundon et al., 2005; Haynes, Marchington, & Boxall, 2006; Wilkinson et al., 2014; Wilkinson et al., 2013). The STS model focuses on technical systems of production and social systems of work with an emphasis on participative structures. Whereas the LP model focuses on teamwork and worker involvement in quality assurance. Quality Circle structures focus on identifying and solving production issues; they meet regularly and are often led by a manager or supervisor (Rasmussen, 2009). Task forces involve line managers and operators who volunteer to resolve a specific problem. Participation is short-term, formal documentation is limited and the structures criticised for excluding all relevant expertise (Rasmussen, 2009).

Several factors are necessary for the success of participative structures (White, 1979). Participation must be integrated in ‘bundles’ with supportive HRM policies such as training and job security (Strauss, 2006). One reason for widespread failure of popularised participation structures was the inappropriateness of the participative structures in some organisations. Employers are often willing to experiment, but less likely to adopt new forms of participation (Blasi & Kruse, as cited in Strauss, 2006). Strauss (2006) concluded that:

making it work is difficult. It runs against the natural human instinct not to share power. It is too easy to introduce participation symbolically or superficially without making the various adjustments required to make it work. (p. 801)

Applying Marchington et al.’s (1992) four forms of participation structures, McNabb and Whitfield (1999) found direct communication between management and workers was the most common communication structure. There was a stronger willingness to adopt different forms of participation in larger enterprises that were part of large organisations, and higher likelihood of different participation structures in younger enterprises and those using advanced technology. A positive correlation between technology use and preference for upward problem-solving, downward communication and financial participation, was supported by Strauss (2006) and Behrens and Dribbusch’s (2020) findings.

3.2.3 Cooperative Worker-ownership Structures

Cooperative worker-ownership profit-sharing models, such as the Mondragon Cooperative Corporation (MCC) and John Lewis Partnership (JLP), have been adopted as alternatives to capitalism. These models are characterised by a focus on providing long-term employment benefits to worker-owners rather than shareholders and democratic decision-making structures. At one time, “the mutuality model was generally regarded as old fashioned, anachronistic, dowdy and restrictive” (Storey et al., 2014, p. 627). The financial crisis in 2008 stimulated interest in these sustainable ethical models because of their ‘principled’ business approach and long-term organisational success. Whilst the MCC, that spread within the Basque region of Spain is the most prominent model, these were adopted in the UK, France, Italy and USA (Rasmussen, 2009; Storey et al., 2014)

The JLP founded in 1930 is the largest employee-owned business in the UK (AR). John Lewis' objective was to achieve democracy and equity by sharing profit, power and knowledge (Cathcart, 2014). Partnership is a distinct form of ownership structure, rather than the IR concept of management and worker collaboration for mutual gains (Storey et al., 2014). Even though this is enshrined in the constitution, there has been a constant struggle on how partnership has been defined in a way that protects managerial interests. The governance structures have been classified as a broadly pluralist concept as they emphasise conflict management controls through a democratic forum, enabling partners to hold management accountable for their decisions and actions (Cathcart, 2014). Participation is based on a series of elections to three governing authorities (Storey et al., 2014). The structures ensure both the Partnership Board (includes appointed senior management), and Partnership Council (of elected worker representatives) are aware of opposing perspectives on important business issues. Confidence in the governance structures and trust in management underpinned non-management preference for participation in operational rather than strategic matters (Cathcart, 2014). As for the level and scope of participation, non-management wanted meaningful voice and a vote on key partnership decisions, such as changing the pension programme.

But the JLP participation system has been criticised for merely tolerating unions and being largely union-averse in conflict situations (Cathcart, 2014). Another concern was that the recognition of managerial prerogative has failed to effectively address the inherent inequalities in hierarchical organisational structures (Cathcart, 2014). But Storey et al. (2014), found management recognised the inherent instability of balancing worker interests and sustainability. They argued the acknowledgement of the need for constant attention was the key lesson from the JPL approach.

Designed by a priest in 1956, the MCC philosophy of participation and solidarity is guided by 10 cooperative principles (Bamburg, 2017; Storey et al., 2014). Owner-workers are required to pay to become part of the industry cooperative, and when they leave, they are reimbursed this amount and any accumulated profits (Rasmussen, 2009). The large size enabled MCC to compete in global markets, to maximise employment—the objective of this worker-owned system (Bamburg, 2017). Although MCC has 77 businesses competing in international markets adopting capitalist norms (Wolff, 2012), they do experience some business failures associated with external market pressures. The way

members are reassigned demonstrates a commitment to provide long-term employment and benefits for owner-workers (Bamburg, 2017).

The governance structures are based on equity with each member having an equal vote (Rasmussen, 2009) on the General Assembly, where matters that impact on all cooperatives are cooperatively and democratically discussed and decided (Wolff, 2012). This includes selecting the General Council, which selects the managing director who is accountable for the long-term strategy (Bamburg, 2017) and establishing the general rules governing MCC and all cooperatives. The Social Council has an advisory role and represents workers' interests to the Governing Council and managing director. Disputes are resolved democratically through the General Assembly voting system (Bamburg, 2017). Each cooperative enterprise is collectively owned and directed by the members who have the power to make all decisions about how the enterprise operates and what to do with the profits (Wolff, 2012). The guiding principles are important enablers of the shared understanding of the purpose of the cooperative and the participation governance structures in the long-term maintenance of an organisational environment that values open respectful robust conversations about organisational and production issues.

Criticisms of MCC were arguably largely ideological rather than practical, and although not utopian, Etxagibel, Cheney, and Udaondo (2012) viewed MCC as one of the most important experiments in alternative forms of participation. However, concerns about commitment to environmental sustainability and gender equity emerged in more recent reviews (Bamburg, 2017). One problem was that although the majority were owner-workers, only a few international workers in foreign countries had been offered memberships (Bamburg, 2017; Wolff, 2012).

Given the evidence, there has been no one best way for establishing worker voice and participation structures to improve the proposed outcomes. Rejecting indirect representative participation structures because of declining unionism is concerning if this reason is used to avoid traditional HRS structures. In effect, this would exacerbate declining numbers of trained HSRs. The final section exploring cooperative structures with shared ownership and control shows these alternatives have had to evolve to remain sustainable. While changes have undermined the original objectives and exposed gender inequalities. This literature is congruent with the broader factors necessary for effective participation in WHS. Effective sustainable structures fit within specific national,

industry and organisational contexts. But widespread embedding of the appropriately designed structures is only achieved with ongoing commitment from all key stakeholders who have realistic expectations of the purpose and outcomes.

NZ employers' fears that unions would be able to use statutory provisions for worker voice in WHS to restore union membership and power have been placated in successive reforms. The stakeholders' roles in influencing the statutory provisions for worker voice are explored in Section 3.6.

3.3 Worker Voice and Participation Structures in New Zealand

There has been mixed reaction to numerous attempts to introduce institutional structures and voluntary initiatives to allow employees and their representatives to have influence in workplace decision-making in New Zealand. The Long Depression of the 1880s had a devastating effect on many aspects of working conditions. There was an increase in hours of work and deteriorating working conditions. The government was compelled to act with claims of sweating, and a Royal Commission was established to look into these claims and recommended that factory conditions should be regulated (Martin, 1996). Two important Acts emanated from their recommendations—the Industrial Conciliation and Arbitration Act 1894 and the Factories Act 1891. The former gave State regulated voice to workers through collective bargaining (Anderson & Nuttall, 2014). The latter led to the establishment of the Factory Inspectorate in 1894. Both Acts remained in some form or other with many iterations until the late 1980s and early 1990s, with the advent of the neoliberal economic policies of the Labour and National Governments.

There was also financial participation and profit sharing, for example, the Companies Empowering Act 1924, providing for employees to have shares in the company (Rasmussen & Tedestedt, 2017). In 1927, the New Zealand Railways introduced workshop committees, but there was little interest. Interest in establishing regulated industry level consultation committees emerged during World War II (Rasmussen, 2009).

The 1960s and 1970s wave of interest in worker participation schemes was largely a management driven attempt to stabilise the effects of industrial disruption (Smith, 1978). The aim of the 1980s and 1990s, workplace reform (WPR) was creating a stable and productive workforce. Workplace New Zealand defined it as 'working smarter' through achieving sustainable improvements in productivity and quality, but had traits of the STS and LP models (Foster & Mackie, 2002). Eighteen influential organisations, mainly in

the manufacturing sector, experimented with the WPR and attempted some form of worker participation (Rasmussen & Tedestedt, 2017). There was little buy-in from mainstream employers and some unions were sceptical of the concept of cooperating with management (Foster & Mackie, 2002). Aware of the lack of interest in WPR, the National government was more interested in promoting major reforms to the industrial relations system. The introduction of the Employment Contracts Act (ECA) in 1991, the Health and Safety in Employment Act 1992 (HSEA) and a raft of other institutional reforms that led to a predominantly individualist climate in IR and WHS management decision-making. By the mid-1990s manufacturing was under threat from an economic downturn, effectively dampening enthusiasm for implementing WPR. The experiments could not withstand the cumulative macro level pressures from globalisation, government policies of tariff reforms, and increased foreign ownership of companies where there was little interest in WPR.

In 2000, the fifth Labour Government introduced a more collaborative approach to workplace change. A Partnership Resource Centre was established to promote employer and union collaboration in the public and private sectors. The National Government disestablished the Centre in 2011 (Lamm, 2010). The bipartite (government and employer) and tripartite (government, employer and union) initiatives have not achieved sustainable worker participation and influence in workplace decision-making (Anderson & Nuttall, 2014). Consequently, the IR environment experienced a shift away from indirect voice, under the arbitration system, to one of individual or direct voice (Anderson & Nuttall, 2014; Foster, Rasmussen, Murrie, & Laird, 2011). The next section explores attempts to strengthen the statutory provisions for worker voice in WHS.

3.3.1 Major Reforms of The Workplace Health and Safety Statutory Framework

During the 1980s, attempts were made to improve joint consultation in WHS through a voluntary code of practice for HSRs (Rasmussen & Tedestedt, 2017). The joint consultation and shared responsibilities between workers and management followed the UK and Australia's regulatory requirements of Robens' model (Rasmussen & Tedestedt, 2017). In 1989, a commission of enquiry into industrial democracy recommended formal representative councils for all businesses with more than 40 employees. The recommendations were never implemented, partly because of employer resistance (Haynes et al., 2005). In 1990, the Labour Government attempt to streamline OSH

legislation, through the introduction of the Occupational Safety and Health Bill, failed. The Bill lapsed when National was elected in 1990. Employers argued it was too prescriptive, and specific attention to workers having a say in decisions gave too much power to workers and unions. Employer opposition led to the omission of arrangements for involving workers in WHS (Anderson & Nuttall, 2014; Wilson, 2013).

One of the objectives of the Robens approach was to enhance flexibility within which employers and workers could collaboratively develop, implement and continuously improve WHS risk management systems to reduce or eliminate workplace risks. This requires action at both industry and workplace levels, and includes statutory duties for employers to consult and engage workers (Browne, 1973). However, New Zealand did not originally adopt these duties (Pashorina-Nichols et al., 2017). Subsequent attempts at restoring worker voice to its prior strength failed to deliver substantive improvements within a largely individualist employment relations environment. The Labour-led Government introduced provisions for traditional forms of representation in the HSEA Amendment Act 2002. This complemented the duties enacted in the Employment Relations Act 2004 requiring employers and employees to act in good faith. The provisions have had little impact within organisations, nor has reintroducing protections for collective bargaining strengthened social partnerships (Anderson & Nuttall, 2014; Rasmussen, Foster, & Coetzee, 2013; Rasmussen et al., 2016; Skilling, 2019).

The HSEA was an effort to consolidate a fragmented complex set of industry specific regulations. The HSEA complemented the ECA enacting an individualist approach, which was a major shift away from the statutory ‘employee voice’ that had balanced employer and employee power in decision-making (Anderson & Nuttall, 2014). Within a context of increasing worker vulnerability, job insecurity, eroding union density and worker protections, the ‘Robens light’ framework failed to deliver (Lamm et al., 2017; Wilson, 2013).

3.3.2 Post-Pike River Reforms of the Statutory WHS Framework

The 29 fatalities at the catastrophic Pike River event were the catalyst for a resurgence of interest in involving workers in WHS matters. The lack of representation and an inactive health and safety regulator, key objectives of the Robens’ model, were contributing factors in the Pike River mining disaster (Adams, Armstrong, & Cosman, 2014; ITWHS, 2013a; Lamare et al., 2015; RCPR, 2012). Following a Royal Commission inquiry into

the disaster, a new regulator was established—WorkSafe New Zealand. The Commission stated that worker participation is both essential for the effective management of workplace hazards and required. The previous government had ratified the ILO Occupational Safety and Health Convention 1981 (C155) requiring worker participation in 2007 (RCPR, 2012). The ITWHS concluded that provisions for worker participation under the HSEA were not being fully implemented, and that levels of worker engagement in WHS issues were inconsistent (ITWHS, 2013a). The forestry (Adams et al., 2014) and construction ([CSC], Construction Safety Council, 2012) industries carried out reviews of their WHS systems. There was unanimous agreement that it is essential to create a safe workplace environment where workers feel confident to raise issues. Further, employers must involve workers in matters that affect workers, listen to and consider workers' issues before making decisions.

Desire for change gained momentum following the inquiries and industry-led reviews (Farr et al., 2019). The 'gestation' stage of the current statutory framework for regulating WHS followed a similar response pattern as in other countries (Howlett & Newman, 2013; Newman, 1985). While key stakeholders were united in the early stages of the Health and Safety at Work Bill, political and employer opposition emerged (again) in the final stages of passing the Bill before parliament (Sissons, 2016). This occurred in tandem with some reticence in recognising recent empirical evidence supporting the effectiveness of traditional indirect worker representation structures. See Markey et al. (2015) and Walters et al. (2016). Aside from consternation about 'watered down' statutory frameworks for regulating WHS and worker consultation (Lamm et al., 2017; Rasmussen & Tedestedt, 2017; Sissons, 2016), concerns started emerging about the relevance of particular parts and clauses in the HSWA, and how these complemented or conflicted with the purpose of the HSWA (Dabee, 2018; Pashorina-Nichols et al., 2017; Sizemore, 2017). The most recent accommodation of employer demands for more flexibility fits the historical pattern. Instead of strengthening worker participation, the HSWA eroded statutory protections for workers' rights to have an independent representative.

3.4 Structural Factors Influencing Statutory Provisions for Worker Voice

This section explains how international standards have bounded influence at the national level, and how important statutory provisions are within organisations navigating global labour and economic market pressures. Then considers the effectiveness of complementary and employer-led worker voice systems, allowed under the HSWA.

The ratification of *international standards* has had limited impact on supporting statutory worker voice provisions or embedding duties in practice. ILO conventions have not stemmed the steady global erosion of the statutory protections of workers' rights. The accommodation of constant employer lobbying, for more flexibility to cope with competitive global labour and product markets is an international issue (Anderson & Nuttall, 2014; Budd et al., 2018; Hasle et al., 2016; Rasmussen & Tedestedt, 2017). This recent research supports the World Health Organization's (WHO) (Burton, 2010) and ILO's (Alli, 2013) longstanding concerns about improving worker voice and participation within an environment of global union decline and increasing demands for more flexibility. In the case of New Zealand, the limited impact of ratification of C155 follows a similar pattern as the conventions governing industrial relationships. The ILO Convention 98 (the right to organise and bargain collectively) was ratified in 2003. Employers have resisted the efforts by successive Labour Governments to strengthen prescriptive regulations for worker voice or reinstate some form of statutory voice, similar to the consultative arrangements that operated under the IC&A system (Anderson & Nuttall, 2014; Rasmussen et al., 2016). Without employer commitment to enhancing worker voice, workers continue to be at higher risk of workplace injuries or fatalities than in the UK, Australia and Canada (Lamm et al., 2017).

International labour and economic markets are additional global intermediary forces influencing worker voice (Marchington, 2015b; Poole et al., 2001). In this regard, independent union supported worker representation is stronger (Walters et al., 2016) than joint management-employee forms of participation (Dromey, 2015; Markey, 2007). Even so, the role of unions is changing in coordinated market economies (CMEs). For instance, as Denmark starts feeling pressure operating in the global economic environment, union presence is weakening at the organisational level. Statutory worker voice in WHS is often the only regulated mechanism covering all workers' conditions of work influencing WHS matters (Hasle et al., 2016; Markey et al., 2014). The impact of the global pressures reaffirm the importance of statutory provisions for independent representation (Hasle et al., 2016). As well as the intermediary role of unions in supporting and developing effective HSRs, albeit centralised through the peak union organisation.

When it comes to *complementary systems*, research results are mixed. Complementary systems may supplement union representation in strong union situations with cooperative models, thus support long-term partnerships and continuity. Whereas employer-led

systems are often discarded and may at times be used to avoid statutory voice (Kaufman & Taras, 2010). Barry and Wilkinson (2016) argue that failure to recognise the body of interdisciplinary research may drive employers towards the HRM and OB evidence supporting contemporary forms of worker voice. This problem is exacerbated by the HSWA accommodating flexible arrangements that fall outside the scope of the current regulations. Regulated procedures for HSRs were meant to ensure, “that parties know their rights and obligations, providing clarity without limiting flexibility to choose procedures outside the minimum requirements” (MBIE, 2015b, p. 27). This definition implies HSRs are beyond the minimum standard. The HSWA disregards the Ministry’s advice on the potential ineffectiveness of a system providing employers the flexibility to choose processes to meet their needs. The likelihood of minimising the impact of having empowered HSRs representing workers, “would likely impact negatively on the targets set” (MBIE, 2015b, p. 28).

3.5 Statutory Support and Enforcement of Worker Voice and Participation Structures Under the HSWA

This section explains the purpose of a hard statutory framework, then explores why an independent regulator was established, how the agency may be influenced by powerful groups and considers how the current penalties for breaches may strengthen or weaken enforcement. This is followed by the role of soft government WHS initiatives in embedding the current statutory duties for involving workers.

The purpose of hard statutory frameworks is to establish and guide enforcement of minimum standards. This factor incorporates the incumbent government and their agencies, legislation, regulations and governing institutions, including the regulator and the relevant courts charged with enforcing the laws (Marchington, 2015a). As indicated previously, the IR and WHS frameworks had undergone significant changes, particularly since the 1990s. Prior efforts to rationalise government agencies saw the DoL portfolios (IR and WHS) merge with other portfolios under MBIE (Lamm, 2012). Instead of alleviating the resourcing issues, a lack of resources, poor training and a dwindling inspectorate weakened the enforcement of the previous statutory framework (Pashorina-Nichols et al., 2017). The regulator failed to develop “effective partnerships with business leaders, business networks, industry bodies, workers and unions” and had not prosecuted for breaches related to worker involvement under the HSEA (ITWHS, 2013a, p. 26). Nor had there been any prosecutions for employers failing to consult in the UK, despite

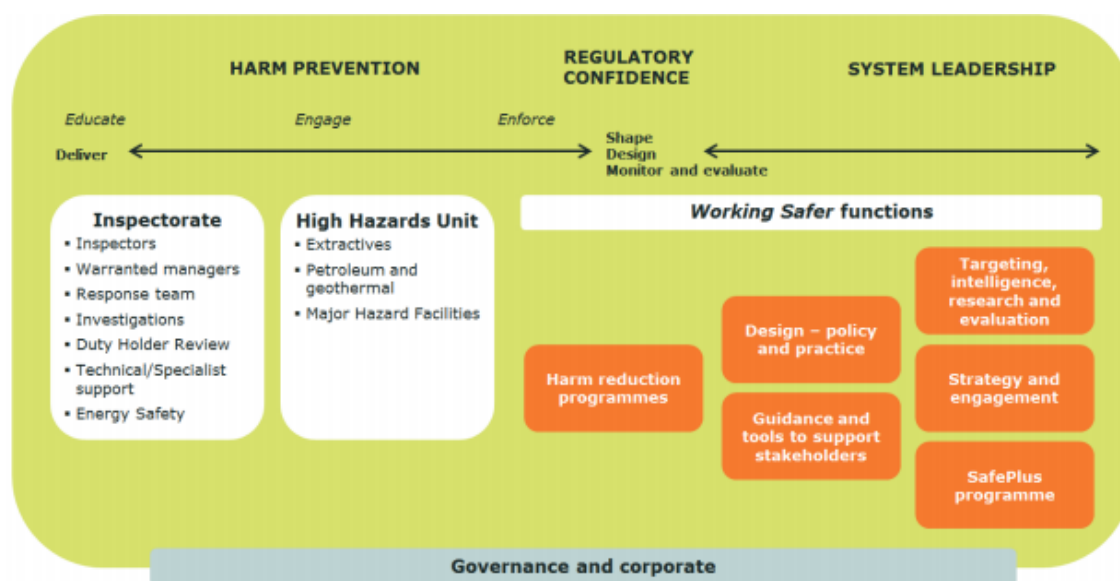
enactment as a legal requirement in the British Health and Safety at Work Act, enforceable since 1974 ([TUC], Trades Union Congress, 2016).

One of the aims of the HSWA was to enhance compliance by increasing penalties. Although the addition of regulations clarifying the statutory duties for EP&R, provide detailed guidance for implementing and enforcing the duties for traditional forms of representation, the regulations are likely to remain untested. The lack of enforcement of worker voice duties in the UK and New Zealand suggests that the threat of penalties is unlikely to act as a motivational ‘stick’ to comply with the HSWA (§58–99) duties. The likelihood of incurring a penalty is confounded by provisions for the regulator to accept enforceable undertakings (EU) as an alternative to prosecution (HSWA, §123–129) and continuing capacity issues.

3.5.1 WorkSafe’s Capacity to Support and Enforce the HSWA

Although independent, the WorkSafe inspectorate continued to be stifled by under-resourcing, which is common in self-regulatory systems (Innes & Watson, 2004; Walters et al., 2011; Weil, 2011). In their report to the incoming government in 2017, WorkSafe recorded having 558 permanent staff: 179 inspectors, five chief inspectors and 28 specialist inspectorate managers (WorkSafe New Zealand, 2017a). Figure 3.1 illustrates the scope of WorkSafe’s core roles: education, engagement and enforcement. Staff are assigned to three structural functions: harm prevention, regulatory confidence and system leadership. By mid-2020, WorkSafe staffing increased to 591 permanent and fixed-term employees, including 208 inspectors (WorkSafe New Zealand, 2020c). The number of enforcement activities (excluding prosecutions) increased steadily following the HSWA becoming enforceable in April 2016 (WorkSafe New Zealand, 2020b). The data presented in Table 3.1 shows the inspectorate have been active in the construction industry, albeit with an incremental reduction in enforcement activities and improvements notices in this industry over the period. Survey results show a decline in large organisations making significant changes to WHSMS (MBIE, 2019b). Declining enforcement does not uncover the reason for reduced interest in organisational improvements, nor the depth and maturity of reported compliance behaviours. An external report furthermore revealed issues concerning the capacity of the team and their capability to investigate fatalities and accidents (Pennington, 2020).

Figure 3.1. WorkSafe’s Core Roles and Key Functions



Source: WorkSafe New Zealand (2017a, p. 25)

Table 3.1. WorkSafe Enforcement Activities April 2016–December 2019

Year	Enforcement activities			Improvement notices		
	Construction	Total	%	Construction	Total	%
2016*	1,190	2,705	44	546	1,666	33
2017	1,691	3,941	43	806	2,518	32
2018	4,122	9,876	42	1,283	4,783	29
2019	4,858	12,310	39	1,419	5,464	26
Total	11,861	28,832		4,054	14,431	

Note: The total number of inspectors increased from 179 in 2017 to 208 by mid-2020. *Partial data for 2016 reflects the enforcement date of the HSWA (WorkSafe New Zealand, 2020b).

As for *enforceable undertakings*, the disregard of the ITWHS’s concerns about low union density and membership need to be considered in relation to worker representation in EUs. The construction industry is characterised by low union membership and narrow scope of collective bargaining. The regulator expects a PCBU to consult with unions/sector/industry on whether an EU would be an acceptable alternative to prosecution (EUs1.10). However, none of the seven construction PCBUs had consulted with unions. Some do not mention unions, one omitted the term from EUs1.10, and another expanded to include other industry groups. Consequently, unions or other worker representative groups did not have input in whether these EUs were acceptable or in

decisions about the corrective actions aimed at rectifying the problems in the WHSMs. These EUs suggest there is some confusion around who should attend HSR training, with the Employers and Manufacturers Association (EMA) recommending HSR Stage 1 training for managers. Another concern is a PCBU establishing, controlling and reviewing a forum for labour hire companies. In effect, this acted largely as a self-regulatory bipartite management-controlled process with the PCBU working with the regulator and selected industry groups. Table 3.2 illustrates how a decrease in prosecutions coincided with WorkSafe's acceptance of EUs and suggests that the broader power imbalance will need to be addressed to avoid undermining the purpose of the HSWA.

A significant decrease in the number of *prosecutions* may be partly attributed to more proactive employer behaviours in responses to the current statutory framework (Nielsen, 2015, 2017a; WorkSafe New Zealand, 2017b). Conversely, the incentive power of enforcement may have been weakened to some extent by the Court's guidelines for penalties. All building and construction breaches exposed in the EUs were related to §36 and §48 of the HSWA. Although there were some references to enhance EP&R, there were no breaches specifically related to sections (HSWA, §58–99). The penalties fall at the lower end of the new guideline penalty bands to be applied when fixing fines for the HSWA. The High Court of New Zealand determined the penalty bands after reviewing the guidelines that existed under the previous HSEA ("Stumpmaster v WorkSafe New Zealand, The Tasman Tanning Company v WorkSafe New Zealand, Niagara Sawmilling Company v WorkSafe New Zealand," §53). If breaches are unlikely to be prosecuted or targeted in EUs, the question is whether the new *due diligence* duties for all PCBUs may unintentionally promote contemporary NER forms of worker voice that avoid statutory voice rather than complement it.

Table 3.2. Accepted Enforceable Undertakings 2013–July 2019

Year	WorkSafe prosecutions	Enforceable undertakings	Enforceable undertakings Building and Construction
2013	2		
2014	89	0	
2015	99 (100)	0	
2016	80	0	
2017	40 (41)	8	2
2018	31 (33)	15	5
2019	3 (13)	1(4)	(2)
Total	344 (358)	24 (27)	7 (9)

Note: The PCBU system holds the principal most accountable, but other PCBUs within the supply chain may also apply for an enforceable undertaking (e.g., 20 July 2018, Plunket Electrical Oamaru Limited (and McConnell Dowell Constructors Ltd, Energy Sector). The data were updated in March 2020, with the updated figures presented in brackets.

3.5.2 *The Role of Soft Government Interventions in Embedding Worker Voice*

Whereas hard statutory frameworks are enforceable, the regulator uses soft government interventions to engage with and educate the key stakeholders. Engagement in these initiatives is voluntary, nevertheless they are used to persuade employers to adopt partnership practices (Marchington, 2015a). Sufficient interest in specific forms of worker voice helps to withstand statutory changes driven by successive governments' ideological beliefs (ibid.). The requirement for tripartite collaboration is implicit in the purpose of the HSWA 3 (1). A balanced framework is partly to be achieved by:

encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting PCBUs and workers to achieve a healthier and safer working environment. ("Health and Safety at Work Act, No.70," 2015, p. 10 §13 (11(c)))

Significant events between 2010 and 2013 acted as a lever to develop tripartite collaboration in several soft government and industry initiatives. The former president of the New Zealand Council of Trade Unions (NZCTU), the late Helen Kelly, was instrumental in ensuring workers' voices were heard in senior leadership conversations and soft initiatives. For example, in the establishment of the Forestry Industry Safety Council, the CRSC and the agricultural safety leaders' group (Darlow, 2015). The formation of the CRSC demonstrated some willingness on the part of key construction companies, government agencies and the NZCTU to collaborate on WHS matters. Organisations involved in rebuilding Canterbury, following the earthquake in 2011, had

to fulfil 10 commitments aimed at managing WHS. The importance of worker EP&R is evident as the second commitment. However, it took considerable time and effort to develop and launch the CRSC in June 2013. The charter journey started with the formation of an informal Southern Canterbury Liaison Group, as part of an initial response to the earthquakes in 2010, followed by the establishment of a formal tripartite Canterbury Rebuild Health and Safety Steering Group in October 2012 (SiteSafe, 2017). Employer and union roles are discussed further in Section 3.6, and specific engagement and education initiatives are discussed in Section 3.7.4.

3.5.3 Increasing Regulatory Prioritisation of EP&R Duties Under the HSWA

WorkSafe’s prioritisation of EP&R had increased over the years. In the early years, WorkSafe defined EP&R as part of “other matters” in the briefing to the incoming Minister (WorkSafe New Zealand, 2017a). A regulator’s report denoted a bounded contractual relationship with the NZCTU, indicative of different relationships with the key stakeholder groups. WorkSafe was working “closely with the Business Leaders’ Health and Safety Forum” and being “engaged with our social partner (NZCTU) through our service agreement on development and guidance” (WorkSafe New Zealand, 2018c, p. 42). The incumbent government recognises the broader concept of leadership in encouraging “leaders at all levels to integrate health and safety” and “enable workers to be represented, engaged and to participate” (REP) in the Health and Safety at Work Strategy 2018–2028 (MBIE, 2018d, p. 3). WorkSafe’s commitment to “delivering activities that improve worker” EP&R suggested this was gaining traction under the Labour-led Government (WorkSafe New Zealand, 2018c, p. 43). The recent adoption of a collaborative approach as one of the regulator’s aims (WorkSafe New Zealand, 2019a) characterises a strengthening focus on EP&R.

Prioritising ‘representation’ follows the ITWHS recommendations to strengthen union support for workers and HSRs (ITWHS, 2013a). By mid-2020, WorkSafe defined their tripartite relationship as “involve[ing] the government regulator, employers and unions (representing workers) working together to improve workplace health and safety outcomes” (WorkSafe New Zealand, 2020c, p. 21). A new system for measuring leadership performance requires:

All WorkSafe-funded partnership agreements with sector groups establish (or have) work programmes that will deliver tripartite health and safety initiatives.

The members of every partnership group funded by WorkSafe ‘agree’ that they have tripartite arrangements (with workers (or their representatives), employers (or their representatives) and government in their development and delivery of a work programme and the initiatives within it. (WorkSafe New Zealand, 2020c, p. 28)

If this signalled intentions to foster closer and more proactive relationships, clear prescriptive requirements for tripartite collaboration would need to be established in the HSWA. This may overcome a key problem is applying the self-regulatory approach in LMEs with low union presence, employer pressure for more flexibility and under-resourced regulators (Walters et al., 2011). Prescriptive WHS legislation has been successful in countries such as Denmark and Germany (R. Johnstone et al., 2005). As one of three panel members who conducted the independent forestry review (Adams et al., 2014), Hazel Armstrong acknowledged the work the Forestry Industry Safety Council (FISC) had done (Armstrong, 2019). However, Armstrong was concerned about slow progress and did not believe the pilot studies, such as the Toroawhi champions initiative, were sufficient for improving worker engagement. Armstrong challenged the government, MBIE and WorkSafe to use all motivational levers. Her recommendation for WorkSafe aligns with the research demonstrating the ongoing failure of self-regulatory approaches in LMEs. WorkSafe must “abandon reliance on self-regulation, update the Code of Practice, and demand compliance with the HSW Act through vigorous and effective enforcement” (Armstrong, 2019, p. 20).

Overall, the documentary evidence demonstrated efforts were made to strengthen the independent regulator. But flexibility for employers who hold decision-making powers may restrict worker preferences. The introduction of EUs had the potential to weaken enforcement through reduced prosecutions. By August 2019, plateauing WHS performance in the construction industry (discussed below) coincided with an increase in recorded fatalities. Yet workers perceived EP&R processes and forums, such as hazard and incident reporting, safety meetings and appointing HSRs were declining (Feek, 2019). The main purpose of the current HSWA “is to provide for a balanced framework” (HSWA, §3 (1)) to enhance WHS outcomes. But the current WHS performance raises the question of whether the current statutory framework will deliver the sustainable effective EP&R practices required to enhance WHS outcomes. The stakeholders will need to overcome barriers that weaken the only statutory provisions for worker voice in

enterprises with at least 20 workers and/or operating in identified high-risk industries. The next section explores the key employer associations and union powers that influence the design and embedding of the statutory provisions for EP&R.

3.6 Power of the Principal Stakeholders to Influence Statutory Worker Voice

The section first, explores how the employers' powers have strengthened their influence in the design of the HSWA and embedding of worker voice in organisational level EP&R practices. Then outlines the impact of declining union strength on union powers to contribute to enhancing worker voice. Soft government WHS initiatives provide insights into how these employer and union groups collaborated with the regulatory agencies, as well their capacity to represent their members.

3.6.1 Employers' Role in facilitating Worker Voice

Employers are represented by several general and industry organisations, such as BusinessNZ and the EMA. The major employers' influence in the management of WHS is through the Business Leaders' Health and Safety Forum (BLHSF) established in 2009 (Blake, 2010; Ellis, 2010). The BLHSF highlighted their initial aim to collaborate with government agency leaders on WHS. In their annual report, George Adams, the Chair of the BLHSF noted:

We also have long-standing and valuable working relationships with the Workplace Relations and Safety Minister, ACC [Accident Compensation Commission] and MBIE. These relationships are important to ensure the voice of safety leaders is heard by government, and we will continue to nurture them. (BLHSF, 2016a, p. 15)

Through this collaboration they acknowledge that voice had "enabled them to influence the shape of regulatory reforms" (BLHSF, 2015, p. 4). The collective BLHSF voice and influence has strengthened through steady growth. By December 2018, there were nearly 350 members, many of whom represent New Zealand's largest businesses (BLHSF, 2019a). Tables 3.3 and 3.4 (Stats NZ, 2018) suggest the BLHSF has the potential for further growth in this leadership network across all large enterprises and particularly in the construction industry.

Table 3.3. Summary BLHSF Membership and Benchmarking 2011–2018

Year	No. of members	No. entities providing data*	No. of participating members	Percentage of participating members	No. of members contributing contractor data	No. of construction entities providing data**
01/07/11–30/06/12	120	128	53	44		12(16)
01/07/12– 30/06/13	143	76	65	45		
01/01– 31/12/2014	184	87	76	41	25	13(17)
01/01– 31/12/2015	227	84	78	34	30	11
01/01–31/12/2016	281	80	73	26	31	10
01/01– 31/12/2017	Nearly 350	83	76	22	32	10
01/01 -31/12/2018	Nearly 350	84	77	22	31	10

Note: The data were collected from the BLHSF annual benchmarking reports. *Some members are counted multiple times because they entered data in multiple sector categories.
** Industry classification based on ANZSIC Level 1 (Business Leaders' Health and Safety Forum, 2019b).

Table 3.4. Enterprises and Employee Count by Industry (ANZSIC06) February 2018²

Industry (ANZSIC06)		Employee count size group							Total
		0	1–5	6–9	10–19	20–49	50–99	100+	
E Construction	Enterprises	39,285	16,170	2,970	2,085	1,014	228	111	61,860
	Employee count	0	36,600	21,300	27,800	29,800	15,300	38,500	169,300
Total **	Enterprises	376,785	101,388	22,440	18,243	10,323	3,192	2,562	534,933
	Employee count	0	238,200	162,400	244,700	307,400	217,100	1,069,000	2,238,800

Note: * Economically significant enterprises are mostly those with GST turnover greater than \$30,000 per year.

** Due to rounding, enterprise and employee count figures may not sum to the stated total(s).

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Collaborative activities reflect the development and maturing of the BLHSF group. A key project with WorkSafe was the development of a working model of what ‘good’ WHS performance looks like, how it should be measured and monitored (BLHSF, 2016b; Deloitte, 2017). The BLHSF were exploring how this model could be extended to SMEs, and extending their training at the senior executive level to lower tier general managers and WHS professionals operating in member organisations (BLHSF, 2016a). However, the ongoing capability and capacity issues identified by the ITWHS, increases the likelihood of personnel moving backwards and forwards between the regulator and regulated organisations. Constant movements enhance the organisations’ powers to lobby, potentially exacerbating the tendency for the regulator to identify with the regulated (Innes & Watson, 2004).

3.6.1.1 Voluntary Benchmarking Standards

When it comes to voluntary benchmarking standards, the BLHSF follow contemporary benchmarking standards, which includes measures of organisational culture, job satisfaction and worker participation. However, the BLHSF reports provide limited evidence of evaluating the long-term impact of attempts to strengthen employer voice and influence. Richer measurement tools could be developed by drawing on the IR and WHS requirements for effective worker voice identified in the literature (Lamm, 2010; Walters & Nichols, 2009). For example, Wilkinson, Barry, Gomez, and Kaufman (2018) develop a scorecard measuring employment relations performance in the UK, USA, Canada and Australia. The most important factor in employer and employee perceptions of the quality of employment relationships was the presence and quality of *formal* union and non-union worker voice. The researchers’ concerns about general performance and the gap between the employer’s rating compared with employee perceptions of employment relations, are congruent with WorkSafe’s national survey results.

Disinterest in the BLHSF benchmarking scheme may reflect a preference for certification with international benchmarking standards as a cost-effective strategy for enhancing corporate image in the competitive global economy (Gallagher & Underhill, 2012). For example, the ISO9000 for product quality (Uzumeri, 1997), ISO8000:2014 (Social Accountability International, 2014), and ISO14000 environment quality, and OHSAS18001 for WHSMS. Interest in benchmarking has increased significantly, with the number of organisations certified with the WHSMS standard doubling in 116

countries between 2006 and 2009 (Hasle & Zwetsloot, 2011, as cited in Gallagher & Underhill, 2012). Nevertheless, the defunct national voluntary benchmarking and accreditation system, the Crown entities ACC WorkSafe Safety Discount, had limited success in motivating small business employers to implement sustainable improvements under the previous statutory framework (Legg et al., 2009). This suggests that the current statutory framework *holding the principal* in the PCBU supply chain most accountable is expected to harness supply chain pressure. This pressure acts as an essential incentive for most employers to improve organisational practices (Coetzer, Cameron, Lewis, Massey, & Harris, 2007; Ram, Edwards, Gilman, & Arrowsmith, 2001) and integrate WHS into daily business operations (Coetzer, Cameron, Lewis, Massey, & Harris, 2007; James et al., 2007; Ram, Edwards, Gilman, & Arrowsmith, 2001; Walters & Lamm, 2004).

3.6.1.2 Business Leadership in WHS in the Construction Industry

Another positive is the BLHSF's efforts to model the development of leadership skills and characteristic of a mature safety culture. Graham Darlow (2014), the CEO of Fletcher Construction until 2017, demonstrated a strong leadership role in WHS initiatives in the construction industry. In his BLHSF case study, Darlow referred to the collaboration between key companies and government agencies on the development of the CRSC. The purpose of the CEO walkabout conversations was a means of establishing the importance of WHS and gaining insights from workers, supervisors and leaders in the contractor supply chain. Training sessions and incident reporting were recommended forums for contractors and workers to raise issues or share information.

In their submission to the ITWHS, Fletchers proposed worker participation would be enhanced by management commitment and a safety culture, "that includes open reporting, flexibility and learning". They envisaged a system allowing for "careful consideration" of the "best methods to achieve this" (Fletcher Building, 2012, p. 16). Arguing that prescriptive legislation would not provide for the "flexible approaches required to further develop reporting and engagement" (Fletcher Building, 2012, p. 16). Their preference for business leadership and support from government and private organisations does not indicate whether this includes unions. This approach to EP&R is important as Fletchers a key industry leader and influencer within and beyond the construction industry. Three years after the original Fletcher case study, the Canterbury Rebuild Safety Charter (CRSC, 2017b) matched the current statutory requirements for

worker voice. This example highlighted the potential for CEOs to influence and drive improvements in organisational safety culture within and between industries.

The subsequent emergence of communication issues at different levels of the organisation indicated the culture and climate were not conducive for effective internal communication. When Fletcher Construction experienced financial difficulties in 2017, the media reported issues with communication and accountabilities between the Fletcher Board members and senior executives. One reporter suggested the Board were unaware of the state of affairs prior to a financial crisis (Gaynor, 2017). Another argued Fletcher Construction personnel felt intimidated when it came to passing bad news upstairs” (O’Sullivan, 2017, p. 2). Leadership and culture were instrumental, but not sufficient parts of a holistic systems approach required for achieving effective sustainable ‘worker voice’ in WHS (Campbell, 1995; Gallagher & Underhill, 2012; Lamare et al., 2015; Markey et al., 2015; Walters et al., 2016; Weil, 2014).

The limitation of the direct reach of the BLHSF suggested their influence largely depended on filtering down through the industry associations, WHS groups and initiatives. For instance, the Construction Safety Council (CSC) established in 2010, united the civil, residential and commercial construction and specialist trades under one WHS strategy. Specialist associations included the Registered Master Builders Federation, Certified Builders Association New Zealand, Roothing New Zealand, New Zealand Specialist Trade Contractors Federation and New Zealand Contractors Federation. The CRSC (2017a) was embedded through tendering pressures pushing 325 organisations to sign the charter by 2017. The Construction Health and Safety New Zealand (CHASNZ), a charitable trust, was established in 2018 and replaced the CSC. By 2019, lessons from the CRSC had been incorporated into an industry Construction Sector Accord 2019 (WorkSafe New Zealand, 2019c).

This construction industry example demonstrates how the current statutory institutions for worker voice were both influenced by stakeholders lobbying for their interests and influenced employer preferences for traditional or flexible forms of EP&R in organisations. Employer strategies to dilute the existing regulations or weaken enforcement of the regulations follow.

3.6.2 Unions' Role in Supporting Worker Voice in Conditions of Work and WHS

The intermediary role of union representation in mediating the imbalance of power between employers and workers is an important prerequisite in a self-regulatory approach to statutory policy (Anderson & Nuttall, 2014; Rosenberg, 2019; Walters et al., 2016; Wilson, 2013). The NZCTU represents workers at the governance and strategic level. Union activities include exposing bad employment and WHS practices, and advocating “for legislation and enforcement to prevent it happening in the future” (Rosenberg, 2019, p. 5). But the power of the union to influence decisions is bounded by union density and membership, with significantly lower union density in LMEs (Marchington, 2015a) than in CMEs (Hasle et al., 2016; Markey et al., 2014). Declining density and low levels of enterprise collective bargaining have weakened worker voice in New Zealand (Rasmussen & Tedestedt, 2017; Ryall & Blumenfeld, 2019). Consequently, most union members work in the public sector, not in high-risk industries. In 2017, only 3.33% (5,491 of 165,000) of paid construction workers were union members (Ryall & Blumenfeld, 2019).

The decline in trade union representation and influence suggests that a resurgence of union growth would be unlikely. Yet some employer resistance to union presence at the workplace level persists (ITWHS, 2013b; Sissons, 2016). Resistance is evident in Downer NZ's submission to the ITWHS. This organisation prefers separating IR and WHS, removing union support from HSRs:

Employees H&S Reps should be encouraged to engage in an organisations safety and cultural journey and should be necessarily de-coupled from the notion of union interference or agenda. (Cullen, 2012, p. 7)

This conflicts with the body of evidence showing union supported HSRs are more effective (as discussed in Chapter 2). Persistent employer lobbying to shape the statutory framework would overshadow the ITWHS's concerns about low union representation being a barrier to effective EP&R (ITWHS, 2013a). The decreasing numbers of informal and trained HSRs and HSCs supported the ITWHS's concerns.

Influence in shaping continues in the embedding phase (Etzioni, 2009; Howlett & Newman, 2013; Innes & Watson, 2004). The establishment of non-union forms of employee representation (NERs) and JCC forms of WHS groups operate outside the scope of the current regulations for traditional trained HSRs and HSCs (WEPR

Regulations). Examples of contemporary working groups include Airways New Zealand (Sims, 2013), Fulton Hogan (Fulton, 2013) and Connectics (Brent, 2017). These brief BLHSF self-reports provide insufficient insights into how these working groups function within the organisation's EP&R system and processes, the composition of the group, how people are selected or how workers are engaged, participate and are represented.

As noted in Chapter 2, the purpose and intent of these contemporary structures may vary between working alongside union based collective bargaining to competing with unions (McGraw & Palmer, 1995). There are several limitations in applying a JCC approach to WHS. JCCs commonly bound participation to consultation on a narrow range of issues within an advisory capacity, and taskforces are even further constrained to address specific briefs within a limited timeframe (Markey, 2006). Moreover, the effectiveness of voluntary JCCs decreased as management control increased in the New Zealand luxury industry (Haynes, 2005; Haynes et al., 2005; Haynes & Fryer, 2001). Flexible worker voice practices became popular in the UK and Ireland in response to the enactment of similar regulations. The Information and Consultation of Employees Regulations (ICE) failed to:

Have a significant impact on consultation in the UK – either in terms of the incidence of JCCs, or on the culture of consultation and the willingness of employers to involve staff in discussing important issues at work. Dromey (Dromey, 2015, p. 15)

Nor did Fidderman and McDonnell's (2010) participants appear to understand or comply with specific regulations for contemporary employee safety representatives in non-unionised workplaces in Scotland. Companies with unionised HSRs achieved better WHS performance outcomes than those without (Fidderman & McDonnell, 2010; Walters et al., 2011).

The National Party campaign manifesto indicated New Zealand would move to the next phase of the regulatory lifecycle if the party was elected in 2020. That is, weakening or repealing some employment relations protections for union access and worker participation (New Zealand National Party, 2019). This strategy would continue efforts to increase employer-driven flexibility (B. Foster & Rasmussen, 2017; H. B. Rasmussen, Hasle, & Anderson, 2014). This strategy supported Etzioni's (2009) proposal that politicians' dependence on employer and public support in elections pressure them to

respond to strong lobby groups. But the New Zealand situation contradicts the argument that avoiding long expensive electioneering processes frees politicians from this dependence. Rosenberg (2019) noted how dependence on advertising revenue and donations may deter politicians and media from confronting large corporations with “considerable economic power”. The Labour Party won an overall majority, and unencumbered by compromise under the previous coalition agreements, they adopted a centrist approach. Right Honourable Jacinda Ardern advised BusinessNZ of this intent:

I said we will govern for all New Zealanders and to reach as wide a consensus on key issues as possible... Yes, we will from time to time have different opinions. We may disagree on strategies or goals, but so long as we are able to continue our dialogue, recognise that we have the same ambition for New Zealand, we will find a way through difficult situations and challenges in a way that will stand us in good stead for the future. (Right Hon. J. Adern, 2020)

Overall, the low union density and resistance to unions suggested it would be difficult to achieve:

a balanced [statutory] framework... providing for fair and effective workplace representation, consultation, co-operation and resolution of issues in relation to work health and safety. (HSWA, §3(1))

This analysis has demonstrated how statutory institutions for worker voice were both influenced by stakeholders lobbying for their interests and likely to influence the breadth and depth of EP&R in the case study organisations. Breadth refers to the “number of [EP&R] practices” and depth “the degree to which each form is embedded” (Marchington, 2015a, p. 1).

3.7 The Construction Industry

At this point, the context of this research in the construction industry is defined by exploring the industry's economic contribution and labour market, the industry's WHS performance, and construction workers' voices in WHS matters. Finally, how the industry is overcoming barriers to compliance with statutory duties is considered.

3.7.1 Economic Volatility and its Impact on Labour Capabilities

The construction industry is one of the largest industry sectors in New Zealand, generating approximately 6% of New Zealand's gross domestic products (GDP) (MBIE, 2013b; Stats NZ, 2018). Many WHS challenges stem from peaks and declines in construction work. High volatility is problematic for retaining skilled labour and acts as a disincentive to invest in training and capital investment (MBIE, 2013b). Retention issues are exacerbated through the loss of skilled workers migrating to Australia. The migrant workers who fill the gaps often work as low-skilled cheap labour (CSC, 2012). This places immense workload pressure on the workers in the industry.

The Economic Contributions increased in the post-Pike River period (Stats NZ, 2019b). In the Canterbury Region, post-earthquake rebuild activities increased construction's contributions from 5.9% in 2011, peaking at 10% in 2016. There were large increases in value added contributions across New Zealand in 2017, with Auckland, Northland and Bay of Plenty exceeding 20% of GDP. The major post-earthquake infrastructure and construction development was completed at the time of the data collection from 2018–19. This meant government involvement through the Earthquake Commission (EQC) (Cosman, 2015) and government funded WHS initiatives were winding down. Stakeholder collaboration in the soft CRSC initiative and hard statutory framework including the establishment of WorkSafe, the current legislation and raft of changes to other laws and regulations were discussed previously.

Construction was the largest contributor to *employment growth*, with more than a third of growth occurring in Canterbury in the year ending June 2014. Strong employment growth was forecast for the medium and long term, with demand for skilled construction workers and managers. By 2019, the National Construction Pipeline Report predicted the total construction value would peak at \$43 billion in 2021 (MBIE, 2019a). Residential construction, the largest contributor to national construction, was expected to experience

moderate growth to \$26.8 billion in 2023, non-residential (or commercial) activity was expected to peak at \$9 billion in 2021, and infrastructure moderate growth through the forecast period to \$8.3 billion in 2024 (MBIE, 2019a). Of the 149,100 construction workers employed in February 2016, 10,600 worked in non-residential. By 2019, non-residential construction employed 12,300 of the total 179,400 construction employees. An average of 5.1% growth over the previous five years (Stats NZ, 2019a, 2020).

The Workforce covers a wide range of skill levels from labourers and tradespeople to project managers and engineers (MBIE, 2013b; PricewaterhouseCoopers, 2016). The average age of the workforce has increased because of the older workforce (CSC, 2012). But the industry comprises a predominantly younger male workforce, with a high proportion of Māori and Pacific Island workers (MBIE, 2013b). A high proportion of these construction workers have lower or no formal qualifications compared with the average (MBIE, 2015a; Site Safe, n.d.) English is often a second language for migrants (CSC, 2012). This creates barriers to understanding information shared in meetings, instructions and specific WHS information.

Migrant Workers most vulnerable to exploitative employment practices come from countries with lower employment standards, have financial commitments and their visa is tied to a specific job (Lamm et al., 2017; MBIE, 2015b). Migrant labourers were more vulnerable to multi-employer, temporary and constantly changing worksites where many workers do not understand a common language (Walters, 2010). Temporary workers from the Philippines are the most vulnerable workers (MBIE, 2015c). Yet the proportion of Filipino migrants working in Canterbury between 2009 and 2014 increased from 6 to 22% of the total number of migrant workers (ibid.). This was the most significant increase in low-skilled labour compared with the decrease in Fijian migrant workers (22% to 13%). There was minimal change in the relatively low percentage of Chinese, Pacifica and Indian migrant workers (between 2 and 5%) (ibid.). Filipino migrant workers were predominantly males; with an increasing percentage of younger workers aged 18–30 and decreasing proportion of workers aged 41 during the period of 2009–2014 (ibid). The associated higher risk-taking tendencies in young males, cultural norms and lower literacy and numeracy skills reduce the likelihood of workers raising unsafe work practices or behaviours (National Occupational Health and Safety Advisory Committee [NOHSAC], 2008).

Māori Working in the Construction Industry. Many work in high-skilled and management roles and earn more than Māori in general, yet they earn less than non-Māori workers (MBIE, 2015a). They are less likely to work in building and construction, than in infrastructure (heavy and civil engineering construction) or construction service sub-sectors. But many Māori workers are younger than their counterparts in the industry, in lower skilled roles and earn less than sector averages (ibid). Younger low-skilled workers with less job security are more vulnerable in the bust and boom cycles (Lamm et al., 2017). Employment and income insecurity and competition for work can result in exposure to hazardous practices, such as work intensification, working in multiple jobs or when injured (ibid). Underhill and Quinlan (2011) were concerned about situations:

Where workforce instability prevents the sustaining of established rules, procedures and roles, then OHS knowledge and management systems become fractured, whilst inter-worker communication, task co-ordination, and lines of management control are weakened. Under-qualified, under-trained and inexperienced workers become more commonplace. In this setting, contingent workers are less able to organise or be heard at the workplace. Use of temporary workers affects employer attitudes to induction, training, participation in workplace committees, and other activities with implications for safety. (p. 399)

Obstacles for Māori and Migrant Workers include higher rates of temporary agency and precarious work in hazardous industries, in situations with poor workplace practices and barriers to worker voice. Māori workers are less likely to receive training or take sick leave when needed, therefore they have poorer health outcomes (Lees-Galloway, 2019). Recognising these issues, the regulator partnered with the Māori community on developing culturally appropriate ACC funded interventions as part of the WorkSafe Maruiti 2025 strategy (Lees-Galloway, 2019; WorkSafe New Zealand, 2018c). WorkSafe and FISC co-designed and tested the ‘*Toroawhi/Safetree*’ roving regional safety champion scheme in the forestry industry (Safetree, 2019). As this test-run aims to enhance engagement and participation, it is discussed in Section 3.7.3. There have also been attempts to work with Pacific Island workers and migrant workers in high-risk industries (WorkSafe New Zealand, 2019a), such as the Puataunofu “Come Home Safely” programme aimed at engaging with workers (Pacific Perspectives, 2018).

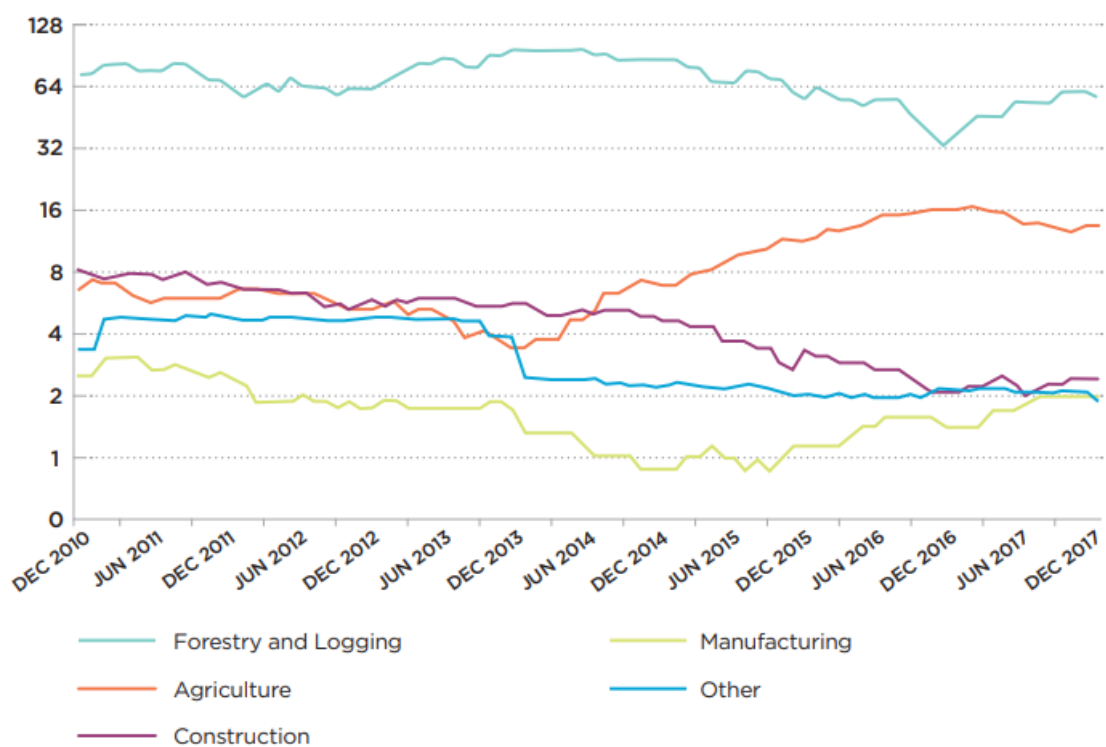
3.7.2 Workplace Health and Safety Performance in the Construction Industry

Turning to WHS performance, construction is classified as a high-risk industry (Lamm et al., 2017), which means “the risk of serious injury or death at work is greater than in others” (Walters, 2010, p. 9). The ILO estimates suggest three to four times higher for construction workers in advanced market economies, rising to six times in developing economies (Walters, 2010). One factor influencing the scope of critical risks is the inherently *hazardous nature of the work* involving working at heights, underground or in confined spaces and near falling objects; manual handling loads; working with hazardous substances; and using plant and equipment in difficult, uncontrolled and unpredictable workplace environments. The *structure, organisation and size* of the industry is the second factor influencing the extent of harm experienced by workers in all countries. Despite the size and economic contribution, the industry was highly fragmented and attracted unskilled, semi-skilled labour, inexperienced and younger workers (ibid.). The structure and organisation of work makes it difficult for unions to organise workers. Increasing casualisation, fragmentation and declining social dialogue, as well as economic and social security, were creating barriers to traditional approaches of protecting and representing workers’ interests. Declining union influence in this industry leads to many workers in SMEs being at higher risk and without a representative voice (Frick & Walters, 1998; Lamm et al., 2017).

The Fatality and Serious Harm Injury Rates must be considered in the context of the bust-boom cycles that impact on the fluctuating number of workers. There were 68 fatal accidents in the construction industry in New Zealand between 2008 and 2014, averaging 10 a year (Site Safe, n.d.). The number of fatalities decreased until the end of 2016 plateauing until 2019 with 11 recorded fatalities at the end of August (WorkSafe New Zealand, 2019a). The incidence of reported serious harm injuries (SHIs) resulting in more than one week away from work, remained relatively stable in the construction industry at around 20 per 1,000 full-time-equivalent workers in the year 2016/2017 (WorkSafe New Zealand, 2017c). The plateau highlighted the ongoing challenges to enhancing WHS practices when the forestry and agriculture industries were making some progress (ibid.). The data on the WorkSafe site does not distinguish between the residential and non-residential SHIs, these are amalgamated under the Building Construction Sub-Industry Sector. Exposure to dust, asbestos and other airborne substances was a major WHS issue resulting in 185 deaths in 2010, almost 20 times higher than deaths from accidents in the

same year (Site Safe, n.d.). The lack of monitoring of health issues and performance targets were identified weaknesses in the previous statutory framework (ITWHS, 2013b). Consequently, exposure to harmful substances and mental wellbeing were amongst the major issues targeted through specific government (WorkSafe New Zealand, 2018c) and industry initiatives (CHASNZ, 2019). The overarching picture presented in Figure 3.2 was one of an industry that needs to be proactive in enhancing the WHS outcomes of construction workers, particularly worker voice necessary for achieving sustainable improvements.

Figure 3.2. Fatality Rates for High-risk Sectors 2010–2017



Source: CHASNZ (2018)³

3.7.3 Construction Workers’ Voice in WHS Matters

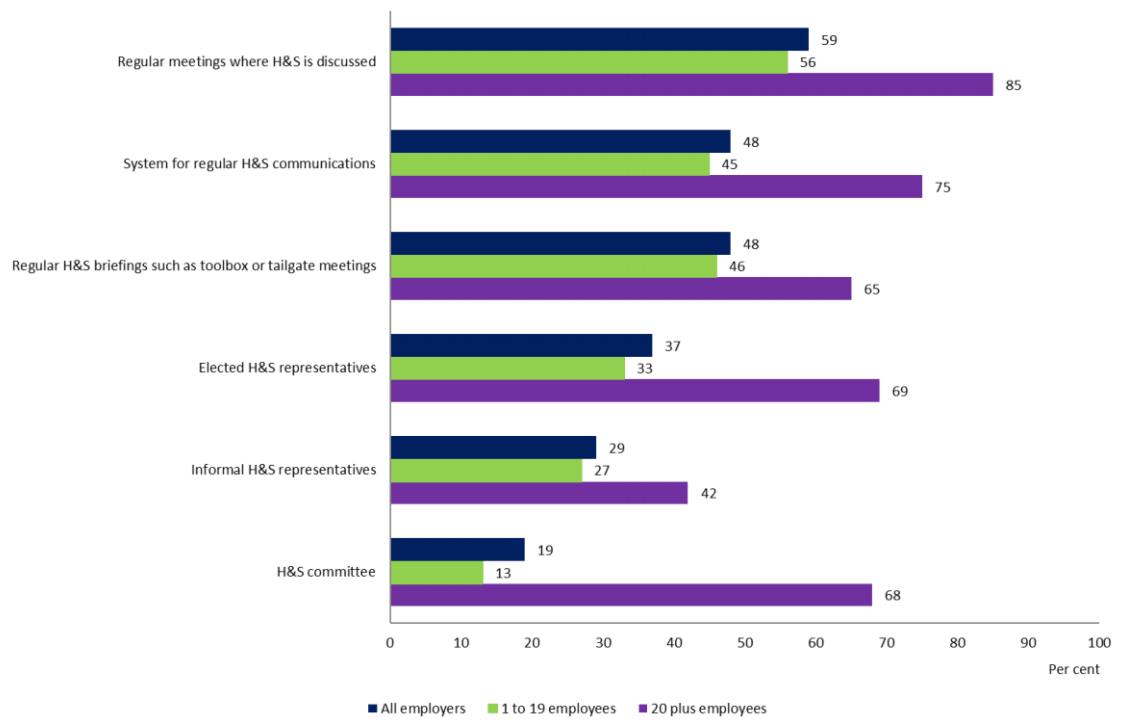
Yet the employer and worker surveys show a levelling off or regression in progress across New Zealand since April 2016 (Nielsen, 2017b). The industry was rebuked for making little meaningful progress since 2014 (Nielsen, 2017a). The continuing gap between employer and worker perceptions on WHS matters highlights the need for more effective

³ CHASNZ copyright permission granted in 2021.

communication and worker involvement in decisions affecting them. The most common employee involvement practice reported by employers was having a process in place for ensuring workers were informed on every site they work. Reports by 66 % of employers and 53% of construction workers (Nielsen, 2017a) indicated many construction workers were not having regular access to important WHS information. There appeared to be confusion about what a HSC is, with 33% of workers reporting they have an HSC in their workplace compared with 19% of employers (Nielsen, 2017a). These results suggest workers and employers may have little interest in traditional forms of worker representation. Similar results emerged in the most recent national survey of employers showing interest in informal representatives or champions (29% of employers) (MBIE, 2019b). Figure 3.3 illustrates the low levels of interest in elected HSRs (37%) and HCSs (19%) (ibid.).

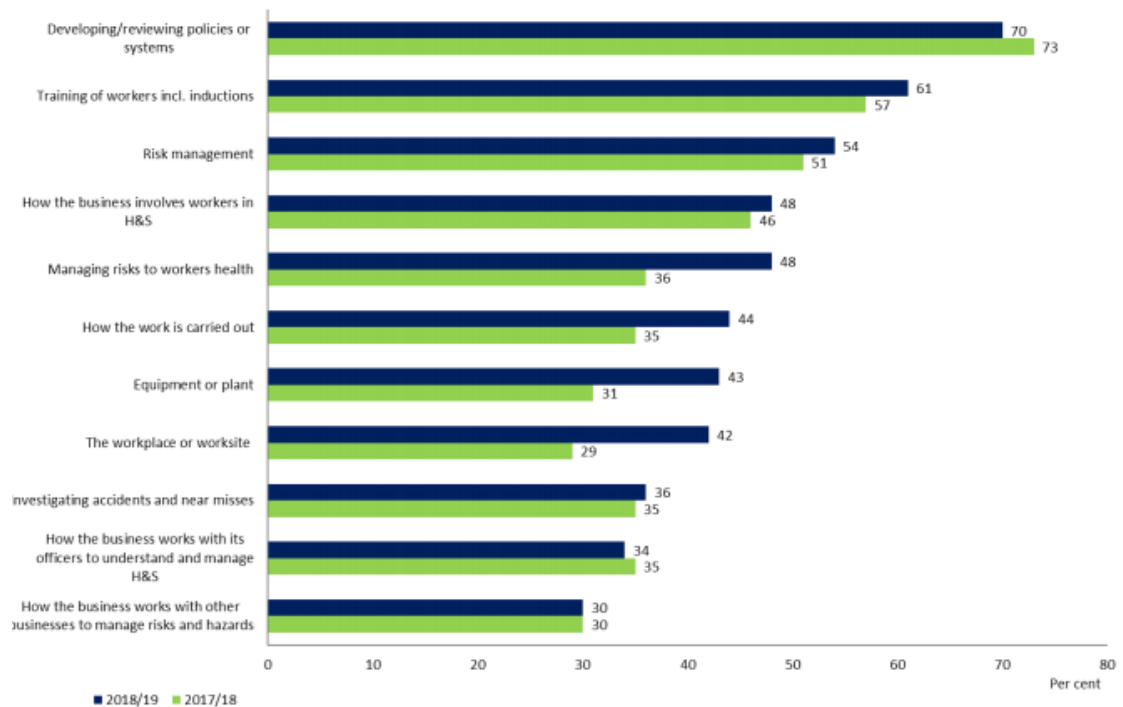
The key motivational factor driving change in management commitment to effectively manage WHS risks and involving workers in WHS was fear of the increased penalties in the HSWA (Sizemore, 2017). Variation in levels of commitment may have been partly due to size differences associated with more resourcing and provision of training and information in larger organisations. All managers were aware of their duties to involve workers, with larger organisations having a wider range of formal forms of EP&R. Yet there appeared to have been little progress in improving access to information, or reducing the tensions associated with competitive nature of the target driven construction environment and financial costs of resourcing managers' time, equipment and training (Sizemore, 2017). The latest MBIE survey results presented in Figure 3.4 show improvement in workers having access to regular information. The industry had made significant progress with 81% of construction employers reporting regular meetings compared with 48% of all participating employers (MBIE, 2019b). However, the declining interest in traditional representation structures suggested the current statutory framework was having limited effect on enhancing independent worker voice in general, with little progress in small enterprises employing less than 20 workers (ibid.).

Figure 3.3. Business Practices for Involving Workers in WHS – 2018/19, by Business Size⁴



Source: MBIE (2019b, p. 27)

Figure 3.4. The Most Common Changes Made to WHS Systems and Practices for Years 2017/18 and 2018/19



Source: MBIE (2019b, p. 27)

⁴ Figures 3.3 and 3.4 reproduced under the Crown Copyright 2019 permissions.

3.7.4 Overcoming Barriers to Compliance with Statutory Duties

Reviewing their WHS performance, the Construction Safety Council (2012) identified a number of issues in the management of WHS stemming from some SME employers and owner operators' failures to fulfil their obligations under the HSEA. These included poor WHS training management and supervision and communication between employers and employees, and reduced WHS related knowledge and skills.

The key message from the body of research on WHS is that these barriers could be overcome through collaborative industry networks, addressing weaknesses in the tendering process, adequate WHS induction training for all workers prior to all projects, and management commitment to joint consultation and improvements to the terms and conditions of work (Lamm et al., 2017; Markey et al., 2015; Walters, 2010; Walters et al., 2016). Despite tripartite efforts to overcome these problems during the Canterbury response, Cosman (2015) rated genuine worker voice as the area where most organisations were still failing. Even the CRSC (2016) had difficulties establishing and measuring genuine engagement in WHS. More recent WorkSafe initiatives target two of these barriers. The tendering process has the potential to improve WHSMS practices. The trial roving champions aimed at providing independent worker representation in forestry may be transferable to other industries.

Proactive Soft Government and Industry Initiatives may have contributed to the efforts to engage with and educate stakeholders to enhance worker voice. One initiative focused on the tendering system was part of the corrective actions in the enforceable undertakings accepted by WorkSafe. By March 2020, Telarc a subsidiary Crown Entity, had launched *Q-Safe* a simplified ISO45001 standard. This was developed in collaboration with ACC, WorkSafe and SMEs, for SMEs in the construction industry. Q-Safe was endorsed by CHASNZ and incorporated into their Tōtika scheme as a pathway for pre-qualification. As the standard was adopted in other industries, Telarc suggested it had the potential to address the gap left by the defunct ACC accreditation scheme and become an accredited NZQA qualification (NZISM presentation, March 2020). Concerns about worker representation in EUs were discussed above.

While the tendering process can act as pressure on an organisation's efforts to meet their statutory duties, the government funded '*Toroawhi/Safetree*' provides workers access to an external representative. The pilot employs two roving safety champions who report to

FISC on their engagement with workers on sites, and whanau in the community and at events (Safetree, 2019). These champions have no statutory powers. They will coach, mentor and educate workers, and help businesses improve their practices. Their lack of power or union agenda placates ideologically driven fears that emerged in employer submissions to the ITWHS. This pilot is the antithesis of the NZCTU's proposal to establish a system of appropriately trained smaller district and site roving HSRs with statutory powers in the mining and other high-risk industries (NZCTU, 2012). There have been attempts to work with Pacific Island workers and migrant workers in high-risk industries (WorkSafe New Zealand, 2019a), such as the Puataunofu "*Come Home Safely*" programme aimed at engaging with workers (Pacific Perspectives, 2018). In 2019, government and industry used lessons from the CRSC to support the WHS component of a new *Construction Sector Accord* (WorkSafe New Zealand, 2019). This may reinvigorate interest in WHS in the short-term, but not necessarily extend to enhancing formal independent representative worker voice.

Sharing Reactive Lessons from a Response to the COVID-19 challenges exposed the limitations of a flexible employer-led approach. Fletcher's representative talked about empowering managers as part of their response to the pandemic. Their efforts "to get it right the first time, because you cannot make too much change" and their "people needing certainty, not to play politics" meant unions were not consulted (Fletcher Building, 2020). Gaps in communication systems had been addressed through a wellbeing app launched in three days. The app extended information sharing to include executive updates and facilitated HRM functions, such as leave and pay (Fletcher Building, 2020). The organisation was agile in pivoting through the wellbeing app. But the exclusion of unions and references to worker questions as 'squeaky noise going away' suggested workers had little direct or indirect input in planning how the COVID-19 related WHS risks would be managed.

Accident Inquiries develop cumulative lessons about consistently prioritising the need to listen to expert workers, and regulatory accountability. A recent inquiry into the Boeing 737 MAX accidents supported the Pike River, ITWHS and industry inquiries. Boeing had ignored two senior technical pilots' continued warnings about issues in the simulator, and the regulator was reported to have been too close to be (captured) by the industry (Federal Aviation Administration, 2019, October 25).

3.8 Conclusions

This discussion of different worker voice and participation structures reveals the difficulty in securing simultaneous management, union and government interest in participation initiatives that provide workers' influence and empowerment in management decisions that affect their working lives. The changing strength of these groups and divergence in purpose of initiatives corresponded with the rhetoric. Key lessons from this literature highlight the differences in stakeholder expectations in CME and LMEs. There is a tendency for management to oppose recommendations in favour of concessionary structures that can be allowed to atrophy once the crisis or threat to management has been averted. This literature demonstrates the experimental unsustainable nature of successive worker voice and participation initiatives in LME conditions. Even cooperative models that had been more sustainable and effective in CMEs are evolving. Pressure from the global economic environment is exacerbated by fast paced technology-driven labour market changes. These global conditions are leading to what some researchers call the 'third way' or dual systems for core and peripheral workers. Size matters in the establishment and maintenance of participative structures—both the size and complexity of organisations and the size and capacity of unions.

Overall, the current statutory duties for worker voice had not had a wide-reaching influence in improving formal EP&R systems in New Zealand or the construction industry at the time of the research design and data collection. In 2019, government and industry used lessons from the CRSC to support the WHS component of a new Construction Sector Accord (WorkSafe New Zealand, 2019c), which may reinvigorate interest in WHS in the short-term. It is imperative to identify issues and overcome barriers to achieve sustainable EP&R systems that facilitate fully empowered tripartite participation in the management of critical risks that will withstand bust economic cycles within a fragmented industry with a predominantly low-skilled and vulnerable workforce. Exploring patterns of practices may help understand the differences between firms operating within similar macro conditions. As the purpose of this research was to explore how the current statutory provisions were contributing to enhancing worker voice, it focused on mature organisations in the commercial sector. Large organisations were more likely to have established management and WHS systems; employ Māori, Pacific and migrant workers; and have lower staff turnover than small businesses.

The historical account of attempts to strengthen worker voice through hard statutory frameworks and voluntary soft government initiatives revealed how entrenched ideological beliefs shaped ongoing employer lobbying for more flexibility. Several factors found to undermine the regulatory framework and result in regulatory failure are relevant when self-regulatory models are enacted in a low-union LME context. Whereas Poole et al. (2001) proposed an ascendance in influences from the macro level to the meso organisational level, this chapter suggests a more complex process whereby structural factors both influences, and are influenced by, statutory frameworks.

The next chapter outlines the interpretivist multiple-case study research design and methodology used to explore the research question.

4 Methodology

4.1 Introduction

Chapters 2 and 3 involved the analysis of the literature (Objective 1), and development of a conceptual framework and theory for exploring the research question (Objective 2).

The overarching research question for this thesis is:

How are the current statutory provisions for worker voice in workplace health and safety contributing to engagement, participation and representation?

To answer this question, the enquiry had four subquestions:

1. What is worker voice and how is the concept understood (rhetoric)? (Objective 3)
2. How do macro level external factors impact the forms of worker voice that exist at the industry and organisational levels? (Objective 7)
3. How does worker voice manifest in practice at the industry and meso organisational levels? (Objective 4)
4. What effect has the current legislation mandating worker voice had on engagement, participation and representation (reality)? (Objective 5)

This chapter begins by exploring the natural and social science paradigms, particularly the principles of ‘idealism’ that informed the rationale for adopting a deductive interpretivist multiple-case study methodology (Farquhar, 2012; Simons, 2009; Yin, 2009). Then focuses on the research design and explaining the changing boundaries of the case, the application of data, multiple perspective and theory triangulation processes, and highlights important ethical considerations (Maylor & Blackmon, 2005). This is followed by detailed consideration of the research methods and processes for collecting, analysing and interpreting the data. The final section discusses the processes used to achieve Objective 7, to analyse and interpret the qualitative data. The barriers and facilitators to achieving effective worker voice under the current legislation (Objective 6), and Subquestion 2 emerged during the Phase 1 interpretive process. This section also discusses the criteria used to evaluate the process and interpretive rigour, to ensure the findings are considered trustworthy and fair (Lincoln & Guba, 2013; Lincoln, Lynham, & Guba, 2011; Yin, 2009). An overview of the research objectives and data collection methods used to explore the subquestions is presented in Table 4.1.

Table 4.1. Methods Used to Answer the Research Question

Objectives	Information	Source	
<i>Stage 1: Define and design: Conceptualisation and planning of the macro level Phase 1, pilot and meso level Phase 2 studies</i>			
Objective 1: To analyse debates on worker voice and participation identifying how these concepts are understood in theory and implemented in practice, the prerequisites for sustainable worker involvement in WHS, and the barriers to achieving effective worker voice. Explore multidisciplinary perspectives in the employment relations, occupational health and safety, human resources management and organisational behaviour literature.	<ul style="list-style-type: none"> • Academic background on worker voice theory and ideology • Background context of the HSWA and the construction industry in New Zealand 	<ul style="list-style-type: none"> • Initial and ongoing review of the literature, reports and submissions to the taskforce 	
Objective 2: To identify a conceptual framework and theory for exploring the research question.	<ul style="list-style-type: none"> • Develop data collection protocol and tools for Phase 2 case studies • Develop analytical framework 	<ul style="list-style-type: none"> • Initial and ongoing review of the literature, reports and submissions to the taskforce • Phase 1 findings of semi-structured interviews exploring key stakeholder perceptions of the current legislation, progress and areas for improvement 	
<i>Stage 2: Prepare, collect and analyse: Exploratory macro Phase 1 and broader meso Phase 2 multiple-case study</i>			
Objective 3: To explore perceptions of the statutory EP&R requirements and how this concept of worker voice is understood by managers, workers and other stakeholders in New Zealand. Subquestion 1) What is worker voice and how is the concept understood (rhetoric)?	<ul style="list-style-type: none"> • Perceptions and attitudes shaping choices on institutional arrangements for worker voice in WHS 	Phase 1 <ul style="list-style-type: none"> • Interview question 1 • Documents: Submissions to the ITWHS and reports 	Phase 2* <ul style="list-style-type: none"> • Interview questions: S 4–6; O 2–4 • Background information questions 17–33
Objective 4: To examine how EP&R occurs in practice at the organisational and industry levels, and assess the depth, breadth and scope of worker influence in WHS decisions. Subquestion 3) How does worker voice manifested at the organisational and industry level (practice)?	<ul style="list-style-type: none"> • Depth, breadth and scope of EP&R practices • The power of the principal actors (stakeholders) 	<ul style="list-style-type: none"> • Interview question 2 • Documents: Reports 	<ul style="list-style-type: none"> • Interview questions: S 7–17; O 5–13 • Observations • Documents: WHS
Objective 5: To investigate what effect the current legislation mandating worker voice has had on workplace engagement, participation and representation. Subquestion 4) What effect has the new legislation mandating worker voice had on workplace engagement, participation and representation (reality)?	<ul style="list-style-type: none"> • Outcomes for the organisation and workers 	<ul style="list-style-type: none"> • Interview question 2 • Documents: Accepted enforceable undertakings 	<ul style="list-style-type: none"> • Interview questions S 4–17, 21–32; O 2–13, 22–26 • Background information question 34 • Observations

Objectives	Information	Source
Objective 6: To identify and explore barriers and facilitators to implementing sustainable effective employee engagement, participation and representation practices.	<ul style="list-style-type: none"> • Macro social political economic and technical structures • Meso structures and processes at the firm level 	<ul style="list-style-type: none"> • Interview question 2 • Interviews questions S 14–31; O 10–21 • Background information questions 9–34 • Observations • Documents: WHS
<i>Stage 3: Analyse and conclude</i>		
Objective 7: To reflect and collate patterns into taxonomies, theorising and representing the co-constructed findings. Emerging Subquestion 2) How do macro level external factors impact the forms of worker voice that exist at the industry and organisational levels? **	<ul style="list-style-type: none"> • Theory development 	<ul style="list-style-type: none"> • Triangulated data analysis

Note: * S represents the interview questions for senior participants, WHS professionals & HSRs (Appendix J) and Appendix K represents the interview questions for operational staff and workers. **Additional subquestion from expanded scope of Phase 1.

4.2 Natural and Social Science Philosophical Paradigms

Collis and Hussey (2009) suggest “a research paradigm is a framework that guides how research should be conducted, based on people’s philosophies and their assumptions about the world and the nature of knowledge” (p. 55). Paradigms are also known as theoretical paradigms (Denzin & Lincoln, 2008), perspectives (Gray, 2009) or worldviews (Creswell, 2009; Creswell & Poth, 2018). The two main philosophical paradigms should be viewed as a continuum with positivist and interpretivist approaches at opposite ends. Researchers gradually relax and replace the features and assumptions of one methodology as they move along the continuum (Collis & Hussey, 2009; Creswell, 2009). Emergent paradigms include post positivism; critical theory capturing Marxist models, feminism and queer theory; and postmodern (participatory) (Lincoln et al., 2011). Social scientists recognise that robust empirical research facilitates collective advances through a variety of philosophically driven methodologies. Each contribution incrementally broadens understanding in different but complementary ways (Blackburn & Smallbone, 2008; Collis & Hussey, 2003; Lincoln et al., 2011). Lincoln and Guba’s (2013) recollections of the development of the naturalist paradigms demonstrates the rigorous debate underpinning the steady maturation of knowledge about the research process. Qualitative research methodologies include phenomenology, grounded theory, ethnography, case studies, narrative research, discourse analysis, and action and applied research (Denzin & Lincoln, 2008; Simons, 2009; Yin, 2009).

My research contributes to the social science debate developing the concept of “constructed realities” that emerged in 1985 (Lincoln & Guba, 2013) and was refined “in the notion of a ‘constructivist paradigm’ as a coherent belief system... In Fourth-Generation Evaluation, the paradigm is no longer called ‘naturalistic’ but ‘constructivist’... ” (Lincoln & Guba, 2013, p. 23). Refer to Lincoln et al. (2011) and Denzin and Lincoln (2008) for detailed analysis of interpretivist constructivist paradigms. This paradigm decision determines what methodological strategies will be used to answer the research question (Lincoln & Guba, 2013). The “blurring of genres” (Denzin & Lincoln, 2008; Lincoln et al., 2011) requires setting boundaries for my research project.

4.2.1 Idealism – Interpretivism (Constructivism)

Natural scientists aim to predict, control and measure the occurrence of social phenomenon or test theory. By comparison, social scientists (interpretivists) explore the

complexity of social phenomenon **aimed** at interpreting and understanding (Collis & Hussey, 2009). The “reconstruction of meaning of lived experience” may be used to inform practice (Lincoln & Guba, 2013, p. 11). In contrast to the realist single **reality**, social scientists believe multiple realities exist in individuals’ mind(s) and must be studied holistically in the natural environment (Gray, 2009). The **epistemological** assumptions about valid knowledge and the relationship between the researcher and the research also differ. Rather than being a detached observer, interpretivists embrace the subjective nature of co-constructed knowledge emerging from the process of interactions between the researcher and the participants (Lincoln et al., 2011). Interpretivists attempt to get as close to the phenomenon as possible in their efforts to try to understand what is happening (Collis & Hussey, 2009; Gray, 2009). “It is only through this interaction that meaning can be uncovered” (Farquhar, 2012, p. 19). Meaning (**knowledge**) is co-constructed, not discovered (Gray, 2009). Where positivists use distance to control bias, interpretivists strive for neutrality and transparency. The research is value-laden and biased, as the researcher is inseparable from the study and outcomes. Therefore, interpretivists consider **ethical issues** in all aspects of the research.

As noted, researchers apply logic when designing a research study to ensure the research process is robust and the findings answer the question. Whereas deduction follows a linear structural process, induction is an iterative process requiring the researcher to consider the emerging patterns and loop back to previous stages (Farquhar, 2012; Lincoln et al., 2011; Maylor & Blackmon, 2005). Interpretive **methodologies** adopt an **inductive** process where:

- 1) Categories are identified during the research process, as opposed to being totally constrained by theoretical facts. Researchers may use **theory** as an analytical lens for the research, and conceptual frameworks to provide information to prospective participants and guide qualitative data collection (Maylor & Blackmon, 2005; Yin, 2009).
- 2) Inquiries involve exploring the phenomenon in a small sample, potentially over a specified period of time Collis and Hussey (2009). A variety of qualitative methods are used to collect different perceptions, such as observations and in-depth interviews (Lincoln et al., 2011).
- 3) The iterative nature of the research process involving looping back to previous stages is a distinguishing feature of interpretivism. Whereas

positivists follow a linear process. Data collection and analysis therefore accommodates changes to the research design or interview questions as the research progresses.

- 4) Data is qualitative in a nominal form, such as words and images. Researchers use thematic analysis to identify emerging patterns and generate theory from the data (Maylor & Blackmon, 2005).
- 5) Where positivist inquiries **evaluate** the validity, interpretivists assess the “credibility, transferability, dependability, and confirmability” of their research process and findings (Lincoln et al., 2011). Concepts for testing the quality of case study research designs include “trustworthiness, credibility, confirmability, and data dependability (Yin, 2009, p. 40) .

The next section explains my rationale for selecting an interpretivist case study methodology to explore the research question and applies case study characteristics to define my case study.

4.3 Interpretivist Case Study Research Methodology

Case study methodology has been widely applied across disciplines including sociology, psychology, health and education (Creswell, 2009; Denzin & Lincoln, 1994, 2011, 2013; Yin, 2009). Definitions vary in scope and meaning. Some researchers define case studies as a methodology or comprehensive research strategy (Collis & Hussey, 2009; Simons, 2009; Yin, 2009). Others constrain case studies to research methods (Farquhar, 2012; Stake, 1995, 2008). Nevertheless, researchers agree on the defining feature of case study. All case studies focus on a single contemporary phenomenon that will be studied in detail in a specific real-life setting, the case (Collis & Hussey, 2009; Simons, 2009; Yin, 2009). But it may not always be easy to distinguish between the phenomenon and the context (Yin, 2009). Case study has “an overarching research intent and methodological (and political) purpose, which affects what methods are chosen to gather data” (Simons, 2009, p. 3). In refining the features of a case study, Yin (2009) outlines the following technical characteristics of the methods used to collect and analyse data:

The case study inquiry copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result relies on multiple sources of evidence, with data needing to converge in a

triangulating fashion, and as another result benefits from the prior development of theoretical propositions to guide data collection and analysis (p. 18).

4.3.1 Rationale for Adopting an Interpretivist Case Study Methodology

Given the importance of effective worker voice in WHS, my research design choices were led by the research question and objectives, particularly how to most effectively answer the question. The interpretivist constructivist paradigm facilitated in-depth exploration of how the current duties for EP&R were understood, implemented and enforced to enhance worker voice in a specific industry. My work experience and understanding of worker voice, particularly in the forestry industry, enabled me to develop a rapport with a wide range of knowledgeable participants involved in WHS (Collis & Hussey, 2009; Gray, 2009). Reflecting on how my understanding of WHS matters would impact on my role in the research, I agreed with Lincoln et al.'s (2011) view of these characteristics as enablers for me to act as a credible researcher. While reframing from using academic jargon, I was always clear about my role as a researcher studying worker voice in the case study organisations (Maylor & Blackmon, 2005).

4.3.2 Rationale for Adopting a Multiple-case Study Research Design

The literature review highlighted the exploratory nature of research of my topic. Different case study designs and methods are common in research exploring and developing employee participation and representation theory (Hasle et al., 2016; Marchington, 2015a; Markey et al., 2015; Walters et al., 2005; Wilkinson et al., 2013) and WHS initiatives (Barclay, 2015; Lamare et al., 2015; Pandey, 2013). Single-case study designs have been applied to describe the case of the vulnerable contractors working at Pike River (Lamare et al., 2015) and HSR experiences in the Australian mining industry (Walters et al., 2016). Multiple-case study designs have been used to explore 'employee voice' across two or more industries to understand the similarities and differences within a particular context (Marchington, 2015a; Markey et al., 2015; Walters et al., 2005).

Apart from Walters et al. (2005) who selected high-risk chemical and construction industries, research has typically focused on cases in the manufacturing industry and a range of service industry sectors. For example, Marchington (2015a) captures private sector services and the public sector enterprises. Markey et al. (2015) concentrated on hotels, school education and aged care; and A. Wilkinson et al. (2013), the hospitality and

the health sectors. These researchers were able to interview a range of stakeholders, including employees. Because direct access to employees was difficult in her case study, Barclay (2015) surveyed the employees' perspectives of worker voice. These instrumental case studies have been selected and studied in-depth to provide detailed insights into the main issues being explored (Silverman, 2013; Simons, 2009). Where similar cases have been used and the findings replicated, the original findings are considered to be more robust (Yin, 2009). If the cases supported the original propositions, the theories may be generalised to similar contexts (Yin, 2009). If differences arose, the original propositions may have been revised and retested with another set of cases, and the findings used to extend or modify theory (Collis & Hussey, 2009; Yin, 2009).

Yin's (2009) explanations of the usefulness of different case study designs provided further support for adopting a multiple-case study design for exploring and describing the topic. Yin (2009) argues that holistic designs are justified when exploring "unique circumstances" (p. 52). The introduction of the current legislation is unique. The purpose of enhancing tripartism is confounded by accommodating flexible arrangements within a low-union context. Embedded units of analysis provide opportunities for deeper analysis of similarities and differences on a range of factors identified in the literature and emerging themes. Attention should also be given to sub-units of analysis when exploring the object, such as, how were core and subcontracted workers involved in WHS decisions on a building site?

The reviewed literature presented in Chapter 2 provided insights into the interdisciplinary perspectives of worker voice across the reviewed debates (Objective 1). The differences in purpose, meanings and definitions of engagement, participation and representation in the literature and embedded in the HSWA highlighted a need to explore how terms are understood by managers, workers and other stakeholders. Therefore, an interpretivist approach was appropriate. The consensus on the importance of improving worker voice in WHS suggested that people would be interested in sharing their own perceptions and learning about how the current HSWA was overcoming the limitations of the previous statutory framework. The Phase 1 exploratory study confirmed that access to commercial construction sites would not be problematic. The multiple-case study design was considered as the most useful for exploring the question within the complex PCBU relationships occurring in the commercial construction industry.

4.3.2.1 Defining the Boundaries of the Case Study

After carefully reconsidering my research purpose, objectives, and research design (Yin, 2009), the inductive approach provided the flexibility to adapt in the design phase (Farquhar, 2012; Simons, 2009). The industry sub-category was identified in the exploratory stage. Phase 1 data were collected between June 2017 and October 2017. The Phase 2 case study data were collected between November 2018 and April 2019. This section outlines the main reasons for adjusting the research design.

Firstly, the purpose was seeking the most in-depth understanding of the phenomenon. The opportunity to access knowledgeable employer, union, regulator and other stakeholders resulted in reconceptualising the case study boundaries to most effectively explore my research question (Simons, 2009; Yin, 2009). Objective 5 was to explore perceptions of how the Health and Safety at Work Act (HSWA) was impacting worker EP&R at the organisational level. This was expanded to include strategic and operational perspectives of how macro level external forces shaped the forms of worker voice that existed at the industry and meso organisational levels. Phase 1 provided richer understandings than anticipated and informed the broader Phase 2 multiple-case study. This led to reviewing the replication techniques and units of analysis setting the boundary for this multiple-case.

Secondly, the geographical scope of the case studies was expanded to include stakeholders and organisations involved in the CRSC and/or in the Canterbury rebuild. This initiative acted as a contextual factor for understanding how a ‘soft initiative’ supported other key factors in the case studies affiliated to, or more broadly influenced by, the CRSC. The conceptual analytical framework developed in Chapter 2 (Objective 2) did not have to be amended, as the study did not set out to evaluate the CRSC. Selecting cases from different regions (Simons, 2009) helped understand how the HSWA contributed to worker voice in each unique case, what characteristics were shared or could be attributed to sociopolitical and organisational factors, what barriers existed, and map the different forms EP&R. Expanding the scope enriched the exploration of the barriers and facilitators to implementing sustainable effective EP&R practices (Objective 6).

The general sociopolitical environment and pathway for the inclusion of employer-led flexible forms of participation and representation in the current HSWA were discussed in Chapter 3. The third adjustment reflected the difficulties of achieving traditional forms of

representation in a low-union context. Instead of exploring union/non-union supported representation at the meso level, theoretical assumptions about broader longstanding tripartite relationships were investigated in the macro level exploratory study. In addition, the Phase 1 stakeholders talked about non-traditional forms of EP&R (referred to as contemporary from this point). The preference for flexible forms of worker voice necessitated returning to the literature to explore how non-union forms of employer participation (NERs) are implemented, and their purpose and potential to facilitate effective worker voice (Kaufman & Taras, 2010; McGraw & Palmer, 1995).

Unlike deductive positivist case study designs that test hypotheses, interpretivist studies adopt an inductive logic to explore phenomenon where there is a dearth of knowledge with theory development emerging from the data. Although some argue the researcher may be biased by the literature, Yin (2009) and Farquhar (2012) advise interpretivists to identify key concepts in the literature, and use these to develop research objectives. Following this process, the identified concepts were structured within an amended *Multidisciplinary Analytical Model of Worker Voice*. The identified concepts informed the development of the data collection tools, including the semi-structured interview questions. Established theories were used when the data were analysed and interpreted. Theoretical triangulation is discussed in Section 4.3.2.2. Table 4.1 maps the objectives and methods used to answer the research question.

Purposeful sampling techniques were used to recruit prospective stakeholder participants for the exploratory Phase 1. In multiple-case study designs, each case replicates the prior case (s). A theoretical framework was developed as part of a replication procedure for selecting prospective cases. The selection and recruitment processes are described in the research methods below. The rationale for choosing replication logic for Phase 2 was to facilitate in-depth exploration to gain rich understanding of worker voice in WHS holistically in the natural environment of construction businesses (Gray, 2009; Yin, 2009). Choosing the number of cases to study required considering the depth and breadth of knowledge that could emerge when comparing more cases. Two or three carefully selected cases are sufficient for literal or theoretical replication and suffices when the theory is straightforward, and the issue does not need an excessive degree of certainty. Four cases are the minimum for developing convincing theoretical arguments (Eisenhardt, 1989, as cited in O'Gorman & MacIntosh, 2015). Five or more replications are required to test a subtle theory or to achieve a high degree of certainty (Yin, 2009).

Although a single in-depth case can be supported with “a number of shallower and smaller case studies” (Maylor & Blackmon, 2005, p. 246). As time constraints were exacerbated by expanding Phase 1, there was less time to explore each case in depth and compare, contrast and triangulate the patterns emerging within and between cases (Farquhar, 2012; Yin, 2009).

Having considered the impact of the changes, this research adopted an amended multiple-case study design with embedded units of analysis (Yin, 2009). The phenomenon was investigated through two different lenses or units of analysis, enabling more detailed analysis. An overview of the macro and meso level units of analysis, and strategic and operational level embedded units of analysis are presented in Tables 4.2 and 4.3. Finally, existing theory and frameworks were used throughout this thesis to guide the collection of data to facilitate comparative analysis; and help understand and explain how the current statutory framework was contributing to worker voice at the macro and meso levels (Collis & Hussey, 2009; Yin, 2009).

Table 4.2. Phase 1 Exploratory Study, Macro Level Key Stakeholder Units of Analysis

Embedded units of analysis	Employer stakeholders	Union stakeholders	Regulator stakeholders	Other key stakeholders
All levels	<ul style="list-style-type: none"> • Individuals involved in making submissions to the ITWHS. • Individuals involved in soft government initiatives. 	<ul style="list-style-type: none"> • Individuals involved in making submissions to the ITWHS. • Individuals involved in soft government initiatives. 	<ul style="list-style-type: none"> • Individuals involved in soft government initiatives. 	<ul style="list-style-type: none"> • Individuals involved in the ITWHS. • Individuals involved in soft government initiatives.
Strategic level	<ul style="list-style-type: none"> • Individuals who have an interest in WHS and represent employers on WHS matters at the industry and/or governance level, such as the BLHSF and CSC. 	<ul style="list-style-type: none"> • Individuals employed by the CTU and represent unions and workers on WHS matters at the industry and/or governance level. 	<ul style="list-style-type: none"> • Individuals employed by WorkSafe and have an interest in WHS matters at the industry and/or governance level 	<ul style="list-style-type: none"> • Individuals who have an interest in WHS and are involved in WHS at the industry and governance level.
Operational level	<ul style="list-style-type: none"> • Individuals who have an interest in WHS and represent employers on WHS matters at the industry and/or operational level, such as builders’ associations. 	<ul style="list-style-type: none"> • Individuals employed by industry unions and represent unions and workers on WHS matters at the industry and/or operational level. 	<ul style="list-style-type: none"> • Individuals employed by WorkSafe and have an interest in WHS matters at the industry and/or operational level. 	<ul style="list-style-type: none"> • Individuals who have an interest in WHS and are involved in WHS at the industry and governance level.

Table 4.3. Phase 2 Broader Case Study, Meso Level Units of Analysis

Units of analysis	Embedded units of analysis	Employer representatives	Worker representatives	WHS professionals
CS1	<ul style="list-style-type: none"> Strategic level 	<ul style="list-style-type: none"> Directors on the board of the commercial construction organisations included in the case studies 	<ul style="list-style-type: none"> Workers employed by the commercial construction organisations included in the case studies 	<ul style="list-style-type: none"> Specialist WHS professionals employed by the commercial construction organisations included in the case studies
CS2	<ul style="list-style-type: none"> Operational level 	<ul style="list-style-type: none"> Managers assigned responsibility for the entire staff or a group(s) of workers (strategic level senior, operational site, project or division, trainee managers) 	<ul style="list-style-type: none"> Assigned responsibility for WHS activities for the site, project or group(s) of workers (HSR, champion, involved in WHS working group(s)) 	<ul style="list-style-type: none"> Assigned responsibility for the entire staff or group(s) of workers (strategic and or governance level, operational level)
CS3		<ul style="list-style-type: none"> Actively involved in WHS 	<ul style="list-style-type: none"> Subcontracted workers (including migrant workers) 	

4.3.2.2 Triangulation

There are several cogent reasons for using triangulation to evaluate case study findings. Yin (2009) argues that case studies that use **multiple sources of data evidence** “...are rated more highly, in terms of their overall quality, than those that that relied on only single sources of information” (p. 117). Deeper understanding gained through reconstructing **multiple perspectives** (theoretical triangulation) enables the researcher to “portray a valid picture” of the phenomenon (Simons, 2009). While interpretivist researchers explore a phenomenon through different lenses and connect a sequence of representative parts to form a whole, they use alternative triangulation evaluation criteria (Denzin & Lincoln, 2008). Evaluation criteria are discussed in Section 4.5. Nor does triangulation ensure validity—it contributes to it, along with the following factors: the reflexivity of the researcher, sampling adequacy and appropriateness of the methods for understanding the topic (Simons, 2009). These have all been considered in developing the rationale for this research design. A more critical factor is the relationships the researcher develops in the field, “which enable you to gain ‘quality’ data that accurately represent the phenomenon you are studying and negotiate meanings that are valid for the specific purpose in the particular context” (Simons, 2009, p. 129). My knowledge, experience and existing networks partly contributed to gaining access to the stakeholders and building rapport in the fieldwork.

In addition to theoretical triangulation of different perspectives in the same dataset (Farquhar, 2012), **theoretical triangulation** relates to comparing findings with established theories in the literature (Yin, 2009). Using Easterby-Smith, Thorpe and Lowe's (1991) types of triangulation, Collis and Hussey (2009) defined theoretical triangulation as taking a theory from one discipline and using it to explain a phenomenon in another discipline. For example, Capture Theory used in economics helped to explore alternative explanations for the strategies employers and unions adopted to align institutional arrangements for worker voice with their interests (Bernstein, 1961a; M. Bernstein, 1972; Stigler, 1971). Research applying this theory illustrated ongoing efforts to shape how laws were embedded, diluted, weakened or repealed (Etzioni, 2009). **Investigator triangulation** was inappropriate and **methodological triangulation** did not fit with the research design.

4.3.2.3 Data Sources

The most commonly used data sources are documents, archival records, interviews, direct observation, participant observation and physical artefacts (Gray, 2009; Yin, 2009). Recent case studies exploring worker involvement in the workplace, and particularly in health and safety, adopted various combinations of interviews, documents and surveys. Table 4.4 shows that observations have been used in the most recent case studies of worker voice. More detailed analysis of the methods used in these case studies is presented in Appendix B. The scarcity of observational research designs may be related to the time-consuming nature of the process. The researcher's need to be trained or experienced in this technique, and observations often require a team of researchers to focus on specific issues (Simons, 2009; Yin, 2009). Yin (2009) proposes that observations provide additional information to support or clarify data gathered through the interviews, background information and documents. The three main sources of evidence considered relevant for this study were:

1. Semi-structured interviews:
 - in-depth recorded interviews with key stakeholders, for example, strategic leaders, senior and operational level managers, and workers; WHS professionals and WHS representatives;
 - brief interviews with subcontractor and/or migrant workers.

2. Observations of:
 - formal WHS meetings, such as toolbox talks, site and/or contractor meetings, HSC meetings;
 - informal observations of the office and site environment, and workplace behaviours and culture.

3. Documents:
 - government briefings, reports and documents pertaining to the submissions to the select committee;
 - government documents pertaining to Enforceable Undertakings (HSWA, §123-129);
 - organisational documents pertaining to WHS policies, procedures and reports.

Table 4.4. Data Collection Instruments used in Case Studies of Worker Involvement

Study	Interviews	Documents	Survey	Observations
Marchington (2015a)	Yes	Yes		
Wilkinson et al. (2013)	Yes	Yes		Yes
Walters et al. (2005)	Yes	Yes	Yes	Yes
Walters and Nichols (2009)	Yes	Yes	Yes	
Walters et al. (2016)	Yes	Yes		Yes
Hasle et al. (2016)	Yes			Yes
Knudsen et al. (2011)	Yes	Yes	Yes	
Markey et al. (2014)	Yes		Yes	
Lamare et al. (2015)	Yes	Yes		

In sum, the triangulation techniques were planned, rather than using an ad hoc approach (Farquhar, 2012; Yin, 2009). The triangulation of data sources and theoretical triangulation were appropriate for reconstructing multiple perspectives of reality from converging and diverging themes across the macro and meso levels. With the addition of rigorous data management protocols, triangulation contributed to mitigating researcher bias so that the negotiated meanings are perceived as credible and trustworthy (valid) (Simons, 2009). This research therefore tested the relevance of theory and contributed to the recent cross-disciplinary academic debates exploring how different worker voice structures, forms and system process's function and coexist in the workplace.

4.3.2.4 Ethical Considerations

As ethical issues may arise when researching a phenomenon in its real-life context, adhering to rigorous research protocols helps protect participants and the participating organisations (Simons, 2009). Ethical considerations were integrated throughout the three stages of the research process and discussed with senior academic peers and my supervisors. The project was peer reviewed and judged to be low-risk. The low-risk ethics notification included consideration of gaining informed consent; strategies to protect participants from any harm, including avoiding deception in the study; and protecting the confidentiality of the participants and participating organisations (Farquhar, 2012; Simons, 2009; Yin, 2009). A low-risk ethics notification was recorded by the Director (Research Ethics), Massey University Human Ethics Committee, before the research began (presented in Appendix C). This ethics process ensured that the research complied with the Massey University Code of Ethical Conduct. It also helps gain access to “the data you need for a credible piece of research” (Farquhar, 2012, p. 49) and reassures prospective participants that the researcher is acting responsibly. Relevant information provided to prospective stakeholders is presented in Appendix D.

Figure 4.1 contains an example of my ethical considerations for observing groups of people attending meetings, particularly anticipating difficulties in situations beyond my control. Signed informed consent would not be practical or achievable for observational events. Procedures tested in the pilot study informed the fieldwork observations and followed Tolich and Davidson’s recommended decision-making process:

In cases where one ethical principle (i.e., informed consent) is not applicable, the other principles – ‘do not harm’, ‘anonymity and confidentiality’ and ‘avoid deceit’ – must be in concert to protect a subject’s rights. And if these principles cannot shore up the absent principle, the research should not proceed. There is not a hierarchy of principles. So, if informed consent is missing, then the research can proceed only if the other principles can support its absence. (Tolich & Davidson, 1999, as cited in Tolich, 2001, p. 6)

Figure 4.1. Example of Ethical Considerations in the Pilot Study

Research Diary, 19 October 2018

Pilot study, ethical considerations, starting CS1 and setting up CS2:

Still no documents received from the pilot study. I have been reviewing the research instruments and my ethics while waiting for the pilot sample WHS documents. This strategy to manage the extended pilot study is to forward the reviewed instruments and ethics review to my supervisors. We have been talking (via emails as my supervisors are all away) about my ethical considerations and the effectiveness of the strategies to manage the risks. These conversations about the ethical consideration have been really helpful. I also asked whether it is okay to proceed without having piloted the data record instrument. My chief supervisor responded with some encouragement and thankfully the authorisation to start CS1. One potential union friendly construction company has turned down my invitation and the second is proving quite elusive, despite the help of a lovely PA. Fingers crossed, this union friendly constructor will accept the invitation.

The contact person in participating organisations was asked to talk to people about the research, using an amended research information sheet and summarised flyer (presented in Appendices E & F). The flyer was intended to overcome language barriers for workers with low literacy skills and/or migrant workers with a weak command of English working on the case study sites. Strategies for presenting dyslexia friendly print resources were developed with the print design team. The information flyer was refined following feedback from the key stakeholders and builders on five building sites. Requesting to be introduced to people attending a meeting before it started was not always possible, but people were advised to approach me after a meeting if they wanted anything excluded from my field notes. While this preparation aimed at mitigating risks, balancing interviews with observations helped develop trust (Simons, 2009). Physically distancing myself away from key people, on the outskirts of a group, was an intentional strategy to reduce my intrusion in the observed event.

Although I worked closely with the contact person to ensure I did not create unnecessary disruption in the workplace, participation in the study was common knowledge as all the interviews occurred in the head office, site office or smoko areas on the sites. Another

important consideration was ensuring prospective participants were not coerced into participating in the research (Simons, 2009; Yin, 2009). The information sheets and flyer were used to remind participants of their rights and reassurance of procedures for ensuring organisations and participants were not identified. These strategies were aimed at ensuring my research purpose was transparent and my research activities were conducted honestly and with ethical integrity (Farquhar, 2012).

Protecting an individual's confidentiality became more difficult to manage when there were only two or three participating HSRs and/or workers. The potential benefits of publishing particular quotes were considered against the potential for harm. Quotes were generalised in these instances. For example, the confusion surrounding the HSR election process and representation in the two larger organisations. The coding index was excluded to avoid embargoing the thesis. The codes would be provided to academic researchers who could justify a need to distinguish between the individual participants

This section considered what triangulation techniques would be relevant, how these would enhance the quality of the data, and the ethical research procedures guiding the defining and designing stage of this case study. The next section outlines the methods used to prepare for data collection, analysis and interpretation of the data.

4.4 Research Methods

Data collection involved semi-structured interviews, observations and document analysis of the types of documents defined above (Simons, 2009; Yin, 2009). Interview transcripts and observation notes were the primary sources of data generated for this research. These were triangulated with secondary pre-existing data sources, including public and organisational documents and reports. The outcome of Phase 1 led to refinement of the theoretical framework guiding the data collection to accommodate traditional and contemporary flexible forms of worker voice.

4.4.1 Phase 1 Macro Level Key Stakeholders

The purpose of Phase 1 was to explore the phenomenon before designing the Phase 2 in-depth exploration. Purposeful sampling was used to select a balanced group representing employer associations, trade unions, the regulator and other key stakeholders. Following Berg (2009) and Yin's (2009) recommendations, the exploratory study adopted a predefined organisational framework. Phase 1 stakeholders were interviewed using a

semi-structured interview schedule (presented in Appendix G). Thematic analysis and pattern matching enabled converging and diverging themes to emerge. This phase went beyond pre-testing the data collection plan. It:

1. guided the development of the draft semi-structured interview, analytical framework and data collection protocol;
2. established the potential to gain access to relevant secondary data and considered the impact of observational procedures;
3. identified the commercial construction industry sub-classification targeting mature organisations with established systems, as well as specific issues and influencing factors to explore in the case studies; and
4. the stakeholders offered advice and/or assistance in accessing potential case study organisations.

Table 4.5 illustrates the attempt to balance the data collected from the interest groups at the macro level; and the data collection methods used to explore the context within which the phenomenon occurred. Different stakeholder perceptions were triangulated, and established theories used to help explain how stakeholder groups shape the forms of EP&R embedded in statutory frameworks and organisational policy and practice.

Table 4.5. Phase 1 Data Collection Processes

Key stakeholders	Interviews	Documents	Timing of data collection
3 Employers 4 Workers 3 Regulators 4 Other	6 Strategic and 8 Operational level (12:30 hours)	Selected reports, submissions to ITWHS, enforceable undertakings, and BLHSF resources	7 June–2 October 2017
14	12*		

Note: * Two interviews with two participants.

The Phase 1 findings, presented in Chapter 5, explore key stakeholders’ understandings of the terms used in the current legislation, the progress and areas for improvement in implementing the statutory requirements. The preliminary findings were presented at a conference as a means of gaining feedback on the research design from the academic community (Farr, 2018). Involvement and feedback from the stakeholders, pilot study participants and academic peers informed the research design, data collection tools and

fieldwork. These methods were aimed at improving the credibility of the interpreted qualitative findings (Farquhar, 2012; Lincoln & Guba, 1985) or positivist construct validity (Yin, 2009). Phase 1 concluded with a pilot study.

4.4.2 Pilot Study

Some consider the uniqueness of case studies undermines the purpose of a pilot study. Whereas Farquhar (2012) recommends balancing this limitation against the benefits for emerging researchers. An effort was made to select a pilot case that was convenient and easy to access (Farquhar, 2012). The pilot study construction company was local and known to me, having participated in a previous research project. The pilot study involved testing and refining the *Semi-Structured Interview Questions*, *Observation Schedule* and *Document Records*. Throughout this process, literature was explored for insights into how researchers manage the collection, analysis and triangulation of primary and secondary data sources (Collis & Hussey, 2009; Hasle et al., 2016; Simons, 2009; Walters et al., 2016; Wilkinson et al., 2013). Case study research was revisited for evidence of ethical considerations, particularly for observations in workplace situations (Bloor & Sampson, 2009; Dundon, Dobbins, Cullinane, Hickland, & Donaghey, 2014; Farquhar, 2012; Harvey, Rhodes, Vachhani, & Williams, 2017; Price, 2003; Tolich, 2001; Yin, 2009).

The pilot study data collection started with the initial meeting with the managing director. The managing director and WHS manager completed the *Background Information Sheet* (template presented in Appendix H). They completed most of the questions in Parts A, B and C. Additional feedback was sought in Part D. While the participants required clarification on two questions, no gaps were identified. This background information provided valuable insights into the unique organisational context. Some information was explored further during the interviews, and the information was helpful if the participant struggled to recall examples of relevant practices. The structured *Observation Schedule*, presented in Figure 4.2, was developed from Farquhar (2012) and Mack, Woodsong, MacQueen, et al (2005), to help record brief notes in chronological order. Writing full notes as soon as possible helped to recall rich details and expand the notes into a short vignette of the event (presented in Appendix I). An important part of the pilot observation was a discussion about informed consent and participants' rights. While the participants could not speak for others, the site manager and workers did not think people would be concerned about documenting an event.

Piloting led to refinement of the data collection instruments and complete review of the ethical issues and methods to manage the risks. The *ethical considerations* were reviewed by supervisors and expert academic peers. Tolich and Davidson's (cited in Tolich, 2001) process for managing an absent ethical principle was applied in the absence of informed consent in observations and informal interactions. Changes to the *Background Information Sheet* included updating The Director of the Research Ethics Committee. An additional question established the number HSRs and level of training since 2014. Two questions were extended to provide more detail. The research *Information Sheet* was refined to clarify expectations about access, types of data collection and time. The *interview questions* were refined to soften wording, rearrange subquestions, remove questions, and add generic prompts. The layout of the *Observation Sheet* was simplified.

Figure 4.2. Structured Observation Sheet Tested in the Pilot Study

Structured Observation Schedule Date: 16/10 10:00-10:15 Case Study: Pilot
 Type of Observation: Toolbox, Teambrief, HSC, H&S workgroup, Incident/Accident Investigation

Participants roles and diagramme:
 Lead music/outside smoko hat 20 3
 to senior leader. Next 5
 Reading rules
 BL

1. How are EP&R terms used?
 Brain → Goals later.

2. Participants' behaviours (Note interesting actions and comments and when these occur):
 H&S lady does talking about how leg change
 St 2 moved closer to the meeting holder. (uniform
 spirit) Two people did not have correct uniform (eye,
 media)

3. Verbal behaviour and interactions: Who speaks to whom, for how long, who initiates the interaction?	4. Physical behaviour and gestures: What people do, who interacts with whom, and who is not interacting.	5. What are people talking about? Topics: Who raises the topic, how long is a topic talked about, how many topics are covered, and who is interested in each topic?	6. What are the actions attempting to achieve from this EP&R activity? ? Are raised issues resolved, discounted or to be addressed? Are workers informed, consulted, make the decision?
	standing quietly	Reading site rules	H&S lady contributes
		point 2. teaching colleagues	no adding colleague laws
Mainly medicine reader H&S supervisor adds a few short comments.	Most listen intently	talker came turn radio down.	
Open to asking in the questions. More closer and lean in.	More closer to look at the questions Interested in questions (Who is talking and who is not talking?)	True/false questions who do they not? key people forward silencer (range of subject matter)	Claps - praises correct answers. silencer (outcomes and influence)

Pilot Study Note: * Who is talking? Senior manager (SM), middle manager (MM), health and safety professional (HSP), health and safety representative (HSR), worker (W), or other (O).

Overall, the pilot study provided opportunities for testing the data collection tools, and navigating access to interview, observe and collect a sample of WHS documents. An important part of this process was re-evaluating the ethical risk assessment and reviewing the methodological strategies set out in the low-risk ethics application, particularly concerning informed consent when observing people communicating in the workplace. Diary notes captured reflections on the research process and how my presence may have influenced the participants. The pilot study acted as a reminder to identify gatekeepers, beyond the designated organisation gatekeeper. The research methods are discussed in more detail below.

4.4.3 Phase 2 Meso Level Case Study Organisations

Based on the reviewed case study literature, the research design and scope were refined for Phase 2 case study data collection. As the HSWA clarified duties for organisations operating in complex PCBU networks, replication sampling was used to select cases that would reveal similarities and differences to maximise the ability to learn about the research question (Yin, 2009). The selection criteria were based on the assumptions that well-established organisations were more likely to demonstrate the factors necessary for effective worker voice and adopt a range of different forms of engagement and participation (McNabb & Whitfield, 1999). Phase 1 included scoping for potential case organisations. The E tū union and CHASNZ were approached for potential large construction organisations. This strategy was sufficient, as target organisations accepted. The selection criteria were:

- Enterprise size and maturity: organisations with more than 50 employees are classified as large in New Zealand (Foster & Farr, 2016) and organisations operating for more than 20 years was applied as a proxy for maturity.
- Open access to web based WHS resources, presence of at least one in-house health and safety professional and commitment to provide access to a range of data sources. This criterion anticipated a higher likelihood of a potential case organisation adopting a health and safety management system (WHSMS) designed to manage WHS within a complex PCBU network.
- Involvement in or connection to the soft government CRSC initiatives—this criterion was used to explore the impact of soft initiatives on understandings of EP&R and participation practices within case organisations.
- Construction and/or health and safety awards—this criterion was indicative of good organisational and/or WHSMS and practices.

As intended, the fieldwork interviews and observations was conducted in one week per organisation. Potential organisations were contacted, and prospective participants informed why the organisation was being approached. Targeting a responsible contact person and providing details of the expectations were productive strategies, as only one organisation rejected the invitation to participate in this study. The fourth interested organisation was excluded because of the amended scope.

Acceptance of the invitation to participate in the study was followed by phone conversations and confirmed via email (Maylor & Blackmon, 2005; Simons, 2009). Detailed information about the type, level and quantity of data to be collected was discussed and reiterated in the email. This ensured the participating organisation was fully informed about the time and resources involved in their commitment to the research (Farquhar, 2012). Follow-up conversations helped establish a personal relationship and build rapport with the contact person before the fieldwork started (Simons, 2009). This internal access to the organisations provided the depth, breadth and scope of the collected data (Simons, 2009). I was able to obtain useful information from each of the organisation's gatekeeper(s), particularly their role in WHS. The data collection process in the three case studies are presented in Table 4.6 follows Stensaker and Langley (as cited in Farquhar, 2012).

Table 4.6. Phase 2 Planned Data Collection Processes

	Interviews	Observation	Documents	Timing of data collection
Phase 2 planned data collection process for each case study				
Strategic manager/Director Site manager HS Professional/Advisor HSC manager HSR (1 or 2) Workers (1 to 3) Union delegate	6–8 (Managers and key HS roles 60–90 min, workers 20 min) approximately 8 hours spread over 4 days	4 1 HSC meeting (60 min) 3 toolbox meetings (@ 15 min = 45 min) Approximately 2 hours spread over 4 days	5 Relevant documents from predetermined list	
Total (projected maximum)	32 interviews (32 hours)	16 observations (8 hours)	20 documents	
Data collected between November 2018–April 2019				
<i>CS1 – Wellington, 85 staff, family owned, one WHS professional</i>				
2 Senior managers 2 Site managers 1 Foreman/trainee manager 1 WHS professional 3 Workers (5 HSC members)	9 546 min (9:06 hours)	2 1 site toolbox 15 min 1 HSC meeting 75 min (1:30)	6 usable documents	November 2018
<i>CS2 – Auckland, 400 staff, family owned complex national PCBU, WHS professionals at the S&O level</i>				
1 Regional manager 3 Senior managers 3 Site managers 2 WHS professionals (S&O) * 4 Workers	13 (10:31 hours)	6 5 sites 1 HSC meeting (3:10 hours)	6 usable documents	January 2019
<i>CS3 – Christchurch, 500+ staff large national organisation, WHS professionals at the S&O levels</i>				
1 Director 1 Regional manager 1 Site manager 1 Operational manager 3 WHS professionals (2 S&O) * 2 Workers	9 395.36 min (7:00 hours)	4 Site (1:30 hours)	3 (x2 website)	April 2019
Total	31 interviews (26 hours)	12 observations (6 hours)	15 documents	

Note: All case study organisations had operated in the commercial construction sector for more than 60 years and were considered to have mature systems required for sustainable organisations. All had won several awards for significant commercial buildings and/or WHS awards. *WHS professionals working at the strategic and operational (S&O) levels.

4.4.3.1 Semi-structured Interviews

Semi-structured interviews with a wide range of knowledgeable participants were an essential source of information, as Objective 7 was to develop a co-constructed account of multiple perspectives. Knowledgeable participants can provide important insights about the phenomenon and context, that may lead the researcher to other relevant sources of information (Yin, 2009). Emerging themes can be explored subsequent interviews (Farquhar, 2012; Simons, 2009; Yin, 2009). Interviews may be structured using standardised pre-tested questions similar to a survey or semi-structured when the interview questions act as a flexible guideline for each consecutive interview informing the next (Davidson & Tolich, 2003). The semi-structured interviews followed Davidson and Tolich's (2003) three-part format to develop rapport and adjust the order of questions in response to the introductory question. Semi-structured interview questions for the Phase 1 stakeholder and Phase 2 participants are presented in Appendices F, J and K.

Using introductory questions to get the participant talking about "their world is the best way to start interviews" (Davidson & Tolich, 2003, p. 148). Participants first agreed to the recording. Then asked to tell me how their work experience had led to their current role (Phase 1) or about their work in the organisation (Phase 2). The remainder of the conversation explored the "list of recurrent themes that represent the project's research interests [with] a set of generic prompts" (Davidson & Tolich, 2003, p. 148). Standardising the predetermined research questions and generic prompts facilitates the generation of consistent data, which increases data reliability and replication (Berg, 2009; Creswell, 2009). The order of the questions followed a key point or issue emerging from the participant's introduction. Subsequent questions were similarly ordered, so that each conversation developed naturally with gaps filled at the end of the conversation. Questions that reached saturation point were changed to explore the phenomenon in more detail and emerging issues were included in subsequent interviews (Simons, 2009). Conversational interviews establish more equitable relationships between the researcher and the participants and create opportunities for "active dialogue, co-constructed meaning and collaborative learning" (Simons, 2009, p. 44).

Advantages of using semi-structured interviews include the potential to put the participant at ease in their natural setting, and adjust the phrasing of questions so that they are understood by all participants in the same way (Farquhar, 2012; Mason, 2002). Face-to-face and Skype interviews provide physical cues of the participant's body language, tone

of voice and expressions. These cues were helpful for discontinuing a topic if this appeared to cause discomfort. Potentially interesting and important issues were explored further through alternative data sources, such as observations (Collis & Hussey, 2009). In other instances, cues indicated following up was appropriate and uncovered information not initially provided by the participant (Collis & Hussey, 2009). These strategies were applied when appropriate in this study.

In-depth interviews also have the potential to mitigate ‘social desirability bias’s if the researcher minimises personal judgement and maximises strategies to enhance accuracy (Collis & Hussey, 2009). For example, cross-checking data sources and maintaining a chain of evidence (Yin, 2009). Avoiding leading questions or using terms that may imply the researcher values certain answers positively or negatively, were strategies to reduce my influence on the individual participant’s construction of their reality. One limitation of this method is the impracticality of returning to all prior interviewed participants to understand their perceptions of emerging themes. As data sources were triangulated, strategies to balance the weaknesses of the different methods are considered in the sections on observations and document review.

Ethical considerations during included respecting the participants and organisations; the use of the data (recordings); and transcribing interview data and reporting the findings. Each interview session started with a reminder of the purpose of the research, the research methods and the participant’s rights. After establishing the participant was not under duress, the participant completed the *Participant Consent Form* (presented in Appendix L). Reassurance that our conversations were confidential, and information would be combined with other data to protect their anonymity provided a safe environment for speaking openly (Collis & Hussey, 2009). There were only a few instances when participants asked to speak off the record and data were not reported (Simons, 2009). This time was also used to build rapport (Collis & Hussey, 2009) and trust with participants (Simons, 2009).

4.4.3.2 Structured Observations

There are several justifications for including formal observations as a source of evidence in case study designs. Firstly, as the case is explored in its natural setting this creates opportunities for direct observations (Yin, 2009), allowing the researcher to gain a comprehensive overview that is not captured in interviews (Simons, 2009). This includes

uncovering the norms and values that influence organisational culture and programmes (Simons, 2009). Secondly, it provides opportunities to record the experience of less articulate interview participants (Simons, 2009). Thirdly, participants may be influenced by what they believe the researcher wants to hear or may inaccurately recall an event. Methods used to enhance the quality of the research data included:

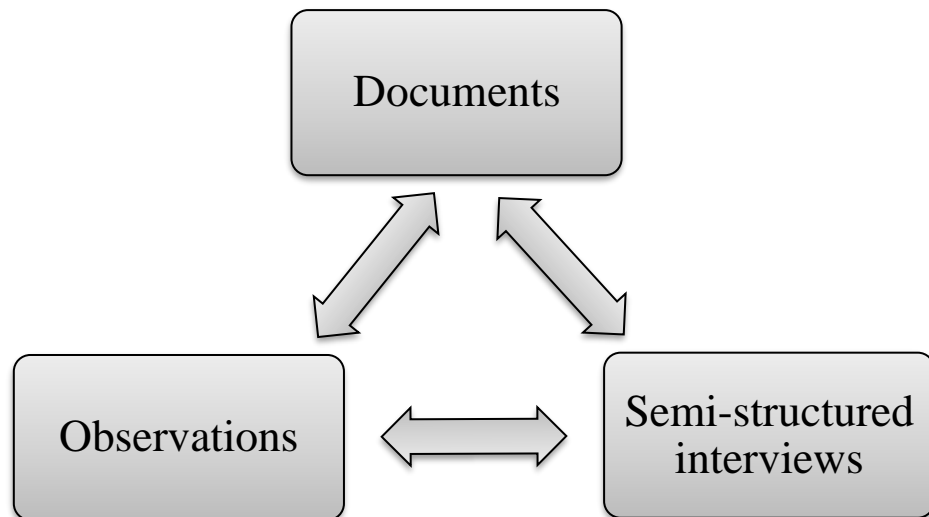
1. exploring defined factors identified in the literature to help me remain objective during the data gathering stage, and when identifying themes and rich insights that emerge through the coding and analysis of the raw data (Stake, 1995);
2. using established research tools to guide the data gathering (Stake, 1995; Yin, 2009);
3. using a structured observation schedule to potentially enhance the confirmability and dependability of the study, as the record can be reviewed and re-interpreted (Farquhar, 2012; Lincoln & Guba, 1985); and
4. triangulating observational data with interview data as a means of cross-checking the data enabling me to overcome response bias that could undermine the credibility of interview information (Simons, 2009; Yin, 2009).

Practical considerations included balancing the proportionate contribution of the emerging data with the time required to develop the tool; collect, and process the data (Yin, 2009). The number of observations were limited in each case study as the processing and analysis was time consuming (Berg, 2009). A qualitative approach was adopted, as a purely structured approach limited to quantitative data would not capture information about the purpose and outcome of the event and how the participants engage with each other in a natural setting. Detailed extracts from an observation record are presented in Appendix M.

The sequence of the observations in the data gathering process varied. Yin (2009) recommends starting the data gathering process with background information, documents and interviews. Simons (2009) agrees that the contextual background will help understand the meaning of events and identify issues to be explored, and that document analysis should precede observation and interviews. If time constraints limit the number of observations, Simons recommends interviewing several participants before the observation event. This process of gaining insights into participants' realities (meanings), then exploring these in the observations, assisted in collecting sufficient data to portray

the complexity of each case. Figure 4.3 represents the flexible nature of the sequencing of interviews and observations in the field. The actual sequencing in each case study was determined by the gatekeeper(s) and supplemented with spontaneous observations.

Figure 4.3. Sequencing of Data Gathering Methods



The data gathering activities provided opportunities to build rapport with key people in the organisation before conducting the observations. Gray (2009) suggests that rapport may enhance acceptance of the researcher within the observation setting, and people will be more likely to adopt their natural behaviours. Even if this strategy is successful, interpretivists acknowledge the need to reflect on the impact of the researcher's presence in the organisation (Yin, 2009). Reflective considerations of my role occurred throughout the three stages of the research. In addition, all three case studies provided a work area in the office for working on this research between the scheduled interviews and observations. This provided valuable opportunities for engaging with staff who were not involved in the formal research procedures. Unstructured observations of the office environment were recorded in my research diary (extract presented in Figure 4.4). Reflections on the sites were included in the fieldwork observations.

Figure 4.4. Research Diary: Reflections on Contextual Factors and my Role

8 Nov 2018

The HSP and site manager worked together to invite any potential participants identified from the toolbox meeting or interviews. All the invited participants accepted the invitation and we captured strategic, operational and worker voices. I have asked to interview a director.

NVivo transcription software: The motel internet connection was too weak, and I was not able to connect in my room. The office was very small and there was no space to sit and work, albeit briefly. So, any chance to test the software capability was scuttled.

Reflections: Staying in a motel within a 5-minute walk from the building site and 20-minute drive from the head office allowed me to spend quality time in both. Working in the office or quietly writing brief notes in the site office helped me to blend into the work environment. I was allocated a desk in the office and by the second day most staff members greeted me and talked to me when I intentionally lingered in the lunchroom. They were interested in my research and experience in WHS. The worker interviews were conducted in the smoko hut where the workers were comfortable. Brief relevant reflections on my work in the forestry industry helped demonstrate my knowledge and credibility to talk about worker involvement in WHS. My openness helped develop trust with the participants and create a relaxed atmosphere where they could share their personal experiences.

Overall, the *Structured Observation Schedule* was designed to support the information gathered in the semi-structured interviews and documents. Farquhar's (2012) participant observation tool was adapted to ensure the observations gathered similar information about the EP&R activities across the cases to gain a rich insight into practices in their natural setting. The observations helped explore how an organisation's EP&R policies were implemented and enacted in practice, how people talked to each other, and what they were talking about. Planned observations were restricted to the following specified range of formal EP&R activities: toolbox meetings, team briefs, HSC meetings and WHS workgroups. These boundaries facilitated consistent data collection of targeted important events, which Walters et al. (2005) notes is particularly challenging on fragmented sites. Minor adjustments simplifying the schedule layout followed the pilot study.

4.4.3.3 Document Review

The documentary data were used to support or clarify concepts or distinguish between different meanings to enhance understanding of the case (Creswell & Poth, 2018; Gray, 2009). As with interviews and observations, document collection must be organised and guided by research questions. The documents added depth to the initial background information, and provided information on events and activities that I could not observe (Simons, 2009; Stake, 1995). They provided an understanding of the organisation's culture and "the values underlying policies, and the beliefs and attitudes of the writer" (Simons, 2009, p. 63). Nevertheless, the quality of documents is beyond the researcher's control, and critics may question the credibility of the research findings. To mitigate this weakness, Saunders, Lewis and Thornhill's (2007, cited in Farquhar, 2012) steps for evaluating the credibility of all documents guided the document collection process:

1. the overall suitability of the data for the research objectives was assessed;
2. measures to check the in-house documents included how the data were collected (record type and date), by whom (author), the validity and reliability (author's skills and experience); and
3. evaluating the costs and benefits involved in accessing the data, manipulating the data and evaluating the documents as outlined in the second step.

Individual documents were examined to determine the expertise of the document authors, levels of worker involvement and the range of subject matter workers' influence. A manageable number of the following suitable documents were included in this study:

- annual reports, vision statements, rules and regulations (Simons, 2009);
- email correspondence, and other personal documents, such as diaries and notes;
- agendas, announcements and minutes of meetings, and other written reports of events;
- administrative documents, such as progress reports and other internal records;
- news clippings and other articles appearing in the mass media or in community newspapers;
- other types of data available through internet searches (Yin, 2009, p. 103).

Consideration of the costs, or time and types of resources were guided by the reviewed literature (summarised in Appendix B). While Yin (2009) prefers a comprehensive review of documents, a large range of secondary resources slows down the data processing and analysis and may distract from the research focus (O'Gorman & MacIntosh, 2015). A limited range of the most relevant document resources were included in the case (O'Gorman & MacIntosh, 2015; Yin, 2009). Documents were helpful preceding fieldwork (Yin, 2009), as well as for triangulating data sources to clarify variations emerging during the data collection and analysis (Farquhar, 2012; Simons, 2009; Yin, 2009). At times, the interpretation of the gathered data required reviewing documents to clarify interpretation of interviews or observations (Stake, 1995). When the documentary evidence was contradictory rather than corroboratory, the problem was further explored (Yin, 2009).

External public documents used at both the macro and meso level included published speeches and interviews, websites and public documents. Similar documents were used as part of the replication sampling process. Permission to access and copy documents was sought from the contact person before the research began, and was a selection factor for inclusion in the study (Simons, 2009). Although relevant WHS documents were provided by CS1Wellington and CS2Auckland, publicly available documents were sourced for CS3Christchurch. All documents were numbered and included in the NVivo coding files (Bazeley, 2007; Farquhar, 2012). The Document Record template is presented in Appendix N.

4.4.3.4 Chain of Evidence

Continuous consideration of ethical processes and methods, and interpretive rigour justified the quality of this research. All data were diligently managed throughout different stages of data collection, analysis and interpretation by establishing and maintaining a comprehensive chain of evidence (Yin, 2009). Maylor and Blackmon's (2005) guidance ensured the data were:

1. **Traceable:** Tables 4.4 and 4.5 show where the data came from; to manage who said what and in which organisation, recordings, transcripts, observation notes and documents were saved with appropriate identifiers for each stakeholder, case study organisation and participant.

2. **Reliable:** All recordings and observations faithfully recorded the discussions and observations in the transcripts, observation records and field diary notes. Raw documents formed the basis for the analysis and interpretation of the documents. Time was allowed for extensive notes between data collection events. Brief notes had to suffice in some instances when unplanned opportunities to collect data arose. Detailed notes were always completed on the same day, as reflections on interesting points or issues requiring further exploration were explored in subsequent data collection events. And
3. **Complete:** All field notes, tapes and transcripts were retained.

4.5 Interpretation and Evaluation

This interpretivist research adopted an inductive process where categories were identified throughout the research process starting with the exploratory study (Collis & Hussey, 2009; Simons, 2009), however:

Unlike statistical analysis, there are few fixed formulas or cookbook recipes to guide the novice. Instead, much depends on the investigator's own style of rigorous empirical thinking, along with sufficient presentation of the evidence and careful consideration of alternative interpretations. (Yin, 2009, p. 127)

Guidance on case study analytical frameworks for alternatives to Yin's (2009) and Stake's (2008) cross-case analytical methods were explored in the research literature (Berg, 2009; Creswell, 2009; Creswell & Poth, 2018; Gray, 2009; Lincoln & Guba, 2013) and business research literature (Collis & Hussey, 2009; Maylor & Blackmon, 2005; O'Gorman & MacIntosh, 2015). Interpretivist constructivist research designs focused on Denzin, Lincoln and Guba's work (Denzin & Lincoln, 2013; Lincoln & Guba, 1985, 2013). This section explains the processes and methods used to organise and analyse the large dataset, to ensure the data captured the richness and depth of the phenomenon. The final section in this chapter discusses evaluation issues.

4.5.1 Data Analysis and Interpretation

The analysis based on hermeneutics fits with the interpretivist constructivist methodology, and captures Collis and Hussey's (2009) three elements in the analytical process: comprehending, synthesising and theorising. Hermeneutics is the theory of

textual interpretation. This method captures the basic principles or practices in thematic analysis but moves beyond descriptions to generating theoretical arguments.

The method is dependent on the inferences made by the researcher and the meanings the researcher then attributes to elements of the text... When the methodological principles and practices are combined, they form a hermeneutic circle of interpretation, used to reflect upon, discuss and analyse data. (O'Gorman & MacIntosh, 2015, pp. 150–151)

The hermeneutic cycle began with the initial thematic analysis, which helped to “give a degree of order and control to the task” (O'Gorman & MacIntosh, 2015, pp. 150–151). Two circles of deepening reflective analysis facilitated development of a co-constructed holistic picture. This analytical process may be used to structure the discussion and findings (O'Gorman & MacIntosh, 2015).

Stage 1 of the Analytical Process involved organising and preparing the raw data for analysis. Although the first step was laborious, transcribing interviews was a productive means of becoming familiar with the data and building knowledge (Bazeley, 2007; Gray, 2009). I transcribed all the Phase 1 interview recordings and majority of the Phase 2 recordings. Some Phase 2 recordings were transcribed by trusted transcribers, to accommodate time constraints. The two transcribers' confidentiality agreements were stored with the data. Others were transcribed on a transcription platform (Temi) following the non-disclosure agreement presented in Appendix O.

The second step entailed reading the data to get a general sense of what was happening. Hard copies of the data sources were useful for highlighting keywords or phrases and making initial notes in the margins. Some of these keywords would be used to represent a theme or category. The segments of data were coded, and themes generated using three categories which:

1. identify and reinforce existing themes purposefully included in the interview and observation guides;
2. identify new themes which alter subsequent data collection; new or revised themes are written on the observation and interview guides as themes and so, too are requests for more examples of that thematic category;
3. flag a paragraph or paragraphs to be sent to either an existing or new thematic file

4. identify and reinforce existing themes purposefully included in the interview and observation guides;
5. identify new themes which alter subsequent data collection; new or revised themes are written on the observation and interview guides as themes and so, too are requests for more examples of that thematic category;
6. flag a paragraph or paragraphs to be sent to either an existing or new thematic file (Davidson & Tolich, 2003, p. 173).

This combination of emergent and predetermined codes were useful for identifying recurring themes, marking text to be sent to existing or new thematic files, and making notes to look for examples of convergence or divergence within the themes.

The third step involved several readings of the prepared data. NVivo annotations were used for storing reflections and notes on particular segments of the data (Bazeley, 2007).

Stage 2, the First Reflective Level involved re-reading and reflecting on the emerging patterns and looking for similarities and differences to ensure the descriptions captured a balanced trustworthy representation of all the collected data. Pattern descriptions were developed from phenomena occurring at least three times (Berg, 2009). Codes were reviewed, amended, combined and split during several iterations of re-reading and reviewing (Gray, 2009).

In the fourth step in Phase 1, data saturation was reached with 246 manually coded tracks of text related to the research question. A total of 47 codes emerged from this inductive process. These codes were grouped into categories according to the patterns emerging from similarities and differences. After reviewing the codes and categories, 25 categories and 11 subthemes were developed. Subquestion 1 coding theme *Defining and understanding EP&R* presented in Table 4.7 was one of four subquestions explored in Phase 1. The Phase 2 within-case analysis was followed by comparing and contrasting the case study findings to provide a deeper understanding of the phenomenon. Ethical research practices required fair representation of participants' perspectives, supported by a chain of evidence and database. These methods ensured the cross-case interpretation was developed on "strong, plausible, and fair arguments that are supported by the data" (Yin, 2009, p. 160).

Table 4.7. Development of Subquestion 1 Themes ‘Defining and Understanding EP&R’

Quote identifiers	Code	Category	Subtheme	Subquestion/ Theme
28, 48, 58, 63, 168, 169, 230	Legal definitions & operational description	Describing EP&R	Describing EP&R	Defining and understanding EP&R
34, 38, 49, 56, 230	Worker E&P as operational	Describing E+P		
41, 56, 66; 230	HSWA providing rights			
31, 71, 114, 115, 130, 139	Stakeholder collaboration/Progress	Describing engagement		
36, 39, 45, 119, 164	HSRs and HSCs as a burden – ugly compliance	Describing representation		
59, 130, 200, 207	As HSRs and HSCs duties, with effective voice involving key stakeholders			
40, 237, 238	As complex rules and duties	Understanding legislation	Understanding EP&R legislation	
19, 30, 44, 65	As a concern			
19	As necessary			
107	Training initiative: Understanding what a genuine HSR is/ progress			
7, 54, 240	Employer-led benchmarking tool, BLHSF – “Monitoring what Matters”	Developing benchmarking tools	Measuring and monitoring EP&R	
90, 101	Industry-led benchmarking tool, Construct Safe scheme			
92, 99, 102	Government benchmarking tools			

In *Stage 3, the Second Reflective Analysis*, rival explanations were identified and triangulated with established theories. The Phase 1 analysis was refined and rewritten several times before the three levels of EP&R maturity emerged. The fifth and sixth steps required looking for rival explanations, drawing conclusions and presenting findings. Theoretical sampling methods were applied to explore concepts identified in the literature. The emerging concepts that led to the changes in the research design were a reminder to be open-minded in the Phase 2 analysis, interpretation and discussion of the findings. This is when the three triangulation processes were helpful in ensuring interpretations were challenged through comparisons with the existing data and

established theories. Secondly, extensive use of extracts from multiple perceptions and data sources helped balance participants' views, which assists in overcoming researcher and participant bias. Exploring rival explanations and comparing findings with established theories strengthens the emergent theory. In sum, the analysis and interpretation involved the following hermeneutic processes:

Stage 1 Comprehending at the thematic level:

- Step 1: organising and preparing the data for analysis;
- Step 2: reading through the data; and
- Step 3: generating codes, categories and themes.

Stage 2 Synthesising and reflecting:

- Step 4: reviewing themes and developing patterns.

Stage 3 Reflecting and collating patterns into taxonomies, theorising:

- Step 5: exploring rival explanations emerging from the data and comparing this with established theories; and
- Step 6: drawing conclusions from the co-constructed data and representing interpretation of the findings.

4.5.2 Evaluating the Research

This section draws on qualitative research literature (Lincoln et al., 2011), business research literature (Collis & Hussey, 2009; Maylor & Blackmon, 2005) and case study literature (Farquhar, 2012; Simons, 2009; Yin, 2009) to review and demonstrate the rigour and trustworthiness of this study. It then summarises the methods and processes used to ensure this research is methodologically and interpretively rigorous.

Overall, positivist deductive inquiries focus on measuring the rigour of scientific research by assessing internal and external validity, reliability and objectivity (Collis & Hussey, 2009; Lincoln et al., 2011). Yin (2009) adopted the most common positivist tests used for evaluating the quality of research at that time—construct validity, internal and external validity, and reliability. But he noted the U.S. Government Accountability Office's 1990 assessed trustworthiness, credibility, confirmability and data dependability. More recent

research literature advocates for criteria that have a better fit with the assumptions embedded in the social science paradigms. Lincoln and Guba's (1985) alternative criteria for evaluating trustworthiness have gained popularity in the social sciences (Collis & Hussey, 2009; Simons, 2009), particularly for evaluating contemporary interpretivist research studies. These evaluation criteria are:

1. **Credibility** is concerned with whether the subject of the study was correctly identified and described. Credibility can be improved by researching the study for a prolonged period, and persistent observation of the subject to obtain depth of understanding. Also, by triangulation using different sources and collection methods of data, and by peer debriefing with colleagues on a continuous basis.
2. **Transferability** is concerned with whether the findings can be applied to sufficiently similar situations to permit generalisation.
3. **Dependability** focuses on whether the research processes are systematic, rigorous and well documented.
4. **Confirmability** refers to whether the research process has been described fully and it is possible to assess whether the findings flow from the data (original emphasis) (Collis & Hussey, 2009, p. 182).

Reflecting the scope of social science research, alternative criteria are used when evaluating the quality of research. Simons (2009) adopts positivist tests for internal and external validity, but argues reliability and objectivity are inappropriate tests. Instead using credibility, trustworthiness and authenticity (from Lincoln and Guba's 1989 refinement). Simons (2009) defines case study as a methodology and tests the intrinsically qualitative nature of interpretivist research. Whereas Maylor and Blackmon (2005) prefer reliability, validity, and generalisability and credibility tests for assessing the quality of interpretive data. In more recent work, Lincoln et al. (2011) challenge validity claims, being particularly concerned about combining methods and interpretation. They acknowledge that methodological rigour is useful for ensuring issues such as "prolonged engagement and persistent observation are attended to with all seriousness" (Lincoln et al., 2011, p. 138). They propose refining their criteria to capture both process and interpretation, which should be used simultaneously. Interpretive rigour is concerned about assessing whether the co-constructions can be trusted to stimulate action on the phenomenon. This fits with action based critical research, where evaluation is related to

concepts of fairness, social justice and democratic process (Lincoln et al., 2011). An important aspect of assessing authenticity is the intention to adopt an action based critical research approach which empowers the participants to act. Lincoln and Guba's (2013) expectation "for catalytic authenticity: development of a joint construction, including the assignment of responsibility and authority for action" (p. 70) in their quality criteria for constructivist interpretivists may be moving towards critical realism.

While the strategic level participants would be "empowered to take action that the inquiry[study] implies or proposes" (Lincoln & Guba, 2013, p. 70), workers would not have a similar power to affect change in New Zealand. Therefore, this study adopted a softer approach considering fairness and respecting participants. Participants who do not have authority are indirectly empowered through the actions of those who have authority to act. Fairness is related to ethical practice evaluated in the confirmability criterion, when constructivists are concerned with including and balancing participants' perspectives (Lincoln & Guba, 2013).

The key messages were: 1) that the evaluation tests or criteria must fit with the paradigm assumptions; 2) the criteria must be used consistently; and 3) the quality and contribution of the research needs to be considered throughout the three stages of the research design, as is the case with ethical considerations in case study research. In order to evaluate the trustworthiness of this research, the above consideration of the most popular tests or criteria resulted in exclusion of Lincoln et al.'s (2011) action-based *interpretation rigour* on account of methodological incompatibility. A constructivist conceptualisation of Lincoln et al.'s (2011) trustworthiness *process rigour* was used to systematically address issues in the methods and processes for ensuring the quality of the research design, data collection and analysis. Issues related to interpretative rigour follow Simons' (2009) views of *internal validity*. The provisions made to ensure the rigour of this study are discussed above and summarised in Table 4.7. This chapter now discusses how process and method issues were managed.

4.5.2.1 Process and Methodological Evaluation Issues

As the purpose of this research was to explore how the HSWA was contributing to worker voice in WHS, it was imperative to ensure the research findings could withstand rigorous scrutiny. Consequently, issues related to the *interpretive rigour*, related to a positivist internal validity construct. This allowed for thorough evaluation of the analytical methods

and processes to check that: 1) I had accurately interpreted the participants' perspectives (Simons, 2009), 2) I had applied appropriate rigour when triangulating multiple perspectives to cross-check discrepancies in individual accounts (Yin, 2009), and 3) that it supported my rationale for comparing the emerging concepts and theories with established theory and exploring any divergence. This rigorous interpretation process supported the development of a trustworthy co-constructed account of worker voice.

The Credibility of the findings were challenged by the impracticality of returning to all case study participants to check that the case study picture was valid. One strategy to enhance the credibility of the individual case studies was to make meticulous field notes and follow up on issues or emergent themes in successive interviews, observations and in the document review process. The second was to end each case study with a second interview with the senior WHS professional, and seek clarification and deeper understandings within the context of the organisation (Farquhar, 2012).

The Transferability or Generalisability of the findings were considered. Interpretivist constructivists are not primarily interested in the concept of generalising to other contexts (Lincoln & Guba, 2013). As previously explained, this differs from the critical realists who aim to facilitate direct change through empowering participants. By providing detailed evidence of the data collection methods and procedures, and detailed descriptions validated through data and theory triangulation methods, a constructivist allows the readers to make their own comparisons. This rigour enhances the rich descriptions and the potential for transferability to occur when readers can apply the findings to their own context. This means there is some overlap between transferability and dependability. Extensively using extracts from multiple perceptions and data sources ensured participants' views were balanced. Balancing perspectives assisted in overcoming researcher and participant bias. Rival explanations were compared with established theory. Generalisation to established theories was used to strengthen the emergent theory.

The Dependability of the findings were evaluated following Lincoln and Guba's (1985, p. 318) recommendations for providing detailed clear evidence to ensure peer reviewers can check the rigour of the research processes and the consistency of "data, findings, interpretations, and recommendations" were followed. Noting the overlap with credibility, Farquhar's (2012) suggestions for achieving the necessary rigour for

demonstrating research dependability were applied. Detailed explanations have been provided for:

1. The research design and its implementation, describing what was planned and executed on a strategic level.
2. The operational detail of data gathering, addressing the minutiae of what was done in the field.
3. *Confirmability*, the fourth criterion for trustworthiness, involved reflective appraisal of the project, evaluating the effectiveness of the research process undertaken (Shenton, 2014 as cited in Farquhar, 2012, p. 107). Methods and processes to overcome personal bias included reflecting on how my beliefs, paradigm assumptions and work experiences stimulated my interests in the topic and impacted on my role in the research. Triangulation methods were applied to control bias and help mitigate the weaknesses of each method and process.

4.6 Conclusion

To achieve the research purpose, the iterative inductive approach followed Yin's (2009) three stage research process: 1) define and design; 2) prepare, collect and analyse data; and 3) analyse and conclude. A strength of the interpretivist constructivist research methodology, namely the flexibility to change the study boundaries, enabled expansion of the Phase 1 (macro level) exploratory study and Phase 2 (meso level) case studies. The advantages of using data triangulation and theory triangulation to reconstruct multiple realities, and ethical considerations guiding the research project concluded the defining and designing stage. Managing the evaluation issues related to the credibility, transferability, dependability and confirmability of the findings enhanced the trustworthiness of the research. The following chapters present the research findings, discussion and conclusions.

5 Phase 1 Findings: Principal Stakeholders' Perceptions of How the HSWA Contributed to EP&R

5.1 Introduction

The concepts and analytical framework identified in the literature were tested in semi-structured interviews with 14 stakeholders: employers (3), workers (4), regulators (3) and other (4) stakeholders. Incorporating perceptions and beliefs of the four different groups of knowledgeable participants facilitated in-depth explorations of how the current statutory framework for worker engagement, participation and representation (EP&R) was shaped and embedded in New Zealand. The chapter starts with a summary mapping the development of the conceptual models. The remainder of the chapter analyses the Phase 1 findings.

5.2 Findings

Broad opening questions allowed stakeholders to develop their thoughts unbiased by the three predetermined subquestions identified in the literature review (Silverman, 2013). As anticipated the principal stakeholders cited the legislative duties and regulations. But understanding of the statutory worker voice terms emerged in examples of good practice and interpretation of the statutory duties and regulations. This concurred with research showing that participants' interpretations of a phenomenon may vary depending on their situation (Silverman, 2013). WHS experiences and knowledge gained working in countries with higher union membership and representation appeared to influence beliefs and perceptions. Differences between stakeholder groups emerging during the process of thematic analysis and coding are highlighted in the findings. The three original subquestions guided the analysis. The fourth, explored as subquestion 2, emerged during the analytical reflection process. An overview of the four subquestions is now presented.

Subquestion 1: Defining and Understanding EP&R explores how the key stakeholders' interpretations of the statutory terms and duties were influenced by subjective cultural values and ideological beliefs. Also, how perceptions shaped stakeholder collaboration in WHS initiatives and preferences for traditional or contemporary forms of worker representation. Then discusses the development of benchmarking tools, as agreed standards are a prerequisite for setting targets for EP&R.

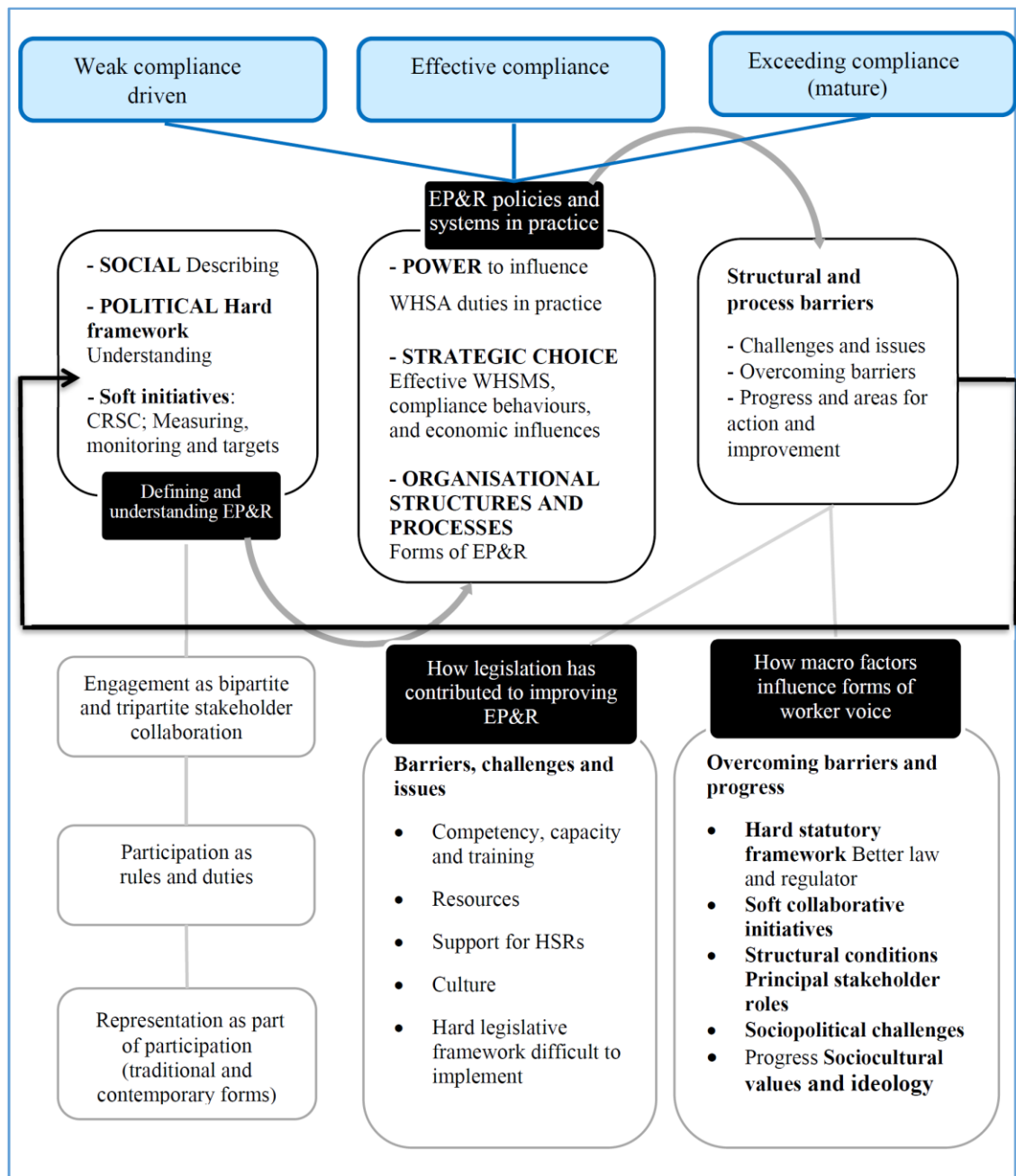
Subquestion 2: How macro level external factors influenced the forms of worker voice at the industry and organisational levels uncovers how the intermediary forces shaped the embedding of worker voice in the natural environment. This emerged from the interpretation and reflection of the findings.

Subquestion 3: EP&R Systems in Practice focuses on the principal stakeholders' perceptions of how the Health and Safety at Work Act 2015 (HSWA) contributed to sharing influence in decisions about WHS matters. Formal and informal, direct and indirect forms of worker voice implemented in EP&R systems and practices are identified. The preferred forms of worker voice and organisational characteristics are developed into a model of compliance maturity, which is tested in the three case studies.

Subquestion 4: How the Current Legislative Framework Has Contributed to Improving EP&R highlights the key factors necessary for effective participation in WHS. The stakeholders identified barriers and challenges to achieving these key factors, proposed strategies to overcome these obstacles and identified areas for further improvement.

Figure 5.1 maps the themes explored in each subquestion, with arrows showing the relationships between understanding statutory duties and implementing these in practice. It illustrates how these findings were interpreted using the *Multidisciplinary Analytical Model of Worker Voice* factors presented as headings in bold font. The subquestion themes are presented in black, subthemes in grey and the three levels of compliance maturity of EP&R systems and compliance practice emerging from the findings in blue. More detailed figures (Figures 5.2 and 5.3) illustrate the findings of Subquestions 1 and 3. The findings identifying progress and areas for improvement are summarised in Table 5.1. The chapter concludes with analytical reflections of Subquestions 2 and 4.

Figure 5.1. Relationships Between Subquestion Themes and Subthemes



5.2.1 Defining and Understanding EP&R

The HSWA provides for a balanced framework that protects people against risks of harm to health, safety and welfare arising from workplace hazards (§3.1 & 1.a). The Act requires that workers have “fair and effective workplace representation, consultation, co-operation, and resolution of issues in relation to work health and safety” (§3.1.c). It also encourages “unions and employer organisations to take a constructive role in promoting improvements to work health and safety practices and assisting [person conducting a business or undertaking] PCBU and workers to achieve a healthier and safer working environment” (§3.1.c). Subquestion 1 explores the macro level social and political structural factors shaping understanding of the EP&R duties and strategic choice on institutional arrangements for worker voice in WHS. This theme considers stakeholders concerns about the difficulties related to implementing and enforcing prescriptive legislation and the absence of government targets.

5.2.1.1 Social Factors Shaping Descriptions of EP&R

Although statutory terms were used interchangeably, the organisational level of focus appeared to reflect the stakeholders’ intermediary roles at the time of the interviews. The regulator explained:

People may be talking about ‘representation’, but do not separate it. Even at the Safeguard Conference, at a table of WHS professionals, they could not separate and define ‘engagement’ and ‘participation’. WHS is more than the legislation and regulation of it. (SR2, 169)

Several noted the importance of ‘representation’ (OR9, 168; OO7.2, 28; SO8, 48; SU12.1, 230). Referring to the “*idea of representation*” a regulator suggested that “*there is still quite a bit of work to be done when developing a WHSMS to have proper engagement process that allows all to participate*” (OR9, 168).

Cultural Values and Ideological Predispositions emerged in strategic level stakeholders’ descriptions of the statutory terms. Even though descriptions of legislative duties varied, they agreed on “*engagement requirement[s]... as a primary duty*” (SO8, 48) and described the “*legislative duties [as being] about how we need to be doing these things ... Thinking about what that means is thinking about their due diligence responsibilities*”

(SE6, 58 & 63). There was a strong emphasis on strategic leadership strategies, such as directors and senior leaders visiting workplaces and talking to the workers. Leadership commitment and information sharing practices tended to be described as workers speaking up to employer agents who then acted on the information:

Engage our people and get them to tell us how they do their work. Worker engagement is that. Get our workers to tell us what they need in those four areas and engage them in developing it. (SE11, 38)

Traditional health and safety representatives (HSRs) and health and safety committees (HSCs) were defined as outdated and boring (SE11, 36), “*the ugly, ... a burden on your business, that small business does not need to have*” (SU12.2, 39), and “*poor and ineffective*” (SE11, 110). “*The number of times I hear worker engagement committees, HSCs – they are basically like maintenance committees. They help fix the broken seat. They are out of toilet paper* (SE11, 164). Whereas the contemporary concepts endorsed by the Business Leaders’ Health and Safety Forum (BLHSF) were promoted. Flexible learning teams were, “*practical stuff that probably add value*” (SE11, 34), “*hugely beneficial*” (SE6, 119), and would encourage worker “*engagement*” (SO8, 207). The justification for adapting to workplace and environmental context may explain some employers’ reticence to the structures in the prescriptive regulations:

I am not 100% sure of the actual relationship. What I know is that the HSC and the HSRs are additional. This is what a number of businesses would say, “Don’t tell me how. Tell me why. Tell me what we need to meet and then leave it to us.” (SE6, 45)

Resistance to statutory forms of worker ‘representation’ was further highlighted in concerns about HSCs not always being appropriate, and instances of HSCs as a compliance exercise (SO8. 59, 200 & 207; OU4, 130):

The notion enshrined in regulations, that a committee is the only way to engage with workers is very narrow and almost defines an engagement process which is not necessarily the one that is going to be the most effective... people say, “Well that is the statutory committee. That is the one we have to have and then we do other things over here”. (SO8, 207)

In fact, the New Zealand Council of Trade Unions (NZCTU) was concerned about negative perceptions of traditional HSRs and HSCs, organisational resistance to unions at the workplace level (described as ‘participation’) and the complexity of the current legislation:

The thing that bothers me the most about that is the cultural stuff of having an HSR or HSC is a burden on your business that small business does not need to have. It just sending the wrong message about what you are trying to do. So that creates quite a complex thing for everybody to get their heads around and I am not surprised that business and workers are struggling with it. (SU12.2. 39)

In the industries, in the workplace, the unions are not really welcome. I might be welcome in that room, but that does not really challenge the relationship at production ... Talking to WorkSafe. That is fine and sure it is important. But if it is not actually happening on the ground, if it is not making a difference on Monday morning when the men and women get to work... It is worthwhile, but it is not anywhere near fulfilling the potential of union participation in these spaces. It is on the ground that really matters the most. (SU12.1, 115)

At the industry level, stakeholders talked about ‘engagement’ when describing collaboration between stakeholder groups. But tripartite stakeholder collaboration was perceived to be largely occurring at the strategic level (SE11, 114; OU4, 130). Bipartite stakeholder collaboration occurred between construction industry groups and the regulator. Although there were some doubts about the regulator’s capabilities. OE10 (71) believed, “*They [WorkSafe] don’t appear to be particularly strategic in their approach. I don’t think we will ever get Utopia because WorkSafe don’t have the ability.*”

The macro social context emerged in subtle tensions within these definitions of EP&R. SE6 (56) described the industrial relations environment as one of weak union density and union culture. His talk of ‘representation’ tended to be union representation. This association may be a reason for organisations favouring contemporary forms of EP&R. The perception of a greater acceptance of traditional representation in the UK, defined as more advanced “*cultural maturity*” (SE11-4) was associated with stronger unions.

However, nobody mentioned pressure from the EU Information and Consultation Directive.

What often gets lost in the engagement space ... we are in a space where industrial relations dimension in WHS in NZ; we are inheriting the fact that we don't have a strong union movement in NZ. We don't have a strong union culture in NZ. (SE6, 56)

Overall, descriptions of 'representation' conveyed a sense of traditional HSRs and HSCs being necessary for compliance, but not always effective. Whereas flexible forms enhanced worker engagement. Views of how HSRs and HSCs are established and managed at the operational levels demonstrated some resistance to these traditional forms of representation or limited engagement of HSRs when a compliance driven approach is adopted.

5.2.1.2 Political Factors Shaping Understanding of EP&R

When it came to the purpose of the current hard statutory framework, employers understood the importance of involving workers in WHS. EP&R was described as “*necessary pieces of WHS*” (SE11, 19) and “*the foundation of effective WHSMS*” (OU4, 30; SE6, 56; SU12.2, 40). There were concerns about implementing and enforcing the duties in the previous and current legislation. Noting that the regulator had not taken any cases under the Health and Safety in Employment Act 1992, SU12.2 suggested it was:

Partly because it is quite an inchoate duty to say you need to provide reasonable opportunities for employee or worker participation [anticipating or preparatory to a further criminal act]. (SU12.2, 40)

The ambiguity was problematic for the regulator and workers and employers. It was, “*very difficult to see what the legislation requires*” (OU4, 30) and:

Quite hard to say tick or cross. So, that sort of thing is quite bad because it does not provide you with an easy framework for workers to say you have not met your duty or for the regulator to say, “Look we need to do this better”. (SU12.2, 40)

The purpose of soft government initiatives is to promote participative practices. A major part of the work done under the CRSC involved educating employers to understand what elected HSRs are:

We have worked pretty hard to ensure people understand what an elected HSRs is, because we identified a gap in the industry. So that has been part of our work, to educate around what that looks like. What an elected HSR, a genuine HSR is, and what that means. That is a useful piece of work. (OO7.1, 107)

Effective monitoring and measuring relies on a shared understanding and acceptance of measured concepts by all stakeholders involved in managing WHS. Although some participants raised concerns about the regulator not providing sufficient guidance on what ‘good’ looks like, there were references to case study examples of good practice. This section focuses on perceptions of soft government and industry initiatives developing benchmarking tools.

Monitoring and Benchmarking Tools. The strategic stakeholders talked about WorkSafe’s three benchmarking surveys of employer and worker attitudes and behaviours in New Zealand conducted in 2014, 2015 and 2016 (SR2, SO6, SO8, OR9, SU12.2) and the Deloitte Survey (SR2, 240). These survey results preceded the development of government, business leaders and industry level tools to help organisations measure and monitor WHS through lead and lag indicators. Initiatives included collaborating “with WorkSafe on a tool for their inspectors around worker EP&R” (SU12.2, 92), and measures for monitoring EP&R at the board (SR2, 240; SE6, 54 &102) and workplace levels (SU 12.2, 92; SO8, 99; SE11, 7, 90 &101). A regulatory stakeholder noted the need to develop benchmarking tools and set targets for health and EP&R performance. More importantly:

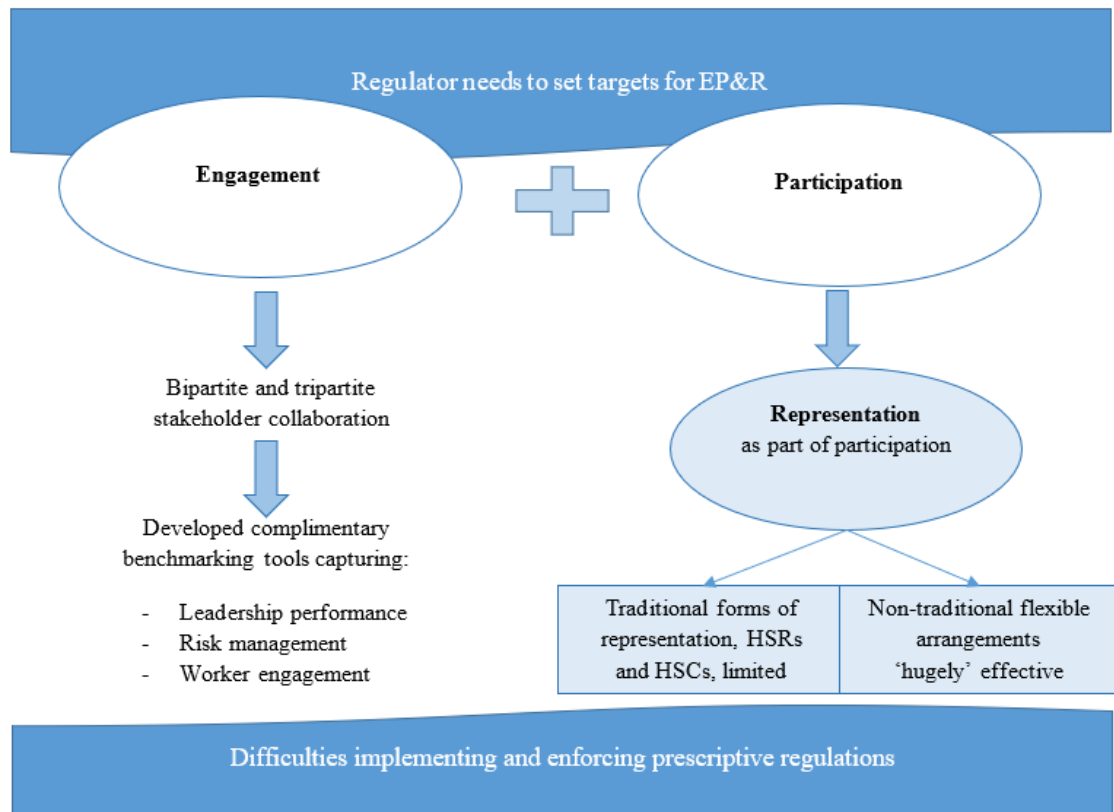
To recognise the value of EP&R or you won’t get change... Where it is at the senior level, it is taken more seriously. With more risk, WHS is more of a leadership role. WHS is dependent on people’s perceptions of risk... People don’t go around in a constant state of concern about managing risks because they are not getting signals, so become complacent. Need to be measuring resources, relationships and efforts to see how they are improving from year to year. (SR2, 240)

The regulator, employers and unions collaborated in developing the regulators measures into the three key pillars of the national Safe+ Safety Star rating scheme (engagement, leadership and risk management). This intentionally, “*unapologetically align[s] with ours [the BLHSF] quite well*” (SO6,102). However, the ACC programme aimed at rewarding the presence of WHSMS had limited outcomes. A stakeholder noted the programme may have had the unintended consequence of supporting a blame culture that acts as a barrier to workers speaking up. It may have impeded incident investigations because people may cover up the real cause to protect themselves or someone else. When associated with leadership accountability and mitigating the blame culture, the construction industry was finding it challenging to develop an audit tool that “*makes the stuff we want to make present with regards to good WHS performance, something we can measure*” (SE11, 7).

In summary, the stakeholders’ interpretations of worker voice and understandings of the statutory terms and duties were developed into a theme. Three subthemes emerged from the interview data: 1) describing EP&R, 2) understanding EP&R legislation, and 3) measuring and monitoring EP&R. The interviews suggested that the terms ‘engagement’, ‘participation’ and ‘representation’ were used interchangeably. The conceptualisation of ‘engagement’ as bipartite and tripartite stakeholder collaboration may have reflected the stakeholders’ awareness and understanding of the duties outlined in the main purpose of the HSWA. ‘Representation’ was referred to as part of ‘participation’. Some stakeholders believed the traditional forms of worker representation (i.e., HSRs and HSCs) are limited. Whereas flexible arrangements are a means of adapting EP&R systems and practices to a wide range of environmental contexts.

Figure 5.2 illustrates how social factors appeared to shape stakeholders’ descriptions of EP&R. Hard and soft political factors emerged in deeper understanding of EP&R duties. These perceptions of the statutory duties appeared to be increasing the principal stakeholders’ willingness to collaborate in soft government and industry initiatives. As well as preference for traditional and contemporary forms of worker representative influence in decisions. The collaborative development of benchmarking tools is necessary but not sufficient for setting regulatory targets for inspectorate engagement. A well-resourced independent regulatory agency is required to overcome the difficulties implementing, enforcing and monitoring prescriptive regulations.

Figure 5.2. Principal Stakeholders' Understanding of Implementing and Enforcing EP&R Duties and Regulations



5.2.2 EP&R Systems in Practice

Subquestion 3 explores how understanding (rhetoric) was embedded in practice (reality). Three subthemes emerged. The first subtheme focuses on *power* emerging in stakeholders' perceptions of how the HSWA duties for EP&R contributed to sharing influence in decisions; engaging and empowering workers in planning work; and raising and solving WHS issues using traditional and contemporary forms of engagement and participation (E&P). In the second subtheme, *strategic choices on institutional arrangements*, the characteristics identified by stakeholders reveals three types of approach to compliance. Stakeholders distinguished between *genuine behaviours exceeding compliance*, *effective compliance behaviours* and *weak compliance driven behaviours*. The third subtheme, *organisational structures and processes*, collates the forms of EP&R adopted in organisations, particularly in the construction industry.

5.2.2.1 Principal Stakeholders' Power to Influence WHS Duties

Influence occurred at four distinct levels: strategic governance, industry, organisation and workplace. Opinions of the scope of the stakeholder groups' influence varied and were shaped by sociopolitical beliefs about power to influence workplace decisions.

At the Strategic Governance Level. The main issue was late inclusion in various government initiatives. There was some concern about influence with the regulator, because stakeholder groups were invited to participate in soft government initiatives after the establishment and launch stages. “*The dust campaign; WorkSafe had already been on the road talking about silica dust and other dusts that they didn't come and talk to us about*” (OE10, 149). Justification for WorkSafe's initial work with strategic leaders on the CRSC initiative demonstrated how strong bipartite collaboration developed before unions were included (OR9, 157):

One of the reasons why we brought, Helen [Kelly, former CTU President] in... There was a recognition that when the Charter started off, it was very much senior leaders. We used to semi joke that we followed the golden rule, “He who has the gold makes the rules”. So, we had EQC, we had Fletchers, we had the council, we had MBIE, we had SCIRT. We had the big players around the table ... and it was absolutely the right place to start. But ultimately, we knew that there is a view created when you take a top-down approach and that we needed to have something a bit more modern to recognise that there would be some misalignment and hopefully allow us to address that. (OR9, 157)

Responses about following the “golden rule” (OR6, 157, SE6, 166) indicated the stakeholder groups were approaching tripartite discussions from different ideological perspectives and that an imbalance in power existed.

They will have engagement on their terms. They don't want engagement on both parties' terms, so they set the rules for engagement... Industrial democracy and actual sharing of power and workers having that capacity for genuine representation, not just saying what the employer wants to hear, is something that they don't want. They don't want industrial democracy. They will have it on their terms. (OO7.1, 155)

One stakeholder suggested that New Zealand unions do not have the same strength and capability as unions in the UK. Stronger unions supported a more balanced tripartite environment necessary for collaboration aimed at improving WHS outcomes. SE11 (162) noted, “*What you ended up with is another element, as well as the regulator and industry, actually positively trying to engage in WHS change*”.

At the Industry Level. Businesses in general and those in the construction industry were perceived to be in the early stages of learning how to collaborate and comply with the new statutory duties for PCBU supply chains (SO8, 205, OE10, 20; OO7.1&2, 153):

The business-to-business relationship was poor in terms of traditional contracting chains, but in terms of those overlapping duties – which reflect the complexity of the modern working environment – that was definitely a big area for improvement. (SO8, 205)

Industry groups such as the New Zealand Certified Builders (NZCB), “*did a bit of advocacy on behalf of the builders to try and smooth that ride out*” (OE10, 148). The NZCB successfully influenced change back up the supply chain. OE10 (148) believed WorkSafe, “*realised they were not going to get the results they were after unless some work was done further up the chain*”. Some reflected on efforts to integrate WHSMS and collaborate in managing critical risks within supply chains in the construction industry. There were communication gaps in different parts of the supply chain, such as planning (OO7.1, 190), and design and manufacturing of equipment and materials (OE10, 148 &149).

At the Organisational Level. Influence did not always comply with the WHS duties to involve workers in designing EP&R systems. Although participants generally acknowledged the importance of involving people with knowledge and experience in decisions about the way work was done, operationalising it in workplaces was difficult (OO5, SE6, OO7, SO8, OR9, SE11). Several noted most employers adopted a top-down approach to planning and establishing the EP&R systems (SE6, 166; OO7.1, 155; OO7.2, 186):

In the main, these [EP&R systems] are set and developed by employers and workers are told how they will engage and there is not a lot of

agreement sought from workers... It is still very much a top-down approach. (OO7.2, 186)

At the Workplace Level. Differing opinions on unions having power may have been influenced by experience and beliefs about industrial democracy (OO7.1, 155; SE6, 165; SE11, 159 & 161). Employers were reported to be afraid, “*Employers’ eyeballs start to roll to the back of their heads at the thought of someone having that kind of power [to influence decisions for workers to stop work].*” This contrasted with views of unions either not understanding “*how much power and influence they could have*” (SE11, 161) or the legitimacy of statutory protections. SE6 (166) Believed unions “*quite rightly say there needs to be some sort of codified protection because there is a natural balance*”. Tension between the stakeholders’ interests were evident in talk of unequal power relationships (OO7.1, 155; SE6, 166) and “*relationship[s] between organisations and unions as adversarial*” (SE11, 159). These comments capture the sociopolitical beliefs about direct and indirect worker influence in the workplace:

I think we need to be far more dynamic. A little bit more open and less prescriptive. That is part of the challenge around a politicised or ideological industrial relations model, where the most critical thing is the HSR having the ability to put in a Provisional Improvement Notice. That right does need to be there because it is not voluntary... The idea of lots of little things that are going to be part of the thing, there are going to be different situations. (SE6, 165)

There was some recognition of some decisions being beyond the scope of some workers (SO8, 201; OR9, 158), as well as a difference between workers influencing decisions and being involved in WHS matters before decisions are made at a higher level. One barrier was ineffective communication. Management and workers had weak communication skills. “*A lot of the time we are having conversations around, how to have a conversation about WHS, safely*” (OO7.1, 190). Yet workers speaking up was rare. The reasons for worker silence included “*ultimately workers wanting to support their business. They want to do a good job.*” (SO8, 201). Another barrier was the potential for adverse consequences for workers (OO5, 172) and HSRs (OO7.1, 156). For workers “*it takes a lot of guts ... about reporting certain things, (OO5,172)*”. Moreover, “*even though you are in a legitimate role as an HSR, they find that really challenging.*”

Progress included WorkSafe engaging, “*with the union, how they funded a union representative for the CRSC*” (SE11, 161) and a PCBU realising the benefits of involving contracted workers in WHS decisions, “*Just because we pay, it does not mean we understand*” (SE6, 166).

5.2.2.2 Strategic Choices on Institutional Arrangements for Worker Voice in WHS

The stakeholders agreed that participation and representation needed improvement, and some comments suggested that directors and employers were still struggling with statutory. However, their examples of good practices demonstrated pockets of commitment to improving EP&R. EP&R duties and accountability. The perceptions of the effectiveness of the WHSMS and practices operating under the current HSWA were associated with notions of “genuine”, “real voice” and “tick box” compliance behaviours. The genuineness of behaviours clarified the levels of effectiveness of policies, HSMSs and practices— including EP&R. The stakeholders differentiated between weak compliance driven, effective compliant and mature organisations exceeding compliance.

Weak Compliance Driven Approach. Some stakeholders distinguished between weak compliance driven at the strategic level and the difficulties of achieving sustainable compliance behaviours at the operational level (OO5, OO7.2, SO8, OE10, SE11). In conversations at the board level, directors should consider how they hear “*authentic [worker] voice*” (SO8, 98). The focus appeared to be on ensuring they met statutory due diligence duties. There were concerns about the implementation of strategic decisions and EP&R policy being confined to “*tick box*” compliance behaviours at the operational level (OU4, 74; SO8, 17 & 97). For example, perceptions of employers’ disinterest in having “*real [trained] HSRs*” (OO7.2, 76) resulted in a high turnover of trained HSRs who do not feel fulfilled within the role or valued. “*As nothing really gets done. I think it is a wasted opportunity in many businesses*” (SO8, 97). The HSR’s role was further undermined by the limitations of the new HSR training that mainly focused on the legislation (SO8, 122). Although operational level stakeholders reported a shift from having documented WHSMS in place to demonstrate how these were working (OE10, 103; OR1, 202), concern about consultant scaremongering suggested the change may have been compliance driven:

Leading up to the HSWA, they were motivated by a lot of scaremongering. Particularly from WHS consultants who were threatening bigger fines were going to come. So, they need to get their head around it and get their systems in order. Whereas in the past, they would nail the WHS systems to the wall and thought that was enough. There is a definite shift, in that you can have all the documents you want, but WorkSafe wants to see you doing it and capturing the evidence of the doing, or there will be consequences... It has been a real motivator for them. (OE10, 103)

Effective Compliant EP&R Systems. These required organisations to embed WHS policies and were characterised by three features: “*elevated competent confident chief executive*” leadership (SE6, 197), integrating WHS into the way work is done and recognising the value of worker involvement in planning work (SO8, 212; OO5, 178 & 179, SE11, 4 & 37). Similar views were evident within the construction industry:

As far as safety in general, that includes engagement and communication at work, is having systems that are convenient to the work that they are doing. Where they feel they have to go out of their way to do something, then the majority of the time they won't do it. If you tag on a safety supplement to something they are already doing, then it tends not to be too big a deal. (OO5, 179)

Mature Organisations Exceeding Compliance. Stakeholders described “*authentic, sustainable*” and “*genuine*” behaviours, policies and practices linked to strategic intent to do the right thing, and embedded in organisations (OO5, 007.2, SO8, SE11 SE6). This included a demonstrated desire and effort to develop genuine procedures for electing HSRs (OO5, 106; OO7.2, 53). There are statutory duties for the election of HSRs in organisations with 20 or more employees and/or operating in specified high-risk industries. In addition, mature organisations were defined as “*well-resourced, deep pocketed*” (SE6, 45), moving away from autocratic leadership and demonstrating a maturity in their WHS (SE6, 45; SO8, 213).

Authentic, I guess it is about honesty... A) genuine in a sense of two parties who both have an interest in what the other has got to say and in reaching an agreement, which of course is not always the case –

because WHS can end up becoming quite polarised. Secondly, it is informed by actual practice that there is an ability for one or other of the parties to move from a position, and that it is grounded in reality... If businesses cannot actually achieve their other objectives, then they are not going to sustain safety improvements. (SO8, 202)

Perceptions of the effectiveness of contemporary and traditional WHS structures and processes provided some insights into the broader predominantly individualised employment relations and social partnerships in the private sector.

Contemporary Worker Participation Structures. These were perceived to be more effectively involving and empowering workers in the current work environment. Strategic stakeholders who were enthusiastic about contemporary forms of worker engagement, provided several examples of organisations demonstrating effective practices (SE6, SO8, SE11). The BLHSF members “*were embracing the fact that you have to use a whole range of different approaches*” (SE6, 55). Several popular examples were involved with the Safety II, Safety Differently change initiative. The following flexible EP&R systems were considered to be effective: Connecticut Differently was defined as adopting a “*functional view*” (SE6, 196), Laing O Rourke’s “*little micro-experiments*” (SE6, 55) were dynamic, and Contact Energy’s learning teams were reported as being “*hugely beneficial. They still have HSC.*” (SE6, 119). These learning teams mitigated the exclusion of workers due to employment status, which was presented as a commercial and legal function (SE6, 119). Highly skilled supply chain workers were “*lining up to be involved in these things because you learn stuff... these are engineers and highly skilled people*” (SE6, 45).

Contemporary experiments were arguably more innovative, relevant and energised than traditional voice systems. In fact, these organisational initiatives were reported to have been effective because management had empowered workers to raise and solve task level WHS issues. Frucor’s *See it. Sort it. Safe as* programme had empowered all workers. Coca Cola had demonstrated the value of worker engagement in improving WHS outcomes and for the business in general (SO8, 47, 213). However, a preference for contemporary representation appeared to reflect a reticence to have trained HSRs:

The big companies have not bought into the concept of employee participation and engagement in the way that leads to representation.

They have certainly not been supportive of sending people to the relevant training providers that would actually deliver ‘real HSRs’ back to the workplace. Someone who really understands the role and is able to implement it. This would be the one area where there has been the least amount of improvement. (OO7.2, 76)

Some organisations were adopting complementary forms of indirect representation. Although a regulator believed this, “*does sound weird and it sounds like a work around because something is not working. That’s what it sounds like to me*” (OR9, 83).

Traditional External Participation Structures. There were concerns about the effectiveness of traditional roving HSRs, industry WHS task groups, e.g., the Forest Industry Safety Council (FISC), and traditional work councils. Although roving HSR structures have been tested in the UK, this form of representation was not supported in industries where they would be most beneficial. Lack of support was partly ascribed to concerns that they would, “*a) be union, and b) would then be using their WHS rights to get onto work sites to advocate for union membership*” (SO8, 218). The potential for industry groups to, “*become homogenous, as opposed to ... actually a cross-section of the people involved in getting the work done*” (SE6, 196) was exacerbated by workers needing to learn how to operate. There was also acknowledgement of work councils requiring a supportive tripartite culture:

That is not to say that all the blame is at the employers or the law. Even if you switch those things, organised labour has some learning to do on how to operate in an environment. But we haven’t had any opportunity to practice or to doubt that thinking. We could get better at that. The example of Rail and Maritime Union at KiwiRail, would be pretty rare—that really established methodology of engagement. (SU12.1&2, 229)

Union stakeholders believed that the changes to the minimum standards of compliance in the HSWA had led to some regression in worker voice (OU4, SO8, SU12.2). Particularly the erosion of the traditional co-determination approach enacted in the HSEA. SU12.2 was concerned about the flexibility to design a system that excluded and undermined traditional trained HSRs with statutory powers or to take a minimalist compliance approach. This supported comments about top-down decision-making rather than worker involvement in the design of EP&R systems. They were concerned about union

organisers being perceived as a barrier between PCBUs and their workers. “[Employers] believed that they were not getting engagement with workers, with the delegates at the workplace”, though the organisation denied excluding unions. (OU4, 111). Despite the pockets of good practice in Canterbury, OR4 observed a change in the tripartite relationship at the operational level (i.e., with the manager and access to WHS meetings and information). The resistance to union involvement underpinned these stakeholders’ wanting improvements to access work sites to represent workers in WHS matters:

We were seeing quite a marked drop-off in things like written WHS procedures, having HSRs, having HSCs also having non-formalised HSR procedures all those things were falling away... There is a real problem of switching from a co-desired model of employee participation to an employer designed process. Because of the signal that sends about whose responsibility WHS is. It says, “This is for the PCBU. This is for the boss to say, ‘This is the system we want.’ Rather than for that high-engagement model that says, “How do we work together to work out the system that we want?” That is one of the most problematic features of the HSWA. And the discussion around the exclusion of HSRs and ‘low-risk’ businesses and SMEs were more a symptom of that conversation, than it was the issue in and of itself. (SU12.2, 231)

Worker Silence. Union pragmatism about workers speaking up when there are high levels of insecure work, demonstrated how labour and product market factors were shaping worker voice. “Job security is really low and so the ability to feel safe, to raise issues, is very challenging” OO7.2 (188). SU21.1 (61) concurred, “It is a nonsense – especially if you are insecure in your work.” Workers remained silent because, “whenever we have told you anything in the past, we have lost our jobs” OO7.2 (188). Job insecurity also deterred some construction middle managers from challenging strategic decisions:

There is change at senior level, the middle managerial level is very challenging to shift their thinking, because they feel pushed from both sides... And they often don’t have a lot of job security either. They are often the first to go. (OO7.1, 189)

5.2.2.3 Organisational Structures and Processes – Forms of EP&R

When stakeholders talked about the depth, breadth and scope of EP&R structures and processes, they commonly talked about senior leadership strategies (refer to Theme 1). Accident/incident reporting (OR9, 221; SE11, 8), weekly planning and contractor meetings (OR1, 123; SE8, 209), whiteboards and targeted breakfast events were effective for direct engagement with large groups of workers.

Toolbox Meetings were a primary form of effective engagement. It was the main forum for facilitating worker engagement between contractors and subcontractors on building sites (SO8, 208; OE10, 20). As well as for engaging with all workers and providing opportunities to participate in managing WHS matters and raising issues. But managers and workers needed to improve communication with each other throughout the day (OO7.1&2, 153), and monitor and review how effective their EP&R systems were (OE10, 20):

It has been four to five years, but it is something they have had to learn.

You cannot ignore the other contractor walking onto site now, you have to go and have a chat. (OO7.1&2, 153)

Planning Meetings. SO8 had identified several practical problems occurring while observing a planning meeting. This included a lack of training for meeting coordinators, despite the organisation implementing several strategies (rules) to move from tick box behaviours to enhancing engagement.

Whiteboards were effectively used in small and large organisations (IP1, 123; SO8, 33, 209 & 210).

Targeted Breakfast Events were perceived as effective, causing minimal disruption to planned work and facilitating WorkSafe in reaching large groups of workers. The Cantabrians' demands for improvements in the management of the risks of exposure to asbestos in Canterbury led to a series of national and industry specific events and programmes. Education programmes provided opportunities for workers to share information (SO8-16; OR9-137). Direct engagement with workers was perceived as more appropriate than HSRs in some situations, such as the asbestos programmes:

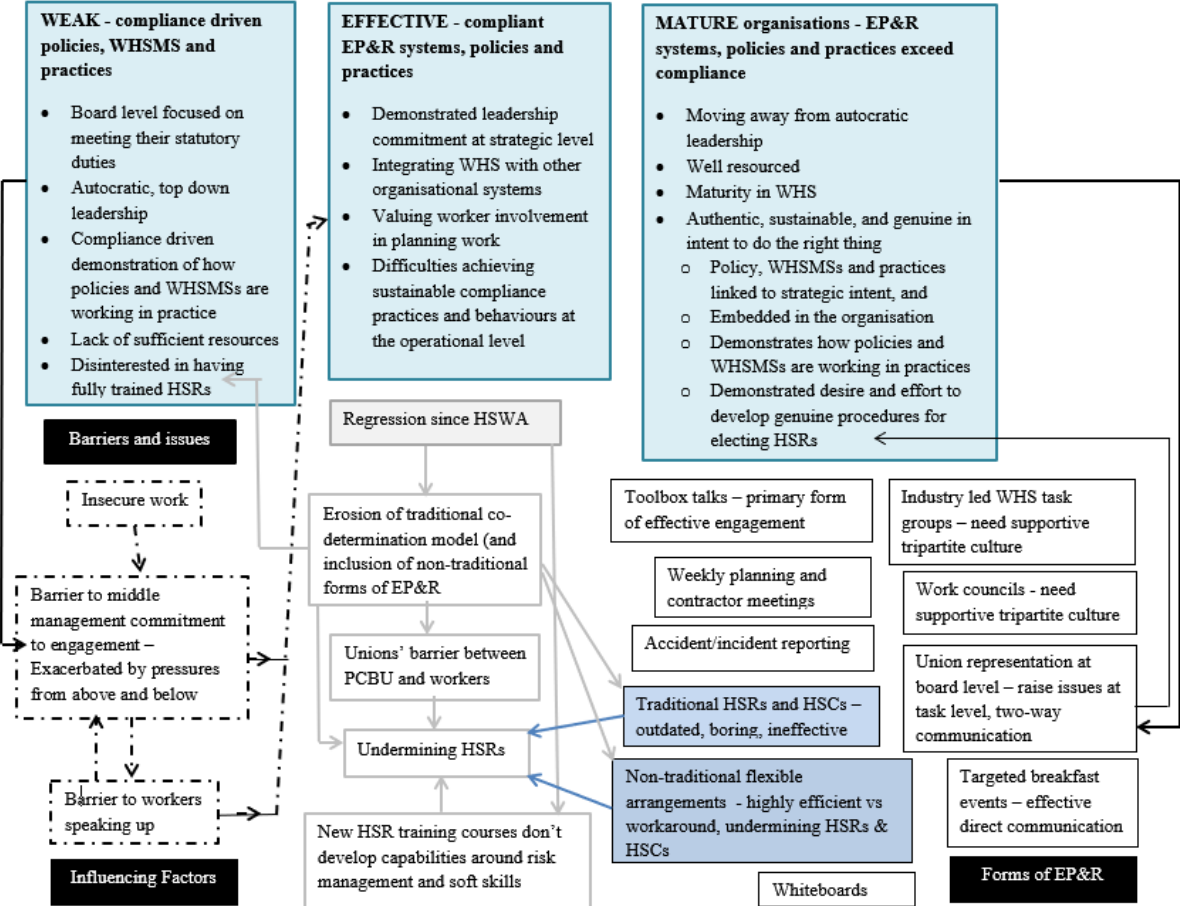
Literally getting thousands of workers together and talking to them about some of those key risks, like asbestos... very effective in raising awareness (SO8-16).

Governance Boards. Union representatives were involved in “*quasi-governance boards around WHS*” in a unionised public sector organisation. Although general negotiations and consultation occurred at a lower level, the scope of WHS was limited to task related issues:

Now obviously separate negotiations and discussions with the unions take place at a lower level. But to actually formally invite them around the table, for them to understand how we operate and for us to hear any concerns from them has been quite a significant step forward... The first time it happened they brought a particular perspective, which resonated and actually some action was taken almost immediately to address the issue that they had raised. (SO8, 121)

In summary, three approaches to compliance behaviours emerged from the detailed description of EP&R policy and systems in practice. Figure 5.3 illustrates the divergence in stakeholders’ perceptions of the impact of the HSWA on WHSMS and practices. It demonstrates the complex relationships between perceived impact, the factors influencing compliance behaviours and the preferred forms of EP&R. Organisations adopting a weak compliance driven approach were described as having autocratic leaders who were disinterested in having trained HSRs and provided insufficient resources for WHS. Those demonstrating effective EP&R practices were defined by three characteristics: leadership, integrated organisational systems and valuing worker involvement. Mature organisations had four additional characteristics. They were well-resourced, less autocratic, employed highly skilled workers and had more mature WHS. The stakeholders supported contemporary forms of worker engagement. However, there were concerns about the limitations of industry led WHS groups and work councils, as their effectiveness was influenced by the level of maturity in tripartite collaboration.

Figure 5.3. The Relationships Between Perceived Impact of the HSWA, the Factors Influencing Compliance Behaviours and the Preferred Forms of EP&R



Note: The influencing factors, barriers and preferred forms of EP&R are represented by different types and colour arrows. Directional arrows indicate direction of influence.

5.2.3 How has the Current Legislative Framework Contributed to Improving EP&R?

Stakeholders talked of regulatory enforcement and inspection needed to support genuine effective WHSMS, policies and practices that comply and exceed compliance with the HSWA and regulations. A primary concern was the lack of competence and capacity required to effectively management WHS risks. Adequate resources and factors relating to the sociopolitical context within which worker voice occurs could act as barriers or facilitators. The detailed findings in this section fit with the eight predetermined key factors required for effective participation presented in Chapter 2 (Lamm, 2010; Walters & Nichols, 2009). Three factors are related to the sociopolitical context necessary for effective worker voice in WHS: 1) the influence of a broader cooperative approach to employment relations; 2) longstanding social partnerships; and 3) an organisational climate conducive for participation and collaboration.

5.2.3.1 Structural and Process Barriers at the Macro and Meso Levels

Competence, Training and Capacity. Stakeholders were concerned about the competence, training and capacity of all stakeholder groups involved in WHS. The strategic employer stakeholders talked about the BLHSF Safety II approach aimed at educating strategic leaders, which, “offers some really exciting and different ways of framing the challenge and opportunity” (SE6-55). There was some optimism about competence, training and capacity at the strategic organisational level. Management were, “sorting out our leadership, so that our leaders behave in the right way... so they are less negative and less tell(y), less police force(y)” (SE11,11). Some PCBUs were learning, “how to have a conversation about WHS” (OR9-84, SR12.2-142, OO7.1-154), but there were training and capacity issues with middle managers and workers. Middle managers needed leadership coaching. Whereas there were insufficient opportunities for workers to have access to recognised HSR training and ongoing career development opportunities in WHS. “Under the old regime there was at least something of a pathway where HSRs could develop their skills around WHS” (SO8, 122).

All stakeholders who had experience as training providers believed that HSR training was limited and had regressed since government funding had been withdrawn. They agreed HSRs needed broad training and ongoing development opportunities spanning statutory

duties and rights, risk management and soft skills to advocate for workers. Yet new HSR training courses only focused on HSR's statutory duties and rights. *"There is a lot of new technical information, but also need the soft skills of how to manage risks"* (SU12.2-226). Stakeholders identified a reduction in workers attending HSR training, and SO8-145 recommended creating mechanisms to help the regulator monitor HSR training statistics and communicate with HSRs:

Employers were not sending people to the recognised training because they don't want people with the ability to order 'cease works' and to issue PINS. So, if you don't give them the unit standard then they cannot do that legally. (OO7.1&2-192)

In addition, stakeholders were concerned about a shortage of competent WHS professionals and the regulator's capacity to implement strategic WHS initiatives and enforce compliance with the HSWA. Overall, the professional body, Health and Safety Association of New Zealand (HASANZ) *"recognises the need for improving capabilities, but there are capacity issues"* (SR2-14).

Sufficient Resources. Stakeholders highlighted general frustrations with the regulator and practical issues related to size differences, anxiety about *"what a reasonable expectation is"* (OR9-81) and the adequacy of resources for WHSMS, including EP&R systems and initiatives. Some referred to the longitudinal survey results demonstrating the *"mismatch"* between management (directors, senior managers and site supervisors) and workers' perceptions of the sufficiency of resources to do a job properly (OR9-81). There were differences within the construction industry, with less available resources in residential construction compared to businesses operating in the commercial sector (OE10-70). This was compounded by human resourcing issues related to middle managers working long hours on multiple projects in the construction industry (SE11,8 - 9). The Construction Safety Council (CSC) and NZCB industry associations were providing resources and educating SME constructors about good practice:

And we have heard rumours that WorkSafe are not happy with the system ...You need to be able to throw resource at it. So, the bigger companies can do that. That is why the likes of Site Safe have been able to penetrate commercial well, because they can dedicate that resource to it. (OE10-70)

Concerns about lack of sufficient support for HSRs suggested that recognition of the need for the regulator to engage directly with HSRs, and issues related to establishing extensive HSR networks had not been addressed. Ideological differences appeared to influence the provision of targeted support and training. Although the NZCTU recognised autonomous support could be either, “*in the form of a union or non-union employee representation (NER)*” (SU12.1-12). Leveraging the NZCTU’s established support network was unlikely in the “*current political climate*” (SO8-216). Nor did the regulator have any “*means of knowing who HSRs are. No means of communicating to them*” (SO8-108). Canterbury was an exceptional situation where appropriate support had been provided. Both a regional HSR network had been established (OO7.1-108), and the regulator and people involved in the CRSC were focusing on supporting HSRs as “*an efficient and effective way of engaging workers*” (OR9-110).

Hard Statutory Framework. These findings provided insights into how the hard statutory framework was helping key stakeholder groups overcome barriers to worker voice. Descriptions of efforts to collaborate suggested principal stakeholders were responding to the HSWA aim for unions and employer organisations to work constructively (§3.1.c). Several talked about employers, the regulator and unions collaborating in their efforts to improve WHS outcomes. Conversation were largely within or between the strategic level national and industry stakeholder groups, and not filtering down to the organisational and operational levels. For example, the construction industry was attempting to unite the four fragmented sectors to, “*align our strategic view and move in the same direction*” (SE11-112). A priority for the NZCTU was trying to get government agencies to take a broader approach to integrating WHS issues with industrial relations matters, such as low pay and long hours of work. Whereas employers preferred separating contract and WHS matters.

We want to push WorkSafe and MBIE to be looking at some of the areas that WHS have not touched as much and trying to work with them on things like fatigue... There are some really hard issues like low pay. Low pay leads to people taking on a second and a third job and doing everything they can. It leads to psychosocial stress. It leads to all sorts of things. We address WHS issues, not just by treating them as WHS issues but addressing the other stuff that goes around it. (SU12.2-235)

Soft Government Initiatives. In addition to enforcing the legislation, the government agencies funded and were involved in soft collaborative government funded initiatives endorsed by the BLHSF, CSC and NZCB. The scope of the initiatives revealed the extent and reliance on government support, such as “*ACC funding of [recognised HSR] training programmes*” (SO8-145), benchmarking tools (refer to Theme 1) and national industry initiatives, such as the “*dust campaign*” (OE10-148). Some examples demonstrated the regulator’s strategic funding choices: 1) spending on “*willing [organisations] and by doing that actually try to lift the standard and then hopefully, that will through influence, get to those around the edges*” (OR9-82); and 2) focusing on the high-risk industries, “*our main focus is construction, forestry, agriculture and manufacturing*” (OR9-79).

Regulatory Capacity. WorkSafe’s commitment to the rebuilding of Canterbury was furthermore evident in regulatory staff resources, including the scope of the programme director’s role. This included control of inspectors working in Canterbury and additional inspectors brought in from Australia (OR9-138). The control of the inspectors reverted to head office when her role ended in 2015. “*Some part of that was the inspectorate and the programme team*” (OR9-132). This was part of the winding down of the funded Canterbury initiatives as the major construction work had been completed. Stakeholders suggested management and workers in Canterbury were largely relying on government funded and supported WHS initiatives in the private sector, “*since Safe Rebuild is no longer being funded by the government*” (OO7.2-239). The lack of funding meant “*it just does not exist now*” (OO5-175).

5.2.4 How Macro Level External Factors Influenced the Forms of Worker Voice at Industry and Organisational Levels

Subquestion 2 demonstrated principal stakeholders’ awareness of several barriers and challenges to achieving effective engagement, consultations and participation in improving WHS outcomes. A summary and the subtheme factors exploring how the intermediary forces shaped the embedding of worker voice through the HSWA duties are presented in Appendix P. The first of four subthemes has been discussed above, structural and process barriers at the macro and meso level. This section examines the principal stakeholders’ roles in overcoming barriers; sociopolitical challenges and issues; and considers progress and areas for action. This section ends with a summary of the findings in Table 5.1.

5.2.4.1 Principal Stakeholders' Roles in Overcoming Barriers

Talk about the development of the CRSC provided insights into the roles of the intermediary forces in establishing the soft government funded Charter initiatives. Having facilitated in establishing the Charter and developing resource materials for the operational level, the regulator was focusing on enhancing senior leadership skills in managing critical risks. The NZCTU was recognised as being instrumental in advocating for the contestable funding used for the Canterbury initiatives, and the recruitment of capable union delegates to represent workers in the implementation of the Charter. Despite the success of tripartite collaborative work in Canterbury, participants were pragmatic about the motivation to commit to tripartite arrangements and the potential for the initiatives to be used nationally. Further, earthquake devastation was the “*trigger that created a collective kind of need*” for changing the way things were done (OO7.1&2-183). The earthquake damage created an environment favourable for constructive consultation and co-operation.

Helen Kelly [NZCTU] and Katherine Heilif from WorkSafe were really instrumental in arguing for that [someone on the ground to start worker engagement]. The particular role had to be someone with a union background. (OO7.1&2-239)

The Regulator. The previous regulatory agency was criticised for not taking an active role in encouraging worker engagement. WorkSafe had been established as an independent regulator because of the failure in the regulator’s ability to act as “*an influential catalyst*” (SO8-204). The regulator stakeholders defined WorkSafe’s current role by three pillars underpinning their statutory duties. They referred to the “*three ‘E’s; educate, engage and enforce*” (OR1-241; OR9-136) and differentiated between strategic and operational goals. Thus, regulatory staff assisted industries take responsibility for effectively managing critical WHS risks by ensuring decision-makers “*apply due diligence*”, facilitating principal stakeholder collaboration by “*getting everyone together*”, providing “*a range of resources for board members and workplaces*”, and “*more intelligence led from the Minister (includes surveys)*” (OR1-241). Regulators talked about “*focusing on toolbox, weekly planning and contractor meetings, inspectors trained to ask if the PCBU has a trained HSR*” (OR1-241), encouraging people to

“develop case studies of good practice” (SR2-118), and “advising and funding strategic initiatives” (OR9-132).

A long-term broad picture across NZ. This extends beyond the short-term WorkSafe targets. It focuses up and out, a long-term view and setting new targets. The operational strategies focus down and in, a more short-term view towards meeting existing targets. (SR2-242)

There was an acceptance of a need for statutory requirements and enforcement to ensure employers complied with duties and minimum standards of good practice (SE6-194). For example, OU4’s talk of how an inspector’s attempt to enforce statutory duties to allow union delegates access to a worksite had been undermined by a recalcitrant Canterbury employer. This corroborated an employer stakeholder’s view that strong enforcement was necessary but not sufficient. SE6(194) believed *“you cannot build your house to that standard alone. We are not going to get any better unless we recognise that this is about a relationship”*.

There were concerns about past failures to *“systematically review what percentage of workplaces have got effective worker engagement arrangements [or] taken any enforcement action for organisations that don’t have any kind of worker engagement”* (SO8-146). SU12.2 (239) noted the current statutory enforcement model enabled testing EP&R breaches in the courts but was dependent on the regulators’ capacity to fulfil their other duties to mediate and arbitrate to facilitate the resolution of WHS disputes. Criticisms were offset by recognition of the current regulator’s efforts in engaging unions in the development of Codes of Practice (CoPs), *“The Government and WorkSafe are doing a stellar job with respect to engaging the unions in establishing these CoPs”* (OU4-129).

Unions. There was acceptance of union representation at the strategic level, but resistance at the operational level. Some strategic stakeholders discussed this in terms of *“culture”* or *“political context”*. All union stakeholders talked about ensuring people go home safely each day as being part of their overarching role, which is to advocate for, and facilitate, worker involvement in all matters relating to their terms and conditions of work.

Stakeholders defined the NZCTU as having four roles at the strategic union level. As the *“peak body”*, their main role is advocating for all workers on strategic level government

forums (SU12.1-140, SU12.2-223). The second, supporting industry unions' involvement in tripartite relationships with industry employers and the regulator. This is strategic involvement in operational matters (SU12.2-224). The third, acting as an independent *"watchdog for the regulator"*. The *"critical friend"* analogy suggested it was intended to be constructive (SU12.2-225). This corresponded with the *"third pair of eyes"* approach adopted by the union organiser at the organisation and workplace levels (OU4-245). The fourth, as *"a training provider"* had evolved and expanded to providing training for PCBUs, before being handed over to independent training organisations (SU12.2-142). SR12.1-143 highlighted the NZCTU's preference for a broad collaborative approach to managing complex employment relations and WHS matters.

At the operational level, facilitating conversations and representing unions on industry level tripartite forums was a priority. Both operational union participants noted their work involved *"making sure that the requirements for the nomination of HSRs are working. Employers are still appointing their own. This is a way of getting away from union representation"* (OU3-244). However, an industry union delegate reported little progress, *"Not a lot has changed... If anything, we are still being seeing... as a threat that we are going to organise their workers"* (OU4, 72).

The sociopolitical context was portrayed as a barrier to developing a tripartite culture. While the *"political mood had shifted away from worker engagement. It is not a fad. It is a success story for business in the future"* (SO8-219). Another stakeholder reported examples of unions creating positive energy to get things done. This was confounded by uncertainty about the need for unions based on past combative industrial relationships. *"The industrial football of the 1980s and 1990s did around employment law and around de-unionisation"* (SE6-194). SO8 (219) argued growing membership was an issue for individual unions, and the union movement was regressing partly because the NZCTU no longer had a charismatic leader. And although the NZCTU had the time to advocate for workers at the government level, many people do not know the *"NZCTU actually has a mandate to represent all workers, not just their own members"*, because it is morally the right thing to do. Another reason for unions failing to engage was because of a *"lack of trust"*. Therefore, SE11 (139) was trying to enhance *"the ability of being able to engage"* by including unions in *"senior"* industry level tripartite forums.

Tripartism generally was a significant problem with the implementation of the old HSEA... We think there is a cultural problem. We haven't been doing tripartism well for a long time and we are not necessarily in the most favourable political climate. (SU12.2-223)

Employers. The three employer stakeholders worked at different levels across industries. The major role of the BLHSF was representing and advocating for the employer association's members on various strategic level WHS forums. Another role was developing strategic leadership capacity to help members change WHS culture in their organisations, and as SE6 (198) noted, *"How do we engage chief executives to be good at it... leadership around safety does count and consequently it is needed?"* The growth in the BLHSF network since their establishment in 2007 was highlighted, *"from 100 people who signed because they felt they should into ... three and a half years later, 230 odd chief executives feeling they believed in something"* (SE6-198). Another stakeholder suggested the BLHSF should develop case studies of good worker engagement that would appeal to senior managers. *"There is an opportunity to showcase what good worker engagement looks like from the CEO perspective"* (SO8-214).

At the industry level, the CSC/ Construction Health and Safety New Zealand (CHASNZ) represented the three construction sectors on tripartite forums. Uniting the industry sectors to form the CSC was seen as a significant achievement. The CSC's initiatives were aimed at improving lower performing subcontractors. They were updating the auditing tool, *"to independently access where our people are compared to the picture they paint"* (SE11-101) and provide support to raise performance (refer to Section 3.7.4). But they were focusing on developing capacity in 2017 (SE11-18).

The NZCB were an important intermediary industry force supporting and helping construction organisations at the operational level. OE10 (246) reported interpreting the HSWA, but *"when it comes to WHS policies and forming those WHS policies and things on site, we don't go there. We have partners, WHS consultants to create those"*. Targeted EP&R work involved educating members and non-members, particularly about *"shared responsibility under HSWA"*, and trying to change culture (OE10-27). The NZCB acted as an advocate with the regulator. *"We try and work on the builders' behalf, back up the chain"* (OE10-148). OE10 was involved in implementing government WHS initiatives, proactively sought advice and resources from the regulator, and was extending the

association's reach by sharing resources with non-members (152 & 25). They were "*still seeing builders making mistakes, which are effectively now breaching the law*" (OE10-69). Although they had some issues with the inspectorates' capacity and consistency in messaging, this stakeholder indicated the NZCB would like more engagement with workers on the development of CoPs and standards (EO10-104 & 152).

It is kind of a triangle of relationships with WorkSafe, NZCB and the builders in the real world... WorkSafe tend to create some piece of practice, have a website and say, 'Go to it'. We take it a couple of steps further and ensure that the message is getting through. (OE10-246)

Stakeholders Representing Other Organisations. All had experience working with (OO5, SO8) or for unions (OO7.1&2) training people at different organisational levels, particularly about their statutory duties concerning EP&R. They valued the traditional HSR and HSC forms of representative participation. SO8 worked at the strategic level across New Zealand. The three others were involved in the CRSC initiatives aimed at changing culture about involving workers in WHS matters (OO7.1-154). This work included providing free training courses and workshops for SME employers, their workers and HSRs (OO5-175, OO7.1&2-239), and helping SMEs review their HSMSs including their EP&R systems (OO7.1-180). They also established HSR (OO7.1-185) and professional services networks (OO7-109).

5.2.4.2 Sociopolitical Challenges and Issues

The sociopolitical context in which EP&R occurred emerged in perceptions of workplace culture, attitudes to unions' roles, sharing power in workplace decisions and forms of worker representation. Analysis of these themes uncovered ideological differences influencing strategic choices and preferences on institutional arrangements for worker voice. Some of these findings have been integrated throughout this chapter. This section outlines the sociopolitical challenges and issues in New Zealand.

While some non-union stakeholders perceived engagement with unions at the strategic level as progress, the strategic union stakeholders were surprised by this perception. "*Really? I find that a strange comment*" (SU12.1, 227). Unions believed union presence in sociopolitical, and economic debates were lower than in the past, but suggested different views depended on the periods being compared. SU12.1-236 talked about the

lack of political support for unions, and employers' negative attitudes towards unions because they threaten profits. There were concerns about the prevailing power relationships between workers and expectations to reach the level of engagement achieved in Scandinavian countries with a different political environment and workplace culture (SO8-220, SU12.1-21).

My response underscores the gap between where we are and where we should be as a union movement in NZ. When looking to the Scandinavians where one in five workers are in a union, there is only so much you can do with that level of presence. You can't really have influence. (SU12.1, 227)

By comparison, the strategic employer-stakeholders' concerns about unions manifested as resistance to traditional regulated forms of worker representation. This included references to the political debate concerning "*the whole representation piece*" causing "*industrial tension*" (SE6-25; SO8-218). Leaving it to business to decide deviates from the 'balanced framework' in the HSWA and is influenced by fear of unions regaining higher levels of power. "*Don't tell me how. Tell me why. Tell me what we need to meet and then leave it to us... baggage and ghosts of past union activities*" (SE6-57). Unions taking an adversarial approach or misusing WHS to increase their power needed to be avoided by ensuring unions' recruitment activities were "*very carefully balanced*" with their service activities (SE11-89).

The ideological differences influencing strategic choices were further revealed in talk of organisational culture and structures that supported top-down management control (OU4-128, OO7.2-77, OR9-157, SE11-7). A resistance to traditional HSRs and HSCs was expressed in perceptions of these forms of representation being "*this transactional safety committee space, which is dull, boring and the same way we have always done it and actually quite limited*" (SE11-34). Worker engagement and co-operation, consultation and involvement were "*old school and really poor and ineffective*" and participation "*had moved on more than that*" (SE11-35). The solution to do something different could mitigate issues concerning the type of people who agree to be involved on HSCs and ineffectiveness of the traditional system (SE11-35). While this justified the use of flexible arrangements, the stakeholders were not sure how HSRs were included in complementary arrangements. However, the legislation requires involving the HSR in engagement if

workers are represented by the HSR (s59 (2)), including when developing worker participation systems (s60 (g)). Neither was the election and training of HSRs always compliant with the HSWA:

There has been no true selection of those people from workers. Often, they are the people who are in supervisory positions and have the power to influence WHS in a different sphere. They don't need to be the HSR, and they should not be. (OO7.2-155)

5.2.4.3 Progress and Areas for Improvement

Sociocultural Values and Ideological Predisposition were revealed in descriptions of an ideal culture characterised by trust, industrial democracy, respect, control and equal power in decision-making. The NZCTU strongly promoted the adoption of “*a higher trust more democratic culture*” as a means of getting workers to speak up about their work. Workplaces “*where people can speak up, have voice, get respect and listened to and have much more say in their jobs, including their safety in their jobs*” (SU12.1-22). This contrasted with the BLHSF idea of culture or engagement as more about balancing respecting worker voice with executive control, “*In a way, how do I respect you as a person and control the situation at the same time*” (SE6-46)? But “*one of the key challenges is that... it is much easier to build a culture in a stable workforce*” (SO8-26). The ideal culture was described as:

The way we do things around here, which is that we all have equal rights. We all have equal opportunity to look at things and see if we think they are optimal. (SO8-26)

Organisational Culture and Practice. Stakeholders agreed there had been weak progress in improving culture and practice. There were bleak reports of continuing failure to involve workers in the development of WHSMS and procedures. Or recognise workers and allow them to help resolve WHS issues. “*There is still poor uptake on worker engagement*” (OR1-67). The NZCTU was satisfied with consultation at the “*high central government level*” (SU12.2-233) and recognised pockets of high-engagement culture in large organisations. However, the NZCTU had concerns about problems at the industry level and the short-term nature of cultural change, which tended to be present in parts of an organisation. SU12.1(93) believed “*we do well in NZ, and I think we have a long way*

to go”. Similarly, there were pockets of good practice within unions. Although union capacity was constrained by weak or no union presence in some industries:

Bearing in mind that there is less than one in ten workers in the sector who is in a union. There are some industries which are either de-unionised or have never been unionised, where there are big problems of worker voice. Not coincidentally that is often in the higher risk industries. (SU12.2-233)

Despite the criticisms of the independent regulator, the unions believed the current legislation and WorkSafe’s performance was better than when it was part of the Ministry of Business, Innovation and Employment (MBIE) (SU12.2-116). OO5-179 agreed, noting that WorkSafe inspectors had adapted their approach from enforcement, to educate and engage with principal stakeholders in Canterbury. Some stakeholders believed there has been improvements in leadership at the governance level, as well as recognition of workers’ contributions and drive to enhance capabilities. The perceptions of areas where progress had been made and those requiring action to achieve sustainable improvements are summarised in Table 5.1 and explored in Phase 2.

Table 5.1. Principal Stakeholders’ Perceptions of Progress and Areas for Action and Improvement

Factors influencing EP&R	Legislative framework	Interpretation, implementation and enforcement of the legislative framework	
		Progress	Areas for action and improvement
POLITICAL hard legislative framework	Legislation and regulations	Better law and regulator – Recognition of due diligence	Framework difficult to implement
	Independent regulator, WorkSafe	Independent regulator performing better than when part of centralised regulatory system	Regulator needs to model good practice, including establishing a tripartite board and ensuring all principal stakeholders are approached at the same time to facilitate more balanced tripartite collaboration in WHS initiatives
	Enforcement and other matters s100-149		Regulator to take enforcement actions
POLITICAL soft government interventions and intermediary forces	Worker engagement, participation and representation S58-68	Well-resourced tripartite government funded WHS initiatives enhanced EP&R in Canterbury. A range of BLHSF, CSC/CHASNZ and NZCB employer initiatives targeting the strategic and operational levels	Workers speaking up rare – fear of adverse consequences for workers and HSRs: Establish sustainable HSR networks to enhance HSRs contribution to workplace WHS and overcome the negative perceptions of HSRs and HRCs
		Collaboration in development of complementary benchmarking tools capturing leadership performance, worker engagement and risk management	Regulator to set targets for health and EP&R, take a more active role encouraging worker engagement and reviewing the effectiveness of EP&R arrangements
SOCIAL cultural values and ideological predisposition	PCBU duty of care s36 – Due Diligence duties	Better governance and recognition of workers contribution: Professional directors focused on good governance	Businesses in general were in the early stages of learning how to collaborate and share decision-making: PCBU supply chains, high-risk industries and SMEs need to change culture and address communication gaps Develop more case studies of good EP&R policies and systems in practice (also examples for CEOs)
	Purpose of the HSWA, 3.1.c. “fair and effective workplace representation, consultation, co-operation, and resolution of issues in relation to work health and safety”	Compliance behaviour at the strategic level: Conversations at strategic and industry levels	Weak progress in improving organisational culture: Develop competence and communication skills needed to nurture trust relationships. Refer to the limitations of current HSR training below

Factors influencing EP&R	Legislative framework	Interpretation, implementation and enforcement of the legislative framework	
		Progress	Areas for action and improvement
	3.1.b. “fair and effective representation, consultation, co-operation and resolution of issues related to WHS”		Difficulties achieving sustainable compliance behaviours at the operational level: Ideological resistance to tripartite collaboration at the operational level, concerns about powers to influence decisions, unequal power relationships and adversarial relationships between employers and unions Improve union involvement at the operational level (low union presence in private sector and high-risk industries)
Structures and process	Worker engagement, participation and representation S58-68	Effective EP&R policies, systems and practices. Pockets of commitment to involving workers in the management of WHS risks. Effective EP&R systems are guided by WHS policies and characterised by three features: leadership, integrating WHS into the way work is done and recognising the value of worker involvement in planning work. Authentic, sustainable and genuine in intent to do the right thing	Tick box compliance EP&R policies, systems and practices: Participation and representation need improvement EP&R systems and practices failing to include workers in the planning and development of WHSMS and EP&R policies, systems and processes (Note: they should also be involved in the implementation and review processes)
Strategic choices and institutional arrangements for worker voice in WHS and DEPTH, BREADTH and SCOPE of EP&R	Worker engagement, participation and representation S58-68	Preference for non-traditional/contemporary forms of engagement and participation empowering workers to raise and solve task level WHS issues	Enforce to ensure the provisions for the traditional forms of representation are working: Non-compliant election processes for worker HSR (and representation on HSCs) Associated limitations in provisions for training and development opportunities Scope of HSR training and development regressed
ECONOMIC and technical conditions – Intermediary forces and training and capacity		Some business led WHS training at the governance and industry level: Generally endorsed and/or facilitated by the BLHSF Safety II Safety Differently programme Construction industry-led CSC/CHASNZ programmes	Need to provide more comprehensive training and ongoing development for all principal stakeholders to ensure the regulator, business, unions, workers and other stakeholders have the capacity to contribute effectively in their roles HSR training is limited to statutory duties and rights – expand to include risk management and soft skills Regulator should monitor HSR training and communicate with HSRs

5.3 Conclusion

Reflections on these findings supported the conceptualisation of an “ascendance of various supportive conditions” (Poole et al., 2001, p. 25). Subquestion 2 concludes that *structural factors* appeared to shape the principal stakeholders’ *strategic choices on institutional arrangements for EP&R in WHS* at the national, industry, organisational and workplace levels. The ideological differences between union and employer attitudes to the unions’ roles and power sharing supported preferences for traditional or contemporary forms of EP&R. This influenced the *variable scope of powers* embedded in the statutory provisions for traditional and contemporary *forms of EP&R*. The principal stakeholders’ power (or lack of power) either promoted or restricted strategic choice and macro level influence in the hard and soft political structures. The findings’ suggested influence was two directional; the statutory provisions for worker voice were both influenced by intermediary stakeholders and influencing strategic choice at the macro and meso levels.

These interviews confirmed the case studies would need to explore why particular forms of EP&R are selected, and how they are helping workers participate in the management of WHS matters and resolving issues. Table 5.1 summarises the stakeholders’ commendations of progress in collaboration at the strategic level. These findings reveal that future actions and improvements need to be more balanced, with an increasing focus on initiatives aimed at enhancing EP&R at the operational level.

These beliefs about progress and barriers to worker voice were examined in the Phase 2 case study organisations. Chapters 6 to 8 present the meso level findings. Subquestion 2 was explored in Chapter 9 as part of the synthesis and discussion of the four findings chapters.

6 Phase 2 Findings: Case Study 1 Wellington, Traditional Forms of Representation and Mixed Labour Practices

6.1 Introduction

The first organisation in this study had been operating for more than 60 years and was the smallest participating organisation with less than 100 employees. In 2018, Case Study 1, Wellington (CS1Wgtn) moved from a family-owned business to a shareholder business model with the directors having senior management roles. Some operational managers were shareholders in the organisation. The organisation took on a variety of construction work from large projects to small works in industrial, commercial and residential sectors. They adopted the traditional form of representation with trained health and safety representatives (HSRs). The health and safety professional (HSP) had no defined budget or authority.

This chapter analyses the findings from interviews with eight participants, observations of two WHS meetings, and organisational WHS documents. The first section outlines how WHS structures evolved in response to organisational change, becoming more focused following the changing statutory framework. This section presents insights into how the organisation managed its health and safety management system (WHSMS) to accommodate full-time trade workers, apprentices and subcontracted workers, and how the engagement, participation and representation (EP&R) structures were incorporated within the organisational structures, particularly the subcontractor WHSMS. The chapter then explores how participants understood the statutory terms, and how the statutory duties were implemented at the site and organisational levels. Having explored understanding and practice, the chapter draws on participants' perceptions of how the current statutory framework has enhanced engagement within the organisation. The section considers external and internal factors that may facilitate or impede EP&R. The chapter concludes with reflection on how understanding influenced efforts to exceed statutory duties.

6.2 Organisational Context

Numerous awards for large and small construction projects demonstrated a commitment to deliver quality construction projects. Employees tended to be attracted to the shared family values and supportive environment and recruited through personal networks. Most employees worked full-time with only 5% on part-time contracts. The organisation acted as the principal, subcontracting to 40 trusted functional specialists with long-term relationships at the time of this research. Contrary to national trends, migrant workers understanding of WHS standards in New Zealand and work ethic were respected.

Table 6.1. WHS Structures and Professional Roles in CS1Wgtn Between 2005 and 2018

Contextual influences		WHS structures
Family owner-operated	1950s	
	2005	Pre-2005 HS consultant
Organisational structural change, directors and shareholders	2008	Apr 2005–Jan 2014 HS coordinator (part-time)
Canterbury earthquakes and growth in South Island	2010	
Independent regulator, WorkSafe established	2013	
	2014	
HSWA 2015 enacted from April 2016	2015	
HSW Regulations 2016	2016	May 2016–August 2017 HS coordinator (full-time, plus assistant) November 2016 operational WHS manager
8 Enforceable undertakings accepted	2017	Jan 2017 – New HR advisor role
13 Enforceable undertakings accepted	2018	October/November 2018 strategic manager with WHS portfolio, new systems control manager
Preparing for ConstructSafe Test		

Note: Grey shading highlights key regulatory actions and other external influences. ConstructSafe is a competency scheme developed by CHASNZ for the construction industry.

Table 6.1 shows staffing fluctuated between 50– 100 employees in response to bust-boom industry cycles. The introduction of more strategic and professional roles between 2014 and 2018, including WHS roles, aligned with the shareholder organisational structure

established in 2008, and a growth phase at the time of this research. The gradual strengthening and progression of the WHS professional's role, function and authority demonstrated an increasing focus and commitment to continuously improve the management of WHS risks as part of the general business strategies. This began before the Pike River catastrophic event, with a full-time operational position created after the enactment of the HSWA. By the end of 2018, a strategic management role with a WHS portfolio was established. A dedicated systems manager was accountable for integrating the general and WHS digital systems, and a position for an in-house human resources advisor was established. The general manager had been with the organisation for less than one year.

Prior to the establishment of the strategic manager portfolio, the HSP had acted as advisor to the board and strategic team, provided support at the operational site level and worked directly with workers. The HSP role was integrated with environmental risk management and had no direct reports or budget.

The influx of more experienced personnel reflected the ongoing transition to the shareholder model. Additional expertise coincided with the steady integration of specialist software programmes and applications across all functional areas of the business. The broad hierarchical organisational structure presented in Table 6.2 illustrates how the HSP and EP&R structures coexisted at the strategic and operational levels. The general manager chaired the health and safety committee (HSC), The HSC members included a director, a project manager, two site managers, a rotational quality surveyor, and the operational WHS manager. Two traditional health and safety representatives (HSRs) represented carpenters and apprentices. A senior manager was responsible for managing the apprentice development programme, with 11 apprentices in 2018. The interviewed operational managers, foreman and tradespeople had been with the organisation for 10– 30 years.

Table 6.2. CS1Wgtn Organisational Structures and Key Roles

Organisational structure	WHS team	EP&R structure
Board of Directors	Strategic Manager with WHS portfolio	Steering Group
General Manager		HSC (GM)
Senior Managers		
*Operational Managers	Operational WHS Manager	HSRs
Foremen		
Workers		
Apprentices		

Note: Quality surveyors planned and prepared tenders for projects. Operational managers included the project managers and site managers.

CS1Wgtn reported 13 lost time injuries (LTIs), 38 total days lost and 20 ACC claims between 2015 and 2018. No formal staffing issues or WHS regulatory infringement notices or penalties were recorded for the same period.

Key WHS events in 2016 included an Engagement Survey in December, preparation for a ConstructSafe audit, and simplification of the task analysis system. Three staff had HSR Level 1 training, and one person the transitional training for the current Health and Safety at Work Act 2015 (HSWA). In 2018, the WHS review was conducted in July, the leadership programme started in November, and the operational managers would start reporting to the new strategic manager on WHS.

Everyone was involved in some way in the core WHS management activities. Strategic managers were active in reviewing and monitoring workers in operational aspects, and operational managers involved in most relevant activities:

- Strategic and operational managers were involved in all the key WHS activities including the **planned review** of the WHS management system, and the **health monitoring programme**.
- The HSC, HSRs and workers were directly involved in the **tendering and contractor management processes**.
- HSRs had no specified expectations to help **identify hazards and manage risks** or in the management of the **emergency system**.

- HSRs were involved in **accident and incident reporting**, while strategic and operational managers and workers were involved in related activities at different levels.
- Subcontractors and their workers were expected to identify hazards, manage risks and report WHS accidents and incidents.
- All CS1Wgtn staff received some form of **WHS training**, such as job specific training and development, SiteSafe inductions and in-house WHS training programmes.

This research process started with an invitation in September, collection of background information in October, and fieldwork in November 2018.

6.3 CS1Wgtn Findings

6.3.1 *Defining and Understanding EP&R*

Apart from the HSP, participants generally admitted having limited understanding of the statutory requirements for EP&R beyond the general rights for workers to be engaged in WHS decisions. Participants believed “*the industry in general has come on leaps and bounds*” (CS1MIKE) with everyone in the organisation, “*know[ing] what is expected of them*” (CS1ALAN). An understanding of “*everybody deserves to be listened to*” (CS1LIAM) was driven by moral beliefs about protecting people against harm caused by workplace risks. The right to go home safely at the end of the day peppered the interview conversations and was more important than understanding the legislation.

I’m speaking generally, but I think for most people here, I don’t feel I need to have that in-depth knowledge of it. I personally would hate the idea of one of the team here actually getting hurt or something really awful happening. (CS1TOM)

The operational managers and HSP were actively ensuring people understood their rights and duties to speak up or stop work:

Everyone seems to understand now that we need to talk. We need to communicate. We need to make sure that whatever we're doing is not affecting anyone else. We prioritise that. (CS1MIKE)

I have that conversation with them a lot, one-on-one and in groups. Whenever I've had conversations, it is saying, "You can stop work. I'm giving you permission to do that. You know where my number is". (CS1SAM)

6.3.1.1 Engagement and Participation

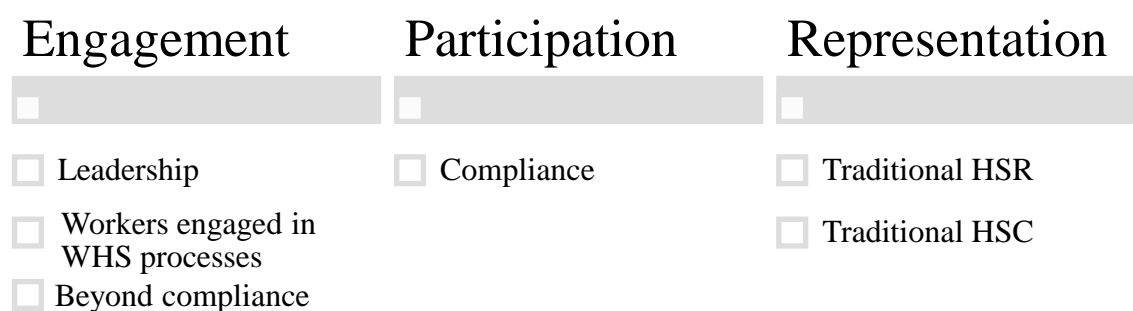
Of the three legal terms, engagement was most frequently used. The HSP referred to improvements in top-down, "*leadership engagement and their acknowledgement that workers do have the right to go home safely*" and "*want[ing] the guys to be engaged*" (CS1SAM) in bottom-up communication processes, such as incident reporting and the HSC. Whereas a strategic manager defined participation as a compliance approach and engagement as moving beyond feeling like:

'Oh, we're just doing this because we have to' and this is where the focus has got to come. Actually, doing this because we really want to and it's just part of how we do things. That's where I think the focus has got to get to... That whole engagement side of it. I feel like we've got participation, but we haven't got engagement. (CS1TOM)

6.3.1.2 Representation

Representation only arose as "health and safety representative(s)" and their role on the HSC and sites. In sum, the understanding illustrated in Figure 6.1 suggests that WHS systems and practices should comply with the statutory duties for traditional representation at the organisational and site levels.

Figure 6.1. CS1Wgtn Participants Understanding of the Statutory Terms



6.3.2 *EP&R in Practice*

A wide range of formal and informal, direct and indirect forms of worker voice were identified in the literature. The identification and management of critical risks appeared to be at the heart of complex network of communication mechanisms and processes adopted at strategic and operational levels. There was some overlap between the processes and practices occurring throughout the lifecycle of a construction project.

6.3.2.1 **Direct Informal Forms of Worker Voice**

Direct informal forms of engagement at the individual level included one-on-one conversations and emails. Directors and management used these to encourage workers and subcontracted workers to talk about organisational matters and WHS issues, such as correct use of personal protective equipment (PPE). Crane exclusion zones, erecting safety handrails, ladders and mobile scaffolds, and a work scuffle were other issues occurring at the time of this research. CS1COLIN appeared to elevate the critical risk issue, “*Well I mean gloves and glasses and stuff all the time. It’s not actually practical. But then again when we’re putting handrails up*”. A suggestion box had differing success rates across regions, as “*there’s probably a little resistance in the beginning, but some sites have actually welcomed it and done really well*” (CS1LIAM).

6.3.2.2 **Direct Formal Forms of Worker Voice**

The range of direct formal WHSMS processes for encouraging individual workers to engage and participate included task analysis; accident, incident and near hit reporting; and recognising and rewarding good practices and behaviours. The events, issues and behaviours on the site were the priority, with information flowing upwards through the

site team to the strategic level. Workers were consulted in the development of specific task analysis, as well as corrective actions emerging from post-incident investigations. In addition, workers were encouraged to report safety related tasks on timesheets to ensure adequate resourcing was calculated for health and safety on future projects. Participants noted, *“if we put it in here [timesheet], it goes back to Head Office, and they can see where the time has been lost”* (CS1COLIN). This was partly because *“it is very hard to know what to allow for WHS [and to ensure] if there’s something that the estimators have missed, you need to document it. Next job, they get it”* (CS1TOM). This highlighted the importance of effective communication between strategic and operational staff in the pre-tendering and subcontractor selection processes.

At the Site Level. Of the formal direct forms of engagement and participation, toolbox talks were *“critical”* and *“the one time when we all get together and have a conversation”* (CS1COLIN) on building sites. The site management team used this time for updating everyone on project progress, logistical and planning matters, as well as WHS risks with the potential for harm, reported accidents and incidents. In sum, *“making sure that everyone has got all the information they need to do their job safely”* (CS1TOM). As well as *“getting everyone engaged and getting them to speak up, basically that is why we have those toolboxes when we try and get everyone to speak up”* (CS1TOM). Despite efforts to encourage participation by *“asking a couple of questions.... Most of the time we don’t get anything back”* (CS1ALAN). Workers tended to talk about an issue privately. A negative perception was related to accountability and compliance driven behaviour:

If something goes wrong then, hey it’s on me because I knew it was wrong. Because we spoke about this in the toolbox meeting, which I attended, and I signed onto. (CS1OSCAR).

Pre-tendering, subcontractor selection and induction processes were additional forums for discussing general operational matters, and effective management strategies for site-specific critical WHS risks and hazards. Site forums provided opportunities for downward information flowing to subcontractors and workers about the organisational standards and expectations, as well as encouraging participation in resolving WHS issues. Subcontractor and worker inductions were used to build relationships, establish individuals’ levels of understanding and literacy, and have conversations about site-

specific risks. The following perception suggested awareness of the intended purpose of inductions:

I needed to make sure you're aware of our hazards, you are aware of what we require of you, what we expect of you. If there's anything that you see that you can tell us ... That's the whole reason we do the inductions. One of the things from the HSWA, yes you can fill in the forms and bits and pieces on the app. But making sure that someone goes through and shows you, this is where it counts. (CS1MIKE)

At the Organisational Level. There were general direct formal meetings where WHS was discussed at the strategic governance and operational site management levels, such as the Director and Advisory Board meetings. Governance strategic leaders were interested in the overall effectiveness of the WHS structures, policies and practices, and potential strategies to improve current performance. Significant strategic improvements were described as an evolving continuous improvement process ensuring CS1Wgtn was, “getting stronger and stronger as a company. The company's only as good as the people, isn't it?” (CS1LIAM)

Direct formal processes and systems, such as software systems, were viewed as useful support for verbal forms of communication. There were some teething problems with the introduction of these systems, including technical anomalies and the levels of detail needed in the Signon-site app, “we don't end up with the [detail a manager] puts on his briefings” (CS1SAM). Differing opinions about the effectiveness of non-verbal forms of communication supported survey findings, showing persistent differences between management and worker perceptions. Senior managers had positive views of newsletters and biannual roadshows for sharing interesting and necessary information.

Everybody knows pretty much what they need to know, not necessarily what they want to know. And the lines of communication and support are probably even better than they have been. (CS1LIAM)

A worker disputed the effectiveness and noted some limitations of these forms of communication. “They don't engage us. We don't know what's going on in the company” (CS1OSCAR). He preferred site visits and social events for introducing new staff, but not for sharing WHS information. “We're a building site. You're not going to talk WHS at

smoko time". He was concerned about accommodating younger workers who checked their mobile phones during their breaks. But he did not believe noticeboards were useful in the smoko shed, preferring hardcopy information to be available as, "*they are not going to stand at the wall and read that... you'll look at it on the wall*".

6.3.2.3 Indirect Formal Representation

When it came to indirect formal forms of representation, the traditional HSC with elected HSRs representing "*every corner of our company... which meant the committee meeting would take too long and the outcomes were very low level*" (CS1TOM). Sometimes only three or four of the 10 to 12 members attended because of project commitments. The establishment of a roving HSC was aimed at getting a cross-section of members regularly attending meetings (CS1SAM), walking around a site and moving away from the "*nitty gritty level*" range of subject matter (CS1TOM). Meeting minutes demonstrated the progression from reactive lag indicator discussions to more strategic proactive lead indicator initiatives, such as the Safety Differently approach (CS1Obs1.2 extracts presented in Appendix M). This demonstrated efforts to improve the functioning of the roving HSC, devolving operational decisions to the site management team:

*We have changed to the new committee, new things coming in.
Hopefully a lot of the high-level risks, looking at the associated issues...
mundane stuff that can be dealt with at a site level.* (CS1TOM)

Devolving operational responsibility was evident in crane safety zones and PPE issues covered at the site level (CS1Obs1.1) but there was limited input in the planning phase and structured budget allocation. While the HSC meeting minutes indicted wearing singlets was tolerated in 2016, a more strategic approach was being taken to banning singlets. This initiative aligned with developing pride in the organisation's image, "*if we are wearing CS1 clothing ... our sites reflect our culture, and we are proud to be a part of it*" (CS1SAM). This example demonstrated the board's role in providing direction on acceptable minimum standards.

One of the HSC objectives was to familiarise the committee with WHS issues, "*We're going to sites for these meetings, so that everybody can have a look at the site, and we can actually take a little stroll around and point out things*" (CS1ALAN). The HSRs had undertaken relevant HSR training Level 1 for the current HSWA, and meeting minutes

were disseminated to all staff. An HSR agreed the HSC should be a formal forum for discussing higher level controls for critical risks that should be considered as part of project resource allocation. However, he was perturbed about the lack of action on a proposal:

But people have been asking for different stuff... Then that goes to a discussion, and you won't hear about it next month. It just kind of vanishes; no idea what's going on there? (CS1EDWARD)

There was some confusion about the HSR election process, and concerns regarding the two elected HSRs capability and capacity to represent workers across multiple sites. While managers described an election process, “*We had three nominated by management and then three that we are having elected*” (CS1SAM), this process may not have been clear to the workers. Three managers and two trade workers were identified as elected HSRs. However, CS1OSCAR believed, “*We never elected them*” and noted a third HSR was unaware of his term ending. There were problems associated with attracting HSRs. “*That's not that easy, in my view. It's something not a lot of people seem to want to do really*” (CS1TOM). Although managers suggested workers, “*need a little bit of encouragement*” (CS1LIAM), they were looking for people who “*really engaged*” (CS1SAM) and needed to ensure that:

They are passionate about it, and it means something to them. It's very hard to get excited about stuff that's not really of any interest. At the end of the day everybody wants to go home, don't they? (CS1LIAM)

Some HSRs “*left [because] it probably wasn't what they thought it was going to be*” (CS1LIAM). Timing HSC meetings to fit with the HSR's work was an issue, “*You've got to make it at a decent time. Don't make it hard... otherwise no one's going to participate*” (CS1ALAN). Still, logistical issues had prevented an HSR from attending the observed HSC meeting. These difficulties complemented worker concerns about the lack of HSRs on all sites and level of HSR experience. “*But he's probably been on building sites for three years tops. You got the wrong people on there doing the wrong things... We never elected them*” (CS1OSCAR). This meant workers raised issues with the site team or directly with the HSP, “*They do seem to confide in her... she's probably the first port of call for a lot of people*” (CS1TOM). The HSP noted the HSRs, “*don't have to do anything in terms of PINS, but we've got them there if needed. So that's good*” (CS1SAM).

Table 6.3 shows how the formal and informal face-to-face conversations with individuals and groups, focused on identifying and controlling risks, and followed strategic direction through the tendering and planning processes and during the construction project. Information and expectations were directed downwards and operationalised at the site level with information guiding future strategic decisions.

Table 6.3. CS1Wgtn’s EP&R System and WHSMS Processes in Practice

Breadth of participation	Example forms of participation	Range of subject matter	Degree or extent of influence
Site and task level participation			
Direct informal forum	One-on-one/group conversations Suggestion box	WHS matters such as PPE, handrails	Discuss general matters and WHS issues
Direct formal processes	Initial team/group site induction conversations	Operational matters Task and site-specific WHS risks and hazards	Downward informed and encouraged to speak up about issues
	Task analysis (TA)	Task specific risks and hazards	Consulted in the development of TAs
	Accident/incident reporting	Task and site-specific accidents, incidents, near hits	Involved in follow up corrective actions
	Timesheets	ID and management of task and site-specific risks and hazards	Upward communication of WHS activities
Direct formal forums	Ongoing site updates through toolbox talks, project and WHS notice boards, SignIn app	Organisational standards, project and WHS information, general housekeeping	Informed and encouraged to speak up about issues
	Recognising and rewarding good practice	Good behaviours and practices	Upward nominations
Informal social	BBQ	None	Building relationships and trust
Organisational level of participation			
Direct formal forums	Twice yearly roadshows	Organisational plans	Downward informed
Direct formal systems and processes	IT systems (Acute, Procor, SignOnSite)	All project and WHS data	Upward data records
	Project meetings Subcontractor meetings	Integrated general and WHS matters and issues	Upward and downward
Indirect traditional representation structures	Trained HSRs	Operational level short-term WHS matters and issues	Some consultation
	Roving HSC meetings	Moving towards strategic level decisions, critical risks	Make decisions, meeting minutes to all staff

Note: Bold items represent processes and forums unique to this organisation.

6.3.3 How the Current Legislative Framework Contributed to Improving EP&R

The participants all believed the current HSWA had changed the organisation's approach to WHS. The overarching impression was that the HSWA had "*forced a greater degree of focus on WHS and participation*" (CS1TOM). The management of WHS was, "*a hell of a lot better. Everyone seems to be more engaged. There's been more emphasis on everyone speaking up*" (CS1TOM). Comments about the consequences of breaching HSWA requirements and improving WHSMS and behaviours, demonstrated perceptions of organisational commitment to complying with the statutory and industry standards. In fact, participants were confident that CS1Wgtn had achieved sustainable compliance behaviours and was ready to progress to the next level:

We try to abide by the law really, follow the law... and the culture on site and the culture of our subcontractors and everybody's starting to lift the bar up nice and high. (CS1LIAM)

But now it's kind of, to tick the health and safety boxes and get things done correctly, and then the money comes in. (CS1EDWARD)

When it came to effective EP&R behaviours, participants believed there was more engagement with workers in recent years. Senior leaders engaging with workers was the real change as, "*the leadership engagement and their acknowledgement that workers do have the right to go home safely*" (CS1SAM). At the site level, managers believed "*there was definitely a lot more collaboration and discussion about WHS. A lot more strategy, a lot more preparation up front and those sorts of things. The whole industry, I think the whole worlds changed*" (CS1LIAM). Supervisors were, also "*pushing to hear everybody [more than before]*" (CS1EDWARD).

6.3.3.1 Enhancing Organisational Capacity and Resources

When it came to resources, CS1Wgtn was increasing investment in upskilling current staff and employing new staff with appropriate skills, knowledge and experience. This included commitment to enhance senior leaders and managers 'soft skills' and send HSRs on training courses. The move towards a more strategic approach involved attempts to collect information about actual WHS related costs on projects to reduce instances of compromise on smaller projects and those running late:

As a rule, WHS always takes a second place when the job's running late, or the job's running low on budget. We never allow enough in our costings for WHS to be done the way it should be 100% of the time.
(CS1COLIN)

If given the choice, participants would spend money on better equipment, for example, ladders and scaffolds. More training was another priority and included upskilling workers on task related activities and correct use of PPE, such as harness training. One participant would send all managers and workers on appropriate WHS management and HSR, leadership and dispute resolution courses, and a manager would target integrating the different IT systems.

6.3.3.2 Regulatory Capacity, Performance and Alternative Enforcement

As the senior leadership, management and worker roles in engaging and participating in WHS were captured in the previous sections, this section focuses on perceptions of the regulators' role in EP&R. In Phase 1, participants noted the three pillars underpinning the regulators statutory duties, the “*three 'E's: education, engagement and enforcement*”. Concern that enforcement would increase had abated, “*My initial opinion was, they were still going to be enforcement, rather than engagement*” (CS1SAM). These participants generally reported not seeing regulatory inspectors and wanting more regular site visits. A “*fresh set of eyes*” (CS1TOM) would be welcomed as, “*a good barometer of what's going on? Yeah, I wouldn't mind at all*” (CS1LIAM). Rather than only reacting to reports or investigating accidents. Nor should the organisation be warned of a regulatory inspectors visit.

I only see them when something goes wrong... Maybe they should be visiting more often before the accident. They show up after the fact. It's already happened, now they come. (CS1OSCAR)

Participants acknowledged WorkSafe staff engagement with industry groups and HSPs through specialist associations such as the New Zealand Institute of Safety Management (NZISM). “*WorkSafe almost always does some form of a presentation, might talk about a case study*” (CS1SAM). WorkSafe staff were perceived to have “*become more communicative with emailing*” (CS1LIAM) information to interested individuals and organisations and through their website. They have also developed more collaborative

relationships. More help at the operational level would be appreciated. However, resourcing was perceived to be a barrier to the regulator having sufficient time to be proactive in carrying out their statutory duties as, “*they’re probably putting out fires by things that have already happened. They can’t get in front of it*” (CS1LIAM).

What I see is reasonable, what they see as reasonable, will be two different things... It’s not their job. But if WorkSafe can offer suggestions on how we can improve things, how we can resolve issues.
(CS1TOM)

Education, educating us... Whether there are courses that do it. Whether they come on to a site and stop and have a conversation with everyone, regarding WHS? I don’t know, but knowledge is key. And the more people know, the more it is out there, the more people are likely to stop and think about something before they do it. (CS1COLIN)

6.4 Conclusion

Participants believed CS1Wgtn had identified areas for improvement to ensure the WHSMS was compliant with the additional duties in the HSWA. The findings suggested the strategic leadership team was willing to demonstrate leadership in steering the organisation through the implementation process. This involved integrating general organisational and WHSM systems. Policies were in place and training programmes targeting cultural change were a key part of implementing the planned improvements. While there were no difficulties in achieving compliant practices and behaviours, a manager was apprehensive about increasing accountability for managing WHS at the site level. Overall, the perceptions of engagement improving after the changes to the statutory framework occurred were characteristic of a reactive approach.

Exploring how the current statutory framework was influencing worker EP&R in WHS matters, the participants understood workers’ rights to be engaged and the organisation’s duties to provide relevant forums for disseminating WHS information and opportunities for workers to provide feedback. Engagement was the most frequently used term. From a senior manager’s perspective, engagement was superior to participation, which was interpreted as compliance behaviours. The majority of CS1Wgtn participants associated representation with the traditional trained HSCs and HSRs.

In practice, descriptions of how commitment had improved CSIWgtn's systems and practices aligned with the senior manager's interpretation of participation going beyond engagement. WHS forums coexisted within the organisation's hierarchical structures, general system and processes. Most participants reported improvements in engagement across the organisation. The senior leadership team was strengthening personnel capabilities, including access to WHS expertise, and were focusing more on critical risks and associated strategic initiatives. This was part of a transition away from involvement in the daily management of low-risk WHS issues. They were more engaged with workers in safety conversations. All leaders and managers had started a development programme aimed at enhancing management and communication skills. Site managers were responsible for managing WHS and were expected to facilitate engagement by disseminating relevant information downwards from the strategic leadership team, and feedback upwards from the site. The devolution approach resulted in the site teams using the documented WHS site meetings and WHSMS processes as forums for sharing information and providing opportunities for involvement in WHS matters. While committed to meeting CSIWgtn's expectations, efforts were also driven by the moral imperative for everyone to go home safely.

The overarching impression was that worker engagement in forums and participation in WHSMS processes was valued. Participants reported more leadership engagement, enhanced capacity, consultation and involvement in task analysis, timesheets, and subcontracted workers felt more confident to speak up to stop unsafe practices, but believed effective communication depended on general approachableness and trusting relationships. In fact, they preferred face-to-face communication that filtered information into the formal forums and processes. Although the traditional representation structures were in place, representation was the main area where perceptions varied, and there appeared to be some confusion about the design and implementation of EP&R system processes. The perception of resistance to change from mature people was acting as a barrier to maintaining an HSR mentoring and development programme. Thus, the system was failing to deliver sufficiently capable empowered HSRs to effectively represent workers on sites and the HSC. Consequently, the HSP acted as the advisor to the WHS Steering Group, supported the project and site managers, and was a direct contact for all workers. Prioritising advisory and supporting tasks was impacting on the HSP's ability to keep administrative tasks up to date.

The participants identified several areas for improvement, and generally focused on operational task specific training, better equipment and further integration of the digital systems. These were already being targeted by the strategic leadership team. Another area directly related to improving engagement and participation was a need for soft skills leadership training. However, this was associated with dispute resolution, rather than productive relationship building, coaching and mentoring skills associated with effective “good faith” reciprocal trust workplace relationships.

All participants believed the current statutory framework had prompted improvements in engagement and consultation within the construction industry. But participants were disappointed in the current independent regulator’s performance in proactively engaging with management and HSRs on sites. Although commended on improving the provision of information through the website and engagement with industry and specialist WHS associations, participants believed resourcing and capacity issues were preventing WorkSafe inspectors from progressing from a reactive to a proactive presence on sites.

Chapters 7 and 8 present the findings of CS2Auckland and CS3Christchurch case studies respectively. The EP&R forums and influencing factors will be discussed and compared across the three case studies in Chapter 9.

7 Findings: Case Study 2 Auckland, Contemporary Representation and Subcontractor Labour Practices

7.1 Introduction

This family owner-operated organisation established in the South Island for over 60 years was involved in the rebuilding of Canterbury. Specialising in end-to-end control of projects from design through construction, they employed more than 400 full-time employees. Operations expanded to the Auckland region in 2013. Case Study 2, Auckland (CS2Auck), functioned as a greenfield site with a predominantly subcontracted labour workforce. The experienced regional management team was adapting the organisational structures and systems to accommodate the current statutory framework. The senior workplace health and safety professional (HSP) was part of the Auckland management team. CS2Auck adopted contemporary health and safety committee structures (HSC).

This chapter analyses the findings from semi-structured interviews with 13 participants, observations of four WHS meetings, and organisational WHS documents. The first section outlines the organisational context and how the WHS structures evolved to ensure CS2Auck complied with the Workplace Health and Safety Act 2015 (HSWA). This section presents insights into how the organisation manages its health and safety management system (WHSMS); and how the engagement, participation and representation (EP&R) structures are incorporated within the organisational structures. The chapter then explores participants' understandings of engagement as a prerequisite for participation, and how the focus on the *primary duty of care* and *due diligence* duties were implemented at site and organisational levels. The section draws on participants' perceptions of how the current statutory framework has enhanced engagement and participation within the organisation. The external and internal factors that may facilitate or impede EP&R are considered. The chapter concludes with reflection on how contextual factors and understanding influenced efforts to exceed statutory duties.

7.2 Organisational Context

The parent organisation had well-established organisational structures and systems in place and had won numerous awards, including for workplace health and safety (WHS) initiatives across regional projects. The organisation used recruitment agencies, online employment websites, employee referrals and a student sponsoring/mentoring scheme to attract skilled and emerging construction professionals from national and international talent pools. Many of the interviewed CS2Auck participants had substantial overseas work experience. A personal commendation from a union, regarded the parent organisation as having good working relationships with unions and a reputation for looking after migrant workers. However, there was no union presence in Auckland.

Table 7.1. WHS Structure and Professional Roles in CS2Auck Between 2013 and 2018

Contextual influences		WHS structures
Family owner-operated	1950s	
Organisational growth and expansion in South Island	2008	
Canterbury earthquakes and growth in South Island	2010	
Independent regulator, WorkSafe established	2013	
Organisational growth and expansion in North Island	2013-2014	
HSWA 2015 enacted from April 2016	2015	WHS review led to restructure of HSP roles
HSW Regulations 2016	2016	
Organisation integration of business units		Mid-2016 advisory HSP manager
8 Enforceable undertakings accepted	2017	November 2017 – restructure WHS create strategic level HSP group manager
13 Enforceable undertakings accepted	2018	November 2018 – Further growth in North Island, additional HSP position
Preparation for SafePlus accreditation		

Note: Grey shading highlights key regulatory actions and other external influences.

The establishment of a greenfield site in the North Island provided opportunities to plug gaps in the organisation’s systems, with the South Island region adopting recommended changes. Table 7.1 charts the planned integration of the WHS structures, systems and practices following the 2014 annual review. The 2017 annual review led to another

significant proactive step in embedding the integrated “holistic” approach to managing WHS across all organisational units. The importance of adjusting to the current HSWA was demonstrated in the upgrading of the senior HSP’s role and authority over the national WHS team of six operational HSPs.

Table 7.2 shows how the formal EP&R structure reflected the organisational hierarchy, with directors, regional and senior managers represented on the strategic WHS Steering Group; two HSCs representing the North and South Island regions; and HSCs for each unit. This meant some people attended multiple HSC meetings. Site managers and foremen were expected to relay workers’ WHS concerns up the chain. The WHS budget was dedicated to resourcing the team of HSPs, relevant staff training, and health programmes and monitoring. Resourcing of risk management strategies was allocated to the construction projects. There were plans to employ an additional HSP in response to continuing growth in the North Island. Technological support was provided through specialist software programmes and applications.

Table 7.2. CS2Auck Organisational Structures and Key Roles

Organisational structure	WHS team*	EP&R Structure
Board of Directors	Senior WHS Manager	Strategic Steering Group Regional HSCs Unit HSCs
Chief Operating Officer		
Regional and Business Unit Managers		
Operational Managers** Foremen Workers Apprentices	2 WHS Coordinators 4 WHS Advisors	Manager or HSP as proxy HSR

Note: *The Workplace Health and Safety Team (WHS) comprised seven dedicated HSPs. **The operational managers included the quantity surveyor, project manager and site manager.

Additional key WHS events included tertiary level ACC Workplace Safety Management Practices (WSMP) accreditation and preparation for a voluntary SafePlus audit; an Engagement Survey; and implementation of a revised subcontractor WHSMS in mid-2018. WHS activities at the time of this research included: 1) a review of managers’ skills and roles, clarifying operational managers’ roles and responsibilities, and establishing level of WHS support required for each unit; 2) standardising the WHSMS across units –

reports to the Board and HSC, JSAs, subcontractor WHSMS, SafePlus Audit preparation; 3) establishing WHS team training needs; 4) an external audit of the WHSMS (Documents); and 5) a management development programme on cultural change. The core structures were leadership direction from the national strategic leadership team, operationalised at regional and unit levels and supported by the WHS team. The WHSMS accommodated opportunities for everyone to be involved in managing the WHS risks and hazards at either the strategic or operational level.

- The governance board were involved in **planning, monitoring and reviewing** the effectiveness of the WHSMS and structures. This included the annual **planned review** and **overarching strategic decisions** about approach to and resourcing of the WHSMS, formalised in the latest strategic three-year business plan 2019.
- Senior and middle management site teams were involved in **subcontractor tendering, selection and post-completion handover**.
- Subcontractors and their workers were expected to identify hazards and manage risks.
- Middle management site teams were involved in planning WHS activities such as **emergency management**, managing and monitoring the **accident and incident reporting process and outcomes**. As well as **health monitoring and return to work programmes**.
- With the site team encouraging worker involvement **in hazard identification and risk management strategies**, accident and incident reporting, monitoring corrective actions and sharing lessons, and participation in and reviewing emergency drills.
- CS2Auck staff raised concerns with and were represented by the site management team and the HSP team. Subcontractors had similar **representation structures for sharing worker concerns**.
- All CS2Auck staff received some form of **WHS training**, such as job specific training, site induction and in-house WHS programmes.

The research conducted in one region started with the invitation in October 2018. Background information was collected in December and fieldwork carried out in January

2019. There were four fatalities in the construction industry in Auckland in 2018, two recent fatalities related to steelwork, and one had occurred very close to the site.

7.3 CS2Auck Findings

My first impression on arriving at the first site was of a good atmosphere and organised work environment (noted in my observation record extract in Figure 7.1).

Figure 7.1. Extract from CS2Auck Observation Record

<p>Case study: CS2</p> <p>Day 1:</p> <p>Observation Date: 29 January 2019, 7:00– 7:20</p> <p>Type of observation: Weekly toolbox meeting</p> <p>Pre-meeting: It was a calm humid morning promising with the promise of the heat later in the day... The workers appeared to be standing in distinct groups. When I asked about this after the meeting I was told they always separate into three groups. The site was very tidy. A clean BBQ rested under a shade tarpaulin covering the meeting area. The site manager has weekly BBQs where the workers mingle and develop trust. New plastic sheeting covered tables with a herb plant on the table (There was a small herb garden). A large monitor had been set up and whiteboards ran along two sides of the area; one side was for WHS, the other for project management. The site manager would later explain how these were integrated. They flowed through three levels of detail presented on laminated colour coded site plans. Again, these were separated into different building tasks; concrete laying, etc.</p>	<p>CSObs 2.1</p>
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7.3.1 Defining and Understanding EP&R

The CS2Auck managers and HSPs were confident managers understood the legislation, “*Nobody on this site, except management staff has read it and understand it*” (CS2ROB). But they believed SME subcontractors and general workers did not understand it or they had a “*minor understanding*” limited to having, “*to wear their safety gear and that kind of thing*” (CS2JORDAN), and speaking up:

Nobody understands the definition of engagement in the sense as it applies to the legislation... But they all know about participation during the meeting. We saw that this morning. (CS2HENRY)

7.3.1.1 Engagement

CS2Auck managers understood that engagement was a prerequisite for participation. For example, the current HSWA enhancing worker involvement:

They're getting directly engaged a lot more. It was always just a high-level type of thing, where likes of me and the site manager would draw up a risk assessment... You get a lot more workers involved in that process to get more insight from them. (CS2LEON)

At the organisational level, worker engagement meant discussing training and development needs with staff to ensure the organisation complied with *due diligence* requirements. “*The only way you're going to upskill, train and make people more aware is by engagement*” (CS2DAN). Site managers were expected to relay information upwards to the board via the HSC. “*That's about worker engagement. The foremen and the site managers should be obliged to take the information from their workforces*” (CS2DAN). It was also about senior managers trying to “*engage in safety conversations about safe work practices, such as wearing appropriate PPE*” (CS2DAVID).

7.3.1.2 Participation

Site managers were informing workers about WHS critical risks and providing opportunities to participated in WHS matters through WHSMS processes, such as hazard identification, risk management, and incident and accident reporting. Although engaging workers was challenging, managers talked about increasing engagement promoting participation:

If you can engage with people, and sometimes it's hard to get engagement with people, but you've got to engage with them, give them an opportunity to go forward. (CS2JAMES)

The more you engage them, the more positive they act. If they see their opinion is valued, they tend to give their opinion more. (CS2LEON)

CS2JAMES talked of fatalities or preventing fatalities when referring to participation. He believed participation was the best way forward for building team relationships, learning from incidents and ensuring everybody was involved in the process, “*if something goes*

wrong.” Participation could only be achieved by leading by example and, “*input from everybody. Because everyone was responsible*”. His preference for more regulatory involvement on construction sites as “*participation*” and the impact it would have aligned with the three pillars of the Robens model: a strong regulator, capable employers and informed workers. “*That’s going to improve worker participation, management participation and trying to get WHS to a higher level*”. He suggested having a national industry WHS forum, “*to get more engagement from the different participants in that construction scene*”, and concluded:

It’s not management. It’s workers who die and it’s participating with those workers to say, “We need your help. We need your input, your feedback to improve the systems in place”. And I think it’s trying to get that framework to make sure that does happen. (CS2JAMES)

However, a HSP described the need for the senior managers to delegate, “*the responsibility downwards so that people understand their role and the responsibilities within it*” (CS2DAN). This contrasted with a manager’s preference for, “*More participation coming down from the top, not waiting for guys to come from the bottom-up*” (CS2JAMES).

7.3.1.3 Representation

Although HSPs understood the legislative requirements and frequently referred to the statutory duties, this was not surprising as one of the HSPs was an ex-WorkSafe inspector. There was less talk of the traditional forms of representation because there were no HSRs in the North Island. “*We didn’t have the workforce in place*” (CS2DAN). Other participants referred to the HSPs as both their advisors and HSRs:

As far as I know, that’s what an HSR is. It’s either an advisor or an officer that you can take WHS issues to. They can either talk you through them or resolve them for you. (CS2LUKE)

Figure 7.2 illustrates how the understandings informed interpretations. Engagement was defined in terms of CS2Auck meeting its statutory duties and participation about active involvement in the WHSMS processes.

Figure 7.2. CS2Auck Participants Understanding of the Statutory Terms

Engagement	Participation	Representation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Statutory duties	<input type="checkbox"/> How well duties are embedded in practice	<input type="checkbox"/> HSP (no HSRs)
<input type="checkbox"/> Leadership	<input type="checkbox"/> Active stakeholder involvement	<input type="checkbox"/> Contemporary HSC
<input type="checkbox"/> Upward from site	<input type="checkbox"/> Tripartite collaboration	<input type="checkbox"/> Traditional HSRs recommended, not required
<input type="checkbox"/> Prerequisite for participation	<input type="checkbox"/> Regulatory involvement on sites	
<input type="checkbox"/> Discussing staff training needs	<input type="checkbox"/> Industry collaboration	

Concerns about getting people to understand the legislation corresponded with the challenge of getting people to use available online resources. *“Everything is available everywhere. But how do you encourage people to go in; read it, write it, understand it?”* (CS2ROB). Language was a barrier to understanding good WHS practices in general:

Now that we’ve got this mixed workforce throughout New Zealand, there are still a lot of people turning up with one guy speaking for four and that worries me. (CS2JOSH)

Language and cultural norms could be used to break down barriers, as *“Understanding a little bit about somebody’s culture is really important, if you’re going to communicate with them”* (CS2HENRY). CS2Auck found using different greetings, *“The good mornings and stuff are a bit of a start to mixing and integrating all the people together”* (CS2ADAM). Involving people would help people *“start understanding it [legislation]... then they will realise what it is was there for”* (CS2JOSH).

7.3.2 EP&R in Practice

Leadership direction and site management responsibility for operationalising the WHSMS processes, and support from the HSP team were the foundations of the WHSMS. While some variation in management style was expected, the scope of a project determined whether a project had a designated HSP on site or more general support from the WHS team. The CS2Auck findings outline the formal and informal, direct and indirect forms of worker voice underpinning the goal of, *“getting everyone home safely”*

(CS2JOSH). Also, how these were incorporated with organisational system processes and practices during the lifecycle of a construction project on one site with a designated HSP and two smaller projects supported by the HSP team. Strategies adopted on sites suggested the organisation was adopting a multidimensional approach to providing information and opportunities to participate in WHS conversations.

7.3.2.1 Direct Informal Forms of Worker Voice

Participants preferred verbal forms of engagement. Face-to-face conversations were used to encourage subcontractors and workers to think about safe work practices. While directors and senior managers were encouraged to engage with people on site, a senior manager noted how having accountability at a higher level meant he had less time than in a previous role. *“I know I don’t do it enough, but I just don’t have enough time”* (CS2DAVID). Whereas site teams devoted a large portion of each day engaging with people. One site manager found this strategy particularly effective for facilitating engagement. While a senior manager rated this as *“excellent practice”* (CS2DAVID), there had been, *“lot of resistance from management for doing that”*.

They do find it strange, but my guys are now so comfortable with it, and they will call you, “Hey we have this problem” and it’s definitely working. (CS2ROB)

There was some reservation about the value of regular social barbecues, but participants believed these activities helped build trusting relationships essential for a safety culture conducive for speaking up and caring about others. Managers believed high engagement and trusting relationships contributed to workers raising site level issues with managers and other workers. In addition, approachableness and tone were highlighted as potential enablers for engaging workers to participate in relevant WHS processes.

Sometimes it depends on how you say it. How you interact with them.
(CS2MAX)

The most common issue raised by workers and all managers was PPE. Task related issues, such as *“no handrails”* (CS2JOSH) were raised on a one-to-one private basis or directly with the person, rather than in the formal documented toolbox meetings. The exception was critical risk situations when a worker was breaching safe work practices. One site

team worker talked about getting support if necessary. *“If you think someone is going to get hurt, you go and see someone who maybe has a bit more swing, like [the HSPs]”* (CS2LUKE). This example indicated that some migrant workers were comfortable speaking up:

“You have to wear the full mask when you grind. That’s not for me. This is for your good”. He stopped and he went to get it. (CS2RICK)

Left alone to talk to roofers and plumbers on a brief walkabout, these qualified trade workers raised concerns about the language barrier on a site with approximately 60 non-English-speaking workers, and constant change with new workers coming on site almost daily. Concerned about identifying the English-speaking person in the crew in an emergency, they suggested an identifier on the high-vis jacket may be useful. Later when we were discussing the language barrier, the HSP noted that only two members of a crew attended the special PPE meeting. He suggested they may not have understood they were to bring the whole team to the meeting.

7.3.2.2 Direct Formal Forms of Worker Voice

At the Site Level. Teams used direct formal documented WHSMS processes for encouraging engagement in one-on-one and group conversations about safe practice for managing critical risks at site and task levels. For example, disseminating lessons from incidents and accidents shared in Safety Alerts, and organisational WHS campaign posters were useful. Determining if language was a potential barrier prior to inducting people was another strategy for enhancing worker engagement and participation, *“then when they come and do these introductions, they understand what we’re talking about and understanding what it’s here for”* (CS2JOSH). Encouraging workers to regularly update task analysis and explain these to the site team was a *“two-way thing and it’s trying to get them involved in that process”* (CS2JAMES). CS2DAN rated this as the *“most important”* process for facilitating regular conversations with subcontracted workers. Another strategy for ensuring processes were working was checking whether people were reading the information provided on the site hazard board:

The WHS notice board is fully updated with all the risks and hazards on site, but because you’re driving past it every single day, 50% of the guys will read it on day one and thereafter nobody will read it. Once a

month or so, I'll just hide something, "There is a prize up for grabs. Come and get it in my office". Then I just see how long it takes for the guys to respond to it. (CS2ROB)

Responsibility was devolved to foremen through a peer support system. Foremen using this planning and cross-checking system had authority to make site and task decisions.

As with CS1Wgtn and CS3ChCh, toolbox talks were the primary form of engagement on sites where all CS2Auck employees, subcontractors and their workers were informed about general construction matters and specific WHS risks for that week. Lessons from WHS incidents and programmes were presented and discussed. The latter were led by the site HSP on the large site. While toolbox talks were important for, "*catching everybody and making sure everybody is there, spreading information*" (CS2JORDAN), the content had not changed in recent years. "*Talking about the same thing over and over again. Just drumming it in*" (CS2MAX). Workers were encouraged to participate in finding solutions to issues raised, such as wearing harnesses when working at heights (CS2MAX).

A site manager hoped timely response to housekeeping issues, such as clean toilets and replenishing water supplies would, "*give them the confidence to speak out*" about site and task issues (CS2JOSH). Workers were provided with opportunities to reflect on issues, for example, they were to read the Safety Alert summary of a discussion topic which was to be discussed again at the end of the week (CSOb2.1). These workers had been involved in a team building exercise to enhance safety culture the previous week.

All supervisors attended daily subcontractor meetings on the large site, where the site manager used visual laminated site plans when providing detailed updates on project progress. The subcontractor supervisors were more involved in the observed meeting than in the toolbox talk, which supported perceptions of improving engagement at the supervisory level.

I go into more detail. What's happening today? What's happening tomorrow? And get the message through to the teams. And it's working extremely well, because everybody knows who is working where, what they need to look out for and what to do (CS2ROB)

Special WHS meetings acted as downward reminders of expectations to comply with best practice standards. There was some tension on site when a special WHS meeting was

called to address ongoing breaches of wearing appropriate PPE, and several breaches had been noted that morning. Both the breaches and the tension may have been partly due to the heatwave. Frustration erupted in a worker questioning why the PPE issue had not been addressed at the toolbox meeting and concern about the additional meetings, “*stopping them getting the work done on time*” (CSOb2.2). Although the worker would later apologise to the HSP, concern about consistent use of safety glasses had reached the strategic level, tabled as a policy item at the January regional HSC meeting (Documents). The outcome of the debate was that safety glasses are, “*mandatory here in the North Island, but it’s not in the South*” (CS2DAVID). Units on the South Island would use risk assessment during a consultation process (Documents).

Safety glasses demonstrated how a WHS issue was discussed at different levels of the organisation. Who was discussing PPE, and where the decisions were made concerning appropriate use and provision of PPE? The importance of wearing appropriate PPE for protection was central to the debate (CS2HENRY). Wearing PPE was also a means of demonstrating “*visible leadership*” (CS2DAN) and facilitating engagement with and between workers. “*Hey mate. Where’s your glasses?*” “*Oh, yeah, yeah*”. “*Here’s a spare pair*”. (CS2DAVID). There were concerns about situations when safety glasses impeded vision and the need to have a constant supply on site. The findings suggested consultation would continue.

At the Organisational Level. WHS matters were integrated with direct formal processes and systems. General systems, policy and processes were discussed in relevant meetings, including strategic leadership and regional meetings. Specific strategic and policy decisions “*cascaded down*” (CS2DAN) from the WHS Steering Group, through regional, unit WHS committees and team WHS meetings. With many people expected to attend multiple general and WHS meetings, repetition occurred and a HSP talked about reviewing the WHS meeting structure as he was averse to compliance tokenism. “*Apart from satisfying a tick in the box, and we already satisfied the HSWA by this lower level of meeting. Why do we need to double up?*” (CS2DAN).

The strategic leadership team was interested in long-term organisational plans and had changed the WHS structures to align with the organisation’s strategic goals. For example, decisions about WHS policy, external audit providers, involvement in industry initiatives, association memberships, investments in equipment and technology, such as WHS

software programmes and testing a SignOnSite app. They engaged with staff and subcontracted workers in visible leadership safety conversations and roadshows informing staff about the general state of organisational performance. Some strategic managers were involved in presenting targeted critical risk related WHS forums:

We also work as a forum... The other roadshows we do around WHS and around bringing people up to speed with what's happenings in the last sort of six months, state of the nation stuff. (CS2DAN)

Participants talked about more involvement in the documented planning processes, such as precontract tendering where project managers were influential in establishing general environmental and WHS risks. The quantity surveyor usually consulted with relevant staff before establishing the project costing and WHS budget. *“That's how we try to make sure that we've got enough money to cover it”* (CS2LUKE). The participant noted recent efforts by the HSP to have more influence in the planning phase of potential projects. Regular documented project group meetings occurred throughout the project, when the site team and client discussed general progress and WHS related matters, including reporting on engagement and participation. Information flowed upwards updating the directors and senior managers on progress and any matters arising. Information and decisions were disseminated downwards to the site employees, with appropriate support provided by the WHS Team.

Minutes are taken, and WHS is an item within that set of documents, and it's recorded... If something happened, and how many toolbox talks have you had this week? Things like that. (CS2LUKE)

Written communication was viewed as useful in some situations and processes, for example in internal communication about a serious issue. *“You've got to get it in writing and make sure everyone knows in writing, that you did at address it”* (CS2LEON). However, things could, *“get lost in emails”* (CS2LUKE). Although the organisation had a newsletter, unit newsletters were not viewed as useful, *“because I need to be convinced that somebody read it”* (CS2DAN). Digital resources were perceived as valuable for overcoming the limitations of paper-based resources and more relevant, particularly with younger generations. However, it was the source, rather than the form, guiding access to information. Managers and subcontractor workers tended to rely on internal sources of information, resources and support. A worker believed this was sufficient:

I'm keener on having apps, websites and the media that we can use with tablets and that sort of thing... I'm not saying that an app or something like that is 100% the answer. But rather than just slipping a poster on the wall and having toolbox talks, there's a better way of communicating. (CS2DAVID)

Our team gives us resources. We've got enough stuff around our smoko rooms. I don't know [the regulator's] website. (CS2BLAKE)

7.3.2.3 Indirect Forms of Representation

The overarching expectation was that all directors, managers and staff involved in the various WHS committees actively engaged in discussions and actioning decisions at appropriate levels. It was not a compliance exercise, “*ticking the box, and then get on and do what you were going to do anyway? So, that cascade has got to be followed through*” (CS2DAN). The WHS structures were defined with clear direction from the Strategic Steering Group, regular scheduled meetings and a focused agenda. The inclusion of regional managers on the new WHS Steering Group was perceived to have enhanced involvement at the strategic level and downward communication of decisions to the operational level. The findings suggested these improvements had addressed an imbalance in representation within the EP&R structure to a more inclusive, “*element right across the board*” (CS2DAN). Whereas minutes were disseminated widely in the smaller CS1Wgtn, in this larger organisation, information was filtered through summaries of the regional HSC, which were distributed through the WHS meetings.

There was very little communication that trickled down... Regional managers weren't involved before. We're now engaged at that high level in the discussion with everybody and we can make some group decisions and communicate it to our teams. (CS2DAVID)

As for worker representation, there were traditional HSRs in the South Island, but the greenfield sites “*were lagging behind a little bit*” (CS2DAN) in the North Island. Employing a small number of CS2Auck staff, size was the reason for the lack of trained HSRs, “*With the worker HSR, there's a threshold isn't there? If we get certain numbers, we can have a worker HSR? I don't think we hit that*” (CS2DAVID). In the interim, site managers and foremen represented the workforce on the HSC, “*until we establish it better*

than we have” (CS2DAN). Yet HSRs were described as “*recommended*” (CS2DAN), “*not required and therefore not enforced on the site*” (CS2ROB).

As CS2Auck only monitored if subcontractors had “*dedicated HSRs*” (CS2DAN), most northern region subcontractors, “*don’t have them*” (CS2ADAM). When there was a dedicated subcontractor HSR, these were often managers. Practice varied widely. Frequency of presence on site varied from daily to monthly visits, with variation in range of activities. While the representative conducting daily visits, “*calls everyone, even the electrician...to chat about safety*” (CS2RICK), another was regularly on site, “*because he had to sign off the scaffold*” (CS2ADAM). A representative less frequently on site was less active and tended to, “*come in and walk around, make himself known and leave*” (CS2JOSH). One site manager would like the representative to be proactively on site more often, rather than reactively after an incident.

Some challenges related to subcontractor HSRs were: 1) subcontractors changed daily, 2) “*none of them actually worked longer than a month, maybe two months*”, and 3) the cost of having a dedicated HSR, “*because they are still paying*” (CS2ROB).

“Talk to John because he’s our HSR”. He’s not really a representative. He is often a project manager who is given this role. He doesn’t really understand what it’s about. All he does is walk around onto one site and do an audit and try not to upset too many people. (CS2JOSH)

Table 7.3 illustrates how formal and informal face-to-face conversations with individuals and groups focused on identifying and controlling risks flowed from the strategic direction, through the tendering and planning processes and during the construction project. Information and expectations were directed downwards, operationalised at the site level. With upward information informing strategic decisions.

Table 7.3. CS2Auck’s EP&R System and WHS Processes in Practice

Breadth of participation	Example forms of participation	Range of subject matter	Degree or extent of influence
<i>Site and task level of participation</i>			
Direct informal forums	One-on-one/group conversations, emails	WHS matters such as PPE, edge protection, hydraulic fuel leak	Discuss organisational and WHS
	Hazard notice board prize	General site or WHS information	Site information
Direct formal processes	Subcontractor WHSMS folder	Standard WHS system requirements	Upward into WHSMS
	Initial team/group site induction conversations	Operational matters, task and site-specific WHS risks and hazards	Downward informed and encouraged to speak up
	Task analysis (TA)	Task specific risks and hazards	Review and influence in risk controls
	Accident/incident reporting	Task and site-specific accidents/incidents/near misses	Involved in follow up corrective actions
Direct formal forums	Ongoing site updates through toolbox talks, subcontractor meetings, noticeboards, Signin app	Organisational standards, project and WHS information, general housekeeping	Informed and encouraged to speak up about issues, upward representation of worker concerns
	Special WHS meetings	WHS matters, e.g., PPE, safe zones and eye contact	Downward reminder of standard practice
	Foremen peer support	Planning and cross-checking when undertaking new task	Authority for site and task decisions
	Teambuilding exercise	Safety culture	Building relationships and trust
Informal social	BBQ	Casual talk about work	
<i>Organisational level of participation</i>			
Direct formal forums	Strategic leaders and WHS Steering HSC	Strategic long-term decisions	Information downwards
	Strategic leadership teams roadshows	WHS forums and general performance updates	Information downwards
	Safety conversations		Demonstrate leadership
	Project and precontract subcontractor meetings	Integrated general and WHS matters and issues	Downward and upward
	IT systems and SignOnSite app	All project and WHS data	Information sharing

Direct formal systems and processes	WHS campaigns/posters	WHS lessons and topical health campaigns	Downward and across organisation information sharing
Indirect contemporary representation structures	Regional and Unit HSCs with traditional HSRs in the South Island Round robin site manager, foreman and carpenters	Systems review; risk controls; labour hire; health campaigns; WHS statistics	Consultation and decision-making at management level

Note: Bold items represent processes and forums unique to this organisation.

7.3.3 How the Current Legislative Framework Contributed to Improving EP&R

The findings suggest that both organisational growth and legislative changes have acted as motivating factors for significant structural changes to ensure the WHSMS is compliant with HSWA. Although HSPs believed the current legislation “*effectively has not really changed*” (CS2DAN), participants noticed some differences in the way statutory duties were implemented in CS2Auck. The “*big change*” was the role and responsibility being driven down through the site management team to the workforce (including contract labour). “*That created all sorts of issues with the legal aspects*” (CS2DAN). As in CS1Wgtn, a site manager was concerned about being accountable, particularly for accidents and especially when he was, “*not on the site*” (CS2ADAM). As a result of the HSWA, participants noticed CS2Auck had become “*stricter [with] a lot more processes that have to be put in place, and obviously more paperwork*” (CS2JOSH). WHS initiatives targeting leadership, critical risk management and worker EP&R required under (s58-61) included:

1. adopting a “*holistic*” approach to WHS and EP&R incorporated into general business practices (CS2DAN);
2. expanding the WHS structures and including regional managers in the WHS Steering Group (CS2DAVID);
3. implementing a new critical risk matrix and reporting system and involving workers in reviewing critical risks (CS2ROB, CS2LEON);
4. standardising WHS policies and systems across regions and units, (CS2DAVID), and reviewing redundant policies and procedures (CS2DAN);
5. reviewing and prioritising directors’, employees’ and subcontractors’ capacity and competencies. For example, senior leadership development programmes and strengthening the WHS team (CS2DAN) to ensure appropriate support was

provided for large and small projects (CS2HENRY, CS2ADAM). CS2JAMES attributed appropriate resourcing as a measure of commitment to managing WHS. And

6. expanding the project consultation process throughout the project lifecycle and the new subcontractor's WHSMS demonstrated a commitment to ensuring the subcontractor teams on sites met CS2Auck's minimum WHS standard.

The participants generally believed the parent organisation had a well-established WHSMS in place, but perceptions of the level of WHSMS and cultural maturity varied. The commitment to perform beyond minimum standards emerged in efforts to achieve external standards and evaluations of CS2Auck's WHS performance. Some were confident the organisation was an industry leader, "*In the past three and a half years we've gone from standard to well above par*" (CS2LUKE). While others spoke of being compliant with legislative and industry standards. Numerous examples of efforts to embed the organisational systems and process changes demonstrated commitment to encourage worker engagement and participation.

Reflecting on how engagement and participation had changed, participants talked about changing culture and increasing documentation. "*All the paperwork, the JSA's you've got to do. It never used to be that serious*" (CS2BLAKE). The changes appeared to have resulted in, "*More engagement and participation by workers in WHS. More awareness as well, about what's happening on the site*" (CS2HENRY). The introduction of a new subcontractor WHSMS (folder), developed and tested in the North Island, provided opportunities for increasing the subcontractors' awareness of their responsibilities. As well as workers' understanding, engagement and participation. "*I know that they are aware of everything, and they are trying to do something about it*" (CS2JOSH). Some believed there was still room for improvement in WHS in general and worker involvement and participation in WHS matters:

I wouldn't have said we are any better than any other company. Our WHS policies and everything are excellent. I think we still have room to move, but we're pretty good... The HSP says, "We've got a good foundation there from what we've done in the past". (CS2DAVID)

Figure 7.3. Relevant Sections of the Statutory Duties Discussed by CS2Auck Participants

<p>s36 Primary duty of care A PCBU must as far as reasonably practicable ensure the health and safety of:</p>
<p>1. a) all workers who work for the PCBU workers carrying out work; and b) whose activities are influenced or directed by the PCBC;</p>
<p>2. other persons are not put at risk from work carried out as part of the PCBU;</p>
<p>3. a) provide and maintain a workplace that is without risks to health and safety; f) provide any information, training, instruction or supervision necessary to protect ALL persons from risks to their health and safety arising from work carried out by the PCBU.</p>
<p>s44 Due diligence Requires officers (including directors) to take all reasonable steps to understand the operations and health and safety risks, and ensure they are appropriately managed. Due diligence includes reasonable steps to:</p>
<p>4. a) acquire and keep up to date knowledge of WHS matters; b) understand the critical hazards and risks associated with the PCBU operations; c) ensure appropriate resources and processes for minimising and eliminating risk to WHS from the work carried out by the PCBU are available; d) ensure the PCBU has appropriate processes for receiving and considering information about incidents, hazards and risks and for responding to that information in a timely way; e) ensure the PCBU has, and implements, processes for complying with any duties or obligations of the PCBU; f) verifies the provisions and use of the resources and processes in (c) to (e) - monitoring and reviewing.</p>

As these participants focus on Sections 36 and 44 of the HSWA, relevant parts are summarised in Figure 7.3. The provisions for providing information (s36 (3, a)) and receiving and responding to information (s44 (4. d)) are weaker than the traditional structures in *Part 3 Worker Engagement, Participation and Representation*. Section 36, the *Primary Duty of Care*, was defined as the most important section, because it outlines the main obligations. All prosecutions and breaches had been taken under this section at the time of this research. While this understanding explained *why* an organisation would respond. This suggested the weaker application of terms has the potential to mislead people to overlook the stronger provisions in Part 3.

We need to look at Section 36 the rest of it is viable, but that's the element of the Bible that we need to be aware of and make sure we are compliant with or better than that. (CS2DAN)

Any of the charges in Court, it's because XYZ company has been charged on s36(f), which talks about your information, training instruction or supervision to protect persons. (CS2HENRY)

These additional parts of the HSWA were influencing *how* understanding of the Act was embedded in practice. CS2DAN highlighted the principal PCBU has “*responsibilities for everybody on site*”. Thus, the HSWA had “*created a recognition that they needed to train, upskill and make people aware*”. The addition of “*Due Diligence*” duties led to tendering processes being more focused as, “*Now you are responsible, more so than before for ensuring they've actually got the appropriate skills, machinery and everything else needed for the position, to do the work*” (CS2DAN). Overall, the standard of WHS practices in New Zealand owned construction companies were perceived to have, “*risen to the levels required by the government at this stage*”, but still lagging Australian owned companies. The standard in residential construction had been raised to the same level as commercial (CS2ADAM).

7.3.3.1 Enhancing Organisational Capacity and Resources

The findings exploring the scope and level of influence in budget and resourcing decisions revealed how the HSWA had influenced organisational decision-making. In general, the board signed off expenses related to structural, system and human resourcing changes. The senior HSP had authority over training and developing the WHS team. Quantity surveyors determined project budgets, including resourcing equipment and training, and project managers kept projects within budget. The site team budget tended to be for PPE. Employee training and development was managed through the human resources team. Some efforts to ensure the organisation was providing adequate training and resources have been identified above. Notable actions included the level of training provided at the strategic and operational levels. The organisation had a career development programme for all employees (CS2DAN) and was more generous than most in ensuring employees had appropriate operational skills and qualifications. “*Not many companies pay for all that [multiple licences]*” (CS2BLAKE). Moreover, the cultural change programme was presented as part of the management development programme:

We've just gone through a research system to make sure that everybody we've got here has completed the correct licenses and training to drive

our machines... We have external providers who come in and do personal development programmes with our managers. (CS2DAN)

Participants' views on setting and utilising the budget varied, but there was more consultation with relevant CS2Auck project teams than in the past. Participants did not view a WHS budget as a barrier to providing sufficient risk control on sites. Whilst CS2Auck was proactive in providing appropriate training and development and resources on sites, there was room for improvement. Training, additional human resources and basic PPE are the main areas participants would use a discretionary budget. One participant would spend the full amount on upskilling the team and "*bringing on board people who were competent and able to move the team forward*" (CS2ROB). Others would spend the majority on training, some on PPE (CS2LEON), or resource an additional site team member to share the workload and help "*keep an eye on things*" (CS2ADAM). The current issue around edge protection also emerged in this discretionary spending. Some specified equipment, machines and signage items that "*make the job easy... and reduce hazards by taking away those risk factors*" (CS2MAX).

Additional human resources and development have the potential to enhance staff engagement and participation. Site level strategies for improving worker engagement and participation were rewarding good behaviour (CS2JAMES) and enhancing the social aspect of toolbox meetings to encourage subcontractor workers to attend.

Having food and getting refreshments and stuff draws them in. If you just tell them, it's a meeting, they may miss it and go to another site. (CS2JOSH)

7.3.3.2 Regulatory Capacity, Performance and Alternative Enforcement

When it came to the role of the independent regulator in enforcing the EP&R duties, the findings were similar to CS1Wtgn and CS3ChCh. In general, the current regulator was viewed as, "*Doing a good job that can be improved... Generating a better feeling than they did*" (CS2DAN). Therefore, performing better than in the past when they had focused on enforcement (CS2JAMES). Despite experienced inspectors in senior management rated as "*very good*", perceived capacity issues impacted on WorkSafe's performance. Challenges included, "*limited funding*" (CS2JAMES), and ongoing problems with retaining trained inspectors. "*It has a lot of inspectors who are very new with no on the ground experience*" (CS2DAN). Some had disappointing experiences when attempting

to assist in training inspectors. Participants suggested WorkSafe improve their selection processes and training to enhance their capacity. CS2DAN thought staffing issues extended beyond the shortage of experienced inspectors. *“That gulf between the umbrella legislative decision-making group and the senior management teams underneath them and getting it to work”*. But an increasing investment in training inspectors to engage with management and workers had reduced the fatality rate in the construction industry. Overall, the regulatory agency continued to have capacity and performance issues.

It was purely because WorkSafe invested in training 200 new inspectors... So, there was a lot more work being done by inspectors... That’s how WorkSafe were going about demonstrating participation or engagement. (CS2HENRY)

Perceptions of changing regulatory approaches influenced the participants’ willingness to engage with regulatory staff. The board was satisfied with both the advice from WorkSafe and their engagement. *“In that respect, I think they are very helpful”* (CS2ADAM). The HSPs were proactively maintaining constructive working relationships with WorkSafe, attended WorkSafe seminars, *“which is great”* (CS2DAVID), and met regularly with the inspectors at the regulators office to discuss, *“what’s going on”* (CS2DAN). This contrasted with the perception of *“us and them”* relationships (CS2ADAM) that may have contributed to CS2Auck’s prior passive approach to engaging with the regulator. Some participants talked of avoiding *“WorkSafe coming on your site because you are avoiding the fine. That threat”* (CS2ROB). Although interactions were perceived to be improving, CS2DAN suggested, *“They now need to be driven positively by WorkSafe, as opposed to construction driving them back to WorkSafe”*. Participants who were concerned about the rarity of visits focused on enforcement activities on sites, rather than proactive activities.

Despite apprehensive about breaching their statutory duties, most wanted more proactive information sharing site visits where inspectors discuss specific risks, rather than reactive enforcement following an accident. *“They need to interact more, but in a good manner... I think that would help”* (CS2ROB). Participants who were confident about the robustness of the WHS systems believed the CS2Auck employees should not worry about the inspectors. *“Because your stuff should be right. When they come, they should not find anything wrong? That’s the way you should be working”* (CS2LEON). In fact, good

relationships and proactive engagement at the strategic level were believed to be a reason for rare visits at the operational level.

Beliefs about the current alternatives to prosecution appeared to fit with uncertainty about how the current *Due Diligence* duties would impact on management. Provision for the inspectorate to accept an enforceable undertaking instead of prosecution was more beneficial. It would create the “*interaction that maybe was missing*” and the organisation’s corrective actions would be “*putting something back into the industry*” and beyond through the supply chain (CS2DAN). Operational managers thought the effectiveness of this alternative depended on the inspector’s experience. “*The inspector who is visiting me... should be a guy who came off the tools who understands construction*” (CS2ROB). But they argued more time engaging in proactive site visits would be preferable:

That’s going to be far more valuable than just being seen at the end of the cliff when someone’s died or had a serious injury. You need to have a lot more participation from them in day to day running of sites and inspection of sites. Because that’s going to improve worker participation, management participation and trying to get WHS to a higher level. (CS2JAMES)

7.4 Conclusion

The findings revealed a proactive approach to preparing for the enactment of the HSWA in April 2016 involved a comprehensive range of strategic changes to WHS structures and processes. In this case, the strategic leadership team were willing to provide strategic direction to ensure CS2Auck complied with the *Primary Duty of Care*. Strategic leaders demonstrated visible leadership by engaging in safety conversations with managers and workers on sites. The integration of general and WHSM systems was portrayed as taking a holistic approach to steering and embedding the upgraded WHSMS. The clear understanding of duties complemented the impetus on linking the WHSMS and programmes to the strategic intent to change culture. There was some resistance to operationalising and embedding changes consistently across regions and units. Participants believed the current statutory framework had raised WHS standards. They generally agreed CS2Auck was stricter and had more documented processes, but

perceptions of organisational performance varied from being an industry leader, industry standard and complaint.

The managers' and HSPs' confidence in management understanding their statutory duties appeared to be underpinned by the HSPs guidance on two key sections of the current HSWA and the provision of appropriate training programmes. With regards to the *Primary Duty of Care*, strategic leaders were focusing on capabilities, critical risks and engagement. Participants talked about engaging people as the prerequisite for participation. Engagement was also interpreted in terms of CS2Auck complying with statutory duties. Differences in strategic and operational participants interpretation of participation and representation practices revealed beliefs about how well duties were embedded in practice. Whereas a strategic perspective was to devolve responsibilities downwards, operational participants wanted more participation from the top. Less discussion of representation was partly due to the small contingent of trade workers in the North Island. In the absence of a traditional HSR, participants described the site managers or HSPs as proxy HSRs.

At the strategic organisational level, information cascaded down from the strategic leaders through general and WHS structures. As for CS2Auck staff influence in managing WHS, managers represented their units in the regional meetings. With several managers attending multiple projects and WHS meetings, issues around duplication, meeting fatigue, confusion about attendance and participation emerged. The HSP was reviewing the situation to ensure the formal meetings were effective and not just a compliance exercise. At the operational level, the HSP and site teams made site decisions, and had become more involved in the pre-tendering project planning phase. But there was some reservation about influence in the establishment and management of project budgets. Engagement and participation was identified as one area that could still be improved. Even though the small trade workforce was an internal factor, lag could be explained by expectations in the North Island. HSRs were recommended, rather than required, by subcontractors. Even when subcontractors had an HSR, they were often managers, seldom on site and only identified themselves after an incident. Challenges included keeping track of subcontractor HSRs and the cost of the HSRs' time.

In practice, the changes related to the *Due Diligence* responsibilities resulted in more focus on the tendering process and driving responsibility down to the site managers. The

site management team, who engaged extensively with subcontractors and workers, acted as the conduit for circulating information and providing opportunities for worker involvement. As the North Island adopted the subcontracted labour model, general project and WHS management centred on the subcontractor WHSMS processes. The engagement EP&R structures coexisted within the integrated general organisational and WHSM systems. But the innovative informal processes applied to the formal EP&R structures and WHSMS processes appeared to be driving improvement in site team and subcontracted worker engagement and participation. The distinguishing contextual factors that influenced worker voice on the large site were the devolution of responsibility for site and task level decisions to the foremen, support from a site based HSP, and the effort to create a community family environment. The site team believed this helped develop strong trusting relationships characteristic of a safety culture where people felt safe to speak up and care about others. These participants argued approachableness and the way people communicated enhanced engagement and participation.

While there was some discussion about how WHS costs were allocated, there did not appear to be any concerns about budget constraints. In fact, strategic leadership and operational training and development opportunities were a priority. Participants still targeted a discretionary budget on employing more skilled people, more training and development, and PPE. Some specified risk management controls, with two participants targeting informal strategies to enhance engagement and participation.

Participants generally wanted more proactive participation from the regulator, nevertheless they believed the independent regulator was taking a better approach. Proactive engagement was preferred to reactive post-accident investigations and potential applications for enforceable undertakings or prosecution. Despite some apprehension amongst site managers, all participants wanted WorkSafe to become more proactive, particularly on site. But funding, selection, retention and management issues were identified as barriers to becoming a more proactive regulatory agency.

The findings from the third case study are presented in Chapter 8. Chapter 9 discusses and compares the EP&R structures and influencing factors across the three case studies and considers these in relation to the Phase 1 findings and reviewed literature.

8 Findings: Case Study 3 Christchurch, Contemporary Representation and Mixed Labour Practices

8.1 Introduction

This privately-owned organisation was established in the South Island over 100 years ago and employed over 500 employees. Specialising in large commercial construction projects across several regions, CS3Christchurch (CS3ChCh) had entered a growth phase during the rebuilding of Canterbury. They were involved in several industry-led groups and workplace health and safety (WHS) initiatives, and had won numerous design, construction, project and WHS awards. CS3ChCh adopted mixed labour practices with in-house carpenters and apprentices working with subcontracted workers. Several thousand employees, subcontractor and migrant workers could be working across their construction operations on any day. The senior workplace health and safety professional (HSP) was part of the strategic leadership team and a respected industry influencer. There was an additional senior WHS specialist and four regional operations HSPs. This WHS team had the deepest scope of authority and expertise in this research project.

This chapter analyses the findings from semi-structured interviews with eight participants, observations of three WHS forums, and organisational WHS documents. The first section outlines the organisational context and how the WHS structures evolved following the enactment of the current Health and Safety at Work Act 2015 (HSWA). This section presents insights into how the organisation managed its health and safety management system (WHSMS), and how contemporary engagement, participation and representation (EP&R) structures were incorporated within organisational structures. The chapter explores participants' understandings of engagement as part of a good safety culture, and how perceptions of CS3ChCh as a proactive industry leader was demonstrated in practice at site and organisational levels. Drawing on participants' perceptions of how the current statutory framework has enhanced EP&R within the organisation, the chapter considers external and internal factors that may facilitate or impede EP&R. The chapter concludes with reflection on how contextual factors and understanding influenced efforts to exceed statutory duties.

8.2 Organisational Context

There had been significant growth over the past 20 years, particularly following the Canterbury earthquakes in 2010 and 2011 and ongoing expansion throughout New Zealand. CS3ChCh promoted the organisation as “simply one of the best” places to work. Personal introductions and experience working closely with staff members was supported by traditional recruitment strategies. Ninety eight percent of employees worked full-time. Interviewed participants included people who had worked for the organisation for 15–30 years and some employed for less than four years. Participants’ accounts indicated there was a balance between developing apprentices, who could rise through the ranks to a project manager cadet within four years, and experienced workers from New Zealand and abroad in key roles.

Table 8.1. WHS Structures and Roles in CS3ChCh Between 2010 and 2019

Contextual influences		WHS structures
Family owner-operated	1910s	
Canterbury earthquakes	2010	
Independent regulator, WorkSafe established	2013	
CRSC signatories commit to 10 Charter actions		Signatory to the CRSC
HSWA 2015 enacted from April 2016	2015	Structural change, strategic HSP
HSW Regulations 2016	2016	
8 Enforceable undertakings accepted	2017	
13 Enforceable undertakings accepted	2018	Specialist strategic WHSMS manager, strategic leadership and planning resources
Preparation for ISO 45001 audit (achieved)	2019	

Note: Grey shading highlights key regulatory actions and other external influences.

The International Organisation for Standardization (ISO) 45001 is an Occupational Health and Safety Management Certification Standard.

While CS3ChCh was proactive in managing WHS, Table 8.1 illustrates how the changes to the statutory framework coincided with hiring additional expertise in critical risk management and restructuring the WHS team in 2015. Strengthening the strategic leadership roles on the Board appeared to integrate the broader organisational and WHS management structures in preparation for an external internationally recognised accreditation of WHS performance. The organisation had held WSMP tertiary level

accreditation for several years until the programme ceased. Additional expertise facilitated more thorough review of the WHSMS, policies, processes and practices. Activities at the time of this research included: 1) a more thorough review of the critical risk management system; 2) development of a WHS and job specific risk management training programme with an external training provider; 3) upgrading the incident and accident report to the board; 4) investment in equipment and software technologies; and 5) an external audit of the WHSMS. ISO 45001 was achieved in 2019. Other key WHS events included annual strategic plan updates and employee cultural surveys.

Everyone was involved in the core WHSMS activities in some way, but there was a clear distinction between strategic and operational involvement. Information flowed downwards from the board, and feedback through numerous formal and informal forums upwards to the board:

- The governance board were involved in **planning, monitoring and reviewing** the effectiveness of the WHSM structures, policies, systems and processes. Activities included the annual **planned review** and **overarching strategic decisions** about approach to and resourcing of the WHSMS and structures formalised in the strategic business plan.
- The **WHS policy** promoted **worker participation**. Everyone was encouraged to be involved in WHS matters such as, **identifying and managing WHS hazards and risks and incident and accident reporting**.
- Senior managers and operational site teams were involved in **subcontractor tendering, selection and post-completion handover**. CS3ChCh had formalised commitment to a standardised set of subcontractor requirements in the SWHSMS. These specified documented practices for involvement, consultation and communication unified the project EP&R system and multiple subcontractor's EP&R systems. Subcontractors and their workers were expected to identify hazards and manage risks.
- Documented EP&R responsibilities and objectives included establishing a **joint worker/management safety committee** in each region; providing information and recommendations to management about WHS conditions and practices; and acting as a forum for exchanging information. The duties included initiating and administering the regional HSR election programmes

and acting as a formal contact point for employees to ask questions and raise concerns about WHS matters.

- Strategic and operational managers, HSPs and human resources had roles in monitoring **workers’ health** and assisting workers **returning to work** after injury. The Board were also involved. **Mental health issues** and relevant programmes were a priority at the time of this research.

As the largest organisation, the WHS team had the highest level of influence with two experienced and knowledgeable HSPs at the strategic leadership level. The broad hierarchical organisational structure presented in Table 8.2 shows how the HSP and ER&R structures were integrated at the strategic and operational levels.

Table 8.2. CS3ChCh Organisational Structures and Key Roles

Organisational structure	WHS team*	EP&R structure
Board of Directors	Senior WHSE Manager WHSE Systems Manager	Board Strategic Steering Group (Quarterly)
Chief Executive Officer		National WHS Steering Committee (Quarterly)
Regional Managers		Regional HSCs (Monthly)
Operational Managers** Foremen Workers Apprentices	4 Regional WHS Managers 1 advertised position	HSRs – Cadet project and site managers

Note: *The Workplace Health and Safety Team (WHS) comprised seven dedicated health and safety professionals (HSPs). The operational managers included the planning team, project manager, and site manager.

The information provided on CS3ChCh’s WHS outcome measures included 34 reported LTI and 171 ACC claims between 2014 and 2018. When it came to regulatory actions, there were no workforce personal grievances, work stoppages or PINS; nor organisational applications for enforceable undertakings. There were six notices issued by the regulator in 2014 with a cost of \$3,000 penalties and four in 2015. There were no regulatory penalties between 2016 and 2018 and a reduction in ACC in 2018. This suggested that organisational changes were starting to have a positive effect on WHS outcomes.

The research started with an invitation in October 2018. The background information was collected in March 2019 and fieldwork conducted in April 2019. The findings explore the data collected across three proximate construction sites in the Christchurch central business district. The data collection occurred in the shadow of the catastrophic mass shootings at two Christchurch mosques on the 15th of March 2019. This may have increased awareness of employee wellbeing and potential impact on the general management on building sites at the time of this research.

8.3 CS3ChCh Findings

8.3.1 Defining and Understanding EP&R

Based in the Canterbury Region, CS3ChCh was involved in the CRSC initiatives, which included efforts to improve engagement and participation. Consequently, large and medium construction enterprises were perceived to “*understand WHS better*” and have more embedded WHSMS than other regions (CS3TOBY). This underpinned the participants’ confidence that the board members, strategic and operational level employees understood the previous and current duties, including the need to involve workers. Employers had always had duties to, “*talk to your employees... but the current HSWA just made things clearer*” (CS3LEO).

Described as the “*conduits through which almost everything flows*” and the driving force on sites (CS3MATT), the site manager’s role was, “*probably the hardest job because he cops everything from everyone*” (CS3TOBY). There could be issues if there was a “*disconnect between the project manager and site manager*” (CS3TOBY), and some “*tensions*” concerning the organisation’s efforts to move away from a blame culture (CS3MATT). Site managers generally had the level of understanding of the statutory duties required in their role, but some difference in level of understanding was acknowledged:

Our site managers do understand well what’s going on. There are people who need more training or more understanding of it. But overall, I’ve been really impressed because they drive it on our sites and without their buy-in we’ve got nothing really. (CS3MATT)

Statutory duties were conceptualised as a characteristic of, “*a good safety culture*” (CS3JOHN) and efforts to empower “*all groups*” (CS3JOE). The following definition of

a good safety culture underpinned beliefs of contemporary forms of engagement and participation being more effective than traditional forms of representation:

There's a really good safety culture here. I judge safety culture by the ability of an open dialogue. It's always being spoken about. To me, that's healthy and there's not a "Let's not talk about it" attitude. The dialogues there. Being listened to and we may change. If there's some real science or thought process, it provides us with information to analyse it and look at change. To me the whole safety culture is about getting people to open their mouths and communicate. (CS3JOHN)

8.3.1.1 Engagement

Talk about engagement with workers on WHS matters dominated descriptions of conversations (CS3MATT, CS3HUGO), communication (CS3JOHN) and sharing information (CS3LEO, CS3ROY). At the strategic level, an external consultant had trained the senior leadership team in engagement techniques (CS3MATT). These were described as, “a number of tools where we need to make observations, and we need to have safety conversations” (CS3JOHN). The aim to build capacity and enable the strategic leaders to engage effectively and gain insights into operational and WHS issues (CS3MATT), aligned with “due diligence” duties. Participants reported an increase in the “massive amounts of improved engagement” and depth of interest in understanding, “what was going on, on a day-to-day basis” (CS3JOHN).

It's good that they get to come around and see what's happening on site, so they get a gauge of where we're at. Where WHS is at? How people are feeling in their own company. People are talking to them when they are going around. (CS3HUGO)

CS3LEO described the benefits of improved engagement demonstrating the organisation cared about workers and valued their involvement. Benefits included an expanding awareness of operational matters, opportunities for sharing ideas and workers “actually start asking questions”. Engagement was also used to define interaction with the regulator. “We don't have a lot of engagement with them. which I guess you could say is fortunate and unfortunate” (CS3ROY).

8.3.1.2 Participation

Although participants did not use the term ‘participation’, they talked about more involvement, empowering teams and devolving WHS tasks, such as toolbox meetings to operational workers to facilitate team participation:

More involved in the planning... and that’s good because it makes everyone feel part of the team and valued. (CS3HUGO)

Now we’re asking them, “Well site manager, why are you doing it? You don’t have to do it. It’s a task that should be for your foreman or could be your leading hand. Because the closer it is getting to the team, the more that the voice is actually the team’s voice”. (CS3JOE)

8.3.1.3 Representation

Understanding of ‘representation’ emerged in accounts of the contemporary structures in CS3ChCh. Noting that “*nothing is mandatory*” under the current HSWA, CS3MATT outlined a system where the teams and carpentry representatives were, “*not the official HSRs under the HSWA*”. The aim appeared to be non-management employees having someone who “*has agreed and comes in to represent them*” on regional committees (CS3MATT). However, the organisation would implement traditional forms of representation if workers asked for them:

Now if someone demands that they want to have a vote... Then it’s fine. We will ask for it. Nobody has ever actually said they want it this way, because we have shown that we are collaborating as well as we can. It’s done by volunteers, and we don’t control who is on it. (CS3MATT)

While some of the HSRs were trained (CS3MATT), details were not provided in the background information. The understanding of representation emerged in negative perceptions of traditional structures and positive descriptions of contemporary forms of representation. Previous WHS committee structures were viewed as “*not being effective*” (CS3JOHN), having “*had a bias around a group of people who don’t necessarily get anything achieved*” (CS3JOE). The “*same old HSR on the committee*” was criticised for not having expertise in specific issues (CS3TOBY). By comparison, the trade team representatives and the apprentice group were “*passionate*” (CS3MATT) and “*having a*

definite drive” (CS3JOE) “to push WHS from the bottom-up” (CS3HUGO). Their input “guided how or what actionable items” the WHS committee tabled (CS3LEO). The workers felt more involved, and believed their opinions were valued:

It’s good the way that everything’s run. We have our HSC. I’m on the committee... the HSR will send out an email to us asking us to ask the boys what they think is happening on site, and anything that they want us to raise. We take that to the meetings and then it’s kind of pushing WHS from the bottom-up. It’s not always just being told to us. We are able to raise our points of view. (CS3HUGO)

Aside from an instance where the HSP was referred to as the HSR (CS3HUGO), representation was interpreted as CS3ChCh’s participation in external industry and WHS groups. In this case, representation implied a commitment to leverage CS3ChCh’s position to promote change within the industry:

A lot of what they have to do is getting done... As a greater industry, there is some work to be done. But as an industry, how do we do that? There are several boards that we have representation on, and they are trying to get there. (CS3JOHN)

Figure 8.1 shows how participants’ interpretations of the statutory terms aligned with how the statutory duties for informing and consulting with workers were embedded in CS3ChCh’s systems, processes and practices.

Figure 8.1. CS3ChCh Participants Understanding of the Statutory Terms

Engagement	Participation	Representation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Leadership	<input type="checkbox"/> Involvement and empowering teams	<input type="checkbox"/> Traditional HSRs , not mandatory
<input type="checkbox"/> Workers asking questions	<input type="checkbox"/> Delegation closer to team voice	<input type="checkbox"/> Traditional HSCs ineffective
<input type="checkbox"/> Workers opinions valued		<input type="checkbox"/> Contemporary HSC
<input type="checkbox"/> Good safety culture		<input type="checkbox"/> Not official HSRs, passionately driving WHS from the bottom
<input type="checkbox"/> Interaction with regulator		<input type="checkbox"/> Organisation acting as an industry change agent

8.3.2 EP&R in Practice

The CS3ChCh findings revealed how formal and informal, direct and indirect forms of EP&R were combined to ensure, “*people go home the same way they turned up*” (CS3JOE). Also, how these structures were incorporated with organisational systems and processes through a project’s lifecycle. A unique characteristic of CS3ChCh was the prevailing positive beliefs about the WHSMS and processes. Some described the organisation’s direction and approach as, “*trying to do things in a more positive way*” (CS3RYAN) and “*trying to push for positive things, it’s not all doom and gloom*” (CS3HUGO). Others reflected on strategic changes in the WHSMS aimed at achieving a more proactive approach to WHS and outcomes including:

- *the senior leadership team walking the talk; redesigning the board report benchmarking more lead indicators* (CS3MATT);
- *not finding fault, really reviewing and sharing* (CS3TOBY);
- *improved engagement* (CS3JOHN);
- *starting to feel more important and opinions valued* (CS3RYAN);
- *HSC meetings being “good” and getting everyone involved, trying to make this good for everyone* (CS3JOE), and
- *starting to do safety, not as a standalone... but safety is part of the operational process.* (CS3LEO)

Participants distinguished between the accountabilities of different roles within the organisation. The strategic leadership team provided direction (CS3TOBY) with the site managers expected to drive and, “*own WHS on their site*”. The WHS team were, “*there to help, assist and provide options*” (CS3MATT). General construction and WHSMS had been integrated (CS3MATT), with the aim of having “*live documents*” (CS3TOBY). Embedding the systems within CS3ChCh’s operational processes was more difficult, partly due to the independent role of the HSPs, and the challenging task of changing negative perceptions of WHS management. Another challenge was aligning and integrating multiple subcontractor systems with the principal’s values and standards on sites. This was one area CS3ChCh was proactively harnessing their capacity to influence

change and achieve consistency at the industry level. Getting 14 large construction organisations to be signatories to a standard pre-qualification for vertical construction subcontractors was considered as progress. But implementing this would be “*interesting*” (CS3MATT).

Working closely with subcontractors if they are not at that same point. That’s probably one of the hardest things we face. We are both going into the same environment. He comes out of it fine. So, why am I making this extra effort? (CS3JOE)

8.3.2.1 Direct Informal Forms of Worker Voice

Although the majority of CS3ChCh’s employees were involved in several formal general, project and WHS meetings, direct informal face-to-face conversations were useful for engaging people across the organisation at various levels. Apart from social barbeques, all information gathered informally filtered upwards through formal HRM processes and EP&R structures. Many of these face-to-face conversations targeted either specific critical risk issues, a particular project site (CS3LEO) or a strategic initiative within the strategic plan (CSObs3.3). For example, a site was selected for the director’s planned informal safety conversations because, “*It will be a job the board have been talking about, for whatever reason*” (CS3LEO).

On the two visited sites, post-traumatic stress, mental wellbeing initiatives, and domestic violence (new legislation) appeared to be of interest to the board. The site managers were asked about how workers were encouraged to speak up. They talked about informal site-specific and formal WHS structures and processes were discussed. Topics covered risk management and conditions of work: working long hours, keeping people out of work zones, clean sites, and developing working relationships with a neighbouring store and a construction team on the next property (CSObs3.3).

‘Planned’ informal safety conversations between the trade team, apprentice representatives and workers filtered information upwards through the formal WHS structures. The face-to-face conversations helped overcome barriers to individuals speaking up about WHS matters. “*Of course, some people don’t tend to want to talk about it. If you just bring it up in a conversation, then it’s fine*” (CS3HUGO). Appropriate use of PPE when using a grinder was topical during the data gathering.

There was further crossover between formal and informal forms of participation and WHSMS processes. While site managers were encouraged to visit other sites, these informal peer support networking conversations could be part of required site WHS audits. Both processes were intended to facilitate positive support, feedback and sharing lessons between site teams:

Really good to see them. Good to get them, not out of their rut, but just, "How are you mate?" Also, to have a look over stuff and then we talked about all the cool, exciting stuff that I've never seen or done until this job, that I know they haven't seen. (CS3ROY)

Several participants talked about informal strategies to enhance engagement through the formal incident and positive observation reporting card processes. Coffee, beer or pizza were used as motivational rewards or penalties to change behaviour, enhance incident reporting, and reduce breaches to statutory and organisational requirements (CS3LEO; CSOb3.3). Evidence of the success of this strategy was presented as, "*Canterbury's hazard reporting is better than the rest of the country*" (CS3LEO). Another site manager had implemented an informal "*text*" option to overcome a literacy barrier preventing a worker from using the formal hazard reporting positive observation card process, "*They take a photo and text. Done. That is working in one region*" (CS3JOE). Suggestions to extend this concept to a Facebook group had been rejected, as its effectiveness relied on dedicated resourcing. "*You need to have someone on it all the time... Good idea. But you have to have that set up so you can maintain it*" (CS3LEO). These accounts provide insights into the informal strategies supporting formal incident reporting processes. Even the national WHS team held weekly informal meetings to catch up and discuss WHS before tabling relevant WHS matters and issues on the regional HSC agenda. "*We have a look at it informally. Then it goes through the safety committee. Then it goes nationally*" (CS3LEO).

8.3.2.2 Direct Formal Forums and WHSM Processes

The WHSMS processes "*were part of being involved*" (CS3TOBY). Opportunities to facilitate worker engagement and participation were embedded within the formal integrated general construction and WHSMS processes. Popular WHSMS processes included pre-tender planning, inductions, task analysis (TA), incident reporting and

investigation, and site assessments. Key processes were targeted through the WHS strategic plan. For example, having carried out detailed review of the critical risks, the roadshow and training programmes were aimed at upskilling employees at appropriate levels (CS3TOBY). This project was reported to have enhanced WHS outcomes, *“That’s what we are finding now. We still fail, but we are failing safer”* (CS3LEO). Planning was another priority, which was demonstrated by additional human resourcing. There had also been a favourable response to the trade teams request to be more involved in this process. Raised through the regional HSC forum, this established some influence in enhancing participation in general project level processes. Short-term planning forecasts were presented on *“planner boards on the wall, communicated out via email to each of the subcontractors and reiterated in toolbox talks”* (CS3JOHN).

There were attempts to improve engagement and risk management through the task analysis and accident and incident investigation processes. Documented forums included, but were not limited to, project meetings, subcontractor meetings and contract reviews, where project managers and site teams influenced site and task specific risk management controls. Accounts of teams being encouraged to consider higher level hierarchical controls demonstrated influence at the site level and support from management. For example, encouraging the use of a scissor lift instead of a ladder (CS3LEO). Furthermore, overspending the WHS budget because higher level controls were used, was not an issue. *“In contract reviews with senior managers, that’s never brought up. It speaks volumes because that is not an issue”* (CS3ROY).

At the Site Level. The findings suggest efforts to improve engagement and participation overlapped with attempts to enhance subcontractor and worker engagement. Induction resources had been simplified. *“There are about 10 slides. It used to be a 30-to-40-page document”* (CS3LEO). Site-specific induction resources were developed for each project with a complementary set of resources in Tagalog. The site management team were able to adjust and present induction sessions as appropriate. A related strategy was devolving toolbox meetings and inductions to foremen and leading hands. There was some flexibility to adapt the induction to the group being inducted or personal preference and presenter’s style. The observed induction and toolbox meeting were delegated to the foreman. In this instance, the foreman used more than 10 slides as a guide, but he did not present the slides to the workers. Analysis of the induction suggested the information was relevant for the specific site (CSObs3.2 notes presented in Appendix Q). Twenty topics

were presented in a relaxed way: one WHS policy, one site and seven general housekeeping rules, five WHS processes and five specific risk management controls. The focus on hot work was reiterated in the duplication of this topic. It was first presented as an insurance requirement, then discussed as a WHS risk near the end of the induction. A fieldnote extract presented in Figure 8.2 captured this site manager's preference for face-to-face communication for sharing important information.

Figure 8.2. Extract from Induction Fieldnote CSObs3.2

The induction ended with issue of beepers for easy sign-in/sign-out. Numbers were recorded on the induction forms and there would be a delay before these were activated.

Reflection: The foreman used a file to ensure nothing was missed, but presented the information in a relaxed and appropriate way. Workers must get bored with repetitive induction process.

The site manager later noted he did not like the computer-based induction process, preferring the face-to-face format to share important information.

After the meeting

I thanked the managers for having me on site and one indicated it was good to have a visitor. The site office was being cleaned, this followed cleaning of the smoko hut that occurred during an interview [REDACTED]

As in the other two case studies, weekly toolbox talks were essential forums for site teams to share relevant information and encourage subcontractors and their workers to speak up about site and task issues. CS3ChCh participants reported improvement in the functioning of site meetings and varying the breadth of meetings according to site needs:

We have always had toolbox talks and pre-starts, but we've got a better emphasis on it. We've always said we're doing it, but actually having a better following of that. Different sites have different meetings.
(CS3ROY)

Similar issues and strategies to overcome these were reported across the cases. CS3ChCh participants reported, "*sharing information and innovation in our industry*" (CS3ROY), particularly new employees sharing lessons from other construction companies. The post-toolbox migrant meetings aimed at overcoming cultural and language barriers had come from another company (CS3LEO). The industry had learnt that having the principal represented as this meeting undermined the process. "*Even if they were of a lower rank,*

as soon as they were in that meeting, they were seen as the boss” (CS3JOE). The effectiveness of this forum was based on migrant workers completing observation cards because they understood what was going on (CSOb3.3), identifying production issues, encouraging migrant workers to raise WHS issues through the spokesperson, and enhancing safety culture.

Site manager gets it done. The workers realised, “I said something, and it’s been done” ... And when that starts happening, you start getting a culture where people believe, “People are listening to me”. (CS3LEO)

The observed toolbox was presented by the foreman who discussed general project progress and tasks. This formal communication process aligned with the new subcontractor standards (Documents). The same WHS risks were covered in the induction. Principal and contracted workers attended, as the CS3ChCh region used their own workers. Apart from joking about general housekeeping concerning cleaning the portaloos more regularly, the attendees only asked if there were any issues from the previous day. The impression of a calm atmosphere fitted with talk about ensuring staff and subcontractors knew that there was ongoing work available, attention to staff hours of work, and health and wellbeing. People also talked about having good co-workers who all tended to get along. Some subcontractors had their own crew meetings after the toolbox (CSOb3.1). If the site or group was too large, subcontractor supervisors attended and, *“they will go away and talk to their own crew” (CS3TOBY).*

At the Organisational Level. Board directives and decisions flowed downwards from the strategic leaders and WHS Steering Group to national and regional levels. The findings uncovered efforts to maximise the benefits of the strategic leaders’ safety conversations (CS3MATT). Leadership support underpinned efforts to engage people in the effective management of critical risks. For example, the generic risk register was approved by the Board, but project specific risks was regularly reviewed by the operational management team. With all management and workers’ contributions driven upwards through the formal operational and WHS meetings, communication flowed in a full circle. *“In the last few years... it’s starting to get driven back up. People are starting to feel like their voices are more noted” (CS3RYAN).* Key to improving WHS was trying to make formal systems and processes, *“as easy as possible to do”* and involving *“the guys” to ensure*

these were practical and consistently implemented (CS3MATT). Managers were involved in reviewing the WHSMS:

We put in a base, and we are continually improving it based on how it works. And the guys themselves own it. There's no point having something that sits in the office, and it doesn't get used. So, they need to be part of it. They need to understand how it works. And they need to be involved in how the system actually works. (CS3MATT)

Separate monthly WHS meetings introduced for the foremen, leading hands and carpenters, and management cadets aligned with the strategic objectives and statutory duties under the HSWA. Firstly, as a way of ensuring operational employees were informed and were provided with opportunities to discuss planned work and issues arising during a project lifecycle (CS3LEO). Secondly, these meetings aligned with the strategic intention to develop and upskill operational employees (CS3ROY). There were mixed feelings about the separate meetings. While CS3ROY described a foreman raising concerns about the need, *“to have all these meetings”*, CS3RYAN highlighted positive outcomes. CS3RYAN believed leading hands were becoming more involved because their opinions were acknowledged and perceived to be more valued. An important factor was the face-to-face nature of the group forums defined as more conducive to involvement. *“It's not just through a computer”* or going through the hierarchical structures (CS3RYAN).

While participants acknowledged challenges associated with embedding systems and processes in practice, the peer review site audit tool demonstrated how the formal consultation process was applied to operationalise strategic plans. The results of an audit by the HSP team had led to debate of the validity of the audit tool that reached the WHS Steering Group. The outcome of this debate was significant redesign of the auditing process, facilitated by the HSP team's expertise. This resulted in changing the name to assessment as, *“the word audit is such a negative word”* (CS3TOBY). This may have accounted for talk about *“observations and checklists”* (CS3JOHN). The transition from the traditional audit to the new peer review and share approach had started (CS3TOBY). The aims of the new peer review assessment system included sharing the audit load, getting two managers *“sharing ideas”*, reinvigorating efforts in Canterbury where interest had waned, and providing a structured process with a reliable scoring system for

measuring and recording performance (CS3LEO). Functionally, additional scoring facilitated extension from a within site reviewing process to between site peer reviewing and constructive conversations (CS3TOBY).

8.3.2.3 Indirect Forms of Representation

The most confusion and divergence concerned the understanding of the representable structures and how the policy was interpreted in practice. The indirect forms of representation outlined in the Regional WHS Committee Policy specified the minimum requirements for the composition of the regional WHS committee teams (Documents). But participants were uncertain about the details of the election process administered by the regional HSP. They were aware of having a “rolling”, “rotating” or “cyclical” system, that addressed the policy requirement for the committee to initiate and administer an annual HSR election programme. Additional members from defined optional roles were able to be represented on the team. Participants highlighted “*the trade team guys*” (CS3LEO), “*representatives of our apprentice group on that committee*” (CS3JOE), and project manager cadets cycling through as part of their development. A stint on the WHS committee was part of the employee development programme, with project manager and quality surveyor cadets involved for about nine months. Whereas the trade team employees were involved for 12–16 months. Although the planned election process was flexible, there were efforts to balance management and worker representation on the committee. Four or five trade team representatives had volunteered to represent workers on the “*safety committee*” (CS3LEO) and apprentices were asked to be on the committee (CS3HUGO). Limited interest from workers was reported to have eliminated the requirement for a vote:

But they're on there and they are getting into a groove and not making any grumbles that they want to go away. We'll just leave it as it is till someone says, "I think I've had enough". All right, "Does anyone new want to come in?" (CS3LEO)

I put out another flyer. These guys have volunteered to go on it. Does anyone else wants to put their hand up? No one else did. So, we counted that as a vote. "Right. You guys are on this". (CS3LEO)

These participants demonstrated the strongest awareness of the specific terms defining the purpose of the WHSMS processes and worker voice concepts. Despite the confusion, the contemporary representation system was reported in positive terms. One participant preferred the concept of an “*advisory group*” that facilitated “*conversations*” (CS3JOE). Another defined the regional HSCs as “*working groups*” who operationalise and test directives (CS3LEO). He described HSCs as the “*engine room where all ideas get bounced around*” to ensure processes work across all regions. In fact, participants noted everyone felt comfortable getting involved and sharing their opinions, “*You can’t shut anyone up*” (CS3HUGO), and regions usually reached consensus, “*I’ve only had to play arbitrator a couple of times.*” (CS3MATT). Being in a neutral place away from the work site responsibilities facilitated participation (CS3JOE) and enabled management to determine what WHS issues were important to workers (CS3LEO).

8.3.2.4 Relationship Building Social Activities

Both the site and organisational emphasis on social activities extended beyond CS1Wgtn and CS2Auck. Informal events organised by site teams helped build relationships between site management teams, subcontractors and workers. For example, the Movember charity event highlighted involvement in a national health and wellbeing programme. The regional management quarterly barbeques provided an opportunity to informally update CS3ChCh staff about project progress and the general state of the organisation, aimed at establishing a sense of job security:

Those things are quite nice for morale and building trust and relationships with subcontractors... This is what’s going on. These are the jobs we have. These are the jobs we are tendering for. (CS3LEO)

Informal contemporary forms of communication were perceived to be less effective than the traditional forms. A social media platform was rejected as, “*it was just another thing to look at*” (CS3LEO). While emails were equally ineffective with discussions fading away (CS3LEO), they were useful for disseminating information within CS3ChCh and to subcontractors.

Tables 8.3 and 8.4 illustrate how the formal and informal forums coexisted within the general and WHSMS and worker voice structures. Also, how the combined forums and processes were driving information full circle.

Table 8.3. CS3ChCh's Site EP&R System and WHS Processes in Practice

Forms of participation	Example forms of participation	Range of subject matter	Degree or extent of influence
<i>Site and task level of participation</i>			
Direct informal forums	One-on-one/group conversations, emails	WHS matters such as PPE	Discuss organisational matters and WHS issues
Direct formal processes	Initial team/group site induction conversations	Operational matters Task and site-specific WHS risks and hazards	Downward informed and encouraged to speak up
	JSAs and TAs	Task specific risks and hazards	Review and influence in risk controls
	Accident cards and incident observation cards (texting)	Task and site-specific accidents/incidents/near misses	Informed of incidents and corrective actions, but not performance indicators
Direct formal forums	Ongoing site updates through emailed plans, toolbox talks; meetings for project team, subcontractors, and leading hands; project and WHS noticeboards; SignOnSite app	Organisational standards, project and WHS information, general housekeeping	Informed and encouraged to speak up about issues, upward representation of worker concerns
	Migrant worker toolbox meetings	Site, task and WHS matters	Consolidate toolbox information and upward flow of information and worker concerns
Informal social	Peer support site visits	Formal peer audits supported with informal visits	Performance measure
	Carrot/stick coffee/beer prize/penalties	WHS best practice and statutory duties	Best practice behaviours/breaches
	BBQ and teambuilding initiatives (Movember)	Casual talk about work matters	Building relationships and trust

Note: Bold items represent processes and forums unique to this organisation.

Table 8.4. CS3ChCh’s Organisational EP&R System and WHS Processes in Practice

Forms of participation	Example forms of participation	Range of subject matter	Degree or extent of influence
<i>Organisational level of participation</i>			
Direct formal forums	Strategic leaders and WHS Steering Group	Strategic long-term decisions	Information downwards
	Roadshows (critical risks)	WHS forums and general performance updates	
	Safety conversations		Demonstrate leadership
Direct formal systems and processes	Project meetings Precontract Subcontractor meetings	Integrated general and WHS matters and issues	Upward and downward
	Internal audits (new approach)	Between site peer review audit of WHS performance	Constructive sharing – extended scoring
	IT systems, SignOnSite, SharePoint , emails		Information sharing
	WHS campaigns, e.g., mental wellbeing	Organisation and industry lessons from incidents and statistics, and topical health campaigns	Downward and across organisation information sharing
Indirect formal contemporary structures	National Steering HSC, Regional HSCs, cadets, trade teams and apprentice reps	Implementing new IT systems, reviewing current systems, PPE, fire extinguishers, edge protection; human factors such as heat related stress and fatigue, labour hire; health campaigns; WHS statistics and related matters	Downward direction for site management teams and driven back up through cadet, trade teams and apprentice reps – full circle
Direct informal	BBQ quarterly	Informal update, casual talk about work matters (building relationships and trust)	Project progress and general state of the organisation
	Yammer social media	Informal peer networking	

Note: Bold items represent processes and forums unique to this organisation.

8.3.3 How the Current Legislative Framework Contributed to Improving EP&R

The concerns raised in the three cases about the HSWA highlighted the importance of involvement in the establishment of industry standards for subcontractors. The Phase 1 findings suggested the scope of earthquake reconstruction work in the Canterbury Region had acted as a stimulus for industry cooperation in the CRSC initiatives. The CS3ChCh findings demonstrated how the soft initiatives supported by a strong regulatory presence have the potential to raise awareness of WHS performance. These participants attributed the improvement in Canterbury to industry support for the work done by WorkSafe and the Canterbury Rebuild Safety Charter (CRSC), and the industry emphasis on WHS (CS3JOE). The large principal contractors has a role in ensuring the subcontractors complied with the minimum statutory requirements:

The smaller contractors, unless you complied or unless you stepped up, you didn't get a job... [The Charter] raised the knowledge of the subcontractors and our market considerably. (CS3MATT)

We're fortunate in that with the Charter and WorkSafe driving it, the appreciation and the awareness of what better looks like is easier to achieve here. Because the guys are used to delivering that. (CS3LEO)

8.3.3.1 An Experiment in Supporting Tripartite Government Initiatives with Proactive Enforcement

In this case, the combination of hard and soft political factors contributed to structural changes in the WHS team. The stronger regulatory presence would have increased the potential to expose breaches and incur penalties. Both possibilities were raised under the HSWA. The increasing consequences for breaches, including at the board level, were accepted motivators to force change:

Now there are more consequences, directors took it on board. Before legislation came out the Institute of Directors already said, "As director you need to sharpen". (CS3TOBY)

These participants believed that the CS3ChCh WHSMS and processes were well-established and exceeding compliance. They tended to talk about more focused or detailed practices and improved engagement across organisational structures. The Board's interest

in improving the organisation's WHS performance was evident in the depth and breadth of the strategic WHS initiatives, involvement in industry associations and initiatives, and investment in technology. The Board was responsible for approving the strategic plan as well as relevant systems, policies and processes and *"there was no knee jerk changes. It was just business as usual"* (CS3JOE). Participants believed the statutory changes had helped overcome resistance to change (CS3MATT). *"Positive change"* had occurred (CS3ROY), more specifically *"safety culture"* had changed from reactive accident investigation to proactive accident prevention (CS3JOE). And the organisation's WHS system and cultural maturity were very good on sites (CS3MATT). Although others talked about need for further improvement, *"we're not there yet"* (CS3LEO), and some individuals not being part of the change, particularly older people who, *"just never signed up for paperwork"* (CS3TOBY). In sum:

We have steered them through the change in the Act. The culture on sites, it's very good. The guys just seem to do it now as part of the process. There always used to be resistance. There's still probably pockets out there, but in our teams it's just part of what they do.
(CS3MATT)

When it came to the enforcement of breaches and incurring penalties, the fear of prosecution caused by discrepancies between WHSMS policies and processes, and actual practice resulted in a more cautious approach to recording accident investigation corrective actions. *"Do something really simple and call it a toolbox topic"* (CS3LEO). Consequently, enforceable undertakings were perceived to be a more positive alternative "consequence" to prosecution:

Yes. It is [a good thing]. Because companies need to understand that there are consequence for them on various levels if they don't have the right guidance for the staff, contractors and workers to follow. 99% of the time, there is system failure on any incident or control. (CS3TOBY)

8.3.3.2 Leveraging Organisational Capacity and Resources

The Board set the strategic direction defined in CS3ChCh's policies, embedded through systems and processes. The findings revealed extensive efforts to ensure management and the HSP team were highly experienced experts. Decisions on strategically targeting areas

for training “*would happen more at the executive level*” (CS3JOE). The human resources and HSP teams managed the development programmes, maintained the competency and training registers, identified operational level training gaps, presented internal training and worked with external training providers. “*We might do a little bit of gap analysis and say... ‘Let’s develop something a little bit more formal’. But only within what we can do*” (CS3JOE). With more focus on training and development the organisation had become, “*a bit more structured with that and that started happening a bit better*” (CS3LEO). Management and employees were assigned to appropriate courses in their training and development programmes but could “*also elect them [courses]*” (CS3ROY). Participants talked of specific operational construction task and WHS training:

It’s planning for the guys you currently have. Then the new guys. You’ll have initial training... and the refresher every two years. You can calculate how much it’s going to cost. (CS3LEO)

Despite the increasing focus on task and WHS training, HSPs highlighted the need for more specific training related to effective critical risk management. Some training was already presented in-house, such as task analysis and understanding hazard reports (CS3LEO). A detailed review of critical risks resulted in consulting with an external provider in developing a programme on “*how to do effective investigations*”. The course would be delivered at three levels (CS3TOBY). Leadership and soft skills training were targeted at different levels. An external consultant provided the strategic leadership team with training in the “*Safety IP*” approach, including how to engage people in safety conversations (CS3MATT). Operational management teams, from the project manager through to the foreman, attended a two-day leadership foundations course for management to help them “*deal with people*” (CS3LEO). This was a negotiation and conflict resolution course (CS3ROY). Leading hands were coached by site management and “*learn how to lead*” (CS3RYAN). The health and wellbeing programme had helped raise awareness of personal traits and provided tips for getting on with people, and strategies to mitigate targeting stress, fatigue and depression.

There were some concerns about being “*held accountable for other people in business [subcontractors], to manage their competency*” (CS3JOHN). While basic safety training certification programmes were valued, there were some issues with the Site Safe system endorsed by the construction industry. CS3JOHN felt “*it’s got a little bit comfortable*”,

and the costs involved in the refresher courses were difficult to justify because, “*nothing changes, it’s just refreshing what they’ve done*”. The principal contractor and subcontractor had to “*spend a lot of time*” ensuring workers attended refresher training before certificates expired.

Project and WHS budgets were defined as sufficient, guiding expenditure, but never a barrier to training or implementing industry best practice. A substantive portion of the WHS budget was allocated to ensuring CS3ChCh retained experienced professionals, and continued training and developing all directors and staff. The HSP team was developing a case for a fixed-term position to help with administrative tasks. The costs of external courses and PPE were accounted for in regional budgets. The costs for equipment and staff time on the course were site costs (CS3LEO). Some subcontractors had their own equipment, but equipment was included in the tendering process when subcontractors used CS3ChCh’s equipment. Higher risk controls was associated with better efficiency and productivity:

Applying appropriate well thought out methodologies of how we are doing stuff. Looking at the equipment we’re using. Making sure that we’re doing it efficiently. (CS3JOHN)

It’s getting a lot more about efficiency rather than cost saving... the timesaving validates that cost. Then it’s down to the programming and sequencing and being smart about it. We can save costs by being more efficient while still using the safest bit of kit. (CS3LEO)

8.3.4 Balancing Regulatory Support with Enforcement

When it came to the role of the regulator in Canterbury, the participants described how a well-resourced inspectorate had driven practice beyond compliance with minimum standards. With “*20 WorkSafe inspectors in Christchurch at one stage*” (CS3LEO), principals and subcontractors had to enhance their WHSMS and practices if they wanted to work. During the peak rebuilding period, inspectors were regularly on site, but had balanced their enforcement and information strategies “*becoming helpers as opposed to finding stuff, shutting down sites*” (CS3ROY). This meant “*it was easier to get a compliance level than anywhere else in the region*” (CS3LEO).

Good relationships had been developed over this period, *“I’d say we’ve got a good relationship with them”*. There had been some tension with one of the supplementary Australian inspectors, *“I only took offence to one and he was [impossible]”* (CS3LEO). Good relationships and confidence in CS3ChCh’s efforts to maintain this standard partly explained a reduction in site visits. A HSP appeared satisfied with the declining regulatory presence on sites from, *“getting a visit every fortnight on one of our jobs. I think we had two visits this year”* (CS3LEO). Whereas operational participants’ perceptions of engagement with the inspectorate at the site level varied from positive to relief at not having to engage with them. There were two reasons for a more reactive approach. Firstly, the loss of experienced inspectors. Secondly, raising industry and public awareness had led to increasing reports of unsafe work practices on construction sites, with the associated expectation for the regulator to respond to the concerns:

Generally, they see what we’re doing as a positive thing. (CS3ROY)

They came out as there was a complaint on one of our sites... What was happening was wrong. Fair enough. Someone on site called WorkSafe. So, he came down the next day. (CS3LEO)

The HSP’s satisfaction fitted with a more proactive approach at the practitioner level. Whereas confidence in the organisation’s performance may result in some regression on CS3ChCh’s sites following the withdrawal of the special regulatory resources, after the completion of the major rebuilding work in Canterbury.

8.4 Conclusion

A distinguishing feature of CS3ChCh was the unanimous agreement on the organisation exceeding compliance and being an industry leader in WHS performance. The findings pointed to statutory changes having enhanced existing behaviours and practices. Commitment to enhancing WHS outcomes was demonstrated in significant efforts to ensure the organisation employed highly experienced experts. They were also committed to enhancing capabilities in leadership, risk management and engagement at all levels across the organisation. All parts of the WHSMS and structures were reported to be more positive, deeper, more detailed, increased engagement and gave the perception of opinions being more valued. The current statutory framework had helped CS3ChCh overcome some resistance to change and move from a reactive to a more proactive safety

culture. Even concerns about increasing PCBU duties and penalties stimulated action to resolve issues. This proactive approach was balanced by a more cautious approach in embedding the WHSMS and processes in practice. The organisation had also invested in safety equipment and supported the utilisation of higher- level hierarchical risk controls, rather than cheaper lower-level risk controls. They associated the benefits of enhancing WHS outcomes with increasing productivity and quality of the project.

Having steered the organisation through a review process to ensure CS3ChCh complied with the current statutory duties, participants were confident the strategic leadership team understood their duties to provide relevant WHS information, and opportunities for worker participation in matters that affected their WHS outcomes. The concept of improving engagement dominated descriptions of a good safety culture, which was demonstrated in focused leadership, and workers asking questions and perceiving their opinions are valued. Engagement was also associated with interaction with the regulator. Perceptions of traditional forms of representation being voluntary and ineffective shaped the preference for adopting contemporary arrangements for formal representation, accommodated under the HSWA. Representation was largely related to the HSC meetings with most operational staff involved in a rotational system assimilated into development programmes. Representation also applied to the organisation's leadership and leverage in industry associations and initiatives.

Key organisational factors included family values, an increasing focus on leadership at the board level, a well-resourced WHS system and professional team, and integrated WHSMS and general organisational systems.

In practice, increasing board interest in WHS emerged in a detailed review of the WHSMS, and comprehensive range of strategic initiatives targeting leadership, critical risks and worker engagement. The restructuring of the WHS team raised the profile and authority of the WHS strategic manager's role within the organisation and in the industry. The forms of engagement were designed to facilitate productive conversations about task and site level matters; aimed at proactive identification of WHS risks, and reactive resolution of issues and dissemination of information about corrective actions. Formal and informal forums were incorporated into the integrated general construction project and WHSMS and processes. Accounts of an information system supporting circular information sharing demonstrated efforts to embed strategic plans through practices. The

effectiveness of formal forums relied on the informal and structured face-to-face conversations used for gathering and sharing important information. Ideas were discussed in numerous 'conversations' before reaching the WHS Steering Group who decided on an appropriate direction for CS3ChCh. Staff who had noticed a change reported feeling the board and management were listening and valued their opinions. Staff requests to have input in planning had been implemented, demonstrating some development in the level of participation and range of subject matter.

At the site level, site managers were accountable for providing relevant information and opportunities for site teams and workers to participate in WHS matters. The site teams had authority over operational site and task level decisions. The CS3ChCh carpenters, apprentices and cadets all participated through formal EP&R structures. Although a mixed labour model was applied, the subcontractor WHSMS was central to maintaining safe work practices on all sites. The application of informal strategies for motivating people to engage with formal WHSMS processes, demonstrated the scope for site managers to adapt processes to their individual style and experience. The progression from a self-audit to a peer review audit tool was another innovative attempt to share information and lessons between site teams, and at the same time, provided peer support. The latter aligned with the focus on mental wellbeing, particularly relevant in the immediate aftermath of the Christchurch Mosque shooting events.

CS3ChCh was more advanced than the other two cases in the scope of IT support systems. However, these systems increased rather than reduced administrative tasks, impacting on the ability to engage more widely. Informal barbeques helped develop and nurture trusting relationships with the addition of some information sharing at the organisational level.

This case demonstrated the impact of having a well-resourced regulatory agency supported by willing employers and unions collaborating in the tripartite CRSC initiatives. These findings suggest the experiment in balancing support with enforcement had been successful. Albeit having raised expectations for the regulator to respond to reported breaches, the regulatory agency was struggling to maintain a proactive presence after the special CRSC and inspectorate resources were withdrawn.

9 Discussion: Worker Voice and the Health and Safety Regulatory System in New Zealand

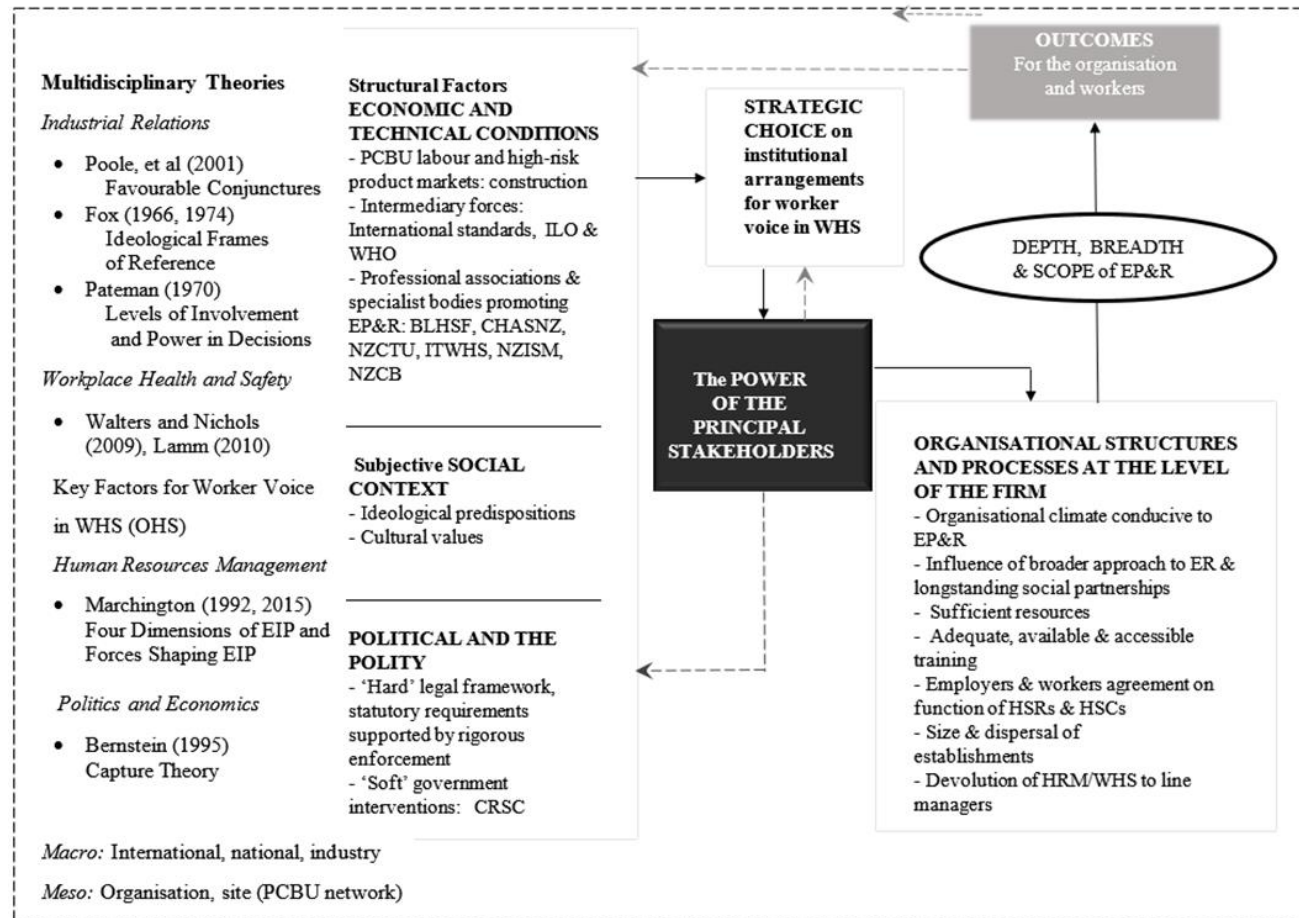
9.1 Introduction

The purpose of this study is to understand how the current statutory framework is contributing to enhancing worker engagement, participation and representation (EP&R). The meaning of key terms, different types of worker voice structures and the context within which the phenomenon occurs were examined in Chapters 2 and 3. The methodological objectives and approaches were presented in Chapter 4. The findings exploring the key stakeholders' perceptions of practices under the Health and Safety at Work Act 2015 (HSWA), and case study participants' experiences were presented in Chapters 5 to 8. This chapter discusses the implications and importance of those findings in relation to the research subquestions, which are:

1. What is worker voice and how is the concept is understood?
2. How do macro level external factors impact the forms of worker voice that exist at the industry and organisational levels?
3. How does worker voice manifest in practice at the industry and meso organisational levels?
4. What effect has the current legislation mandating worker voice had on workplace engagement, participation and representation?

The discussion demonstrates how triangulating relevant sociopolitical, economic and technical theories provides an in-depth multidisciplinary exploration of a social phenomenon. In this instance, Figure 9.1 illustrates how the *Favourable Conjunctures* theoretical framework was further developed into a theoretical *Multidisciplinary Analytical Model of Worker Voice*. The following sections discuss each subquestion in sequence. The final section of the chapter explores how the current statutory framework is performing and identifies potential system weaknesses and efforts to enhance collaboration at both macro and meso levels.

Figure 9.1. Multidisciplinary Analytical Model of Worker Voice



Note: The dashed lines illustrate the multi-directional nature of stakeholders' relative powers to influence WHS decisions.

9.2 Defining and Understanding the Concept of Worker Voice

The purpose the Act is to provide “for fair and effective workplace representation, consultation, co-operation, and resolution of issues” (§3.1.b). The section discusses the findings from Subquestion 1, how the statutory EP&R duties for worker voice are understood by stakeholders, managers, and workers. *Engagement* is interpreted as a *Primary Duty of Care*, with *Due Diligence* duties to provide reasonable opportunities for workers to participate effectively (WorkSafe New Zealand, 2016b). *Participation* is a statutory requirement with traditional HSRs optional at the employers’ discretion (MBIE, 2015a, 2015b).

9.2.1 Understandings of the Statutory Provisions for Worker Voice

The key stakeholders and participants were confident they understood the statutory requirements. *Engagement* was the most common term defining collaboration beyond the organisation at the macro national and industry levels, and within the meso organisational supply chain network. Engagement was associated with the *Primary Duty of Care* (s36) and participation as actioning “how they need to do things to provide reasonable opportunities for worker participation on an ongoing basis” (s44). Concerns about subcontractors and workers limited understanding of their statutory duties, restricted to using provided PPE and speaking up in forums, were substantiated on the case study sites.

Engagement at the Macro Level. Descriptions of recent collaborations in soft government initiatives demonstrated diverging stakeholder understanding of tripartite engagement. Beliefs about managers prerogative to make decisions underpinned the prevailing approach to “the golden rule”. The engagement between the employers and the regulator demonstrated some effort to address a historical regulatory weakness by developing more effective partnerships (ITWHS, 2013a). Union and other stakeholder concerns about late inclusion in tripartite initiatives were substantiated in the 2018 WorkSafe annual report (WorkSafe New Zealand, 2018c). In reporting the difference in partnership relationships, as “working closely” with the BLHSF and “engaged with our social partner (NZCTU)” (WorkSafe New Zealand, 2018c, p. 42), WorkSafe demonstrated the difficulty in achieving balanced tripartism in a low-union environment. Therefore, tripartism on which the Robens model rests, had not led to significant rebalancing of the tripartite relationships. By 2019, reports indicated a more proactive broader approach to support, practice and monitor tripartism both in the soft EP&R

initiatives and the regulatory agencies performance (WorkSafe New Zealand, 2019b, 2020c).

Engagement at the Meso Level. There was unanimous agreement, amongst all the case study respondents, that engagement had significantly improved following the HSWA. Engagement was associated with strategic leadership more engaged in the systematic management of critical risks and site conversations, and workers engaging in WHSMS processes such as inductions, hazard identification and incident reporting. Managers directly act on the information and facilitate information flowing upward and downward within the complex principals' subcontracting (PCBU) networks. The distinction between direction and devolution underpinned the site manager's concerns about fulfilling their statutory duties. Workers reported being confident to tell someone to wear the appropriate PPE and, on some occasions, to stop them engaging in risky work practices. The strategic leadership conversations with workers were also primarily about PPE. The board steering groups had ongoing involvement in policy decisions about the provision and use of PPE.

Differences in how site and task level decisions were delegated to supervisors and foremen in the three case studies were associated with the characteristics of compliance maturity. In CS1Wellington engagement was more than a compliance exercise. Whereas understanding of 'engagement as a prerequisite for participation' was demonstrated in practical efforts to increase engagement as a means of promoting participation in CS2Auckland. In CS3Christchurch active engagement empowering all groups, characteristic of a good safety culture, was supported by beliefs that opinions are valued. The literature shows that engagement is a starting point and prerequisite for worker participation and influence (Burton, 2010; Quinlan, 2018; Walters & Nichols, 2009; Wilkinson, Gollan, et al., 2018).

Participation. The general conceptualisation of "how duties were embedded in practice" reflected the statutory duties outlined in the regulator's guidance. The nuanced interpretation of duties uncovered perceptions of the relative powers of each key stakeholder in shaping, promoting and supporting statutory provisions and soft initiatives. Descriptions of organisational collaboration with external groups also varied. Participation was negatively associated with the regulator's site visits (CS2Auckland) and organisational resistance to union participation at the workplace level. Whereas negative interpretations highlighted areas for further improvement, CS3Christchurch's

representation in industry and government initiatives was positively associated with proactive leadership acting as a change agent. These examples associating involvement with purposeful actions aimed at desired outcomes of engagement and participation support research showing the intended outcomes of formal forums could be either positive or negative (Donaghey et al., 2019; Kaufman & Taras, 2010; McGraw & Palmer, 1995).

Representation. While understanding of engagement aligned with the duties in the HSWA, the attitudes towards representation revealed why traditional or contemporary structures were preferred in this study (summary presented in Appendix R). Traditional representative structures were often inappropriate and ineffective. Whereas flexible forms were reported to have enhanced engagement. One of the key differences was between employer and union stakeholders' perceptions of union involvement at strategic and operational levels, and related views of the effectiveness of reinvigorated bipartite and tripartite collaborations. Although this was not trickling down to the meso level, the macro level events occurring in 2020, discussed in the final section, suggests the problem may start upstream.

Overall, these interpretations of statutory duties demonstrated a detachment from the main purpose of the HSWA, where a balanced framework aligned with the WHO and literature providing for more than consultation and informing workers about management decisions. The focus on strategic leadership, appeared to be more limited than the WHO's conceptualisation of WHS leadership at all levels (meaning all key stakeholder groups) (Burton, 2010; Farr et al., 2019). These findings support research demonstrating the limitations of provisions for statutory powers in mediating managerial prerogative within unequal power relationships (Pashorina-Nichols et al., 2017; Walters et al., 2016). It therefore becomes imperative to establish the purpose and intent of alternative systems, as these are effective when complementing existing social partnerships or may undermine union representation (Kaufman & Taras, 2010; McGraw & Palmer, 1995).

Expanding the debate by exploring individual and collective, formal and informal voice structures has theoretical merit and practical implications for policy and practitioners. The next section explores how understandings and attitudes influenced the choice of statutory worker voice structures. Organisational practices were aligned with the WHSMS and structures to develop the *EP&R Compliance Maturity Model*.

9.2.2 How Understandings Influenced the Choice of Statutory Worker Voice Structures

In sharing their understanding of these statutory duties, the stakeholders and participants contributed to the literature exploring the link between the social ideological predisposition and political statutory context, and worker involvement in managing WHS risks.

Ideological Predisposition. The interchangeable use of terms describing statutory duties supported research illustrating how different meanings of terms and purpose of the structures influence the choice of worker voice structures (Budd, 2014; Budd et al., 2018; Gollan & Xu, 2015; Wilkinson, Gollan, et al., 2018). This contrasts with Barton (2018) who argued the distinction between engagement and participation is arbitrary. The positive or negative characterisation of these terms influenced efforts to strengthen statutory worker voice in New Zealand. These beliefs underpinned ideological preferences that defined how conducive the national, industry and organisational climate was to independent representation. The perceived legitimacy of statutory powers to influence WHS decisions, indicated that ideologically driven fears would encourage avoidance of traditional representation structures. Thus, this study supports the modification of theoretical models (Marchington & Wilkinson, 2005). Ideological preference is still useful for exploring how understanding influences choice of statutory worker voice structures in the contemporary environment.

Political Statutory Context. Union concerns about the potential for contemporary representation to undermine traditional representation were validated by lack of understanding of a holistic complementary system, and descriptions of “nothing mandatory, recommended and not required”. The preferences for contemporary representation supported Barry and Wilkinson’s (2016) proposal, that lack of understanding of complementary systems drive employers towards employer-led contemporary systems discussed in the HRM and organisational behaviour (OB) debates. A narrow focus limits understanding of complementary systems if a broader range of relevant research has not been recognised. In the case of the HSWA, the CTU reported stakeholders’ reticence to recognise empirical evidence during the parliamentary consultation process (Sissons, 2016). Even Ministry advice arguing that flexibility would minimise the impact of the provisions for traditional HSRs and negatively impact on WorkSafe’s targets, was disregarded (MBIE, 2015b). Overt resistance to strengthen

statutory provisions (discussed in Chapters 2 and 3) was tempered by recognition of the limitations of compliance based traditional representation.

However, efforts to separate terms and conditions of work in employment agreements from WHS matters were at odds with the strategic intent to integrate WHSMS and processes within the case study organisations' general and HRM systems and processes. Comparative case studies between liberal and coordinated market economies indicate this separation is artificial and weakens collective voice in WHS (Saksvik & Quinlan, 2003, as cited in Mylett & Markey, 2007). These findings supported literature showing that declining statutory protections for worker voice in their conditions of work often results in voice in WHS becoming the only remaining statutory structure (Hasle et al., 2016; Lamm, Rasmussen, & Anderson, 2013; Markey et al., 2014; Quinlan & Johnstone, 2009). This is exacerbated in New Zealand where traditional HSRs and HSCs are progressively declining (MBIE, 2016, 2018b; WorkSafe New Zealand, 2019b) amidst persistent employer resistance to traditional representation (Cullen, 2012; ITWHS, 2013b; Sissons, 2016).

Although the case studies in this research were integrating organisational structures, the decline in traditional representation fitted with the general regression in the construction industry (Feek, 2019). As the case studies were likely to have adopted better WHSMS and processes than commonly occurring in the industry, the findings suggest that contemporary WHS representation is likely to prevail in the private sector.

9.3 How Macro External Factors Impacted on the Forms of Worker Voice that Exist at the Organisational Level

Interpretations and ideological beliefs about legitimacy shape strategic choices of arrangements for worker voice. This section examines Subquestion 2, how international standards and intermediary forces shape and embed the statutory framework for worker voice. As the intermediary stakeholder groups influenced and were influenced by the statutory framework, this section considers the employer, union and industry groups roles as an external factor shaping worker voice at the organisational level.

International Standards. These findings demonstrated how macro level international standards acted as a stimulus by raising expectations and desire for worker voice. The organisational response to increasing worker awareness is discussed with the organisational factors. However, the ratification of ILO conventions failed to have a

significant impact in empowering worker voice in the private sector. Although ILO C155 is enshrined in the HSWA (s60) requirement for ongoing worker input in the planning and development of WHSMS, the requirement had limited consideration in the construction case studies. These findings follow a similar pattern as attempts at establishing worker voice structures in other LMEs. British and Irish case studies revealed how flexible statutory systems enabled employers to adopt worker voice structures that deterred workers from speaking up, rather than moderating managerial prerogatives towards more cooperative workplace decisions (Donaghey et al., 2011; Dromey, 2015).

Intermediary Stakeholder Influence. Exploring the industrial relations context uncovered a widening gap in the distribution of power between employer and union groups. Strengthening of national business and industry groups, particularly the BLHSF, Forestry Industry Safety Council (FISC) and Construction Safety Council/Construction Health and Safety New Zealand (CHASNZ) contrasted with weakening NZCTU powers because of decreasing industry union density and membership. It was within this industrial relations context, that the key stakeholder groups, acting in their roles, lobbied on behalf of their members' interests in their submissions to the taskforce on the proposed legislative changes including to the WHS regulatory system and participated in soft government agency initiatives (ITWHS, 2013a).

These employer groups were more satisfied than unions with how the current statutory framework had reinvigorated macro level consultation and given employers the power to choose contemporary participative structures at the organisational level. The union stakeholders' concerns about the fear and exclusion of union influence, deteriorating union relationships and ultimately "not wanting industrial democracy", were supported by documents reporting how unions were included or excluded in relevant soft government initiatives and in the enforceable undertaking (EU) processes and corrective actions. For example, the development of a construction industry contractor pre-qualification tool was a priority for the regulator, Accident Compensation Corporation (ACC), CHASNZ and SMEs who collaborated on upgrading and relaunching Q-Safe (a simplified ISO45001 audit tool) in March 2020.

Worker Voice in Industry Initiatives. As Q-Safe mainly involved updating an established audit tool with the HSWA duties, the input of key regulatory experts in ensuring good alignment with the HSWA was reported as a sufficiently broad engagement process

(Telarc representative, personal communication, March 20, 2020). This appeared to be a restricted engagement process considering the limited union representation. The industry effectively excluded representative voice in the consultation process on whether enforceable undertakings would have better outcomes than prosecution (discussed in Chapter 3). Some union involvement occurred through the alignment of the tool with CHASNZ Titoki pathway to pre-qualification – the National Secretary of E tū represented the NZCTU on the CHASNZ Board. This type of industry effort to consult and cooperate has been successfully overcome barriers in liberal market economies (LMEs) (Markey et al., 2014; Markey et al., 2015), particularly in high-risk coal mining (Walters et al., 2016) and construction industries (Lamm et al., 2017; Walters, 2010). However, involving industry in clarifying compliance may unintentionally result in delays in the development of process standards with the potential to support SME employers' efforts to involve the most vulnerable workers (Walters et al., 2011).

The stakeholders were aware of the need to improve collaborative business-to-business relationships within PCBU networks to facilitate compliance with the overlapping statutory duties, which are further clarified in regulations ("Health and Safety at Work (General Risk and Workplace Management) Regulations," 2016). This was partly addressed through the development of the industry standard discussed above, and ongoing work by CHASNZ. This included the Blackhat supervisor accreditation programme (Bohling, 2020). One strategy may be to leverage employer commitment to develop more cooperative consultation skills by ensuring employer and worker voices are equally represented in government tripartite forums and soft initiatives. Dromey (2015) demonstrated that without formal structures there were fewer opportunities for management to develop consultation or negotiation skills in UK. However, success is dependent on training and opportunities to develop and maintain communication skills. (Training and support provisions for site managers is discussed in Section 9.3.6).

Overall, these findings were consistent with the voice literature showing the principal stakeholders' power is the most critical factor for understanding the origin of participation structures (Barry & Wilkinson, 2016; Donaghey et al., 2011; Dunlop, 1958; Geare et al., 2006; Lukes, 1974; Poole et al., 2001). The '**black box**' in Figure 9.1 highlights the centrality of stakeholder power to influence statutory provisions. This analogy draws on the importance of the flight data and cockpit voice recorders in facilitating investigations of aviation accidents and incidents.

The next section explores Subquestion 3 findings, how worker voice occurred in practice at the meso level. This section draws together the perceptions of how the HSWA was supporting powers to influence decisions at the organisational and site workplace levels, within the real hierarchical power structures established in the case studies (presented in Tables 6.2, 7.2 and 8.2). It discusses the organisational factors influencing the breadth and depth of organisational and WHS structures designed to provide reasonable opportunities to listen to, act and provide feedback on workers' opinions within a PCBU network.

9.4 How Worker Voice was Embedded in Practice at the Meso Level

Stakeholder concerns were further explored in the case studies. Firstly, difficulties moving employers' views from acknowledging the importance of involving experienced knowledgeable workers to operationalising their duties in practice. Secondly, employers who adopt a top-down approach when planning, designing and establishing EP&R systems, would not comply with the relevant duties at the organisational level (s60). Thirdly, the limited ability for workers to influence decisions beyond the task or workplace/site levels.

The case study organisations demonstrated efforts to adopt a holistic approach aimed at supporting leadership commitment to manage critical risks and provide opportunities for worker voice. These organisations were operationalising the three key elements of effective WHSMS (Campbell, 1995; Gallagher & Underhill, 2012). Founded on establishing opportunities for the first element, a willing senior leadership team to demonstrate commitment and gain informed understanding by engaging directly with people to achieve the second element, systematically managing WHS risks. Efforts to achieve the third element of an effective WHSMS, involving and empowering trained and informed workers in managing critical risks. The strategy required developing capacity across the whole organisation (particularly soft skills), integrating systems, developing new board reports, external auditing, culture surveys, and increasing focus on employee and subcontracted labour involvement.

The similarity in strategies to review and improve the general WHS structures and WHSMS further unified these case studies. Particularly integrating organisational systems and structures, strengthening HSP teams' capacities and capabilities, and expanding EP&R structures. Strategic leadership direction on policy and systems through

planned strategic initiatives was congruent with the worker voice literature (Boxall & Purcell, 2011). Similarly, leadership by senior general managers or chief executives led to operationalisation of the organisational goals, devolving implementation and maintenance of the systems to tactical project support teams and site management teams (Marchington, Wilkinson, Ackers, & Goodman, 1993). While generally considered good WHS and HRM practice in the literature, the restricted power to influence decisions in the case studies supported the stakeholders' concerns that tripartism was not filtering down to the meso level. A weakness in the direction-devolution or steering-task group model was the apparent exclusion of workers' voice in the design and review stages of the WHSMS and EP&R systems, explicit in the HSWA.

9.4.1 Organisational Factors Shaping Worker Voice Structures at the Meso Level

The case study organisations demonstrated commitment to the good practices expected in award winning organisations that conducted regular external audits and staff surveys. They were characterised by family values embedded in the organisational culture and climate; had established structures and processes supporting organisational sustainability, that underpin job security and career development opportunities; and cared about workers' health, safety and wellbeing. Several participants talked about being attracted to the organisations' values and characteristics.

This section considers how *size; regional dispersal of establishments; WHS team structures; and labour, integration and devolution practices* impacted on these organisations in the early stages of the current regime. The findings uncovered organisational efforts to drive cultural change in response to the changing statutory framework. The differences are associated with changing the HSP's level of influence and WHS team structures. Organisational response is classified as either a proactive or reactive approach, based on whether strategic initiatives preceded or followed the statutory changes. The findings show that *external pressure from the HSWA* was driving the three organisations to adopt similar system integration and management devolution practices. The chapter concludes with reflections on the ongoing influence of the regulator's advice and enforcement of the current statutory framework at the organisational level.

Size, Regional Dispersal of Establishments and Hierarchical Structures. Similar EP&R and WHS professional team structures fitted neatly with each organisation's structures.

With these structures generally becoming more complex and deeper to accommodate organisational regional growth patterns and the stage of proactive or reactive response to the changing statutory framework. One key difference between cases was the level of HSP's seniority and power to influence strategic management decisions. This variation between the *WHS team structures* appeared to match with different stages of transitioning the organisations' culture and WHSMS to the 'next level'. The expansion of the three case studies WHS teams' expertise and capabilities appeared to be a distinct indicator of reactive or proactive organisational response to the statutory changes.

The Preferred Labour Practices within each organisation also determined whether employees had the statutory right to request to be represented by a traditional HSR. While CS2Auckland operated a largely subcontracted labour force model, CS1Wellington and CS3Christchurch applied mixed labour practices with carpenters and apprentices working alongside subcontracted workers. Following general management practice, the choice about the type of EP&R structures and systems appeared to be at the strategic level (Boxall & Purcell, 2011), with workers expected to request to be represented by a traditional HSR.

Integration and Devolution Practices. Despite differences in these organisational factors, the three organisations demonstrated similar strategic intent. All were focusing on *integrating* worker voice in general organisational system processes and WHS initiatives, and *devolving operationalising the engagement* of workers to line managers. Integration and devolution are well-established HR practices in LMEs (Marchington, 2015a) and purported to have supported a cultural shift in the new millennium. Pressure from worker expectations to have voice have also influenced practices. Albeit driven by statutory duties in this instance, "both middle and senior managers were more used to and empathetic with such expectations" (Dundon et al., 2005, p. 318) in the contemporary environment. Preparations for external audits and cultural surveys would have contributed to strategically driven improvements and enhanced management awareness in the participating organisations. Participation in this research was further likely to have stimulated review of the EP&R systems.

These findings suggest the more strategically driven integration of WHS and devolution practices in the construction industry are distinguishing features of the current wave of participation initiatives stimulated by the HSWA. The site managers' increasing

awareness and concerns about their statutory duties supported Sizemore's (2017) case study showing construction managers were aware of these duties. The general perceptions of improving engagement matched survey results reporting more recent industry improvements in providing workers with access to regular information. In 2016, only 66% of construction employers reported having processes for informing workers (Nielsen, 2017a). Even the CRSC had difficulties in establishing standards of engagement Canterbury Rebuild (CRSC, 2016) amidst the ongoing failure in Canterbury (Cosman, 2015) and in most organisations across the country (Cosman, 2017). The steady organisational progress revealed in these findings corresponds with the significant improvements in the industry. By 2019, 81% of construction employers reported having some provisions for engagement (MBIE, 2019b).

External Pressure from the HSWA. The timing of case study improvements suggested the external pressure from the HSWA acted as a key driver in stimulating renewal in the three organisations (summary presented in Appendix S). The commencement of enforcement activities also appeared to stimulate more widespread industry change, that senior leadership commitment to best practice and soft government initiatives had not achieved in the private sector. Some of the industry improvements were likely to have been driven by corrective actions in the EUs discussed in Chapter 3. Particularly those targeting the subcontractor WHSMS and management training. EUs may have gone some way to stimulating more widespread response where absence of the threat of prosecution penalties have failed in New Zealand (Sissons, 2016) and the United Kingdom (TUC, 2016; Walters et al., 2005).

The findings illustrating the convergence in management practice indicated that the factors for effective worker voice, identified in the literature, are necessary and have a cumulative impact. The macro and meso contextual factors provided a broad view of the complex social, political, economic and technical environment in which worker involvement occurs. However, the actual impact of confounding factors such as size, dispersion and stage of transition could not be determined in the three case studies. Next, exploration of the breadth and depth of WHSMS processes and EP&R structures uncover the extent to which the preferred traditional, contemporary or combined EP&R structures and processes empowered workers' voice.

9.4.2 How the HSWA Improved Worker Engagement Structures and Practices

The overarching beliefs of the HSWA contributing to improving engagement at all levels was consistently supported by strategic leadership demonstrating commitment and site managers adopting a range of informal strategies to operationalise the formal WHSMS processes. Information mainly filtered down, across and up through the formal forums. Size and depth of devolution practices contributed to differences in the breadth of forums. Flexibility in the HSWA largely enabled management to adopt representation structures without the statutory powers and protections afforded to HSRs. Distinct preferences for a flexible statutory framework contrasted with attempts to standardise practices within the organisations' PCBU networks. The BLHSF Safety II: Safety Differently approach and/or industry specific best practices were promoted and expected to filter down and become embedded in these networks. Although contemporary structures were outside the scope of the regulations, there was a strong commitment to achieving proactive practices supporting genuine living systems that exceeded tick box compliance behaviours.

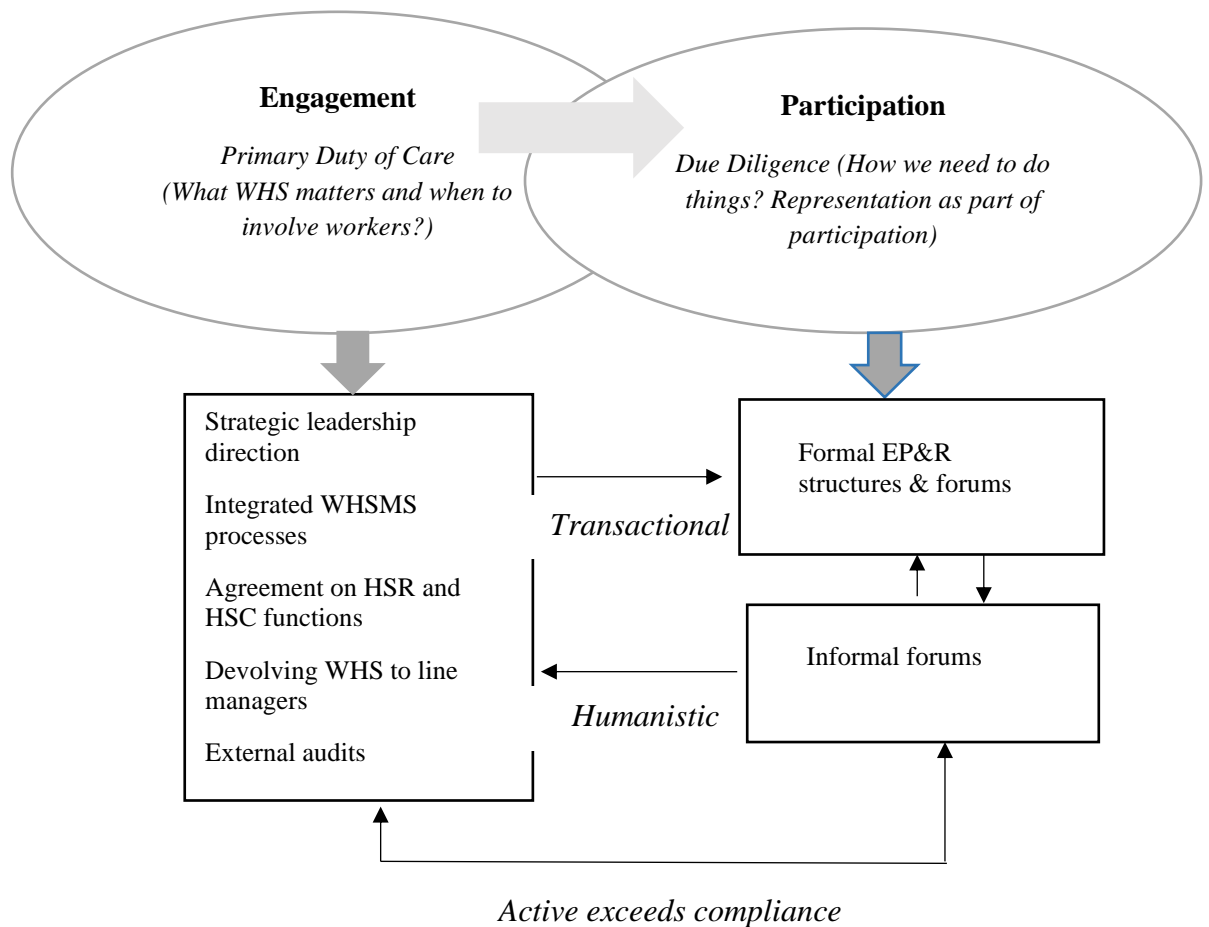
The findings highlighted the prominence of direct forums, particularly the importance of multiple informal face-to-face work and social forums in operationalising the integrated formal EP&R structures and WHSMS processes presented in Tables 6.3, 7.3, 8.3 and 8.4. Figure 9.2 illustrates how direct informal forums transformed directives and processes from a transactional compliance exercise to a humanistic caring approach. These findings converge with the literature revealing the importance of informal communication (Wilkinson et al., 2013), especially in large organisations attempting to enhance trust at the team level (Marchington, 2015a). Also, the managers and workers preference for informal one-on-one conversations has been established in the literature (Marchington & Suter, 2013; Mowbray et al., 2015). The efforts to enhance the integration of worker voice within organisational structures and processes fitted with Wilkinson et al.'s (2013) research. Thus, the coexistence of different forms of communication, used for different issues, are necessary in a holistic system aimed at delivering meaningful worker voice.

Apart from divergence in formal representation structures, supporting these traditional or contemporary representation structures with informal direct communication forums was common practice. A similar range of formal engagement structures, WHSMS and processes were applied in the case study organisations. Strategic leadership safety conversations and roadshows, emails, toolbox talks, and culture surveys were common direct formal forums. There were differences in the breadth and formality of migrant

worker forums, peer support, team building exercises and recognising and rewarding good practice.

These findings demonstrated the importance of trusting relationships in nurturing a climate conducive for worker voice within all three organisations. A higher value was placed on social events in the two largest case studies, compared with CS1Wellington operating traditional structures where social events were limited. The greater depth of informal events and social networking in CS3Christchurch highlighted the importance of informal forums in involving workers in transforming compliance systems to achieving a proactive culture when adopting contemporary structures. A preference for informality has been associated with contemporary approaches (T. Dundon et al., 2005; Wilkinson et al., 2013), with the breadth and depth of direct informal forums increasing with devolution practices (Marchington, 2015a). The deeper direct and informal forums are used to compensate for lack of independent representation in non-unionised organisations (Marchington, 2015a; Markey et al., 2015).

Figure 9.2. Breadth of Overlapping WHSMS Processes and EP&R Forums



However, the analytical model enables the interpretation of the findings to move beyond concurring with Dundon et al. (2005) on the dependence of formal structures in facilitating informal conversations. Examining worker voice with Marchington et al.'s (1992) four dimensions, demonstrates how the actual WHSMS processes (align with statutory duties) shape expectations to engage (Dundon et al., 2005). It reveals the breadth of informal conversations, which filter information downwards, upwards and full cycle. These findings demonstrate the potential for analytical models to help researchers talk to each other across multidisciplinary debates.

While identifying influences and mapping the different forms of worker voice facilitated understandings of how and under what conditions worker participation and representation can thrive, it did not uncover the extent of workers' power to influence WHS decisions, the levels of participation or the range of subject matter.

9.4.3 How the HSWA Supported the Empowerment of Worker Voice in Practice

This section first discusses how the HSWA supported worker empowerment in WHS matters at the organisational level, focusing on empowering worker voice through indirect worker representation structures, then focuses on the site level. Marchington et al.'s (1992) three dimensions revealed the depth of pseudo, partial or full participation. These dimensions were: 1) the degree or extent to which employees are able to influence management decisions – informed of change, consulted, make decisions; 2) the level at which workers participate within the organisational hierarchies – at the task, departmental, establishment or corporate level; and 3) the range of subject matter – from relatively trivial matters to strategic management decisions.

9.4.3.1 Empowering Worker Voice at the Organisational Level

As in Marchington's (2015a) research, exploring efforts to enhance formal structures helped to determine the depth or degree to which worker voice was embedded. At the organisational level, the case studies EP&R structures were presented as stable strategic steering groups filtering through operational management committees and short-term problem-solving task groups. The complexity of the formal structures corresponded with the unique regional, unit and site distribution characteristics of each organisation. Although there was some overlap in the levels of engagement and participation in the management of WHS risks, the strategic leadership steering groups made long-term

decisions about policy direction and structural changes, labour practices and resourcing, and potential enhancement through infrastructure, development programmes and WHS initiatives.

In illustrating how the HSWA has driven expectations upstream in organisational hierarchies, increasing expectations of the operational management teams and HSPs to be consulted in project decisions, these findings extend on Dundon et al.'s (2005) worker expectations. How the WHSMS processes, formal and informal forums provided opportunities for influence is summarised in Appendix T. The flatter hierarchical arrangements in the smallest case study meant site managers participated in strategic leadership consultation forums and were involved in the decision-making process. Whereas consultation occurred at the regional level in the large organisations. Power to influence decisions was apparent in regional differences in CS2Auckland, reflecting both the differences in labour practices within the organisation, and the attempt to be innovative in the greenfield region. While regional differences for wearing eye protection was tolerated, the challenges around standardising practices between regions was problematic. Whereas organisational and job security underpinned deeper consultation practices in CS3Christchurch. In this case, empowering site team ownership of the WHSMS and processes appeared to facilitate consultation about relevant critical risk management activities.

The richness of case studies also revealed the willingness and commitment to overcome barriers. For example, logistical problems in both CS1Wellington and CS2Auckland, such as meeting fatigue and confusion about expectations to attend meetings, were offset by innovative ideas including having roving HSC meetings with the potential to overcome logistical challenges for HSRs. Group leadership conversations appeared to act as peer support for the senior leaders but were reported to be intimidating for the site team and workers. The use of informal forums in transforming formal processes into active systems indicated management and workers were consulted on some WHS matters before decisions were made. Decisions and directives then filtered down through devolution practices and WHSMS processes.

The findings uncovered the link between WHS matters and the industrial relations conditions of work, that directly influence WHS outcomes. As topics tended to focus on different hierarchical risk controls, the range of subject matter exceeded housekeeping

matters, commonly defined as trivia (Marchington et al., 1992; McGraw & Palmer, 1995; Wilkinson et al., 2013). Empowering everyone to engage and participate in WHS matters had largely stimulated conversations about PPE, the lowest risk control. Involvement in project planning was the highest operational management control. Conditions of work, such as training and development programmes crossed over with the labour practices embedded in the HRM recruitment and performance management processes.

By including all forms of communication, the case studies revealed a preference for face-to-face conversations, which clearly filtered information into the formal forums and processes. At the same time, conversations were shaped and facilitated by the WHSMS and subcontractor WHSMS processes. Thus, converging with research proposing engagement is a prerequisite for participation (Wilkinson, Gollan, et al., 2018). These findings revealed that formal organisational systems and processes guided and provided numerous opportunities to share information about WHS matters and discuss and consult on prospective and current projects. An important finding in the current drive for digital data platforms was that the software programmes supported the data collection processes and enhanced reporting systems. Although there were some benefits to sharing information, IT systems had intensified the complexity and time required for administrative tasks, which were compounded by implementation issues at the operational level.

9.4.3.2 How Indirect Worker Representation Structures Empowered Worker Voice?

As for indirect worker representative structures, these findings demonstrated how the HSWA provisions for employers to have the final decision had the potential to either support or erode traditional representation structures in larger organisations. Having met ongoing employer demands for more flexibility internationally and in New Zealand, a key difference between the case studies was what type of provisions in the HSWA were selected to deliver opportunities for the organisation's employees to have voice.

Although most participants indicated they were satisfied with the effectiveness of the organisations' EP&R structures, employer and worker opinions differed on the election processes and outcomes. The reasons for not electing traditional HSRs were unclear, especially as one of the larger case studies was willing to include traditional HSRs, if requested by employees. These findings suggest that confusion about traditional HSRs

may be exacerbated by the establishment of informal worker representation structures. Similarly, confusion about HSCs supported national survey results (Nielsen, 2017b). The absence of regulations for contemporary structures permitted under the HSWA appeared to have heightened confusion, rather than clarified duties for establishing and maintaining worker voice structures. The widespread confusion highlighted a gap in understanding about the statutory provisions and regulations for worker voice. A comparable lack of understanding of regulations for contemporary safety representatives resulted in non-compliance in the UK (Fidderman & McDonnell, 2010). The UK regulations failed to achieve significant improvements in establishing a consultative culture or inspiring employer willingness to discuss important issues with staff (Dromey, 2015).

Confusion may be partially explained by how leadership was interpreted in these organisations and constant change within the WHS teams. The perceived responsibilities for WHS leadership under the HSWA corresponded with national survey results (MBIE, 2019b). The national survey results identified strategic leadership teams (60%) and business owners (50%) as the main responsible leaders. Focused devolution practices placed managers as the most responsible for WHS leadership in workplaces with more than 20 employees (72%) (ibid.). The findings highlighting recognition of strategic leadership, management and the HSPs' leadership roles when traditional HSRs were absent, suggested HSRs were not valued as intended in the Robens Report. This also supported the national survey results showing traditional HSRs and internal HSPs (43 & 39% respectively) were less likely to be recognised according to broader conceptualisations of leadership in New Zealand (Burton, 2010; MBIE, 2019b). The broader conceptualisation provides scope for leadership at all levels: from government leadership to sector groups; business owners and directors; workers, worker representatives and unions; Māori and community groups; and educator and practitioners leadership (MBIE, 2018d). Although the WHS teams were highly respected in these case studies, frequent restructuring of the WHS team structures was likely to have led to ongoing disruption and confusion about how they supported the organisation.

Lack of management commitment and response to proposals, inadequate timely training and resourcing, focus on trivia (Kaufman & Taras, 2010; Lamm, 2010; McGraw & Palmer, 1995; Walters & Nichols, 2009) and negative portrayal in the media (Fidderman & McDonnell, 2010), are just as likely to have contributed to loss of management and worker interest, undermining the potential effectiveness of traditional structures.

Establishing the effectiveness of the traditional HSRs was limited to CS1Wellington. The differing management and worker opinions followed a similar pattern to national survey results, but this case revealed why opinions varied. Concerns about an ambiguous election process and lack of confidence in a new apprentice HSR's capacity to effectively represent workers, suggested an inexperienced apprentice would be unlikely to effectively carry out the statutory duties or stimulate colleagues' interest in managing WHS risks. Management indicated appropriate support and development opportunities would be provided for the apprentice HSR (Lamm, 2010; Walters et al., 2005). As the HSC had endorsed an experienced HSR's proposal to develop a safety culture conducive for speaking up, there was the potential to apply Fidderman and McDonnell's (2010) HSR mentoring model in this organisation. Actioning the HSR's recommendations demonstrated that empowering HSRs, proposed in the Robens Report, is achievable in the contemporary environment (Committee on Safety and Health at Work, 1972).

The perception of younger workers being more open to engaging with WHS management was raised. Although there was insufficient evidence to substantiate or challenge this rhetoric, younger workers would have had little or no experience under the previous mandatory representation structures. This generalisation and the negativity about traditional representation failing to deliver, may have deterred some well-trained informed workers from engaging. Thus, the organisation may miss the benefits of having the best results. Empowered HSRs have the potential to initiate proactive activities by stimulating more interest in risk management amongst workers, and helping management identify critical risks and effective solutions (Committee on Safety and Health at Work, 1972). CS1Wellington's experience was consistent with research showing HSRs rarely abuse their statutory powers (Bohle & Quinlan, 2000; Harris, 2010; Walters et al., 2011). Despite having formal powers, the HSRs had never used them. These findings provide further support for the prioritisation of empowered independent worker representatives considered as "more important than the concept of joint safety committees" (Committee on Safety and Health at Work, 1972, p. 20).

While the contemporary forums appeared to provide opportunities for consultation required in the HSWA, McGraw and Palmer (1995) argue that demonstrating concern for workers negates perceptions that formal structures would be in the workers' best interests. The employees would still lack independent power, resources and autonomy if they needed to challenge management (Kaufman & Taras, 2010). These findings supported

research suggesting contemporary structures are useful in enhancing participation in the absence of unions (Markey et al., 2015). However, the purpose of contemporary WHS representation structures need to be clearly defined as they have the potential to undermine traditional structures in the same way non-union structures may exacerbate the erosion of unionism (Kaufman & Taras, 2010; McGraw & Palmer, 1995).

In this study, the HSWA, strategic choice for contemporary structures appeared to be eroding traditional structures in the two large organisations. The formal contemporary worker voice structures in both organisations had similar characteristics to contemporary joint consultation committees (JCCs). JCCs limit participation to consultation on a narrow range of issues, and operate in an advisory capacity (Markey, 2006), with decisions flowing down from the steering group. The perception of CS3Christchurch having a proactive safety culture striving to move to the next level, fitted with Fidderman and McDonnell's (2010) idea of companies taking a wider approach to worker involvement. The organisation could build on their proactive safety culture and benefit from the continuity, consistency and expertise provided by the HSR mentoring model (Fidderman & McDonnell, 2010). Both self-regulatory (Committee on Safety and Health at Work, 1972; Lamm, 2010; Walters et al., 2011; Walters et al., 2016) and complementary models thrive on these benefits (McGraw & Palmer, 1995; Wilkinson et al., 2013).

9.4.3.3 Empowering Worker Voice in Site and Task Level WHS Decisions

When it came to site and task level participation, the three organisations implemented similar systems and processes for managing subcontracted labour. Each construction project could best be described as a team effort led by the project and site managers. Projects were supported by tactical, WHS, HRM, equipment infrastructure, administration resources and IT systems. The importance of line managers demonstrating commitment to develop trust and caring relationships in creating a climate conducive for worker voice is one point on which ER, HRM and OB literatures agree (Mowbray et al., 2015).

Similar to the organisational level, forums provided a variety of opportunities to engage with subcontractors and workers transiting through at differing stages of the project, whereas WHS processes facilitated consultation about managing WHS risks. Reticence to raise concerns in toolbox meetings resulted in information predominantly restricted to general housekeeping WHS issues. These matters, which had previously been raised in

traditional forums, and associated with ineffectiveness of forums focusing on trivia (Kaufman & Taras, 2010; McGraw & Palmer, 1995) were now the site manager's responsibility. Congruent with the voice literature, people preferred to raise concerns about work processes and systems informally (Mowbray et al., 2015; Wilkinson et al., 2013). The task analysis process was the most sustainable WHSMS process for facilitating ongoing consultation with workers about the identification and control of WHS risks. Subcontracted workers were encouraged to actively engage and participate in forums and through the subcontractor WHSMS.

When it came to facilitating engagement with the subcontractors and workers on site, the findings highlighted several limitations and barriers for both the principal and subcontractor networks. Similar issues such as dispersion of subcontractors' work groups, managers as proxy HSRs, reactive rather than proactive presence on the sites, and costs meant workers did not have ongoing access to an HSR. A difference between the site managers informally encouraging representation and formally monitoring subcontractor worker voice systems through an industry preselection standard, fitted with confidence in embedding the organisations' WHSMS. Higher confidence was associated with more advanced external auditing. These findings indicate the HSWA was motivating supply chain pressure. Thus, support research showing that supply chain pressure acted as an essential incentive for employers to integrate WHS and enhance worker involvement (James et al., 2007; Ram et al., 2001; Walters & Lamm, 2004). Whereas the defunct ACC incentive programme had little impact under the previous Act (Legg et al., 2009), the HSWA driven pressure increases the potential for the voluntary Q-Safe standard to promote sustainable improvements and consistency across the industry through the subcontractor tendering process.

Overall, the findings suggested the self-regulatory model provided for worker rights to have empowered independent voice but had limited impact in embedding these worker rights in the case organisations. There was some overlap between the organisation and site level WHS structures, systems and processes, with the WHSMS processes facilitating consultation within the organisation and between subcontractors. Information filtered through numerous verbal forums, visual resources and IT supported processes at the site level. Although the site manager and HSP had responsibility for representing worker interests, workers had no leveraging powers to change a management decision without access to independent resources and support, or union support and statutory powers to

strike (Anderson & Nuttall, 2014; Kaufman & Taras, 2010; Pateman, 1970). Workers were reliant on the employers' discretionary authority in the absence of trained HSRs with powers to direct worker (s) in the work group they represent to cease/refuse to work (s85) or issue the PCBU with a provisional improvement notice (PIN) (s69–81). In the absence of traditional structures, consultation existed largely as site teams encouraging workers to speak up and engage informally and formally about WHS matters and issues.

9.4.4 Overcoming Barriers to Enhancing Worker Voice at the Meso Level

This section explores the strategic initiatives directly or indirectly targeting barriers to improving worker involvement common in these case studies. All conducted culture surveys and were preparing for an external audit that would have highlighted the need for provisions for engagement and participation. They all demonstrated an increasing focus on effective subcontractor management, were strengthening capacity and developing capability, including leadership skills training and upgrading organisational infrastructure (particularly information technology (IT) systems). This section discusses *leadership skills* and *organisational infrastructure* aligned with the devolution practices, which depend on competent and capable managers ability to encourage engagement and participation and respond appropriately to issues.

Leadership Skills. The increasing focus on training matched the prioritisation of training in the construction industry at the time of the research. All case organisations were adopting a cultural change management approach to leadership and soft skills training, however, leadership training approaches varied. As the depth and stage of leadership training fitted with the depth and breadth of organisational level representation, these findings concurred with WHS and HRM researchers on the importance of adequate, available and accessible training (McGraw & Palmer, 1995; Walters & Nichols, 2009). Leadership training is necessary for line managers where devolution occurs (Marchington, 2015a) and they are accountable for embedding voice structures (Fidderman & McDonnell, 2010). The construction industry recognised the need to train middle managers with the two-day Blackhat training for site supervisors launched in 2020 (Bohling, 2020). The ACC funded Workplace Injury Prevention subsidised programme targeting supervisors in organisation with 6 to 99 employees followed (CHASNZ, 2020).

There remains a gap in recognising the value of training and developing workers in soft communication skills. The importance of soft skills in avoiding and managing conflict

emerged across the case studies. The management efforts to reduce pressure and establish a safe trusting caring environment did not eradicate disputes, although managing these tensions and mentoring people were accepted as just part of a manager's role. In the case of contemporary representation structures, such as JCCs, McGraw and Palmer (1995) argue all members should get training in all aspects of the role including soft skills training and development opportunities to gain experience in communicating and problem-solving.

Organisational Infrastructure. While upgrading their IT systems was part of the drive for better integration of all business functions and espoused to have improved reporting to the board, it increased administration duplication between systems. Site managers believed better integration would save time. The establishment of specialist IT support roles suggested the strategic leaders were aware of the need to further integrate and simplify fragmented IT systems.

9.4.5 Developing an EP&R Compliance Maturity Model of Worker Voice

The stakeholders' descriptions of effective WHSMS were explored to develop a model of compliance maturity encompassing compliance behaviours and preferred form of representation structures (presented in Figure 5.3). This was developed with the detailed case study findings showing how the WHSMSs were proactively or reactively integrated and embedded in practice. All three case studies exceeded the lowest level of *weak compliance driven* practices, and there was some progression between the two models. Consequently, the second level of '*effective compliance*' was expanded to reflect the stage of *steering implementation* and *embedding* of the revitalised WHSMS structures and practices. The mature level was reclassified as *steered embedded compliance*. The analysis highlighted similarities in strategic leadership management approach, integration of organisational, WHSMS and EP&R structures, and adoption of IT software programmes that were not evident in Phase 1. Size and general organisational maturity were important factors in mapping representation structures and achievable practices in these commercial-construction case studies.

This is not to say the organisations did not face barriers when operationalising strategic directives. The participants shared a realistic understanding of an organisation's progress in adjusting to the current statutory framework. One common challenge was aligning differing expectations about devolving responsibility to operational teams, which

conflicted with concerns from the operational managers. Some wanted more participation from the strategic leadership teams or soft skills training. Difficulties achieving consistency in embedding the WHSMS between regions, units and sites were revealed in resistance to initiatives proposed by operational managers. Fragmentation can result in weaknesses undermining the holistic integrated approach to risk management. The compliance model focuses on the three elements of an effective WHSMS (Campbell, 1995; Gallagher & Underhill, 2012) to map how the case organisations were attempting to overcome barriers to change and create a favourable environment necessary for enhancing EP&R structures and processes.

Competent Employers Willing to Demonstrate Leadership. Table 9.1 illustrates how CS3Christchurch was able to drive for change at the industry level and was more advanced in each of the three elements of an effective WHSMS. Leadership willingness was demonstrated throughout the organisations, but the level of competence and internal support varied. Capacity and capability manifested in the level of general expertise, scope and depth of additional roles, the level at which the WHS team had authority and level of internal WHS expertise supporting the strategic leaders and operational teams. The type and level of cultural change leadership training programmes, culture surveys and external audits all underpinned the stage of compliance maturity, becoming more advanced and embedded as each organisation focused on achieving the next level of continuous improvement.

Involving and Empowering Well-trained and Informed Workers. Capacity and capability overlapped with the second element, how well-trained and informed workers were involved and empowered in WHS decisions. There was unanimous agreement of improving engagement and increasing involvement in planning within the case study organisations' subcontractor networks. Improvements in involvement in project planning were valued. However, scant involvement in the review of the actual WHSMS and EP&R systems confirmed the legitimacy of stakeholders' concerns about compliance. Clear preferences influenced the breadth and depth of representation structures. The findings uncovered functional challenges with organisational and subcontractor HSRs, limited interest from workers as well as size and labour practices mediating the statutory requirements. Thus, the characteristics defining interest and support for traditional HSRs was replaced with how the organisations were valuing worker engagement and participation. Differences emerging as depth of devolution of decision-making authority

within the site teams. Participants agreed on the facilitators for engagement, including management style, approachableness, tone and trusting caring relationships. CS3Christchurch extended this to providing a neutral place away from the site to facilitate participation in the contemporary representation structures. The level of confidence migrant workers had in filtering information upwards from dedicated migrant toolbox meetings was a distinguishing feature in the large organisations.

Systematic Management of WHS Risks. Similar features were demonstrated in the third element. All practices and behaviours were defined as authentic, sustainable and genuine in intent to do the right thing. The effort to provide accessible appropriate human and infrastructure resources highlighted the stage of reinvigoration and availability of resources. While CS1Wellington and CS2Auckland were both steering through the change process, the former faced challenges with the lack of sufficient resources on some projects. More infrastructure was available in the larger organisations, with more active encouragement to utilise higher levels of control in the proactive stage. Having proactively steered through the transition, CS3Christchurch had involved the site managers in the subcontractor WHSMS review process and was collaborating within the industry to ensure systems and processes were as easy as possible to facilitate consistent implementation. They focused on job security and conditions of work, subcontractor work security, and were more proactive in promoting mental wellbeing and peer support through formal and informal programmes.

At this point, this chapter has explored three subquestions aimed at uncovering how and why the HSWA is enhancing workers' involvement in workplace decisions that affect their WHS outcomes. It untangled different understandings of the statutory terms and associated duties and explored how external factors influenced the forms of worker voice that existed at the industry and organisational levels. It examined how understanding influenced practice. Finally, drawing together understanding and practice, the case study findings clarified and extended the compliance maturity model. The participants perceptions of EP&R compliance maturity and the compliance maturity practices distinguishing the three case studies are summarised in Table 9.1. Data and theoretical triangulation techniques revealed how the analytical framework helped align the three key elements in established models of effective WHSMS.

Table 9.1. Perceptions of EP&R Compliance Maturity and Compliance Maturity in Practice

	Steering implementing compliance CS1Wgtn	Steering embedding compliance CS2Auck	Steered embedded compliance CS3ChCh
<i>Perceived compliance maturity</i>			
	Perceived achievement of sustainable compliance behaviours	Perceptions varied from being an industry leader, industry standard and compliant behaviours	Positive perceptions described as well-established exceeding compliance, an industry leader in the region
<i>1. Competent employers willing to demonstrate leadership</i>			
Leadership commitment	Demonstrated strategic leadership commitment	Demonstrated strategic leadership commitment	Demonstrated strategic leadership commitment
Capability and capacity	Building capacity with access to WHS expertise:	Building capacity across all functions with strategic level HSP	Building capacity across all functions with longstanding HSP at strategic level
	Management development programme (cultural change)	Prioritising strategic leadership (cultural change)	Employ highly experienced experts and enhancing capabilities across the organisational functions (Safety II)
	Upskilling staff and updating training register	Generous training and development and updating register	Additional roles and focused training and development programmes
	HSR training	Strengthening the WHS team	
<i>2. Involving and empowering well-trained and informed workers</i>			
Engagement and participation	Valuing worker engagement in forums and participation in WHS processes	Valuing and empowering foremen and subcontracted workers participation in site and task decisions	Valuing and empowering all operational staff and subcontracted workers participation in site and task decisions
		Establishing migrant toolbox meetings and complementary Tagalog resources overcome language and cultural barriers	Circular information sharing, increasing importance of bottom-up ideas
			Established migrant toolbox meetings and complementary Tagalog resources overcome language and cultural barriers
<i>3. Systematic management of WHS risks</i>			
Implementing the WHSMS	Authentic, sustainable and genuine in intent to do the right thing	Authentic, sustainable and genuine in intent to do the right thing	Authentic, sustainable, and genuine in intent to do the right thing
	Integrating WHS with other management systems	Holistic approach embedded in the organisation	Demonstrated WHSMS and practices linked to strategic intent

	Steering implementing compliance CS1Wgtn	Steering embedding compliance CS2Auck	Steered embedded compliance CS3ChCh
	No difficulties achieving compliance practices and behaviours	Reviewing policy, WHSMS and practices linked to strategic intent, some resistance in regions and units	Integrated systems embedded in the organisation
			Strategic initiatives target leadership, critical risks and worker engagement
			Steered through review process, moving WHS behaviours to more proactive stage
Resources	Lack of sufficient resources on some projects and when under pressure: Tracking WHS costs HSP no budget authority Fixed-term administrative support for WHS	Budget constraints not a barrier to providing sufficient risk controls – demonstrated in investment in equipment: Expanding consultation to ensure sufficient WHS budget for projects Reliance on internal sources of information, resources and support	Budgets sufficient, guiding expenditure never a barrier to training or practice: Support for higher level risk controls demonstrated in investment in equipment and association of enhancing WHS outcomes with increasing productivity and quality of project Case for fixed-term administrative support for WHS
Risk management scope	Safety, health and wellbeing focus	Safety, health and wellbeing focus	Safety, health and wellbeing focus
		Health and wellbeing programmes	Health and mental wellbeing programmes

Note: The case studies were characterised by differences in three elements of effective WHSMS (Campbell, 1995).

Clearly, the HSWA had stimulated WHS conversations at all levels. The perceptions of the effectiveness of reinvigorated macro level tripartite collaboration in government and industry WHS initiatives varied. At the meso level, case study organisations were adopting similar leadership and WHSMS processes and practices. The exception was the differences in the depth and breadth of worker voice forums, particularly worker representation structures, where the most variation occurred. The analytical framework outlined in Table 2.1 revealed differences occurring under the same statutory conditions within the commercial construction industry in a neoliberal labour market economy. The final section addresses the fourth subquestion exploring how the current statutory framework was enhancing worker voice.

9.5 The Effect the Legislation Mandating Worker Voice had on Workplace Engagement, Participation and Representation

The failure of the previous statutory framework in New Zealand is outlined in Chapters 2 and 3. Exploration of the research subquestions uncovered the reactive or proactive nature of the case study organisations' approaches to meet the current statutory requirements, as well as facilitators and barriers to strengthening engagement and participation. This section begins by discussing how effectively the hard statutes and regulations were supporting worker voice. Then examines how the regulators engagement and soft education initiatives were supporting tripartite activities aimed at enhancing worker voice in workplaces. Relevant enforcement actions pertaining to the HSWA are also considered.

9.5.1 Embedding Statutory Provisions that Support Flexible Worker Voice Structures

A key finding revealed an overarching disconnect between the aspirational purpose of the HSWA and the duties providing for worker voice. A dominant focus on sections 36 and 44 illustrated how the ideologically driven purpose was overshadowed by the clarification of the duties. Explicitly requiring levels of accountability increase incrementally with decision-making powers constrained interpretations of leadership to management. An empirical explanation for this disconnect is the tendency for managers to espouse pluralist beliefs while adopting unitarist assumptions in practice (Geare et al., 2006; Geare et al., 2014). A tension between accountability and providing opportunities for worker voice underpinned the prevailing two-tier structures with a steering group devolving operationalisation of directives and embedding of WHSM systems to management teams in workplaces. The same model applied at the industry level where strategic leadership teams directed short-term problem-solving teams focusing on a specific task. The desire to strengthen worker voice and employer willingness to make genuine efforts to engage were insufficient in delivering the empowered worker voice provided for in the HSWA.

The findings confirmed declining union density and non-standard forms of work had embedded (Rasmussen & Tedestedt, 2017) and further weakened flexible provisions for worker participation (Anderson & Nuttall, 2014; Lamm et al., 2017). Rather than strengthening provisions for worker voice and greater union representation in WHS, the HSWA was supporting the opposite approach stemming from negative beliefs about

empowered independent worker voice. Showing how ideologically driven understanding influenced practices that are contrary to the purpose of the HSWA supports researchers' concerns about the relevance of parts and clauses in the Act (Dabee, 2018; Pashorina-Nichols et al., 2017; Sizemore, 2017).

These findings demonstrate how self-regulatory frameworks sustain managerial prerogative in decision-making in LMEs (Hasle et al., 2016; Markey et al., 2014; Walters et al., 2011) when unequal power relationships flourish (Budd et al., 2018; Ravenswood, 2011). The employer preference for contemporary representation illustrated how the HSWA supported substitution that commonly results in the erosion of traditional statutory voice structures (Kaufman & Taras, 2010; Markey, 2007; McGraw & Palmer, 1995). Considering the power to influence choice helps understand the origin of worker voice systems and their effectiveness in encouraging or deterring workers from speaking up about their rights to codetermine the EP&R system (Barry & Wilkinson, 2016; Donaghey et al., 2011; Poole et al., 2001). The requirement for a worker to request to have traditional elected HSRs appeared to have had no uptake. This decline of the only remaining statutory voice for many workers supported concerns about the potential for self-regulatory models to strengthen worker voice within a different work environment from which it was developed in the 1980s (Johnstone et al., 2005; Lamm et al., 2017; Quinlan et al., 2001; Weil, 2011).

The findings illustrate how changing labour practices extends the problem of declining union influence. The absence of HSR voice in SMEs has now reached within the large case study organisations. These organisations encountered similar challenges with establishing work groups and maintaining regular access to HSRs as the SME subcontractors. Therefore, the findings supported arguments against exclusions (Pashorina-Nichols et al., 2017; Sissons, 2016) and extending rights to all workplaces (Rudman, 2019). This would realign the purpose with relevant parts of the HSWA and rectify the disconnect between imposing an IR collectivist aspirational purpose, while allowing management the choice between traditional collectivist and contemporary individualist approaches to participation. Without statutory powers, worker engagement and participation resembled weaker conceptualisation of worker involvement, "as discretionary, pro-social, largely, informal behaviour" (Van Dyne & LePine, 1998, p. 262) used as a HRM management motivational tool for enhancing employee commitment and organisational performance (Gollan & Patmore, 2013). Following the UK in

regulating the contemporary structures (Dromey, 2015) that fall outside the remit of the current regulations intended to guide enforcement would address this oversight. However, these regulations would not be sufficient in addressing the contemporary labour market practices that fragment workers (Lamm et al., 2017; Weil, 2014). Overall, these findings concur with researchers who challenge the effectiveness of a functionalist unitarist management-led approach focusing worker voice at the task level (James et al., 2007; Lamm et al., 2007; Markey & Patmore, 2011; Quinlan & Johnstone, 2009).

9.5.2 Regulatory Performance in Engagement, Education and Enforcement of the HSWA Provisions

As for embedding the statutory framework, there was general agreement on WorkSafe performing better as an independent agency. In theory, this addressed the previous failure to deliver a strong independent regulator, the third pillar self-regulatory WHS models require to support capable employers and informed empowered workers counterbalancing managerial prerogative (Walters et al., 2011). In practice, the current regulatory agency was taking a more collaborative approach when engaging with industry stakeholders, professionals and strategic leaders. The regulators vigorous efforts to perform on their public interest objectives demonstrated in Christchurch is common in the early youth stage of establishing a new statutory framework (Etzioni, 2009; Howlett & Newman, 2013). In this instance, the findings demonstrated the extraordinary impact of the localised event in uniting stakeholder and community efforts. The ongoing benefits of having a strong regulatory presence supported by tripartite government initiatives evident in CS3Christchurch, corroborated research demonstrating the cumulative effect of the key factors required for effective voice (Lamm, 2010; Walters & Nichols, 2009). In this example, a well-resourced regional inspectorate had driven practice beyond compliance by balancing enforcement with information strategies.

Apart from the special situation in Canterbury, the fresh start did not eradicate the challenges underpinning the failure of previous statutory frameworks. Instead, the findings revealed general perceptions of continuing under-resourcing and capacity issues with high levels of staff churn, particularly attracting, training and retaining experienced inspectors. Under-resourcing is a common feature of regulatory failure (Innes & Watson, 2004; Walters et al., 2011; Weil, 2011, 2014). The constant churn corresponds with Innes and Watson's (Innes & Watson, 2004) findings demonstrating how financial constraints

may be exacerbated when limited availability of skilled personnel in the labour market acts as a barrier to the regulator and the regulated industry operating independently and effectively. Problems of independence increase incrementally if the regulator also relies on the industry for information, and when ongoing organisational lobbying through industry groups leads to the regulator identifying with the regulated (Innes & Watson, 2004). Although Etzioni (2009) found relationships change over time with the regulator drawing closer to the regulated and away from the public, declining in union membership suggested this closeness may endure across changing statutory frameworks.

The challenge is in finding a way to mediate unequal power between employer and worker stakeholders in a context of overt union avoidance. The problem of explicit anti-unionism recurred in the forestry Toroawhi pilot study where champions will have no statutory powers “or be on a membership drive” (Safetree, 2019). The powerless Toroawhi approach is relevant as programmes are often rolled over to other industries. These findings indicate that regulatory failure may occur throughout the establishment, youth and maturity stages of the current statutory framework. Thus, support research recommending exploring the early stages in the life cycle to avoid or mitigate barriers (Howlett & Newman, 2013).

Weakness stemming from flawed statutory direction corresponds with Newman’s (1985) findings linking misguided strategies to inefficient use of available resources. For example, the original omission of worker voice provisions in the HSEA, and failure to fully implement the HSEA. Scant evidence of regulatory engagement with the HSRs or workers at the time of the data collection demonstrated the importance of strategic statutory intent. Worker voice was presented as a secondary ‘other’ WorkSafe priority in the briefing to the incoming government (WorkSafe New Zealand, 2017a). Recent WorkSafe reports highlighted an increasing drive from the current Labour Government to overcome the ideological impasse by establishing opportunities for the stakeholders to rediscover and gain experience in engaging at all levels (WorkSafe New Zealand, 2020a, 2020b, 2020c).

The change in government in 2017 reflected in the Health and Safety at Work Strategy 2018–2028 priorities (MBIE, 2018d) and subsequent refocusing of attention on worker voice. Engagement performance measures were included in the regulators special COVID-19 risk management performance expectations (WorkSafe New Zealand, 2020c).

This progression followed WorkSafe’s research developing models of workplace culture, employer maturity and worker engagement (Colmar Brunton, 2020). The industry initiatives discussed in this thesis preceded the recent WorkSafe expectations requiring all funded initiatives to establish tripartite agreements. The agreements guide the development and delivery of all associated work programmes, which ultimately deliver tripartite WHS initiatives (WorkSafe New Zealand, 2020c). The intent to enhance tripartite engagement is strengthened by monitoring how inspectors seek out and engage with HSRs, workers and champions. Defined by both strategic intent and practical regulatory support, this proactive approach has the potential to overcome a barrier to improving worker voice encountered in the UK (Dromey, 2015). The BetterWorkNZ platform was launched in June 2020. It is administered by WorkSafe and provides a forum for businesses and workers to discuss WHS challenges, raise questions, connect, collaborate and share ideas about improving workplace practices (WorkSafe New Zealand, 2020, June 5).

Concerns about the difficulties implementing the legislation and regulations appeared to reflect concerns about achieving sustainable consistent implementation of an industry standard or operationalising an organisation’s WHSM. The regulator’s efforts to increase enforcement activities using a complex range of enforcement tools to lift the compliance standard was discussed in Chapter 3. The findings revealed mixed opinions about the lack of prosecutions concerning breaches related to participation and representation structures under the previous HSEA and current HSWA, as well as the general decrease in prosecutions at the time WorkSafe started accepting EUs (presented in Table 3.3). Decreasing prosecutions may be explained by both the perceptions of performing better in their leadership role working with stakeholders, and incapacity to investigate fatalities and accidents (McDonald, 2020; Pennington, 2020).

Alternatives to prosecution were perceived as more beneficial for engaging stakeholders and providing opportunities for learning and sharing lessons within the industry. Closer examination of the EUs accepted in the construction industry highlighted a gap in this process in the private sector. Limited union presence excluded substantive worker voice in decisions about whether an EU was an appropriate alternative in a specific instance or in determining the proposed corrective actions. Two of the corrective actions directly related to enhancing EP&R were followed. The Q-Safe pre-qualification and audit tool, to which Topcoat Specialist Coatings Ltd contributed \$50,000 to CHASNZ to standardise

prequalification (WorkSafe New Zealand, 2018a), and the Fletcher trial labour hire forum (anticipated cost \$45,000) (WorkSafe New Zealand, 2018b). The Fletcher Construction Company committed to engage with labour hire companies and help set up the forum and would develop the terms of reference for the forum, which would guide the agenda for four ‘Think Tank’ meetings to be held quarterly in Auckland. After 12 months (that being April 2019), Fletchers would review the success of the forum and consider the viability of establishing similar forums in other centres. At the time of writing, the forum had been established and led by a senior Fletcher WHS manager.

Although, the Fletchers EU was discharged on the 29th of July 2020, there was no scope for transparency in the implementation and completion of actions by WorkSafe, post publication of the acceptance of the EU. Personal communications with the WorkSafe team revealed they had been involved in a compliance function throughout the process. More importantly, the Research and Evaluation Team was in the early stages of an EU evaluation programme but did not know which specific EUs would be included. Both Fletcher and WorkSafe helped explore this EU closure and the alternative enforcement process (Personal communications, June 23–August 14, 2020).

Finally, when a new Chief Advisor Health and Safety Innovation function was established in 2018, the successful applicant introduced the Safety II: Safety Differently approach into WorkSafe (Barrett, 2019). Having acknowledged they had harnessed the BLHSF governance voice sufficiently to have “enabled them to influence the shape of regulatory reforms” (BLHSF, 2015, p. 4), and had collaborated in the development of the new government Safe+ business performance benchmarking tool, this is the third display of ongoing influence in the current statutory regime. In adopting Safety II, the regulator has endorsed the approach adopted by the strong BLHSF lobby group and drawn closer to the regulated at this point of regulatory maturity. This closeness exposes the regulator to be captured as a target for organisational lobbying and manipulation, particularly in the context of ongoing undermining of union access to workers in their workplaces.

In examining how the current statutory framework was enhancing worker voice, the findings demonstrate how combining relevant established theories presented in Figure 9.1 assists in exploring contemporary phenomenon.

10 Conclusions

It's not incumbent to have health and safety reps, it's a recommendation. (CS2.2)

10.1 Introduction

Given a history of weak worker representation in New Zealand, the aim of my research has been to examine how effectively the current statutory provisions in the Health and Safety at Work Act 2015 (HSWA) were addressing this problem. The current Act allows employers to adopt contemporary worker voice structures, which impinge on workers' rights to have traditional health and safety representatives (HSRs) with statutory powers. However, there were insufficient data exploring how direct and indirect, formal and informal forms of worker voice coexist and enhance worker engagement and participation in WHS. A multi-disciplinary approach broadens understanding of the complex factors underlying the tension between recognising workers' rights ratified in international conventions and accommodating persistent employer demands for more flexibility. The interpretive case study co-constructs a holistic account of how external contextual factors influence worker voice within the high-risk commercial construction sector organisations operating within a low-union environment.

This chapter presents the research conclusions, discusses the limitations and areas for further research, and reflects on the research contributions.

10.2 Identifying the Problem, and Methodological and Theoretical Contributions

Identifying the Problem: While the literature highlighted the resurgence of interest in worker voice in response to the global decline of unions, academic debates tend to be siloed. One of the limitations of the extensive body of literature is the narrow disciplinary focus on either individual or collective voice. Consequently, a wide range of different meanings of terms and purpose of worker voice has resulted in researchers talking past each other. Efforts to integrate multidisciplinary debates have often overlooked worker voice in WHS, and WHS studies predominantly explore union supported health and safety representatives (HSRs). This body of research, nevertheless, highlighted the external and internal factors necessary to support both union and non-union forms of worker representation in workplace decisions. This study addressed the dearth of research exploring the role of traditional HSRs and flexible contemporary structures, and function

of these structures within workplace health and safety management systems (WHSMS). This is the first detailed study exploring how the current HSWA is contributing to enhancing worker voice in the commercial construction sector in New Zealand.

The Methodological Contribution. This interpretive constructivist approach contributed to the social science debate developing the concept of “constructed realities” (Denzin & Lincoln, 1994; Lincoln & Guba, 2013). The case study was designed to allow the co-construction of multiple perspectives in interviews across the macro, industry and meso organisational PCBU networks. The time-consuming processes triangulating the large multifaceted set of data resources provided a richness rare in the construction industry and in New Zealand. Only Hasle et al. (2016) and Walters, et al.’s (2005) case studies used interviews and observations of worker voice in WHS within construction industry organisations. The earlier study is the most in-depth using documents and survey data.

The Theoretical Contribution: To avoid ongoing failure to stimulate and support worker voice, we need to understand why specific EP&R structures are preferred, and how and why these are effective in practice. Poole et al.’s (2001) Favourable Conjunctures Model has been used to reveal the similarities and differences occurring within a defined social, political, economic and technical environment. Progressive theory development fits with the iterative nature of an interpretivist inquiry (Farquhar, 2012; Lincoln et al., 2011; Maylor & Blackmon, 2005). Combining different conceptual lenses demonstrated how classical theories facilitated understanding of this complex contemporary phenomenon.

In this instance, integrating HRM models enriched understanding of the complex forces shaping voice (Marchington, 2015a) and revealed the different measurable dimensions of worker voice structures in each of the case study organisations (Marchington et al., 1992). The WHS factors required for effective EP&R highlight fundamental barriers linked to the overarching ER context in which worker voice occurs (Lamm, 2010; Walters & Nichols, 2009). Fox’s (1966) Ideological Frames of Reference and Pateman’s (1970) Levels of Involvement and Power assisted in exploring alternative explanations for why traditional or contemporary representation structures were preferred. While Bernstein’s Capture Theory drew attention to pitfalls to eliminate or mitigate regulatory failure throughout the lifecycle of a statutory regime (Bernstein, 1961b; M. H. Bernstein, 1972).

The findings show the cyclic nature of how statutory institutions both shape and are shaped by key stakeholders’ strategic choices. The dashed lines in Figure 9.1 illustrate

how the theoretical *Multidisciplinary Analytical Model of Worker Voice* was used to reveal more nuanced insights into the direction and relative powers of stakeholders' influence than Poole et al. (2001) identified. The Blackbox illustrated this centrality of the key stakeholders' powers to influence statutory provisions for worker voice at the macro level, that affects strategic choice downstream at the industry and meso levels. Progressive enrichment of this model extrapolated pertinent lessons for policy makers and practitioners to overcome barriers to the HSWA provisions contributing to enhancing worker voice outcomes for all stakeholders. The characteristics of compliance behaviours co-constructed in the *EP&R Compliance Maturity Model of Worker Voice* has practical implications for establishing and monitoring effective worker voice systems. Refer to Table 9.1.

10.3 Conclusions of How the HSWA was Enhancing Worker Voice

Each of the four subquestions contributed equally to answering the research question. The key conclusions from each subquestion follow.

10.3.1 What is Worker Voice and How is the Concept Understood?

The stakeholders and participants understandings of the tripartite relationships between employers, workers and the regulator influenced preferences for traditional or contemporary representation structures.

Tripartism: The purpose of the HSWA aspires to facilitate tripartite collaboration fundamental in a self-regulatory model (§3.1.c). However, achieving employer, union and regulator co-operation aimed at promoting continuous improvements in WHS practices and assisting PCBUs and workers achieve healthier and safer workplaces appeared to be challenging. The initial weak commitment to promote tripartism suggested it was a low priority in the early stage of the new regime. It is concluded that employer associations had clearly benefited from interpretation of §3.1.c prior to WorkSafe defining their expectations for tripartite arrangements and performance standards in 2020, as part of their COVID-19 response. Increasing prioritisation coincided with this definition. However, in preceding WorkSafe's conditions for future initiatives, an important trial of two roving champions in the forestry industry have no statutory powers. This trial sets a precedent for these powerless champions to be used in other high-risk industries. While the literature suggests delays in the development of the industry process standards may

be attributed to consultation with unions, this was not the case in the context of largely employer-led industry groups.

Employer associations had more opportunities to practice partnership collaboration, consequently developed closer relationships with the regulator and had more influence in the early stages of soft government initiatives. One way to equalise the balance in employer and worker voices is to leverage off recent progress in fostering tripartism at the macro level. However, providing opportunities to develop and practice cooperative consultation skills aimed at enhancing capacity and strengthening relationships at the meso level will only succeed if the HSWA provisions are enforced.

Engagement and Participation: All interviewees, from the macro stakeholders to meso level directors, managers and migrant workers understood their rights and duties to engage and speak up at an appropriate level—at least in the form of information and opportunities to be involved before decisions were made. Although deeper understanding of engagement as a prerequisite for *participation* emerged in one case study, generally, participation was defined as “how duties were embedded in practice”. This understanding constrained leadership to a narrow managerialist function, rather than broader conceptualisations of stakeholder leadership at all levels. As one of the key characteristics of the maturity of the EP&R systems, the depth of proactive empowerment of the site teams who were responsible for site level decisions further illustrated the disconnect between the purpose and parts of the HSWA.

Representation: Diverging beliefs about *representation* were associated with ideological assumptions and attitudes to the unions’ roles and powers to influence decisions that shaped strategic choice beyond and within an organisation. These beliefs reflected the scope and strength of stakeholders’ powers to influence the statutory framework, which exceeded the remit of individual organisations. Instead, powerful intermediary groups influenced perceptions of what “good” looked like through the development of benchmarking tools and case studies.

It is concluded that understanding underpins the differences in practices and exacerbates difficulties in including union perspectives within organisational level research in the commercial-construction industry. There is a potential for the negative heuristics attributed to traditional theories, structures, processes, practices and artefacts to further undermine the HSWA provisions. More positive characteristics attributed to classic

simply elegant and enduring standards may inspire interest in the evidence-based effective independent representation structures provided for in the HSWA and regulations. Consideration of a broader range of research evidence would strengthen shared understandings of distinct statutory terminology and complementary EP&R systems. Recognising the impact of ideology on establishing a climate conducive for participation and the intent of worker voice systems is imperative if the purpose of the HSWA is to widely embed empowered independent representation in practice in the private sector.

The Benefits of Bridging Disciplinary Divides: The diverging beliefs about traditional representation resembled the fragmentation occurring in the academic debates. Adopting a multidisciplinary approach bridging these academic divides ensures relevant streams of literature are not overlooked by policymakers and practitioners. The multidisciplinary approach has practical implications as it illustrates the benefits of adopting a holistic systems approach to managing critical risks. Recognition of research showing that HSRs do not abuse their statutory powers, should help dispel anecdotal myths about how HSRs perform their functions. As both traditional and flexible EP&R structures require the same leadership commitment and resourcing, it would be beneficial to redirect negative perception to identifying specific areas for improvement. This is where the key strategic leadership role in demonstrating the value of worker influence in changing management decisions is most powerful. This would signal endorsement of the strategic purpose and intent of worker EP&R structures. Rather than disregarding the past, progress entails learning and building on the strong foundations developed by past generations to create a better future based on a just transition.

10.3.2 How do Macro-Level External Factors Impact the Forms of Worker Voice that Exist at the Industry and Organisational Levels?

While New Zealand has ratified international standards, the intermediary stakeholders shaped how these are enshrined in the legislation and embedded at the industry and organisational levels.

International Conventions: The second subquestion exploring macro level structural conditions revealed converging preferences and diverging practices within a neoliberal industry context. It is concluded that New Zealand has demonstrated resistance in the degree to which voluntary international conventions are interpreted in national statutory

frameworks. The impact of ratified conventions is further limited to embedding minimal statutory requirements. Rather than strengthening support for traditional forms of worker voice in line with the ILO principles for workers' rights to organise and bargain collectively (ILO C98 - 2003) and participate in WHS matters (C155-2007).

The Role of Intermediary Stakeholders: Systematic triangulation of perceptions and beliefs of the range of factors necessary for effective EP&R uncovered distinct co-constructed patterns of proactive and reactive compliance behaviours. Overall, accountability for eliminating critical risks started at the governance level before permeating throughout the organisation, site and PCBU supply network. Individual workers who were most at risk had the least amount of influence in higher order hierarchical controls. It is concluded that this finding supported the clarification of PCBU *Duty of Care* and *Due Diligence* in the HSWA. However, in demonstrating the intermediary role of powerful employer and industry groups' influence in strategic choice, the research uncovered a weakness in the potential for a self-regulatory approach to equalise the widening power imbalance in LMEs.

The increasing imbalance illustrates the nexus between the broader industrial relations context and WHS. In effect, the HSWA aligned with the Employment Relations Act (ERA) provisions for both individual and collective employment agreements that have undermined collective bargaining. Statutory empowerment of worker voice in WHS matters is likely to be similarly eroded, rather than strengthened under the current HSWA provisions for traditional and contemporary representation in large and SME organisations.

10.3.3 How Does Worker Voice Manifest in Practice at the Industry and Meso Organisational Levels?

The case study organisations were making good progress operationalising their WHSMS aimed at embedding their duties to provide for workers to have a say in WHS matters. The dimensions of the EP&R systems aligned with the factors necessary for effective worker voice, characteristic of proactive or reactive compliance behaviours.

Embedding an Effective Holistic WHSMS: The overarching belief of all interviewees was that engagement had improved across the PCBU chains. The changing statutory framework had clearly acted as a significant motivational trigger to enhance WHS practices and behaviours. The findings demonstrated the co-dependence and cumulative

nature of the structural factors. The impetus of increasing penalties for breaching the HSWA refocused senior leadership teams. Consequently, strategic direction and engagement generally set the tone. But the availability of resourcing enabled strategic leaders to operationalise the three key elements of an effective WHSMS to achieve WHS goals. The key elements are: 1) competent employers willing to demonstrate leadership, in 2) involving and empowering well-trained and informed workers, in 3) the systematic management of WHS risks (Campbell, 1995; Gallagher & Underhill, 2012). It is concluded that with the focus on transforming leadership commitment to manage critical risks, the contemporary structures would undermine efforts to achieve the third element of an effective holistic WHSMS. That is, involving and *empowering* trained and informed workers in all stages from design to review.

The HSWA and WHSMS processes shaped expectations to engage, and the four dimensions of worker voice revealed how the coexisting systems and processes were delivering worker voice within PCBU networks. Statutory changes had revitalised standard HR practices of strategic alignment of WHS initiatives, devolution and system integration strategies. Part of this revitalisation was stimulating interest in enhancing engagement and participation within the PCBU networks. A similar range of complex factors underpinned the effectiveness of efforts to implement and embed each organisation's WHS strategy consistently across regions and projects. It is concluded that the factors supporting effective worker voice are necessary and have a cumulative impact.

Breadth, Depth and Forms of EP&R Structures: Similar engagement and participation forums were integrated within the general organisational and WHSMSs and processes. Face-to-face conversations were central to all communication within the PCBU networks, with information filtering downwards and upwards through the formal WHS systems and EP&R structures. It is concluded that breadth demonstrated the importance of informal forums in transforming transactional directives, policies and processes into humanistic engagement activities. Informal forums provided crucial support for formal structures in enhancing non-union voice outcomes. Whereas, the depth of EP&R variation was partly related to organisational factors, including hierarchical structures; the WHS structures and HSP roles; and management style, training and work experience. Given the prominence of migrant labour, site teams participants commonly associated improvements to worker engagement with the willingness and depth of migrant workers speaking up.

As noted, it was difficult finding trained HSRs and traditional HSCs in the case studies. People were relying on the employer for information, and inspectors were talking to the senior HSP but seldom on sites. The question is, who is accountable for ‘educating’ workers about their rights to be represented by traditional HSRs? This is a prerequisite for workers requesting this option. As employees were not asking, the employers assumed everyone was content with the alternative representative arrangements.

An associated issue was that HSRs appeared to be largely shoulder tapped and may not have had sufficient experience to effectively fulfil the role. Lack of work knowledge and experience could be mitigated to some extent with access to and support from more experienced HSRs. However, networks for workers and subcontractors were considered too difficult to implement or of limited functional value. The problems with developing HSRs and support networks may be exacerbated by the siloed transitory nature of construction projects when HSRs are not present on all sites.

It is concluded that although the contemporary structures were enhancing participation in the absence of unions, the adoption of these structures deterred workers from requesting structures that empowered them to codetermine the EP&R system. Instead, the friendly family atmosphere reflected the central role of informal forums in developing trust and caring relationships necessary for ensuring the formal WHS and EP&R systems were used. This research suggested contemporary representation structures have started replacing, rather than complementing traditional structures.

Range of Subject Matter. Apart from a transference of ‘trivial’ housekeeping matters from the traditional HSCs to the site toolbox meetings, the range of subject matter focused on the hierarchy of controls. This dimension highlighted the nexus between conditions of work and WHS risk management. While these can be integrated for the principal’s staff, the principal has limited control of the conditions of work of more vulnerable subcontracted, migrant and temporary workers.

Compliance Maturity: Several lessons emerged from strategies used to overcome barriers that distinguished the case organisations’ compliance maturity. More mature WHSMSs appeared to be stable and have more experienced and better resourced HSP teams. By comparison, frequent restructuring of the WHS team structures was likely to have led to a prolonged state of disruption and created confusion about how the team provided appropriate support across an organisation. Confusion may have been further exacerbated

by lack of understanding of the statutory provisions, undervaluing of broader conceptualisations of leadership and general lack of soft skills training and development opportunities for workers, particularly those involved in contemporary forums.

Overall, it is concluded that the strategic holistic systems approach encompassing multiple forms of communication is a sound foundation for embedding provisions for meaningful worker voice. The WHSMS enabled the smallest organisation to adopt complementary worker voice structures delivering continuity and consistency via knowledgeable experienced HSR leadership. But the prevailing negativity highlighted the potential for largely bipartite stakeholder initiatives to support and embed contemporary structures to a level that would withstand future attempts to strengthen provisions for worker rights to empowered independent representation.

The importance of informal direct communication highlighted the value of IT systems as a support tool for enhancing integration. This is a reminder that neither traditional paper nor contemporary software programmes have the capacity to keep people safe and healthy. These are useful for recording what people are doing and creating reports identifying areas for continuous improvement. It is timely appropriate responses to issues that contribute to moving an organisation from a reactive to proactive state.

10.3.4 What Effect has the Current Legislation Mandating Worker Voice had on Engagement, Participation and Representation?

As the purpose of this study is to determine how the current statutory framework was overcoming previous failures in mandating worker engagement and participation, this section considers the effect of the current legislation and regulators performance.

Current Legislation. The main purpose of the HSWA reflects a self-regulatory approach. The Act provides “for a balanced framework to secure the health and safety of workplaces” in the provisions for “fair and effective representation, consultation, co-operation, and resolution of issues in relation to work health and safety” (§3). It is concluded that the purpose of the HSWA, aligning with a traditional employment relations context, is at odds with the statutory provisions designed for a contemporary context. The intention to balance power through representation is confounded by the duties, as representation is only an optional form of participation. And the PCBU is empowered to determine the most effective way to provide reasonable opportunities to participate in improving WHS outcomes. Ideological beliefs about power to influence are

central to understanding the origin of these statutory provisions for worker voice, which influenced preferences in this study.

The impact of the provisions encouraging employer and union organisations “to take a constructive role” was mainly restricted to macro level collaboration in some government and industry WHS initiatives. Despite efforts to go beyond consulting or informing workers in site and task decisions, worker voice occurred within the unequal power relationships defined as partial participation (Pateman, 1970). It is concluded that the EP&R legislation is embedding contemporary representation structures, facilitating substitution and eroding traditional structures in large organisations. Changing labour practices and declining union influence that contribute to the demise of empowered independent HSRs in commercial construction sector occurs across the private sector. Traditional HSRs and HSCs are more likely to be found in the unionised public sector. Therefore, this research challenges the effectiveness of a self-regulatory approach which perpetuates functionalist unitarist management led WHSMSs focusing worker voice at the task level.

The Regulators Performance. The independent regulatory agency is attempting to rectify past failures to engage effectively with employers. However, it is concluded that earlier inclusion of all key stakeholders in soft initiatives would model and improve tripartism. The overall conclusion is that significant progress has been achieved in bolstering strategic leadership interest in managing critical risks. While the CRSC demonstrated the cumulative nature of the factors necessary for effective worker voice, several lessons discussed in Section 2.5.1.3 are pertinent to the current situation. Labour resourcing barriers clearly underpinned the regulator’s incapacity to investigate fatalities and accidents. Resourcing issues also impede regulatory independence, which is exacerbated by the regulator drawing closer to strong lobby groups, such as the BLHSF. An overarching challenge is to mediate unequal power relationships in an overtly anti-union sociopolitical environment.

Considerations of how proactive EP&R initiatives are prioritised in the regulator’s strategic plans, supported with sufficient funding and expertise, and consistently enforced will ensure worker voice is not allowed to atrophy or fade away. As a key element of the self-regulatory approach, ensuring worker voice is part of the solution will prevent it being overshadowed by other issues. The WHS literature highlights several strategies to

enhance worker voice. This starts with proactive strengthening of the statutory provisions that embed complementary EP&R structures, educating workers about their statutory rights, and developing all stakeholders' soft skills. Equalising the current imbalance in stakeholder powers requires progressing from targeting employers' willing to effectively manage risks, to developing workers capacity to fully participate in workplace decisions that affect their health, safety and wellbeing. The confusion about representative roles, suggested that it would be beneficial to distinguish between management roles, powerless champions and empowered traditional HSRs. Establishing and supporting adequately resourced and empowered roving HSRs and a HSR network have the potential to overcome the challenges of connecting fragmented workers with HSRs.

The reactive EU process largely excluded substantive workers and union involvement in decisions about the appropriateness of this alternative to prosecution and the choice and implementation of corrective actions. Lack of transparency, post-publication of the acceptance of the EU and the discharge process, indicate that the alternative penalties in the HSWA require thorough review.

10.4 Limitations and Future Research

Although the research found a comprehensive range of formal and informal forms of worker involvement integrated within organisational systems and processes, the challenge was in accessing trained HSRs working in the high-risk commercial construction industry. Limited exposure to trained HSRs impeded thorough consideration of HSRs' experiences, as well as how HSRs are involved in determining the functions of the HSRs and HSC. Nor could comparisons between union and non-union supported HSRs be explored. This limitation highlights a need for further research to determine whether access to HSRs was purely a methodological issue, rather than a weakness in the statutory framework aimed at strengthening and supporting EP&R, particularly in high-risk industries.

This raised the question of whether traditional HSRs are declining in high-risk industries where workers need the statutory powers to make employers listen and compromise. If so, why? How can barriers to independent resources and support be overcome to reinvigorate traditional representation? Further research focusing on HSRs experiences in high-risk industries would allow fuller exploration of questions arising from this study, such as: 1) how do negative attitudes towards traditional forms of representation impact

on workers' willingness to take on the HSR role, and how can this be mitigated? 2) How do generalisations about older workers not buying into new practices contribute towards diminishing access to experienced trained HSRs who could encourage, mentor and help develop emerging worker leaders, and how can barriers be overcome? 3) How has defining tripartism and monitoring regulatory performance contributed to rebalancing stakeholder relationships and fostering cooperative collaboration at all levels?

In evaluating the research, the widespread interest and willingness to participate in this research and generous accommodation of my presence in the workplaces, demonstrated general recognition of the importance of worker voice and relevance of this study. Systematic, rigorous and well documented research processes supported the credibility, dependability and confirmability of the research findings. Nevertheless, transferability is limited to other situations that are sufficiently similar to permit further generalisation. Given the case studies demonstrated engagement was a prerequisite for participation, further research is required to determine if the *EP&R Compliance Maturity Model of Worker Voice* is widely applicable in the construction industry, other industries and countries adopting self-regulatory statutory approaches to WHS.

The research occurred within a growth period when more resources were available, so the effectiveness of the employer-directed flexible representative structures and systems need to be tested in the context of an economic downturn "bust" cycle. The impact of the COVID-19 pandemic broadens the scope of industries classified as high-risk, thus provides opportunities for more comprehensive exploration of the questions above. The analytical and practical models could be applied to comparing the EP&R system outcomes between an expanded range of high-risk industries. In particular, how did Covid provide opportunities to unite employers and workers? 1) How were workers involved in managing the associated critical risks? 2) At what level were decisions made? 3) How were stakeholders involved in ensuring industry and organisational strategies exceeded perception management of WHS risks? 4) How did the rhetoric of caring align with preparing workers for redundancy? 5) How did Covid impact on employer and worker preferences for traditional and/or contemporary forums? 6) How were these structures used to navigate the lockdown, organisational restructuring and return to work phases?

10.5 Final Consideration of the Research Contributions

As I reach the end of this project, I appreciate the widespread interest in exploring this important research problem. The major contribution of the thesis is demonstrating that the current HSWA has achieved little in stemming the steady erosion of empowered worker voice. Rather than equalising the employers' and workers' powers at the macro, industry and meso levels, the Act has driven notable improvements in direct engagement - with some influence at task and site levels. The predominantly subcontracted labour approach and nature of construction work underscore the difficulties workers face in accessing traditional HSRs. With lack of trained HSRs and limited regulatory presence on sites, workers tended to rely on the employer for information and were expected to request to have a traditional HSR. This research suggests that challenging employer choice is unlikely to occur in large commercial construction organisations. Albeit the large principal expects the SME subcontractors to have HSRs.

In highlighting the anomalies in the legislation, this research found the current HSWA has muddied the water, rather than clarified and strengthened provisions for traditional structures. The ongoing problems are challenging the effectiveness of implementing a self-regulatory approach in a low-union context. If the weakness in the third element of the balanced tripartite relationship (worker voice) required for the effective functioning of self-regulatory systems prevails, the current statutory approach is destined to be yet another failed attempt at achieving meaningful empowered worker influence in decisions beyond fragmented employer-directed task-specific involvement.

The conflicting parts of the HSWA pertaining to worker engagement, participation and representation should be reviewed and remedied. Ongoing resourcing constraints are impeding WorkSafe New Zealand from effectively fulfilling their obligations under the HSWA. These constraints need to be resolved to enable the regulator to have a stronger presence at the operational level, engaging with, and educating employers and workers, and balancing this with stronger enforcement activities. Extending tripartite requirements in proactive government initiatives and reactive alternative enforcement activities would normalise expectations to establish an environment where full participation can thrive.

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Appendices

Appendix A: Comparison of the two Acts, HSEA 1992 and HSWA 2015

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
Content	The Act, including the 2002 and 2006 Amendments, spans 96 pages.	More explicit and extensive coverage in this Act. The original Act spans 186 pages.
Object/purpose of the Act	The object of this Act is <u>to promote the prevention of harm</u> to all persons at work and other people in, or in the vicinity of, a place of work. Section 5(f) recognises that successful management of health and safety issues is best achieved through <i>good faith co-operation</i> in the place of work and, in particular, through the <i>input of the persons doing the work</i>	Part 1 Section 3(1) The main purpose of this Act is to provide for a <u>balanced framework to secure the health and safety of worker</u> and workplaces by – <ul style="list-style-type: none"> (a) protecting workers and other persons against harm to their health and safety ... (b) providing for fair and <u>effective workplace representation, consultation, co-operation and resolution</u> of issues in relation to work health and safety, and (c) <u>encouraging unions and employer organisations to take a constructive role in promoting improvements</u> in work health and safety practices and assisting PCBUs and workers to achieve a healthier and safety working environment,...(g).
Significant differences	Duties provide for taking <u>all practicable steps to manage hazards</u> in a place of work (Part 2).	Duties provide for taking <u>reasonably practicable steps to manage risks</u> (Part 2). The meaning of reasonably practicable was amended in March 2018 removing <ul style="list-style-type: none"> * Clarifies duties for any person conducting a business or undertaking (PCBU) who is accountable for the primary duty of care. The Act applies to the Armed Forces, intelligence and security agencies, Government Communications Security Bureau, in an exclusive economic zone and in or on a continental shelf, and to prescribed high-risk plant. Certain provisions apply to members of the Armed Forces and exceptions. Offences and penalties are highlighted in each section, rather than in a separate section. A broader scope of offences captures provisions for a wider range of penalties and an increase in the highest penalties. <p><i>Meaning of reasonably practicable</i></p> In this Act, unless the context otherwise requires, <i>reasonably practicable</i> , in relation to a duty <u>of a PCBU set out in subpart 2 of Part 2</u> , means that which is, or was, at a particular time, reasonably able to be done in relation to

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
		<p><u>ensuring health and safety</u>, taking into account and weighing up all relevant matters, including—</p> <ul style="list-style-type: none"> (a) the likelihood of the hazard or the risk concerned occurring; and (b) the degree of harm or damage that might result from the hazard or risk; and (c) what the person concerned knows, or ought reasonably to know, about— <ul style="list-style-type: none"> (i) the hazard or risk; and (ii) ways of eliminating or minimising the risk; and (d) the availability and suitability of ways to eliminate or minimise the risk; and (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
Employee involvement defined	<p><u>None in the original HSE.</u></p> <p>Section 14 of the HSE included duties for employers to <i>involve employees</i> in the development of health and safety procedures. This was repealed under the Amendment Act 2002 and <i>‘Employee participation (EP)’</i> included in Part 2 A (pp. 28 -33).</p>	<p>This Act has a wider scope accommodating the changing nature of work, repealed Act provided for employees. The duties and provisions are outlined in Part 3 <i>‘Worker engagement, participation, and representation’</i> (pp. 46-63).</p> <p>Subpart 1 – Engagement with workers and worker participation practices relates to engagement with workers (S58-60) and worker participation practices (S61). S58 clearly states that a PCBU must take reasonably practicable actions to engage with workers directly or likely to be directly affected by a matter relating to health and safety. It allows for flexibility on the engagement procedures but requires PCBU and workers agreement on procedures that must be consistent with S59.</p> <p>The fine for conviction of committing an offence may not exceed \$20, 000 for an individual, and not exceeding \$100,000 for any other person.</p> <p>S59(1) defines the nature of engagement provides for relevant information to be shared with workers in a timely manner and for workers to be given an opportunity to express their views and raise work health and safety issues, to have their views taken into account, to contribute to decision-making and to be advised of the outcome of the engagement in a timely manner. S59(2) <u>If</u></p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
		<p><u>the workers are represented by an HSR, the engagement must involve that representative.</u></p> <p>S60 clarifies when engagement with workers is required in workplace health and safety matters. This includes: (a) when identifying hazards and assessing risks; (b) when making decisions about ways to eliminate or minimise those risks; (c) when making decisions about the adequacy of facilities; (d) when proposing changes that could affect workers' health and safety; (e) when making decisions about procedures for engaging workers, monitoring workers' health, monitoring the conditions at any workplace; providing information and training for workers; (f) when making decisions about any procedures for resolving workplace health and safety issues; (g) <u>when developing worker participation practices, including when determining work groups</u>; and (h) <u>when carrying out any activities prescribed by regulations for the purposes for this section.</u></p> <p>S61 defines when a PCBU (1) must have worker participation practices that provide reasonable opportunities for workers to participate effectively in improving work health and safety on an ongoing basis; (2) compliance involves complying with requirements for particular industry, sector or kind of workplace and relevant codes of practice; (3) outlines the factors to be considered to ensure compliance with <i>reasonable opportunities</i> for worker participation practices. The relevant matter to consider are the number of workers; the number of different workplaces and distance between the; the likely risks and level of those risks, the <u>nature of the work</u> and the way it is arranged and managed; the nature of employment or contracting arrangements, including the extent and regularity of employment or engagement of temporary workers; the <u>willingness of workers and their representatives</u> to develop worker participation practices; and the duty to act in <i>good faith</i>.</p> <p>S61(4) penalties for offences are the same as S59.</p> <p>Subpart 2 – HSRs and HSCs relates to the election of HSRs (S62-63), the determination of work groups (S64-65) and HSCs (S66-68). <u>S62 (1) provides for a worker to request the election of 1 or more HSRs, and duties for a PCBU to respond to (2) a request or (3) to initiate the election of 1 or more HSRs.</u></p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
		<p><u>S62(4) defines exceptions when a PCBU is not required to initiate the election of 1 or more HSRs (a) if the work is carried out by fewer than 20 workers, and (b) is not within the scope of any high-risk industry prescribed by regulations for the purposes of this section.</u> S62(5) provides procedures for a PCBU declining a worker request for the election of an HSR. The penalties for failure to comply with election requirements may not exceed \$5000 or \$25000 (S62(7)). S63 establishes that elections must comply with all prescribed requirements.</p> <p>The concept of <i>work groups</i> recognises the complex nature of work arrangement (full-time, part-time, casual, contract work) and overlapping PCBU duties in supply chains. The determination of work groups (S64-65) includes the ability for two or more PCBUs to agree to be party to a multiple PCBU work group arrangement (S64(5)) and the number of HSRs for work groups (S65).</p> <p>S66 defines requirements for <i>establishing HSCs</i> for a business or undertaking or part of a business or undertaking. An HSR for workgroup of workers or 5 or more workers at a workplace can request the PCBU establish an HSC. While the PCBU must respond to the request within 2 months. The PCBU is not required to establish an HSC if the business or undertaking has fewer than 20 workers and is not operating in a high-risk industry or other industry prescribed by regulation. A PCBU can refuse a request but must follow required procedures but can also establish HSC(s). Workers may raise refusal as an issue.</p> <p>Also, see the Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016 for relevant prescriptive duties and requirements.</p>
Purpose of the section relating to employee involvement	<p>The purpose of the previous Act required participation of employees and clarified the employer’s duty to involve employees. Section 19 Part 2 A required “the <i>participation of employees</i> in processes relating to health and safety in the workplace so that -</p> <p>(a) <u>all persons with relevant knowledge and expertise</u> can help make the place of work healthy and safe; and</p> <p>(b) when making decisions that affect employees and their work, an</p>	<p>n/a – The importance of fair and effective representation, consultation, co-operation and issue resolution in managing WHS is clearly stated in the main purpose of the Act; to provide a balanced framework for securing the health and safety of workers and workplaces (§ 3 (b)). It is also evident in the detailed clarification of duties and requirements in the HSW Act and prescriptive regulations for EP&R.</p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	<p>employer <u>has information from employees</u> who face the health and safety issues in practice.</p> <p><u>Section 19 B</u> relates to a general duty to <i>involve employees</i> in health and safety matters</p>	<p>While the depth and scope of Act and regulations reflect great attention to detail, interpreting and implementing these requirements are likely to be both intimidating and onerous for many stakeholders involved in managing workplace health and safety.</p>
General duties	<p>To <i>'involve employees'</i> in WHS matters required providing reasonable opportunities' for <i>'employees' to participate effectively</i> in the management of WHS in the employees' places of work. This was guided and bounded by a number of relevant matters including the willingness of employees and <i>unions</i> to develop employee participation systems (f); and the overriding duty to act in <i>good faith</i> (g) aligned with the Employment Relations Act 2000.</p> <p>The process was to be one of <u>continuous improvement</u> included the matters referred to in sections 6 to 13. The general duties of employers included ensuring the safety of employees; hazard management (to identify significant hazards, and 'take all practicable steps to eliminate/ isolate/ minimise the significant hazards & to <u>monitor employees' exposure to the hazard</u>); give employees results of monitoring; provide employees access to and with information in a manner that is 'reasonably likely to be understood, ensure HSRs had access to sufficient information about WHS systems and issues to enable the HSRs to perform their functions effectively.</p> <p>There were also additional duties in sections 13 to 14 in relation to <i>training and supervision</i>.</p>	<p>The intention to establish a system to facilitate tripartite collaborative relationships to achieve continuous improvement in health and safety outcomes is captured in both Acts.</p>
Other duties	<p>Sections 15 to 18 were related to the duties of employers to people who are not employees, duties of persons who control places of work, duties of self-employed people, duties of principals, and duties of persons selling or supplying plant for use in place of work. <u>S16(3)</u> relates to the obligation of a person who controls a place of work and knows of any significant hazard, who must take all practicable steps to warn the other person of the specified hazard – duties and actions are prescribed in detail (S16(3 – 6)/ The penalties for a person committing other offences <u>S50(1.b)</u> excluded people who control work (S16(3)), <u>Section 50(2)</u> provides for a significantly lower</p>	

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	<p>penalty for non-compliance with S16(3).</p> <p>Employees also had duties, explained in Section 19. Every employee shall take all practicable steps to ensure-</p> <p>(a) the employee’s safety while at work (including by using suitable protective clothing and suitable protective equipment provided by the employer or, ...</p> <p>(b) that no action or inaction of the employee while at work causes harm to any other person (S19A).</p> <p><u>Section 19 B</u> relates to a general duty to <i>involve employees</i> in health and safety matters/S50(1.a).</p>	
Development of a worker participation system	<p>Section 19 C related to the development of an employee participation system and applied if an employer employed –</p> <p>(a) fewer than 30 employees, whether or not at a single location, and 1 or more of the employees, or a <i>union representing them</i>, required the development of a system for employee participation; or</p> <p>(b) 30 or more employees, whether or not at a single location</p> <p>Duties included working cooperatively in good faith to develop, agree, implement and maintain a system that set out the ways in which <u>employers, employees would be involved, and unions would represent employees</u>; a review process; provisions for WHS training for HSRs; provisions for multiple <u>HSRs or HSCs</u> representing particular types of work, or place of work of the employee, or another grouping provisions for existing functioning employee participation systems and provisions for defunct systems. - HSR training leave is taken as employment relations education leave.</p> <p>Section 19 D provisions applied if employer and employees failed to develop a system for employee participation</p> <p>Section 19 E, F & G provided for the <i>training of HSRs</i></p> <p>Section 19 H provided for systems for employee participation in the <i>Armed Forces</i>.</p> <p>Section 19 I defined the meaning of employee in sections 19 C (1) – 19 F (1).</p>	<p>Part 3, Subparts 1 – Engagement with workers and worker participation practices relates to engagement with workers (S58-60) and worker participation practices (S61). See above.</p> <p>Subpart 2 – HSRs and HSCs refers to the election of HSRs (S62-63), the determination of work groups (S64-65) and HSCs (S66-68). See above.</p> <p>But whereas the previous Act only allowed third party worker representation through HSRs, HSCs and unions, the HSW Act interpretation <u>extends the scope of a worker representative</u> to include (c) any other person the worker authorises to represent the worker.</p> <p>Schedule 2 S12 clarifies the requirements for allowing HSRs to attend relevant <i>training</i>. Prescribed duties are outlined in R 21-26.</p> <p>Section 7 applies this Act to the <i>Armed Forces</i> and any military aircraft or naval ship. However, exceptions apply when workers are involved in operational activities.</p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	The structure, mechanisms, processes and scope are not specified. It is left to workplaces to establish an appropriate participation system.	
Election of HSRs	<p>Schedule 1 A provides guidance on the development of an employee participation system under section 19 C.</p> <p>In Part 1, examples of matters that may be included in agreed system for employee participation include electing HSRs and determining whether to act independently or as members of the HSC 1(a).</p> <p>Part 2 focuses on the functions of HSRs.</p> <p>Part 3 provisions applied in the event of failure to develop system for employee participation. Failure in duties under Section 6 provisions related to the “Employees or unions [right to] may require employer to hold election for HSR”. An employer’s failure to comply with this right was subject to penalties under other offences (<u>50(1.b)</u>).</p>	<p>See Subpart 2 above.</p> <p>As with the previous Act, further clarification is provided in Schedule 2, with Part 1 (§1-19) expanding on the HSRs functions and obligations and Part 2 (§20-22) HSC functions, obligations and information used by HSCs for WHS purposes only.</p> <p>Schedule 3 incorporates more rigorous requirements for the mining industry and extends the scope of the functions and powers of the industry HSRs (§ 9-21). The regulation of these HSRs is also more rigorous and includes identity cards and the regulator keeping and maintaining a register of the industry HSRs (S22-26).</p>
Enforcement and other matters - regulator	<p>Enforcement instruments included <u>improvement and prohibitions notices, and infringement notices</u>.</p> <p>Sections 39 – 46. Inspectors may issue any person failing to comply with any provisions of the Act with an improvement notice, i.e., a written notice to comply with the provision; the improvement notice may specify steps that could be taken to ensure compliance, and the wide range of people to whom the notice may be given targets the person in charge.</p> <p><i>Prohibition notices</i> may be issued if an inspector believes that non-compliance with a provision exposes any person to the likelihood of a serious harm if the activity is not stopped. The inspector may give written notice to stop the activity until an inspector is satisfied that measures sufficient to eliminate the hazard or minimise the likelihood that the hazard will be a source of harm, have been taken.</p> <p>Inspectors have to follow prescribed procedures for issuing notices, and there is also a provision for appeals against notices.</p> <p>Every person to whom or to which an improvement notice is given or posted shall comply with it (<u>S39.5/S50(1.b)</u>).</p> <p>Every person to whom a prohibition notice is given, and every person who controls a place of work or any plant to which a prohibition</p>	<p>Part 4 of the HSW Act has more detailed provisions relating to <i>enforcement and other matters</i> in sections 100 – 188.</p> <p>Some sections are updated and there are also new provisions for the regulator, such as an additional enforcement instrument, <u>non-disturbance notices, powers to carry out or take other remedial action and accept enforceable undertakings</u></p> <p>S108 empowers an inspector to “issue a <i>non-disturbance notice</i> to a PCBU who manages or controls a workplace if the inspector reasonably believes that it is necessary to do so to facilitate the exercise of his or her compliance powers.”</p> <p>S119 provides for the regulator to carry out reasonable <i>remedial action</i> to make a workplace or situation safe if a person fails to take reasonable steps to comply with a prohibition notice.</p> <p>S123 empowers a regulator to accept a written <i>enforceable undertaking</i> from a person concerning “a matter relating to a contravention or an alleged contravention by the person of this Act or regulations.”</p> <p>The general provisions relating to proceedings in S160 captures the new PCBU duties and accountabilities. It refers to the state of mind of directors, employees or agents to be attributed in civil or criminal proceedings. S160(3) defines “state of mind, in relation to a person, includes the knowledge,</p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	notice relates, shall ensure that no action is taken in contravention of it (<u>S43/S50(1.b)</u>). Sections 47 and 48 relate to duties to assist any inspector and obstruction, etc. (<u>S50(1b)</u>).	intention, opinion, belief, or purpose of the person and the person’s reasons for that intention, opinion, belief, or purpose.” S169 providing the regulator with powers to enter homes captures the changing nature of work and workplaces.
Enforcement and other matters - HSR	Section 46A prescribes <u>provisions for trained HSRs to serve an employer</u> (includes an employer’s representative (S46A.6) <i>with a hazard notice</i> . Only <i>competent HSRs</i> who have completed an approved HSR training course (S19G) may issue hazard notice(s) that- (a) describes a hazard identified in a place of work; and (b) is in the prescribed form; and (c) may set out suggested steps to deal with the hazard. The detail in Section 46A (2, 3 & 5) indicates that there has to be attempts, by both parties, to act in <i>good faith</i> when raising an issue. Serving a hazard notice is only to be resorted to when all attempts have failed to lead to agreement on appropriate steps to manage the hazard. If a notice is served, the HSR may notify an inspector of the fact (S46A.(4)). Schedule 1 S25 relating to transitional provisions for improvement, prohibition and hazard notices issued under the HSE Act. These notices continued “to have effect as if this Act had not been passed for the purpose of completing any matter relating to the notice”.	Subpart 3 – <i>Provisional improvement notices</i> (PINs) (S69-81). The provisions related to trained HSRs duties’ concerning issuing PINs is similar to those that existed for hazard notices. However, more detail clarifies expectations reflects the higher degree of complexity in a PCBU context.
Right of employees to refuse to perform work likely to cause serious harm (This mechanism has the potential to be powerful for worker voice)	Section 28A provides for an <i>employee to refuse to do work</i> if the employee believes that the work is likely to cause serious harm to him/her. There are some limitations such as not being able to refuse to do that is inherently or usually carries an understood risk of serious harm, <u>unless the risk increases beyond the understood risk</u> . There are provisions for employees refusing to do work to do other work within the scope of the employment agreement that the employer reasonably requests.	Subpart 4 - <i>Worker right to cease work or direct cessation of unsafe work</i> . Whereas the previous Act only allowed an employee to cease or refuse work, or act on an HSRs advice, the new Act expanded allowing a worker to cease work if s/he believes - on reasonable grounds that carrying out the work would expose the worker or any other person to a serious risk <u>to the worker’s or other person’s</u> health or safety arising from an immediate or imminent exposure to a hazard (S83 (2a). Provisions allowing HSRs to direct unsafe work to cease clarify when and how the HSR may act regarding the work group represented by the HSR (S84). Only <u>appropriately trained</u> HSRs have the power to direct worker(s) to

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	<p><i>HSRs may advise an employee that work is likely to cause serious harm, but reasonable grounds must exist.</i></p>	<p>cease/refuse to work (S85). S86 provides for PCBUs to direct the worker to carry out alternative work, nevertheless the worker - has to agree (but cannot be directed) to do other work that is safe and appropriate for the worker (S86(4))</p> <p>The regulator may be approached by an HSR, PCBU or worker to help <i>resolve issues</i> related to the cessation of work.</p>
Offences and penalties	<p>Section 49 relates to offences likely to cause serious harm. S50(3) Every person who commits an offence under this section is liable on conviction to –</p> <p>(a) <u>Imprisonment for a term of not more than two years; or</u> (b) <u>a fine of not more than \$500,000; or</u> (c) <u>both.</u></p> <p>S50(4) A person charged with an offence under this section may be convicted of an offence against section 50 as if the person had been charged under that section.</p> <p>Section 50 relates to penalties for other offences.</p> <p>S50(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding <u>\$250,000</u> who fails to comply with the requirements of –</p> <p>(a) a provision of Part 2 other than section 16(3); or (b) section 19 B, section 25, section 26, section 37(2), section 39(5), section 42(1), section 43, section 47, section 48, section 56 I(2), section 58, or clause 6 of Schedule 1 A; or (c) a provision of any regulations made under this Act, or continued in force by section 24, declared by the regulations to be a provision in which this section applies.</p> <p>S50(2) <u>Every person</u> who is liable on summary conviction to a fine not exceeding <u>\$10,000.</u></p> <p>Section 56 relates to offences by body corporate or Crown organisations. Sections 56 A- I has detailed prescription relating and infringement offences (56 A), infringement notices (56 B), etc. Section 56 I relates to insurance against fines unlawful and of no</p>	<p>There are significant changes to the maximum and minimum penalties for the worst offences. S48 and 49 defines offence and liability if a person is convicted</p> <p>S48 Offence of failing to comply with <u>duty that exposes individual to risk of death or serious injury or serious illness</u></p> <p>(1) A person commits an offence against this section if—</p> <p>(a) the person has a duty under subpart 2 or 3; and (b) the person fails to comply with that duty; and (c) that failure exposes any individual to a risk of death or serious injury or serious illness.</p> <p>(2) A person who commits an offence against subsection (1) is liable on conviction,—</p> <p>(a) for an individual who is not a PCBU or an officer of a PCBU, to a fine not exceeding \$150,000; (b) for an individual who is a PCBU or an officer of a PCBU, to a fine not exceeding \$300,000; (c) for <u>any other person</u>, to a fine not exceeding <u>\$1.5 million.</u></p> <p>S49 Offences of failing to comply with <u>duty</u></p> <p>These are lower than in S48 and fines may not exceed \$50,000 for an individual who is not a PCBU or PCBU officer, \$100,000 for an individual who is a PCBU or a PCBU officer, and \$500,000 for any other person.</p>

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
	effect, with <u>56 I(2)</u> prohibiting indemnifying against liability to pay a fine or an infringement fee/ <u>S50(1,b)</u> .	
Regulator	The function of inspectors included helping employers, employees and other persons improve safety at work, and the safety of people at work by <u>providing information, identifying non-compliance and taking reasonable steps to ensure the Act is being complied with</u> . Inspectors part of the Department of Labour, then Ministry of Business, Innovation and Employment (MBIE). Post Pike River, independent regulator established for OHS, WorkSafe.	The main functions of WorkSafe are the same as before, however the regulator is adopting a more proactive stance in their activities. The regulator’s three key roles are aimed at: Building <i>regulatory confidence</i> in the effectiveness of the new regulatory system. Targeting <i>harm prevention</i> using data to identify critical risks. This is supported by <i>system leadership</i> activities aimed at leading, influencing and using the health and safety system to improve outcomes. Leadership is underpinned by a strong focus on working collaboratively with key stakeholders and their representatives at the strategic and operational levels. Some of the main activities include <u>engaging</u> and <u>educating</u> duty holders about their workplace health and safety responsibilities, and <u>enforcing</u> health and safety law (carrot, stick and information).
Discrimination, coercion and adverse conduct		Subpart 5 – <i>Prohibition of adverse, coercive, or misleading conduct</i> including Civil proceedings in relation to adverse or coercive conduct (S95 – 96) and General provisions (S97). Penalties for offences are high, however these may be difficult to identify and/or support with evidence. Penalties for engaging in adverse conduct for a prohibited reason may not exceed \$100 000 for an individual or \$500 000 for any other person (S90). The same penalties are available for a person who intentionally misleads another person about their rights, obligations or abilities to act under the Act.
Dispute resolution		Subpart 6 – <i>Issue resolution</i> (S98-99). This section aligns with the main purposes of the Act and the emphasis on worker involvement, and good faith underpinning the ERA. As with the employment relations institutions the parties are required to take reasonable efforts to resolve a workplace WHS issue - to achieve a timely, final and effective resolution (S90). Whereas unresolved employment relations issues may proceed through mediation, the Employment Relations Authority, and the Employment Court;

	Health and Safety in Employment Act 1992 (HSEA)	Health and Safety at Work Act 2015 (HSWA)
		S99(2) allows any of the parties (including any representatives of the parties) to the issue to ask the regulator to appoint an inspector to help resolve the issue.
Prescriptive regulations	<p>The Health and Safety in Employment Regulations 1995 prescribed general duties of employers related to suitable and sufficient workplace facilities; duties in relation to the management of particular hazards, duties related to certificates of competence; duties in relation to the employment of young people; duties related to agricultural employees' accommodation; duties of designers, manufacturers and suppliers; and offences.</p> <p>Many of these duties have been revoked.</p>	<p>The Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016 clarify how the minimum standards are to be implemented and maintained.</p> <p>Subpart 1 (R5) clarifies high-risk sectors or industries.</p> <p>Subpart 2 (R6 – 8) prescribes procedures and practices concerning <i>work groups</i>, Subpart 3(R9-26) concerns HSRs and prescribes requirements for <i>electing HSRs</i> under S63 of the HSW Act.</p> <p>R15 clarifies how HSRs must be treated if they have not been elected as an HSR for a work group. R16 prescribes duties in relation to election of HSRs and penalties for non-compliant PCBUs. R17 prohibits unreasonable delays in the <i>election</i> process and interference with or influencing workers voting in an election and sets the maximum penalty for any person failing to comply with the regulations. The regulations also prescribe the terms of office for HSRs (R18), resignation and removal from office of HSRs (R19), and duties to maintain a readily accessible list of HSRs. R21 – 26 prescribes requirements and duties for <i>HSR training</i> including the types of HSR training, choice of training, access to training, sharing costs and the maximum total number of days' paid leave for HSR training.</p> <p>Subpart 4 (R27-29) defines duties and <i>requirements for HSCs</i> including the duty to give notice of decisions regarding the HSC (R27), membership of the HSC(R28), and meeting requirements (R29).</p> <p>Subpart 5 (R30) penalties for inspectorate decisions on failing to comply with R28 regarding the membership of HSCs.</p> <p>The lowest fine PCBUs may be liable for relates to maintaining a readily accessible list of HSRs where fines may not exceed \$2000 for an individual and \$10 000 for any other person. Mid-range penalties regarding elections may not exceed \$6000 and \$30 000. The highest penalties relate to inspectorate decisions regarding R28 under S99 (3) HSW Act HSCs where fines may not exceed \$10 000 for an individual and \$50 000 for any other person.</p>

Appendix B: Summary of Data Collection Instruments Used in Case Studies of Worker Involvement

Worker voice case studies	Number of studies and sector	Participants	Interviews	Documents	Observation	Survey
Marchington (2015a) UK, Ireland, Australia and NZ	2012- 2013 2 stages 25 private sector services and public administration (4 LMEs)	HR Director, managers, union representatives (Visits ½ day)	86 Stage 1- 35 Stage 2 - 51	Yes		
A. Wilkinson et al. (2013b) Australia	2009-2011 5 - 3 hospitality, 1 hospital, 1 manufacturing	Strategic manager (S) (Multiple interviews), Strategic HRM, department heads, supervisors	130 (45 – 60 min)	Org documents	Job observation, various forms of employee involvement and participation (EIP)	
Walters et al. (2005) UK	10 – 5 chemical industry 5 construction	Managers, WHS specialists, HSRs, workers	Yes	WHS procedures, practices & outcomes, WHS policy & arrangements, injury & incident reporting, WERS 1990 labour force stats	HSC	employee survey distributed to sub-contractor and principal contractors where possible
Walters and Nichols (2009) UK	5 - 2 L= 700+ & 350 employees; 1 M = 270; x2 S = 100+ & < 50 manufacturing and supply of chemical products <u>all recognised unions</u>	S managers, OSH managers & advisors, Supervisors, HSRs, Shop stewards, Manual & non-manual workers	Yes	Provided by employers and unions		Yes
Walters et al. (2016)	1998 – 2013	18 Site HSRs (SSHRs),	26	Documents of mine safety representatives'	Sessions conducted by ISHRs at annual	

	19 (50% of) Queensland coalmines - 12 open-cut, 7 underground; 17 large or medium; Majority had <u>75% union density</u>	5 Industry SHRs (ISHRs), 1 senior government mines inspector, 2 Construction, Forestry, Mining and Energy Union (CFMEU), <i>No employer/managers agreed to participate</i>	(60-90 minutes)	activities (e.g., issuing notices, stopping work, reviewing WHS management procedures) Government mine inspectors (why inspection, what was inspected & outcome) particularly 'fatal risks'	union training event for SSHRs.	
Hasle et al. (2016)	2013-2014 60 construction, manufacturing, private sector provision, knowledge industry, healthcare high/low activity	Key OHS manager + HSR; Employees, Line managers, Shop stewards	2-6 at each enterprise		Workplace visits, standardised report for comparability	
Knudsen et al. (2011) Denmark	April – Nov 2008 11- 2 food manufacturing, 2 hotels, 2 schools, 2 hospital wards 2 banks 1 IT enterprise	1 S manager, 1 HSR, 1 or 2 shop stewards & 1 HSR at each workplace; also, middle managers (M) and HRM in some	46 (x4 at each workplace)	Descriptions of work organisation, personnel policies, WHS policies and work environment data included mandatory workplace assessments		Quality of work environment (QWE)
Markey et al. (2014) Denmark and NZ	4 hotels – 2 Denmark (coordinated market economy, CME) 2 NZ (liberal market economy, LME)	M manager, HRM,	3-6 at each hotel			QWE
Lamare et al. (2015)				Literature public documents		

Appendix C: Ethics Low Risk Notification



Date: 06 March 2017

Dear Deirdre Farr

Re: Ethics Notification - 4000017322 - How are the new statutory provisions for 'employee voice' in OHS contributing to engagement, participation and representation?

Thank you for your notification which you have assessed as Low Risk.

Your project has been recorded in our system which is reported in the Annual Report of the Massey University Human Ethics Committee.

The low risk notification for this project is valid for a maximum of three years.

If situations subsequently occur which cause you to reconsider your ethical analysis, please contact a Research Ethics Administrator.

Please note that travel undertaken by students must be approved by the supervisor and the relevant Pro Vice-Chancellor and be in accordance with the Policy and Procedures for Course-Related Student Travel Overseas. In addition, the supervisor must advise the University's Insurance Officer.

A reminder to include the following statement on all public documents:

"This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named in this document are responsible for the ethical conduct of this research."

If you have any concerns about the conduct of this research that you want to raise with someone other than the researcher(s), please contact Dr Brian Finch, Director - Ethics, telephone 06 3569099 ext 86015, email humanethics@massey.ac.nz.

Please note, if a sponsoring organisation, funding authority or a journal in which you wish to publish requires evidence of committee approval (with an approval number), you will have to complete the application form again, answering "yes" to the publication question to provide more information for one of the University's Human Ethics Committees. You should also note that such an approval can only be provided prior to the commencement of the research.

Yours sincerely

Research Ethics Office, Research and Enterprise

Massey University, Private Bag 11 222, Palmerston North, 4442, New Zealand T 06 350 5573; 06 350 5575 F 06 355 7973
E humanethics@massey.ac.nz W <http://humanethics.massey.ac.nz>

Human Ethics Low Risk notification

Dr Brian Finch
Chair, Human Ethics Chairs' Committee and Director (Research Ethics)

Appendix D: Exploratory Study Stakeholder Information Sheet



MASSEY
BUSINESS
SCHOOL

Worker Engagement, Participation and Representation in Occupational Health and Safety in New Zealand: A Case Study in the Construction Industry.

INFORMATION SHEET

My name is Deirdre Farr and I am conducting this research as part of my studies towards a PhD in the School of Management at Massey University. I have worked in the forestry industry where my role involved monitoring and reporting on health and safety activities. I am currently balancing teaching Human Resource Management with my PhD research.

Project Description and Invitation

Research shows that worker participation in the management of occupational health and safety (OHS) improves outcomes. However, attempts to establish mandatory employee participation systems in OHS in New Zealand in 2002 have had limited success. The purpose of this research is to understand what effect the new Health and Safety at Work Act, 2015 is having on worker engagement, participation and representation (EP&R) in OHS. This will be achieved by exploring how people describe worker EP&R; how and when health and safety is talked about; and how the new legislation is contributing to managing OHS in workplaces.

I would very much appreciate your involvement in this research. If you are interested, and work in the commercial construction industry on the Lower North Island; please read the information provided below. Note that participation is voluntary and there will be time to ask me questions so you can again consider whether you wish to participate.

Benefits of the Research

The benefits for you and your organisation may be:

- The chance to share your perceptions of worker engagement, participation and representation in OHS.
- The opportunity to be part of a study finding out more about engagement, participation and representation within OHS.

Participant Identification and Recruitment

I am seeking interviews with key stakeholders, followed by case studies. I am looking for organisations where I can gain permission to have reasonable access to interview managers and workers, their representatives, contractors and service providers. I will also need reasonable access to relevant health and safety documentation and the site for observations. The case study data will be collected between June 2017 and June 2018.

Project Procedures

If you agree to participate in this study we will talk face-to-face about your views and experience. The interviews should take about 60 minutes and will be recorded, with your permission. It may be necessary to follow up the interview with telephone, email or further short interview to clarify information or gather additional information. You will have the opportunity to review the interview transcripts for editing purposes

Privacy and Confidentiality

All information and documents about you and your organisation will be treated as strictly confidential. The interviews will be conducted confidentially at your workplace or a safe public place at a time that is convenient to you. The interviews will be transcribed by a trusted professional transcriber. All recordings, transcripts and documents will be stored securely in my office and electronic data will be password protected. All names and identifiers of participants and organisations will be omitted from the thesis and any other research outputs. The data will be kept for five years following the completion of the research in secure storage at Massey University, Palmerston North campus.

Te Kunenga
ki Pūrehuroa

School of Management
Massey University, Private Bag 11222, Palmerston North 4442 T +64 6 356 9099 F +64 6 355 7984 www.massey.ac.nz

Participant's Rights

You are under no obligation to accept this invitation. If you decide to participate, you have the right to:

- decline to answer any particular question;
- withdraw from the study at any time before the analysis begins;
- ask any questions about the study at any time during participation;
- provide information on the understanding that your name will not be used unless you give permission to the researcher;
- be given access to a summary of the project findings when it is concluded;
- ask for the recorder to be turned off at any time during the interview.

Risk

This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named above are responsible for the ethical conduct of this research. If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Dr Brian Finch, Director, Research Ethics, telephone 06 356 9099 x 86015, email humanethics@massey.ac.nz

Project Contacts

If you have any questions or concerns about your rights as a participant in this research you may contact me or one of my supervisors.

Supervisors:

Dr Joanne Bensemann, Associate Head of School of Management, Massey University,
telephone: 06 356 9099 ext. 84915, email J.Bensemann@massey.ac.nz

Associate Professor Ian Laird, Director of Research of College of Health, Massey University,
telephone: 06 356 9099 ext. 84914, email: I.S.Laird@massey.ac.nz

Associate Professor Felicity Lamm, Associate Professor of Employment Relations, Auckland
University of Technology, telephone: 09 921 9999, email: felicity.lamm@aut.ac.nz

Your personal involvement and workplace experience is important to the completion of this project and will help provide a more informed perspective. Thank you for taking the time to read this information sheet and for considering being involved. I will contact you within a few days to ask if you are willing to participate in this PhD research project and hope you will allow some time to share your understanding and experiences of worker participation in OHS.

Yours sincerely



Deirdre Farr
PhD Researcher, School of Management
Massey University, Manawatu
Telephone: 06 356 9099 ext. 84947
Email: D.Farr1@massey.ac.nz

Appendix E: Case Study Information Sheet



Worker Engagement, Participation and Representation in Occupational Health and Safety in New Zealand: A Case Study in the Construction Industry.

INFORMATION SHEET

My name is Deirdre Farr and I am conducting this research as part of my studies towards a PhD in the School of Management at Massey University. I have worked in the forestry industry where my role involved monitoring and reporting on health and safety activities. I am currently balancing teaching Human Resource Management with my PhD research.

Project Description and Invitation

Research shows that worker participation in the management of occupational health and safety (OHS) improves outcomes. However, attempts to establish mandatory employee participation systems in OHS in New Zealand in 2002 have had limited success. The purpose of this research is to understand what effect the new Health and Safety at Work Act, 2015 is having on worker engagement, participation and representation (EP&R) in OHS. This will be achieved by exploring how people describe worker EP&R; how and when health and safety is talked about; and how the new legislation is contributing to managing OHS in workplaces.

I would very much appreciate your involvement in this research. If you are interested, and work in the commercial construction industry, please read the information provided below. Note that participation is voluntary and there will be time to ask me questions so you can again consider whether you wish to participate.

Benefits of the Research

The benefits for you and your organisation may be:

- The chance to share your perceptions of worker engagement, participation and representation in OHS.
- The opportunity to be part of a study finding out more about engagement, participation and representation within OHS.

Participant Identification and Recruitment

I am seeking interviews with key stakeholders, followed by case studies. I am looking for organisations where I can gain permission to have reasonable access to interview managers and workers, their representatives, contractors and service providers. I will also need reasonable access to relevant health and safety documentation and the site for observations. The case study data will be collected between June 2018 and June 2019.

Project Procedures

If you agree to participate in this study we will talk face-to-face about your views and experience. The interviews should take about 60 - 90 minutes and will be recorded, with your permission. You will have the opportunity to review the interview transcript for editing purposes. I will also be spending some time in your workplace conducting interviews (20 - 90 minutes), observing health and safety forums and collecting a sample of your health and safety documents. We plan to collect this information over two months. However, it may be necessary to follow up with telephone, email or further short interviews to clarify information or gather additional information.

Privacy and Confidentiality

All information and documents about you and your organisation will be treated as strictly confidential. The interviews will be conducted confidentially at your workplace or a safe public place at a time that is convenient to you. The interviews will be transcribed by a trusted professional transcriber. All recordings, transcripts and documents will be stored securely in my office and electronic data will be password protected. All names and identifiers of participants and organisations will be omitted from

the thesis and any other research outputs. The data will be kept for five years following the completion of the research in secure storage at Massey University, Palmerston North campus.

Participant's Rights

You are under no obligation to accept this invitation. If you decide to participate, you have the right to:

- decline to answer any particular question;
- withdraw from the study at any time before the analysis begins;
- ask any questions about the study at any time during participation;
- provide information on the understanding that your name will not be used unless you give permission to the researcher;
- be given access to a summary of the project findings when it is concluded;
- ask for the recorder to be turned off at any time during the interview.

Risk

This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named below are responsible for the ethical conduct of this research. If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Prof Craig Johnson, Director, Research Ethics, telephone 06 356 9099 x 86015, email humanethics@massey.ac.nz

Project Contacts

If you have any questions or concerns about your rights as a participant in this research you may contact me or one of my supervisors.

Supervisors:

Dr Joanne Bensemman, Associate Head of School of Management, Massey University,
telephone: 06 356 9099 ext. 84915, email J.Bensemman@massey.ac.nz

Associate Professor Ian Laird, Director of Research of College of Health, Massey University,
telephone: 06 356 9099 ext. 84914, email: I.S.Laird@massey.ac.nz

Associate Professor Felicity Lamm, Associate Professor of Employment Relations, Auckland
University of Technology, telephone: 09 921 9999, email: felicity.lamm@aut.ac.nz


Your personal involvement and workplace experience is important to the completion of this project and will help provide a more informed perspective. Thank you for taking the time to read this information sheet and for considering being involved. I will contact you within a few days to ask if you are willing to participate in this PhD research project and hope you will allow some time to share your understanding and experiences of worker participation in OHS.

Yours sincerely



Deirdre Farr
PhD Researcher, School of Management
Massey University, Manawatu
Telephone: 06 356 9099 ext. 84947
Email: D.Farr1@massey.ac.nz

Appendix F: Information Flyer

**Deirdre Farr**
— PhD Researcher

My name is Deirdre Farr and I am a PhD candidate at Massey University.

I have worked in the forestry industry where my role involved monitoring and reporting on health and safety activities. I am currently balancing teaching with my PhD research.

Please read the information provided in this flyer. I will explain your rights and give you time to ask me questions, before you decide if you wish to participate.

Deirdre Farr
PhD Researcher Massey University, Manawatu
Phone: 06 356 9099 ext. 84947
Email: D.Farr1@massey.ac.nz

Contacts

Feel free to contact me if you have any questions about my research project.

This project has been evaluated by peer review and judged to be low risk. Consequently it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named in this document are responsible for the ethical conduct of this research.

If you have any concerns about the conduct of this research that you want to raise with someone other than the researcher, please contact


Dr Brian Finch
Director (Research Ethics),
telephone 06 356 9099 ext. 86015,
email humanethics@massey.ac.nz

Deirdre Farr
PhD Researcher Massey University, Manawatu
Phone: 06 356 9099 ext. 84947
Email: D.Farr1@massey.ac.nz

Dr Joanne Bensemann Supervisor
Phone: 06 3569099 ext. 84915
Email: J.Bensemann@massey.ac.nz

Worker involvement in health & safety: A case study in the construction industry

A research project of
PhD candidate Deirdre Farr



 **MASSEY UNIVERSITY**
YU KUMERONGA KI PŌHĀRURONGA
UNIVERSITY OF NEW ZEALAND

MASSEY BUSINESS SCHOOL

Who is talking + who is listening + what are they talking about ? How is this improving health and safety outcomes?

What is the purpose of this research?

The study will explore the views of people working in the commercial construction industry about :

1. How and when do workers talk about health and safety in the workplace?
2. What are workers talking about and who is listening?
3. What is good worker involvement?
4. How is the new legislation contributing to managing health and safety in the construction industry?

This purpose is to understand what effect the new Health and Safety at Work Act 2015 is having on worker involvement in health and safety.



How will your participation help?

You will have a chance to share your views and be part of a study finding out more about worker involvement in health and safety.



What does participation involve?

As a worker in the construction industry you are **invited** to share your views.

I will be contacting people and visiting work places in the Lower North Island between July 2017 - June 2018 to conduct face-to-face interviews. These interviews will take between 20-60 minutes.



I will also be spending some time in your workplace observing the way work is done and looking at your health and safety documents. You are also welcome to contact me directly.

All records of our conversations and personal details will be kept strictly confidential. No identifying details on you personally or your business will be released to anyone.

Participation in this study is voluntary and you may withdraw at any time.

Please contact me if you would like to join in the conversation - **Your workplace experience is important!**

Appendix G: Phase 1 Semi-structured Interview Questions

Interview #, date, time, contact phone number

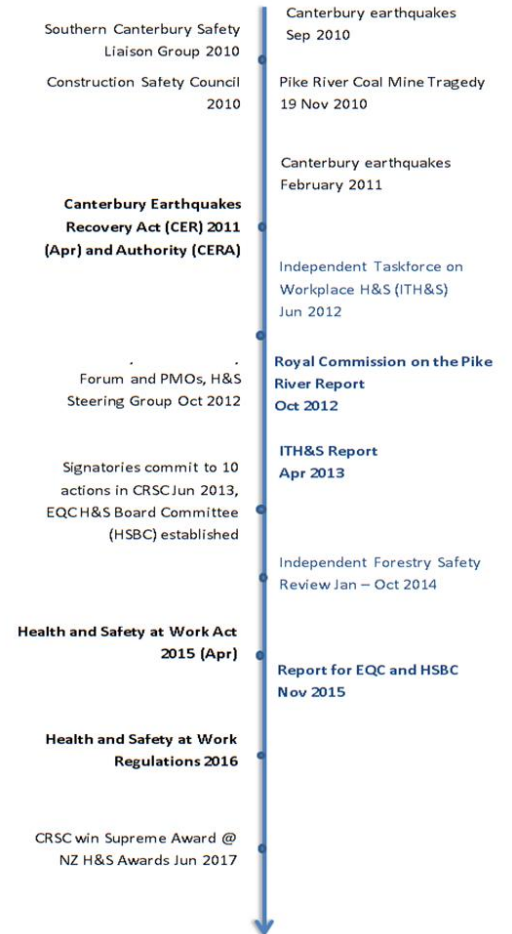
[Notes on the stakeholder's key roles and work experience were part of the purposeful sampling process and listed next to the timeline of key events to help identify key points that may emerge during the interview]. For example:

Aug 2004 –Feb 2015 Head of Safety, Health and Environment, **Organisation**

Feb 2015–Jun 2017, Senior WHS Advisor, **Organisation**

Etc.

Etc.



1. How do you come to be in this role?

- What is your role in worker engagement, participation and representation in WHS?

2. There is a lot of work going on, what do you believe are the areas where:

- **strong progress is being made**
- **areas for improvement?**


What difference is there between attitudes towards the 2002 amendments and the new legislative requirements?

3. Study focus: Do you believe a focus on the commercial construction industry (PCBU supply chains is appropriate?

4. Access: Do you have any suggestions on accessing prospective participants and optimising the interview/site visits?

- Do you believe people are going to welcome or be wary of this study?

Appendix H: Background Information Sheet

 <p>MASSEY UNIVERSITY TE KUNINGA KI PŌREHUROA UNIVERSITY OF NEW ZEALAND</p>	<p>MASSEY BUSINESS SCHOOL</p>	<p>School of Management Massey University Private Bag 11 222 Palmerston North 4442</p>
<p>Worker Engagement, Participation and Representation in Occupational Health and Safety in New Zealand: A Case Study in the Construction Industry.</p>		
<p>Who should complete the information sheet? One of the following people who is involved in managing health and safety:</p> <ul style="list-style-type: none"> • The owner/operator (where relevant), or • A member of the senior management team, or • A health and safety manager/advisor, or • A human resources manager/advisor 		
<p>The information sheet is divided into three (3) parts. Part A (context, people and networks), Part B (health and safety policies and procedures) and Part C (health and safety outcomes). Please complete Parts A and B and return in the pre-paid envelope.</p>		
<p>As Part C may take a little longer to complete, we aim to have completed this part by the end of the case study interviews, site visits (observations) and document collection. We think you will find the questions interesting, enjoyable and easy to answer. Your participation in this study is completely voluntary, and please be assured we are grateful for your help.</p>		
<p>This project has been evaluated by peer review and judged to be low risk. Consequently, it has not been reviewed by one of the University's Human Ethics Committees. The researcher(s) named below are responsible for the ethical conduct of this research.</p> <p>If you have any concerns about the conduct of this research that you wish to raise with someone other than the researcher(s), please contact Prof Craig Johnson, Director, Research Ethics, telephone 06 356 9099 x 86015, email humanethics@massey.ac.nz</p>		
<p style="text-align: center;">Deirdre Farr, PhD Researcher, School of Management, Massey University, telephone: 06 356 9099 ext. 84947, email D.Farr1@massey.ac.nz</p> <p style="text-align: center;">Dr Joanne Bensemann, Associate Head of School of Management, Massey University, telephone: 06 356 9099 ext. 84915, email J.Bensemann@massey.ac.nz</p> <p style="text-align: center;">Associate Professor Ian Laird, Director of Research of College of Health, Massey University, telephone: 06 356 9099 ext. 84914, email: I.S.Laird@massey.ac.nz</p> <p style="text-align: center;">Associate Professor Felicity Lamm, Associate Professor of Employment Relations, Auckland University of Technology, telephone: 09 921 9999, email: felicity.lamm@aun.ac.nz</p>		
<p>ALL INFORMATION IS COMPLETELY CONFIDENTIAL Page 1 of 11</p>		

<p>Part A</p> <p>A.1. First tell me about the context of your business.</p>										
<p>1. What products or services does your organisation provide? Please specify.</p> <p>_____</p>										
<p>2. Please tick one box that best describes your organisation's role in managing health and safety?</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 80%;">Principal</td> <td style="width: 20%;"></td> </tr> <tr> <td>Contractor</td> <td></td> </tr> <tr> <td>Sub-contractor</td> <td></td> </tr> <tr> <td>Service provider</td> <td></td> </tr> </table>	Principal		Contractor		Sub-contractor		Service provider			
Principal										
Contractor										
Sub-contractor										
Service provider										
<p>3. Approximately how long has the organisation been in business? _____</p>										
<p>4. Do your workers work on dispersed worksites? <u>Circle the appropriate answer.</u> Yes / No</p>										
<p>5. How many workers work in your organisation? Please indicate the number of full-time, part-time, casual and migrant workers AND the total number of workers:</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 20%;">Full-time</th> <th style="width: 20%;">Part-time</th> <th style="width: 20%;">Casual</th> <th style="width: 20%;">Migrant</th> <th style="width: 20%;">Total</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Full-time	Part-time	Casual	Migrant	Total					
Full-time	Part-time	Casual	Migrant	Total						
<p>6. Do you use contractors and sub-contractors? Please tick the appropriate boxes.</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%;">Yes</th> <th style="width: 20%;">No</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;">Contractors</td> <td></td> <td></td> </tr> <tr> <td style="height: 20px;">Sub-contractors</td> <td></td> <td></td> </tr> </tbody> </table>		Yes	No	Contractors			Sub-contractors			
	Yes	No								
Contractors										
Sub-contractors										
<p>ALL INFORMATION IS COMPLETELY CONFIDENTIAL Page 2 of 11</p>										

7. If so, please indicate approximately how many contractors and sub-contractors would usually be working on your work sites:

Contractors	Sub-contractors	Total

8. What type of employment arrangements do your workers have? Indicate the approximate percentage of workers who have individual and collective agreements:

Individual Employment Agreements (IEAs)	
Collective Employment Agreements (CEAs)	

9. How often do you review your employment agreements? Please tick one box.

Never	To update to meet new legislative requirements	Regularly, specify intervals

10. Does your organisation have a specified health and safety budget? Circle the appropriate answer.
Yes / No

If no, go to A.2.13.

11. If so, does your organisation spend the allocated budget each year? Circle the appropriate answer.
Yes / No

12. How is the budget allocation spent? Indicate the approximate percentages spent on the following:

H&S Training	Health Assessments & Health Programmes	H&S Equipment	H&S Consultants	Other, specify

ALL INFORMATION IS COMPLETELY CONFIDENTIAL

A.2. In this section we talk about your people and networks.

13. In your opinion, do you believe you (your CEO) actively promote(s) a shared vision and encourages openness? If so, tell me how this is demonstrated.

14. How interested is your organisation in external awards and accreditations? Specify any awards and/or accreditation your organisation holds below:

Industry Awards and/or Accreditation	
Professional Awards and/or Accreditation	
Community or Other Awards	
Old ACC WSMP (Primary, Secondary, Tertiary) and/or new SAFE+	

15. Does your organisation like to be involved with external groups? Indicate if your organisation is involved with any of the following. Score these groups from most contact (5) through to least contact (1):

Industry Associations	
Professional Associations	
Community Groups	
Sports Clubs	
Other, specify	

ALL INFORMATION IS COMPLETELY CONFIDENTIAL

16. Where does your organisation go when looking for health and safety information? Score these sources from your most preferred (10) through to your least preferred (1). None (0):

Industry Associations	
Principal and/or other PCBU(s)	
WorkSafe	
ACC	
Consultants	
Workers	
Tertiary Institutions	
Industry Training Organisations	
Unions	
Other, specify	
None	

17. How much time do people in your organisation set aside to focus on H&S matters? Indicate an approximate percentage of time these people generally allocate to H&S matters:

Senior Management	Middle Management	Workers	H&S Representatives	H&S Committees (&/or workgroups)

18. Are any of your workers represented by a union? _____

19. If so, how strong do you believe the union representation is? Please tick one box.

Strong	Moderate	Weak

20. How often do WorkSafe inspectors visit your work sites? Please tick one box.

Never	Infrequently	Regularly

21. Do you know the approximate date and purpose of this visit? If so, please tell me here:

Part B

This section explores your health and safety policies and procedures

22. Does your organisation have a H&S Policy? Circle the appropriate answer. Yes / No

23. If so, indicate the date the organisation last reviewed it: _____

24. Who was actively involved in the latest review? Please tick the appropriate boxes.

Senior Management	Middle Management	Workers	H&S Representatives	H&S Committees (&/or workgroups)	Other, specify

25. Does your organisation have a system for managing your contractor's health and safety? Circle the appropriate answer. Yes / No

26. Does your contractor health and safety management system (CHSMS) include a tender process?
Circle the appropriate answer. Yes / No

27. Who is actively involved in your CHSMS? Please tick all of the appropriate boxes.

Senior Management	Middle Management	Workers	H&S Representatives	H&S Committees (&/or workgroups)	Other, specify

28. What does your organisation do to encourage your workers to be actively involved in H&S matters? Please tick all of the appropriate boxes.

Informal	Formal	H&S Representative(s)	H&S Committee(s) (workgroups)	Other, specify

29. What training is important in your organisation? As you may be providing different training for different groups of people, please tick all of the appropriate boxes.

	Senior Management	Middle Management	Workers	H&S Representative(s)	Other, specify
Job Training & Development					
Soft People Skills					
H&S Training					
H&S Day					
H&S Programmes					
H&S Representative Training					
Other, specify					

30. Who actively helps identify and manage hazards and risks? Please tick all of the appropriate boxes.

	Senior Management	Middle Management	Workers	H&S Representative(s)	Other, specify
Pre-operation: Site H&S plans					
Operational: Hazard ID, etc.					
Post-operation: Site handover					
Other, specify					

31. Who helps you respond to accidents and incidents? As different groups may help with different activities, please tick all of the appropriate boxes.

	Senior Management	Middle Management	Workers	H&S Representative(s)	Other, specify
Accident & Incident Reporting					
Accident & Incident Register					
Follow-up Actions					
Monitoring Actions					
Sharing Information					

32. Who helps you manage your emergency systems? As different groups may help with different activities, please tick all of the appropriate boxes.

	Senior Management	Middle Management	Workers	H&S Representative(s)	Other, specify
Planning					
Drills					
Reviewing					

33. Who helps you monitor workers' health and any workers' returning to work after an injury? As different groups may help with different activities, please tick all of the appropriate boxes.

	Senior Management	Middle Management	Workers	H&S Representative(s)	Other, specify
Pre-employment Health Checks					
Ongoing Health Monitoring					
Health Programmes					
Results of Workplace Monitoring					
Return to Work					

Thank you for taking the time to completing Parts A and B.

If you need more time to complete Part C, please return Parts A and B in the pre-paid envelope. We aim to have completed Part C by the end of the case study interviews, site visits and document collection.

I will contact you to make appropriate arrangements to explore your organisation's worker engagement, participation and representation in health and safety further in the following procedures:

Interviews

A range of people will be given an opportunity to talk about how workers are engaged, participate and are represented in health and safety in your organisation. Interested people include senior and/ or middle managers, supervisors, H&S specialists and/or advisors, H&S representatives, H&S committee members and workers.

Observations

The researcher will be observing your people in various forms of formal and informal communication, such as H&S committee meetings, toolbox meetings and spontaneous conversations.

Documents

We will be asking your help in collecting a sample of documents representing your H&S procedures, practices and outcome; e.g. your, H&S policy and arrangements, toolbox and Health and Safety Committee meeting records.

Part C

We finish with your H&S outcomes

34. We have already talked about your networks, awards and accreditations. Now we think about some issues you may have had in your organisation over the previous three financial years and the current financial year. Tick all the appropriate boxes below to indicate if your organisation has had any of these issues in each financial year since 2015.

	2015	2016	2017	2018-
Number of ACC Claims				
Total cost of ACC Claims				
Number of H&S and Employment Disputes				
Number of Personal Grievances				
Number of Worker & HSR issued PENS, and Work Stoppages				
Number of Notices Issued by Regulator: Non-disturbance, Improvement Notices, Prohibition Notices, Infringement Notices				
Number and Cost of Penalties				
Number of Enforceable Undertakings				

Thank you for taking the time to complete this information sheet.

If you have completed Parts A, B and C, please return in the pre-paid envelope.

Appendix I: Pilot Study Observation Notes

Observation Date: 16 October 2018, 10:00 – 10:15

Case study: Pilot

Type of observation: Toolbox (WHS meeting)

Pre-meeting: As arranged, I arrived 15 minutes early for a site induction. The contact had not arrived, and I called out to two workers asking if the contact was on site. They laughed and said the person worked in the office. This suggested that they were not aware of my visit despite this being written up on the whiteboard in the site manager's site office.

The WHS professional (HSP) arrived noting immediately that two workers were not wearing correct PPE, later telling me they were having a focus on PPE. The HSP talked to the person who went to his vehicle and came back with old PPE. The HSP reminded the person to contact her on a Monday morning if new PPE needed to be bought. The HSP talked to the site manager about what they were going to cover in the meeting today and who was going to lead it. The W decided that one of the PPE offenders would lead the meeting, immediately nominating one. I was in the site office at the time.

The site manager was told to induct me for emergency and first aid, as I would only be attending the meeting. Brief induction followed and I signed the site register, induction register and meeting register. The site office was tidy and clean. The site manager's table tidy, he knew where everything was. The whiteboard only had a few notes on it. Another table accommodated the site plans, and the project timelines were on the wall. The hazard board was outside the site manager's office. A second portable hut was also clean and tidy. It had a table with some chairs. The workers went into this hut after the toolbox meeting, held outside as the weather was fine.

The HSP explained that the meeting would only be with the employees, not the contractors. This was because it was easier to manage. The workers were called at 9:59 for 10:00. The HSP held up her arm pointing to her watch. Five workers assembled around and sat on a pile of building sheets. The site manager had been emailed a scanned copy of the information pamphlet. While we were waiting, I handed out information pamphlets to the workers. Time was an issue, and I was told on arranging the meeting and reminded that I had to be quick as they only had 15 minutes.

The site manager stood to the side. The meeting leader next to him. Later two workers would move around and stand next to them. The HSP stood adjacent to the group. I stood outside the group behind the meeting leader, standing well back against the portable hut allowed the workers to move freely. There was still space between the group and me. A senior leader had arrived and inspected the site while the meeting was underway.

Halfway through he approached the meeting, standing behind the group – and able to make eye contact with the HSP. He read the pamphlet and stood quietly, quickly moving away as soon as the meeting ended. I called out to him and gave him a detailed information sheet. We talked about the strategy to allow people the opportunity to request something not to be recorded. He did not think there would be any problems as toolbox meetings focused on the weeks planned work. A one-off meeting was not a problem. I explained I would be attending several tailgate and HSC meetings in the actual case studies.

The HSP appeared to be limping and had injured herself on her morning run. She talked about a prior injury, and we joked about toughening up – take a concrete pill.

Researcher introduction: The HSP introduced me, and I briefly told the group about my research, thanked the organisation and HSP for their help with the pilot study. I then briefly told them about the research and their rights. I asked them to raise their hand if they did not want something to be recorded. Nobody raised their hand. After the meeting, I asked if they thought anyone would want to raise their hand as a means of asking me not to record something.

Given the opportunity to ask questions, three workers asked questions:

1. What was my experience?
2. What was the research about?
3. Was I going to be following them around all day?

Note 1: The workers all signed the consent form. However, the HSP and site manager did not. Make sure this is done prior to observing meetings.

The meeting: The meeting starts with the leader reading from the information sheet on EP&R. The radio is loud, and it is difficult to hear what is being said from this distance, but I don't want to move and draw attention to myself. The workers sit/stand around quietly paying attention. The HSP contributes to expand and explain the first point.

Point 2 is about 'tackling colleagues. Again, the HSP contributes jokingly saying, "No tackling colleagues". Everyone laughs. Two workers move next to the meeting leader at some point. Up to this point, the meeting leader reads the information sheet with some contribution from the HSP and the site manager. The workers are listening quietly. The senior leader arrives and immediately notes that the radio is loud and should be turned down. Nobody appeared to move. However, I may have missed this. I was not aware of any change. The third part of the information resource consisted of true/false questions. The two workers who had moved next to the meeting leader answer the first question; then lean in closer to the meeting reader. The HSP applauds and praises each correct answer. The question, "Who should workers raise issues with?" produces the following responses: "key people", 'foreman', 'site manager'. The HSP clarifies that everyone needs to speak up and how this is changing. The meeting ended and the workers were all asked to sign the meeting register. While this was occurring, I thanked them all again for their valuable help and promised them a summary report at the end of the study. The workers moved away and the HSP and site manager started talking to each other. I left immediately after thanking them. **Note 2:** Ask the HSP for the source of the information sheet and a copy of it.

Reflections: As the senior leader indicated the toolbox meetings are about the weeks planned work, this was not a usual toolbox meeting – rather a targeted WHS meeting. The workers must be accustomed to similar as they all appeared to be at ease. This is not a problem because it is mainly an exercise to test the observation schedule and techniques and identify potential problems. **Note 3:** It is difficult to jot down quick notes, observe behaviours and follow the content of the meeting. Discuss whether it is sufficient to note the main topics of the meeting and explore specific WHS matters or issues that arise and

are relevant to answering the research questions further through documents and interviews.

Appendix J: Interview Questions for Senior Participants, WHS Professionals & HSRs

Introduction

- Introduction to the researcher, the research project and the interview process
- Informed consent of participation, level of participation required and rights to withdraw
- Confidentiality

There is no right or wrong answer to the questions I am going to ask. Please take your time and answer the questions as accurately as possible.

Background context and organisational structure

1. Tell me about your work in the organisation. How long have you been working here?
 - a. How were you appointed, and what is the scope of your authority?
2. What is it like working here?
3. How long have you been working as a WHS professional and what attracted you into this work? (*Only for WHS professionals*)

Understanding the concepts EP&R

4. Thinking about your experience with involving workers in WHS; how has this changed over the last five years?
5. In your opinion, how important is sharing decision-making in WHS matters and issues affecting workers?
6. How well do you think people understand the terms EP&R and the legal requirements?

EP&R in the organisational

7. The legislation defines when a PCBU must share WHS information and involve workers.
8. Tell me about how workers are encouraged to *engage and participate* in WHS in your workplace?
9. Do you believe these practices are effective? Why or why not?
10. In your opinion, how have these practices changed since the introduction of the new legislation?
 - a. What practices have improved or weakened

HSRs and workgroups

11. How easy is it to get workers to take on the role of HSRs?

- a. Why do you believe workers are interested (or not) in acting in this role?
12. The legislation allows workers to be involved as HSRs and HSCs, as well as other types working groups. How are workers *represented* in managing WHS hazards and risk in your workplace?
- a. How are WHS workgroups determined within your organisation?
 - b. How are your workgroups defined and managed on the building sites (multiple contractors, sub-contractors and services)?
 - c. How are your HSRs selected (elections, secret ballot)?
 - d. What is the ratio of HSRs to your workforce?
 - e. How long do your HSRs fulfil this role? (Not exceeding 3 years, but can be a lesser period agreed between the PCBU and members of the relevant work group)

HSCs

13. How do you feel about the way people get involved in the HSC/workgroups and how these operate in your organisation (the members, number and roles, how they are selected, whether there is a PCBU agent who has the authority to make decisions on behalf of the PCBU on WHS issues)?
14. How helpful do you believe your HSRs, and HSCs/working groups are in improving health and safety practices and outcomes?

How are EP&R processes working?

15. What is your preferred form of communication for WHS matter and issues? Why?
16. Is there an issue you wanted to raise, but did not? Why didn't you raise it?
17. What WHS matters and issues do people talk about? (Range of subject matter)
- a. What types of WHS matters and issues are usually resolved?
 - b. What types of WHS matters and issues are NOT usually resolved? Why? (Outcomes and influence)
18. Who usually talks about WHS? (*levels of participation: SM, MM, HRP, HSR, W, O)

Barriers and facilitators

19. Tell me about a time when the WHS communication practices helped to resolve a WHS issue? How and why did this work in this instance?"
20. Now tell me about a time when it did not help to resolve an issue. In your opinion, why did the WHS communication practice fail?
21. If you had the authority to change one feature of your WHS communication practices, what would it be and why?

Training

22. What type of WHS training does your organisation provide for management, workers and contractors? And, in your opinion, how effective is this training in relation to EP&R?
23. How effective is the current HSR training in providing the skills and knowledge the HSRs need to conduct their duties competently?
24. What should be done to improve training regarding EP&R?

Resources (*Only ask questions 25-27 if the organisation indicated they have a budgeted in the background information.*)

25. If you had \$50, 000 (or other sum) to make this a safer and healthier place to work, how would you invest it? (Deloitte, 2017- Suggested questions for CEO site visits/Engaging your people on WHS).
26. In your opinion, how effectively is the WHS budget utilised? (For management, organisation WHS professional and HSRs)
 - a. How does the organisation spend the WHS budget? (Training and percentage of time allocated for WHS in KPIs - management, workers, HSRs - committees)
27. Who has the authority to decide what the budget is spent on?
28. Has there been any change in how the budget is managed? If yes, why?

Effect of new EP&R legislation on ‘worker voice’ (*This will partly emerge from the participants talk about the organisation’s EP&R system and from the WHS performance in document.*)

29. There is a lot of work going on, what do you believe are the areas where:
 - a. strong progress is being made?
 - b. areas for improvement?
30. What degree of difference has the new legislative requirements made to the way workers engage, participate and are represented in WHS? Why?

Perceptions of the regulator

31. In your opinion, what are the regulator and WHS inspectors’ roles in helping managers and workers improve worker EP&R?
32. How well are they performing on providing appropriate information and encouraging good EP&R practices?
33. What do they need to do to help PCBUs and workers improve EP&R?

End of Interview

- Ask the participant if s/he would like to add anything.
- Close the interview and explain that the participant may be contacted to respond to new ideas that may emerge during the study and/or to confirm the conclusions drawn from this interview seem accurate.
- Remind the participant about confidentiality, and the procedure for data analysis and reporting.

Probing questions

What do you mean when you say ...?

Why do you think ...?

How did this happen?

What happened then?

Can you tell me more?

I'm not sure I understand ... Would you explain that to me?

How did you handle ...?

How did ... affect you?

Can you give me an example of ...?

Appendix K: Interview Questions for Operational Staff and Workers

Introduction

- Introduction to the researcher, the research project and the interview process
- Informed consent of participation, level of participation required and rights to withdraw
- Confidentiality

There is no right or wrong answer to the questions I am going to ask. Please take your time and answer the questions as accurately as possible.

Background context and organisational structure

1. Tell me about your work in the organisation.
 - a. How were you appointed, and do you have any authority?
 - b. What is it like working here?
 - c. Have you had any experience as an HSR and working in WHS teams?

Understanding the concepts EP&R

2. Thinking about your experience how are workers involved in WHS on work sites?
 - a. How has this changed over the last five years?
3. In your opinion, how important is it to share decision-making in WHS matters and issues affecting workers?
4. How well do you think people understand the terms EP&R and the legal requirements?

EP&R in the organisational

5. The legislation defines when a PCBU must share WHS information and involve workers.
6. Tell me about how workers are encouraged to *engage and participate* in WHS on this site?
 - a. Do you believe these practices are effective? Why or why not?
7. In your opinion, how have these practices changed on worksites since the introduction of the new legislation? Is talking about WHS better or worse? How?

HSRs and workgroups

8. How easy is it to get workers to take on the role of HSRs?
 - a. Why do you believe workers are interested (or not) in acting in this role?

9. The legislation allows workers to be involved as HSRs and HSCs, as well as other types of working groups. How are workers *represented* in managing WHS hazards and risk on this site?
 - a. How are WHS workgroups determined on this site?
 - b. How do HSRs work with each other on this site?
 - c. How long do your HSRs fulfil this role? (Not exceeding 3 years, but can be a lesser period agreed between the PCBU and members of the relevant work group)

HSCs

10. How helpful do you believe your HSRs, and HSCs/working groups are in improving health and safety practices and outcomes?

How are EP&R processes working?

11. What is your preferred form of communication for WHS matter and issues? Why?
12. Is there an issue you wanted to raise, but did not? Why didn't you raise it?
13. What WHS matters and issues do people talk about? (Range of subject matter)
 - a. What types of WHS matters and issues are usually resolved?
 - b. What types of WHS matters and issues are NOT usually resolved? Why? (Outcomes and influence)
14. Who usually talks about WHS? (*levels of participation: SM, MM, HRP, HSR, W, O)

Barriers and facilitators

15. Tell me about a time when the WHS communication practices helped to resolve a WHS issue? How and why did this work in this instance?
16. Now tell me about a time when it did not help to resolve an issue. Why did the WHS communication practice fail?
17. If you had the authority to change the WHS communication practices, what would you like to change and why?

Training

18. What type of WHS training does this organisation provide for workers and contractors on this site? And, in your opinion, how effective is this training in relation to EP&R?
19. What should be done to improve training regarding EP&R?

Resources (*Only ask questions 25-26 if the organisation indicated they have a budgeted in the background information.*)

20. If you had \$50, 000 (or other sum) to make this site a safer and healthier place to work, how would you spend it? (Deloitte, 2017- Suggested questions for CEO site visits/Engaging your people on WHS).

21. Who has the authority to decide what the WHS budget is spent on?

22. Has there been any change in how the budget is managed? If yes, why?

Effect of new EP&R legislation on ‘worker voice’ *(This will partly emerge from the participants talk about the organisation’s EP&R system and from the WHS performance in document.)*

23. There is a lot of work going on, what do you believe are the areas where:

- a. strong progress is being made?
- b. areas for improvement?

24. What difference has the new legislation made to the way workers engage, participate and are represented in WHS? Why?

Perceptions of the regulator

25. In your opinion, what should the regulator and WHS inspectors’ do to help managers and workers improve worker EP&R?

26. How well are they performing in this work?

27. What do they need to do to help PCBUs and workers improve EP&R?

End of Interview

Ask the participant if s/he would like to add anything.

- Close the interview and explain that the participant may be contacted to respond to new ideas that may emerge during the study and/or to confirm the conclusions drawn from this interview seem accurate.
- Remind the participant about confidentiality, and the procedure for data analysis and reporting.

Probing questions

What do you mean when you say ...?

Why do you think ...?

What happened then?

Can you tell me more?

I’m not sure I understand ... Would you explain that to me?

How did ... affect you?

Can you give me an example of ...?

Appendix L: Participant Consent Form



MASSEY
BUSINESS
SCHOOL

Worker engagement, participation and representation in OHS in New Zealand: A case study in the construction industry.

Project Researcher – Deirdre Farr

PARTICIPANT CONSENT FORM – INDIVIDUAL

I have read the Information Sheet and have had the details of the study explained to me. My questions have been answered to my satisfaction, and I understand that I may ask further questions at any time.

- I agree that my participation in this study is completely voluntary.
- I wish/do not wish to have my transcript returned to me.
- I wish/do not wish to have documents stored.
- I agree to participate in this study under the conditions set out in the Information Sheet.

Signature: Date:

Full Name - printed

Te Kunenga
ki Pārehuroa

School of Management
Massey University, Private Bag 11222, Palmerston North 4442 T +64 6 355 9099 F +64 6 355 7954 www.massey.ac.nz

Appendix M: Extracts from Observation Record CS1

Full observation record

Case study: CS1Obs1.2

Observation Date: 16 October 2018, 10:30
– 11:30

Type of observation: HSC meeting

Abbreviations:

Senior Construction Manager (SCM) - director, Senior Manager (SnrM), General Manager (GM), Site Manager (SM), Regional Site Manager (RSM), Health and Safety Professional (HSP); Health and Safety Representative Operations Manager (HSROpM), Human Resources (HR), Deputy Site Manager (DSM), Project Manager Cadet (PMC)

Date: 22/11/2018 Case Study: CS1
HSC H&S workgroup, Incident/Accident Investigation

SM SEWAGE RSM SCM
GM
SnrM
HSC RSROpM James PMC
HRP

ns and comments and when these occur:

Pre-meeting: As I arrived at 10:00 I went to a café for cup of teas and advised the HSP that I had arrived. As I was leaving some of the workers came in for something to eat. I recognised one of the staff members and went over to say hello. He did not know about the HSC meeting. Another worker asked me how my research was going, and I explained that I had talked to people at different levels in the organisation.

I arrived 15 minutes early and talked to the Deputy Site Manager (DSM) briefly before signing in. I noted that he has started his leadership course and asked him how he was enjoying it. He noted it was interesting, asked if I had done the course and said the site manager would be arriving soon. He collected the site plans from the meeting room and put them on the 'working table'. The site manager arrived and set up the computer so that a regional project manager could participate remotely (RSM). The senior managers and other staff members started arriving just before 10:30. [Timing and punctuality appear to be very important]. The HRP arrived and was talking about something when a site staff member told her to calm down. While people were arriving, I heard someone say, "The A team has arrived". People briefly talked to each other before moving into the meeting room and the meeting started punctually. There were no issues with the Skype and the staff all appeared comfortable communicating with this technology...

Meeting: The Health and Safety Professional (HSP) arrived, and the meeting started on time with a welcome to the new Senior Manager (SnrM) attending his first HSC meeting. The HSP distributed the agenda and minutes from the last meeting.

10:35 Everyone scanned the statistics and the HSP asked the site manager about a recent incident involving a 2nd year engineering student who had injured his hand on his first day on site. The Site Manager (SM) was asked to talk about the incident. The HRP closed off noting that the site manager, new senior manager and the HSP had worked together to improve the process for inducting 'newbies. [The incident report and corrective actions/observation were provided]...

The HSP moves to the next topic asking for thoughts on the Safety Differently initiative – in-house training. The RSM asks if the organisation could provide more in-house training on activities such as task analysis. This will upskill the staff but would also bring them into the office. The latter was intended to help integrate operational and office staff [The separation between office and operational staff was raised by some interview participants. Not knowing the new people who do not come onto sites]. The HSP noted that she had already developed some training resources with the Project Manager Cadet (PMC). She was considering how these could be rolled out and the potential for the SM's to roll some of them out. One SM agreed with the concept. The HSP said she is developing a programme. There was some agreement that this would be a good time of year for training, as some projects are coming to an end. The SCM nodded in agreement. The RSM described the type of training resources he needs, more than just health and safety training needs. Action point: The HSP and RSM will develop some templates.

10:47 Safety Differently – The HSP talks about how safety management is changing and the importance of managing critical risks. “It is not just around paper; it is about what this means and what this looks like”. The HSP then asks the new SnrM about the policies, procedures and practices at the large construction company he left, “How do we engage workers?” The SnrM noted, “It was always a struggle no matter what they did, stubborn old guys. Stubborn guys would not speak up.” [This perception is synonymous with the blame culture people are trying to change. It does not explore ‘why’ workers do not want to speak up].

10:50 the HRP talks about young guys and asks the HSR(OpM) to talk about a proposed Pride initiative aimed at enhancing culture which would lead to improvements in workers speaking up...

11:00 the GM talked about a presentation he will be rolling out at the site meetings. One issue he will talk about is taking ownership in everything you do, not just health and safety. He would also talk about changes in the new year, including the introduction of a drug and alcohol management programme. He said, “We do have to have some of this stuff. It is compliance”.

11:02 The HSP then noted that there is more emphasis on health nowadays and wonders if more provision of access to employee assistance programmes would come out of it? The GM confirmed he would also be talking about this and encouraging individual ownership [Blame the worker].

The GM then asked whether senior management site visits added value. The SM noted that it depends on whether the senior leader is going to speak up. He clarified saying, “Provided you have a plan in place and a task to talk about”. The GM noted that this was a good point to take on board, e.g., explaining some of the initiatives the organisation is rolling out. More people get involved in this discussion. The Human Resources (HR) person who has been quiet throughout starts talking to the SCM. The SM suggests the senior managers should also talk about positive things and recognise good behaviours and practices. The HSP wants these contributions to be positive to enhance relationships. Action point: The GM confirms they will take a planned

approach working collaboratively with the site managers to ensure the suitable senior leader gets something across or reinforces something. The SM agrees.

Trained HSRs: The HSP talked about the need to identify more mature workers with the potential to be trained to be an HSR. She suggests that it will be difficult for managers to take a performance improvement notice (PIN) issued by an apprentice as seriously as they would from a more experienced worker. The SM notes that he would take a PIN issued by their current HSR (apprentice) seriously. [This may be an indication of his personal attitude towards worker engagement, rather than one shared across the organisation]. [everyone looked down at their documents during this exchange]. This is followed by a number of people asking questions. The GM asked a question (?). Then the SCM asked if a particular worker had been trained and suggests another person. Noting that the worker did not have a sufficient level of maturity, the HSP also suggests two more people who may be 'good' as HSRs. The RSM needs to think about this and get back to the HSP. The SCM clarifies that two workers need to be sent of an appropriate HSR training course, one from the second region.

11:10 Talk moves to the new concept of 'rotating HSC meetings' and that the next should be hosted by the RSM. [There was some laughing here as he was shifting to a new office]. He would host the HSC meeting scheduled in March 2019...

The HSP asked about the changing direction of the HSC. The GM asked the RSM if he thought there was anything they should be doing. [This is probably to tap into his previous experience]. The RSM noted that forums are good as long as points are actioned and signed off. Also, not just going over the same things all the time.

11:12 The HSP talked about ensuring the contractors meet the same standard the organisation has for itself. The SCM noted that this gets stuck at the site level. Although sub-contractor may have produced a HSMS as part of the tendering process, the workers do not always know how this is operationalised on site. The SM asked how this should be managed. The RSM explained how he has taken accountability for ensuring workers are familiar with the sub-contractor's systems. If he finds a gap in the system, he will find a template and help the contractor personalise it to their needs. It was his way of making sure it was done. He also noted that the larger region had more access to support and that someone has to get it done [This was an observation and explanation for his pragmatic approach, rather than framed as a complaint]. Tendering and induction processes: ...

11:18 HSP then talked about managing deliveries and safe zones. The HSR and SCM also engaged in the discussion about visitors on site. And the staff should be ensuring they were all doing the same thing on sites. The GM liked the idea of escalating issues as word would get around that the organisation set high standards. He suggested recognising good practice with a letter from the organisation. There was general affirmation of this idea.

11:20 H asks if anyone has any thoughts or issues. The SCM has something, the new high-viz clothing being part of the organisation's branding...

11:25 The HSP asks SCM if there is anything further. SCM talks about an incident and whether this type of incident should be loaded into the Procor system. This systems

issue is more about what to record and when it should be recorded, rather than the actual issue.

11:29 the SM talks about a WorkSafe notification about an incident concerning a person falling from a mobile scaffold. He talked about checking that scaffolds are properly set up and needing to support the action with paperwork. PMC and HSP talk about tagging mobile scaffolds. The SM talked about the practicality when moving scaffolds up to four times a day. SnrM questions workers competence. GM talks about it being inexperience. SM notes it resulted in a \$150,000 penalty. HSP noted that this provided a learning opportunity and is going to get PMC to set up a register of competencies. SCM, SnrM, HR and SM all talk about what can be done. The HRP notes an action on this.

11:32 Talk then turned to the internal rewards for good practice. The SM asked if these applied to sub-contractors and their workers. The HSP suggested the sub-contractor mentioned in the interviews and there was general agreement before discussion about how to reward the sub-contractor. The HSP noted she had a \$100 Prezzy Card that the sub-contractor could use for a Friday afternoon round of drinks at the pub. The SM noted the sub-contractor would not allow alcohol...

Post-event: I thanked everyone for allowing me to observe their HSC meeting and the GM appeared pleased with the meeting. He briefly engaged with me. The HSP gave me the sample of documents requested and a copy of the additional information requested. She noted she would be at the regional office the following week. The directors were busy today and she would try to schedule an interview with one of two directors. The SMC was working with her, and I felt she was a bit guarded or distracted.

There was brief discussion of an incident at height (\$150, 000 penalty). However, when I asked her about it after the meeting, she said she always disseminates these kinds of things from WorkSafe. As it was unclear whether this occurred in this organisation or another, I checked the WorkSafe website, but could find no Safety Alert...

Reflections: The HSP sat at the head of the table and appeared to be chairing the meeting, making sure they were getting through the agenda items and introducing and closing each topic. Requests for further input or comments were immediately followed with "cool". This did not appear to infer any authority as people tended to continue after this comment. Although the GM is the official champion, he did not appear to be exerting overt control over the meeting. The HSC is going through significant change in structure and focus; therefore, this may change over time.

The new SnrM was quite reticent to contribute and only did so if directly asked a question. The HRP asked the senior managers and site managers questions throughout the meeting. The site managers tended to discuss operationalising initiatives and practices. These parts of the meeting tended to be lively, and people talked easily. The HSP would contribute to the discussions at times and always conclude each topic. A number of actionable items emerged and were noted on the HSP agenda. The HR person also appeared to be taking some notes.

Most of the attendees had seen me in the office or on site, the four who had participated in interviews were all sitting on the one side of the table and the four attendees who had not participated in interviews were sitting on the other side of the table so that they

could see me taking notes and I could see them clearly. They did look across at me on occasions during the meeting and I purposefully made notes to look away from people if I thought they may be looking for my reaction to something. This meant I tried to look briefly at behaviours and may have missed some body language or expressions.

The website captures profiles of 46 of the 85 staff members, however there are a further 39 workers and 11 apprentices. It is also possible that my presence and follow up questions influenced the discussion concerning the need for more HSRs. The alternative to the timing is that they have established the senior leadership team and strategic focus and are ready to develop the operational structure of the new HSC. The timing of the director's interview after the other staff members allows for exploration of matters emerging from the case study.

Notes:

1. Simplify the observation schedule as it is too difficult to arrange in separate sections. Maintain and summarise the section headings as a quick reference.
2. Amend the background information sheet to capture the additional information.
3. Number and collate the collected sample of documents ready for data analysis.

Explore why structural change is occurring at this time and who is responsible for making these decisions in the interviews.

Appendix N: Document Record

A range of any of the below supporting the interviews and observations; prioritising the highlighted documents as most relevant for answering the research question.

Organisational Documents	Health and Safety Documents	External Documents	Training Resources
<u>Organisational Structure</u> <u>Mission Statement</u> Reports (Performance) Newsletters Media Releases Submissions <u>Personnel Policies</u>	<u>H&S Policy</u> <u>H&S Procedures (Particularly EP&R)</u> <u>Meeting Notes</u> <u>Team Brief Records</u> H&S Reports Newsletters Hazard Register Accident and Incident Register <u>Accident and Incident Reports</u> Hazardous Substances Register/MSD Sheets Posters Training Records <u>HSM Procedure Review</u> <u>Stopping work</u> <u>Provisional Improvement Notices (PINs)</u>	<u>Awards</u> <u>Breaches</u> <u>Penalties</u> <u>Records Relating to WorkSafe Visits (why, what and outcome)</u>	Best Practice Guides WorkSafe Resources Industry Resources ITO Resources

Record No	Record Type & Date	Author(s)	Skills & Experience	Levels of Worker Involvement	Range of Subject Matter	Degree of Influence	Outcomes	Notes
				<i>Task, Work Group, Site, Corporate(Org)</i>	<i>Trivial, Operational, to Strategic</i>	<i>Informed, Consulted, Make Decision</i>		
1								
2								
3								
4								
5								
6								

Document Record for CS/ # ALL INFORMATION IS COMPLETELY CONFIDENTIAL

Appendix O: Diary Record of Temi Non-disclosure Agreement

5 Dec 2018

Phase 1 coding step 2 completed today.

Transcription software and ethical considerations:

I completed, forwarded and confirmed that all data uploaded and processed on the Temi transcription platform is secure.

RE Temi Re New Contact Request - Non-disclosure agreement DFarr 5.12.2018	6/12/2018 9:28 a.m.	Outlook Item	405 KB
Temi Re New Contact Request - confirmation	6/12/2018 9:27 a.m.	Outlook Item	92 KB
Rev.com-Temi NON-DISCLOSURE AGREEMENT DFarr 5.12.2018	5/12/2018 9:33 a.m.	Chrome HTML Do...	269 KB
Rev.com-Temi - Client NDA (FORM) 6.13.18 - DFarr 5.12.2018	5/12/2018 8:39 a.m.	Chrome HTML Do...	85 KB
Rev.com-Temi - Client NDA (FORM) 6.13.18	5/12/2018 8:24 a.m.	Chrome HTML Do...	85 KB

Cheryl Brown (Temi)

Dec 4, 14:40 PST

Hi Deirdre,

I have your NDA on file and it will cover all of your orders with Temi.

Have a wonderful afternoon!

Regards,

Cheryl Brown

A/R Manager

cheryl@rev.com

Temi Support

temi.com | | [@usetemi](https://www.instagram.com/usetemi)

Appendix P: Subquestion 2 Themes and Subthemes of Factors Influencing the Implementation of HSWA Duties for EP&R

Code	Category	Subtheme	Subquestion/ theme
Integrating EP with risk management	Strategic choice barriers	Structural and process barriers at the macro and meso level	Legislation contributing to EP&R
Lack of understanding			
Negative experience of training	Training & capacity barriers		
Capacity and competency issues			
Regression in content and attendance of HSR courses			
Lack of support for HSRs – sufficient support for EP&R			
As a requirement to operationalise a WHSMS – good practice (expectations and resources)			
Soft government agency initiatives			
Time and human resources			
Strategic level collaboration –	Intermediary forces		
Targeted breakfast events			
Supporting HSR & prof services leadership groups/progress			
Regulator’s role	Roles		
Unions’ role			
Employers’ role			
Other stakeholders’ roles			
Ideological tensions	SOCIAL cultural values and ideological predisposition challenges and issues	Sociopolitical challenges and issues	
Traditional HSRs & HSCs as negative			
Leadership as key factor			
Link between culture of speaking up and job and income security			
Implementing effective engagement	Changing culture		
Lack of involving workers			

Tripartite relationships			
Framework difficult to implement	Legislative challenges and issues		
Enforcement as negative			
Tripartite/bipartite approaches			
Better law and regulator	Progress, POLITICAL 'hard' leg framework	Progress and areas for action	
Better governance, and recognition of workers contribution and need to enhance capabilities			
Developing effective representation	Areas for improvement, strategic choices		
Tripartite/bipartite approaches			

Appendix Q: CS3ChCh Induction Observation Notes

Observation Date: 9 April 2019

CSObs3.2

Type of observation: Induction

Pre-meeting:

As a crew of six gib workers was being inducted I asked to observe. The foreman had already started the process and the crew were completing their paperwork when I asked if it was okay to observe.

The induction

1. **Housekeeping: Smoko shed** is to be kept clean. Free tea and coffee.
2. **Site rules: Sign-in/sign-out** explain the importance of not putting emergency workers at unnecessary risk.
3. **Risk controls: Hand cream**, sunscreen and barrier crème available
4. **Housekeeping and emergency: First Aid** in the site office and at the emergency stations. Explained the building was like Alcatraz and difficult to evacuate. I am curious about the design as the proposed apartments would be equally difficult to evacuate once habituated.
5. **WHS process: Accidents/incidents** – deal with it. Get someone to help you. Then report it to avoid infections and potential dramas with ACC. Qualified first aiders on site, the foreman is one of them. He talks about his partner being a nurse and having to work with construction worker accidents every week. Noted the high fatality rates and talked about the post-earthquake work to mitigate the risks for construction workers. They had had a fractured arm/neck last week. Then explained the importance of reporting near-hits.
6. **Housekeeping: Smoking zone** was outside the smoko hut because it was too dangerous to have workers crossing the busy road.
7. **Policy: Drug and alcohol programme** was managed by the office, across the road.
8. **WHS process: Yellow/red card system** – yellow card could remove a worker for the day. Not good for future work to have too many yellow cards. Red cards go on a register and the person won't work on any of the company's sites ever again. These are not often issued.
9. **Risk controls: Hot works** permit, and process agreed by insurers.
10. **Risk controls: Digging holes** – not to happen before a radar procedure has been conducted. Noted that people could be electrocuted.
11. **Risk controls: Scaffolds and scissor lifts** were the preferred choice, no A-frame ladders were allowed on site.

12. **WHS process: Site observation card** for identifying hazards or if someone is doing something silly. Or report to a staff member. This was important to the organisational staff who were not on site every day. A participant would later talk about finding five cards scrunched up in a bin. The person had made several attempts to complete the card, but his written skills had proved too frustrating, and he had given up.
13. **Housekeeping: Cleaning equipment** and bins were available in each block and should be used for safety and efficiency. The contractor noted that gib workers have significant quantities of waste product. There was a reasonable discussion about what equipment could be used and how this was to be used. Smaller bins were to be emptied three times a day even if they were not full.
14. **Housekeeping:** When using the **principal's equipment**, the contractors are to check the fuel to ensure the equipment was always ready for use.
15. **Risk controls: Electrical leads** were all over the floor and these were to be tidied up. Leads are a tripping hazard.
16. **Risk controls: Hot works** discussed
17. **WHS process, emergency:** Assembly point and only extinguishing small fires. Larger fires are to be left, raise the alarm and evacuate.
18. **Housekeeping: Portaloo**
19. **Housekeeping: Parking** was limited as will all inner city sites. Early morning was easier but there was no parking available on site. Restricted to loading and unloading.
20. **WHS process: Task Analysis (TA)** was site specific and not to be generic developed in the office. All crew members were to sign the site-specific TA. WorkSafe requests these.

The induction ended with an issue of beepers for easy sign-in/sign-out. Numbers were recorded on the induction forms and there would be a delay before these were activated.

Reflection: The foreman used a file to ensure nothing was missed but presented the information in a relaxed and appropriate way. Workers must get bored with repetitive induction process.

The site manager later noted he did not like the computer-based induction process, preferring the face-to-face format to share important information.

After the meeting

I thanked the managers for having me on site and one indicated it was good to have a visitor. The site office was being cleaned, this followed cleaning of the smoko hut that occurred during an interview [REDACTED]

Appendix R: Understanding of Statutory Terms and Effectiveness of Different Forms of Representation at the Macro and Meso Levels

Level	Engagement	Participation	Representation	
Macro and meso HSPs	Primary duty of care	Due diligence (How we need to do things? Representation as part of participation	Traditional forms of representation, HSRs and HSCs, limited	Contemporary flexible arrangements ‘hugely’ effective
Macro	Bipartite and tripartite stakeholder collaboration, e.g., benchmarking tools capturing: Leadership performance, risk management and worker engagement			
Meso	Confident management/ people understand duties	Nothing mandatory	Recommended not required	Unofficial reps driving WHS from bottom upwards
Internal	Leadership engagement and works engaged in WHS processes Opinions valued Beyond compliance Within organisation Prerequisite for participation Good safety culture	Compliance Active engagement, empowering teams -delegation closer to team Empowering all groups characteristic of good safety culture	Negative attitudes from management and HSPs Ineffective	Positive attitudes from management and professionals Effective
External	With regulator	Regulator involved on site Tripartite and industry collaboration	Represented in industry and government initiatives	

Appendix S: Evolving WHS Structures and External Audits in the Case Studies

Contextual Influences		WHS Structures
Independent Regulator - WorkSafe established CRSC signatories commit to 10 charter actions	2013	CS3 CRSC signatory
CS2 Expansion in North Island		
	2014	CS1 Part-time WHS coordinator
HSWA 2015 enacted from April 2016	2015	CS2 WHSMS review and restructure CS3 Structural change, strategic HSP
HSW Regulations 2016		
CS2 Integration of business units	2016	CS1 Full-time WHS coordinator
8 Enforceable Undertakings accepted		
13 Enforceable Undertakings accepted	2017	CS1 WHS advisor CS2 restructure
CS1 ConstructSafe preparation CS2 SafePlus preparation	2018	CS1 Strategic manager WHS portfolio & systems control manager, CS3 Strategic specialist WHS systems manager
CS3 ISO45001 preparation		
Q-Safe - simplified ISO45001 CHASNZ BlackHat - supervisor accreditation	2019	
	2020	

Note: Grey shading highlights key regulatory actions and other external influences.

The International Organisation for Standardization(ISO) 45001 is an Occupational Health and Safety Management Certification Standard.

Appendix T: Level of Influence Facilitated by WHSMS Processes, Formal and Informal Forums

		CS1			CS2			CS3		
		I	C	MD	I	C	MD	I	C	MD
<i>Organisational level participation</i>										
Direct formal forums	Steering group/HSC meetings	D		MD	D		MD	D		MD
	Strategic leadership roadshows	D			D			D		
Direct formal systems and processes	WHSMS and critical risks								C	
	Project system: tendering and precontract subcontractor selection	D&U				C			C	
	WHS campaigns/posters				D			D		
	Interactive internal audits								C	
	IT systems	U			D&U			D&U		
	SharePoint							D&U		
Indirect formal representation structures	Traditional HSRs		C							
	Regional and unit HSC meetings			MD			MD		C	
	Round robin site representation					C				
	Rolling cadet project and site manager reps, trade and apprentice reps								C	
Direct informal	BBQs							D		
	Yammer social media platform							X		
<i>Site and task level participation</i>										
Direct informal forums	One-on-one conversations, emails		C*			C*			C*	
	Strategic leaders' safety conversations	D&U			D&U			D&U		
	Hazard notice board prize				D					
Direct formal processes	Subcontractor prequalification WHSM (folders)				U					
	Induction conversations	D**			D**			D**		
	Task Analysis		C			C			C	
	Accident/incident management	U***			U***			U***		
	Timesheets	U								
Direct formal forums	Ongoing site updates through toolbox talks, project and WHS notice boards, SignIn App	D**			D**			D**		
	Migrant worker meetings				D			U**		
	Special WHS meetings				D					
	Recognising and rewarding good practice	U								

	Devolving accountability to foremen/supervisors						S&T			S&T
Informal social	BBQs	NA								
	Teambuilding									
	Peer support								C	
	Carrot/stick food prize/penalties							U		

Note: Abbreviations: Engagement (E), participation (P), informed(I), consulted(C), make decision(MD), downward (D), upward (U), site (S), task (T), trial failed (X).
 *Engagement on general matters and WHS issues. ** Encouraged to speak up. ***Involved in activity.