

Report on Health and Safety regulations within the Public Sector

Abstract

The study has been carried out by the Council for the Built Environment (CBE) to ascertain the implementation of health and safety regulations in the public sector. The Public Works (PW) sector was identified as a case study. The objectives of the study were to:

- Analyse the implementation health and safety regulations in the PW sector
- Investigate the role and effectiveness of Occupational Health and Safety (OHS) regulatory enforcement in South Africa
- Provide recommendations to improve performance of OHS compliance

The data analysed highlighted that the legislation governing protection, safety and health is minimally applied, thus posing negative exposure to both user departments and visitors in government facilities.

Introduction

The CBE is mandated to regulate and ensure consistent application of policies by the Councils for the Built Environment Professions (CBEP). The CBE is entrusted with powers and duties to provide advice and consultation on national policy that could impact on the Built Environment (BE). In its mandate, there are three objectives in the context of health and safety (H&S):

- Promote and protect the interests of the public in the built environment
- Promote and maintain a sustainable BE environment and natural environment
- Promote appropriate standards of health, safety and environmental protection within the built environment

The CBE has an ongoing initiative for tertiary institutions to incorporate H&S in their curricula and Continuous Professional Development (CPD) programmes. Furthermore, H&S compliance has been identified as a challenge for emerging construction companies. In this regard, the South African Council for Project and Construction Management Professions (SACPCMP) has created a specified category for H&S practitioners to register in.

The CBE is finalising a Memorandum of Understanding (MoU) with the Department of Employment and Labour (DEL) to deal with operational issues of H&S. The overall objectives of this project are to:

- Facilitate engagements with DEL, professional councils and other relevant stakeholders
- Facilitate aspects of education on H&S as per the assigned task on the H&S action plan
- Advise infrastructure departments and municipalities
- Provide an advisory report to the Minister on the implementation of H&S by the Department of Public Works and Infrastructure (DPWI)

H&S is an eminent risk in the BE sector and thus must be regarded as an integral part of any construction endeavour. H&S has a significant socio-economic role; the high prevalence of accidents makes construction a precarious and dangerous industry. Literature asserts that the high accident rate in the construction industry have direct and indirect costs.

Therefore, H&S implementation is critical to reduce the impact of costs and accidents. Plenty of research has been undertaken on the status of H&S in the construction industry and H&S performance, but few studies have focussed on the compliance to H&S regulations in public service. Therefore, this study aims to analyse the implementation of H&S regulations in the public works sector.

Research objectives

- Analyse the implementation of H&S regulations in the public works sector
- Investigate the role and effectiveness of occupational H&S regulations and enforcement structures/agencies in South Africa
- Provide recommendations to improve the performance of H&S compliance in public service

Methodology

The public works sector was purposively sampled and selected as a case study to conduct an analysis of the implementation of H&S regulations in the sector. To achieve the aim of the study, research methodology consisting of a literature review, semi-structured interviews and documentary analysis were utilised to collect data.

Semi-structured interviews were conducted with the Directors and Deputy Directors Occupational Health and Safety Compliance, as well as regional OHS managers in the public works sector.

To analyse the level of compliance to H&S regulations, documentary analysis of strategic plans, annual performance plans, OHS plans and reports for the public works sector was also undertaken.

Overview of H&S

The World Health Organisation (2010) asserts that OHS is concerned with addressing and preventing hazards such as accidents, physical hazards, chemicals, biological agents, ergonomic issues and psychological fallout. H&S continues to be one of the major challenges confronting the South African construction industry. Research indicates that the commitment to comply with H&S regulations is limited and minimal attempts have been made to promote H&S as an organisational culture (Smallwood, 2009).

The CIDB (2009) report states that the lack of H&S training and education at all levels has huge impact on the performance of H&S. The most common incidents on construction sites include injuries due to mishandling of heavy equipment, falling from heights, electric shocks, falling objects and caving in of excavations (Ahmed & Othman, 2012).

Estimates from the International Labour Organisation (ILO, 2008) report that the construction sector accounts for one in every six fatal accidents recorded at work annually and at least 60 000 fatal accidents occur on construction sites globally. Lingard (2013) indicates that the construction sector in first world countries employs between 6 and 10% of the workforce, but accounts for between 25 and 40% of work-related fatalities.

Occupational H&S legislation in South Africa

The South African constitution states that every citizen has, among others, the right to fair labour practice, and the right to an environment that is not harmful to their health or well-being. The purpose of the OHS act is to provide for the health and safety of people at work or in connection with the use of plant and machinery. It further makes provision for the protection of people not at work from hazards arising out of or in connection with the activities of people at work. OSH act requires clients and the respective members of design teams to be aware, sensitive and educated relative to construction H&S, particularly given that they visit construction projects and are exposed to hazards and risks when doing so.

The CIDB (2009) report contends that manifestations of the impact of the construction regulations are varied, and it can be said that the construction regulations have had a positive impact on minimising H&S accidents. Jacobs (2010) points out that the OHS legislation should not be the main driver of compliance and performance, but must be seen as a value. Smallwood (2010) is of the opinion that improved H&S performance and compliance will require more than legislation to make construction safer, but attitudes towards safety need to shift.

H&S compliance agencies in South Africa

The primary H&S regulatory and enforcement structures in South Africa are the Directorate of Inspection and Enforcement Services (IES) located within the DEL and the Mine Health and Safety Inspectorate within the Department of Minerals and Energy.

The DEL points out that the IES is undergoing restructuring to achieve a greater level of professionalisation. Labour inspectors of the IES have civil servant status and it is reported that current conditions of civil servant inspectors have led to obstacles in the recruitment and retention of qualified staff.

Inspections are either proactive or reactive. Blitz inspections, conducted for one week every month, focus on a particular economic sector. Labour inspectors are empowered to issue compliance orders against employers who do not comply with statutory obligations. Financial penalties can be imposed on employers who do not comply with these obligations. Both employers and workers have stressed the need for inspectors to take a more authoritative approach to labour inspections (ILO, 2014).

Jacobs (2010) contend that currently, H&S inspectorate's influence is mainly on the construction site and their role is rather a reactive one as opposed to proactive. Germiniani and Smallwood (2008) perceived the IES to be:

- Lacking in core competencies
- Undertaking site visits infrequently and covering a small percentage of sites
- Poor with communication in terms of liaison
- Poor staff morale, motivation and job satisfaction
- Ineffective in enforcing legislation

Research Findings

Mandate of the public works sector

The DPW is mandated to a) provide strategic leadership to the South African construction industry b) provide strategic direction on the integration of public works properties c) establish and ensure compliance to policy and legislative prescripts for the management of state-owned immovable properties, and d) contribute to the national goals of job creation through public works programmes.

The six strategic goals of the DPWI are to:

- Transform the construction and property sectors through the development of policies
- Provide oversight of the PW sector
- Provide oversight in the implementation of the Expanded Public Works Programme (EPWP) frameworks
- Oversee the efficient delivery of identified service to prestige clients
- Support services in smart, proactive and business centric manner that is aligned to statutory requirements
- Build capacity in the BE professions

The role of the Property Management Trading Entity (PMTE) in complying with OHS regulations

The PMTE is a component of the DPWI and its key role is to optimise the asset portfolio to ensure improved and effective, but cost saving service delivery.

The PMTE is the primary provider of accommodation for government departments and is the biggest landowner in the country. The PMTE assists user departments to provide suitable, cost-effective and functional accommodation to the end user.

The PMTE is also responsible for facilities management i.e. render property maintenance and improvement service to the real estate asset management to meet the requirements of users in order to comply with regulatory and other policy imperatives at an acceptable life cycle cost.

The facilities management portfolio within the PMTE is divided into three sub-programmes:

SP 1: Scheduled maintenance: to provide planned maintenance (preventive and refurbishment) on state buildings to extend their life and use

SP 2: Safety, health, environment, risk and quality (SHERQ) maintenance: to monitor and enforce compliance with H&S, environment, risk and quality legislation

SP 3: Unscheduled maintenance management: provide unscheduled maintenance (corrective, day-to-day emergency maintenance) to promote technical and professional skills development through service centres

Respondents reported that the high-level condition assessments undertaken by the facilities management portfolio reveal a daunting scenario indicating that the suitability, performance and functionality of the government buildings is very poor and therefore requires financial injections of millions to restore government properties which do not comply with legislation.

PMTE H&S compliance system

The main objective of the H&S compliance system is to ensure effective management of hazard identification and risk management and to comply with OHS act and national building regulations. PMTE has employed OHS safety officers and regional safety managers located in the provincial DPWI. The duties of the OHS officers with regards to pro-active inspections for state-owned properties are to:

- Inspect thirty sites per quarter for a full OHS review
- Request an asset register of properties from the property management section
- Select properties that were not visited before for inspection
- Conduct building evaluation on site and compile a report for each property inspected/evaluated on H&S issues
- File the report in the property route form and forward it to the regional manager
- Review the corrective measures taken and conduct follow-up inspections

Causes of non-compliance to H&S regulations within the public works sector

Respondents ranked the causes of accidents as electric shocks, severing limbs, fall from heights and minor cuts and bruises. The analysis of the interviews carried out with regional field managers for OHS revealed the main reasons for non-compliance with H&S regulations on sites included the lack of commitment by senior management, poor leadership by safety officers and lack of awareness by management and clients of safety practices.

Some respondents also reported that the cause of non-compliance to H&S regulations are due to negligence and carelessness of labourers and failure to wear protection equipment. The interviews show that the negligent attitudes, lack of knowledge and understanding of H&S regulations by construction site employees and profit motives are the main cases of non-compliance.

Respondents also reported that deadlines and productivity take priority over the implementation of appropriate H&S procedures and supervisors don't train their employees to comprehend risk present on site. The public works sector has recruited OHS officers and regional managers for OHS to implement the H&S plan.

Respondents reported that the maintenance of the immovable asset portfolio is significantly underfunded from both a capital and operational expenditure perspective. It was reported that facilities management is a quick-fix activity which is not planned or budgeted for. Legislation governing protection, safety and health is minimally applied thus posing negative exposure to both user departments and visitors of government facilities.

Research findings reveal that the conditions of government buildings are very poor and, in most cases, does not enable user departments to fulfil their service delivery mandate. The image of government buildings has become a cause of concern. Findings also highlighted that if some of the government buildings and equipment are not maintained, it could endanger public safety. It was illustrated that the high-level condition assessments undertaken by the facilities management portfolio reveal a very daunting scenario indicating that the suitability, performance and functionality of the government buildings is very poor and requires a huge capital injection to restore them to be habitable.

Some respondents also reported that contractors did not comply with some of the requirements of the OHS act because they perceived them to be an unnecessary expense and time consuming.

On the analysis of the interviews, it was also noted that some employees at times were about carrying out proactive and thorough site inspections.

Conclusion

It can be concluded that the public works sector is complying with H&S legislation to a certain degree. There is significant scope for improving H&S in the South African public service. The perception that H&S is the contractor's responsibility, and the limited financial provision for H&S, does not reflect H&S leadership and commitment to H&S in public service.

Recommendations

Although the construction regulations of 2014 have had a positive impact on H&S performance, the

regulations need to be amended to promote optimal H&S throughout the phases of a project.

The state also needs to establish a skills development programme, to ensure that public servants are trained and become competent before engaging in construction and reduce risks and accidents.

Although government departments, state agencies, private and public companies do report on H&S in their annual reports, in many cases the reporting is scanty and limited to policy and targets. Annual reporting should be encouraged for the entire public service, state agencies, and public and private companies.

Recommendations

Recommendations for the public works sector

- Increase the number of pro-active inspections
- Address the skills shortage problem by employing more competent H&S officers
- Increase the financial provisions for H&S

Recommendations for best practice

The DEL's Inspection and Enforcement Services Directorate needs to benchmark good practices with health and safety regulatory agencies such as the Mine and Health Inspectorate (SA), the Health and Safety Executive (UK) and the National Institute for Occupational Safety and Health (UK).

Areas of Future Research

- To identify and address existing and emerging health and safety risks, and to include health and safety management in organisational strategies.
- Innovative and responsive OSH approaches to better understand burgeoning future of work issues.

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Approved

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