



**Australian Government**

**Department of Employment**

Office of the Federal Safety Commissioner



# Regulator Performance Framework

2015-16 Report



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The document must be attributed as the 2015-16 Report against the Regulator Performance Framework.

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## Executive Summary

### Background

The Office of the Federal Safety Commissioner (OFSC) administers the Australian Government Building and Construction Work Health and Safety Accreditation Scheme (the Scheme) and works closely with Australian Government agencies, their state and territory counterparts and industry to ensure effective implementation of the health and safety requirements of the *Fair Work (Building Industry) Act 2012*.

The Scheme was established by the Government in 2005 in response to the 2003 Cole Royal Commission's conclusion that the safety record in the building and construction industry was unacceptable. It recommended that the Government use its influence as a client and provider of capital to foster improved performance.

The Government established the OFSC to develop, implement and administer the Scheme to apply to Government building and construction work. The Scheme is designed to ensure that only best practice health and safety systems and procedures are in operation on Commonwealth-funded building projects. Only companies accredited under the Scheme are eligible to undertake Commonwealth funded building projects valued above certain financial thresholds. The Scheme is voluntary and accreditation is open to any company that undertakes building work.

The Scheme operates such that Government agencies must not fund building work above certain thresholds unless any contracts for building work are awarded to a builder accredited under the Scheme.

As at 30 June 2016 there are 391 companies accredited under the Scheme. Since the OFSC was established, it has been notified of 1468 directly and indirectly funded contracts for building work covered by the Scheme with a combined value of \$85.35 billion.

### Key Findings

The OFSC has performed well against all Framework measures.

The OFSC has improved its level of support for accredited companies (regulated entities) as well as those seeking accreditation. It has achieved this through road shows held across the country, improved guidance materials and active collaboration with regulated entities. Over 2015-16 there were 177 participants in the OFSC's road show events and 33 new companies achieved accreditation under the Scheme.

The OFSC regularly seeks feedback from regulated entities through consultative forums, surveys, other regular meetings and review systems. The results of the 2016 regulated entity survey found that 96 per cent of respondents were satisfied with the level of service provided by the OFSC. It also found 91 per cent of respondents considered the Scheme represents value for money (up from 63 per cent in 2014).

The results for the OFSC's timeliness measures in 2015-16 indicate it is providing a timely service to regulated entities for key elements of the accreditation process. Over 95 per cent of accreditation applications were assessed and contact was made with the applicant within 10 working days. The OFSC was also effective in collaborating with regulated entities to ensure all audits occur at a mutually agreed time and that all companies receive audit notification and criteria scope prior to audit, to ensure effective and efficient conduct of the audit.

During 2015-16 the OFSC also implemented a range of administrative changes to improve efficiency and reduce red-tape for regulated entities. These changes included the introduction of a risk-based compliance model and enhancements to FSC Online to enable online submission of accreditation applications and safety performance/incident reports. The online application form was live from April 2015 (ahead of this reporting period) and the online reporting functionality was rolled out to regulated entities from February to June 2016.

The risk based compliance model has allowed the OFSC to better target resources to regulated entities that have a higher risk rating/profile. Strongly performing companies (ie regulated entities with a lower risk rating) are rewarded with a reduced compliance burden in terms of audits and related paperwork.

Poorer performing companies (i.e. regulated entities with a higher risk rating) receive a greater level of support that allows the OFSC to continue working closely with companies until they either reach the required standard or elect to discontinue their accreditation. Feedback from regulated entities and other stakeholder groups indicate the risk based model is appropriate while acting as an incentive towards continued safety performance improvements.

The OFSC has further taken steps to ensure the Scheme is recognised by state and territory building and construction prequalification schemes. As at 30 June 2016 all states and territories, except Tasmania, have recognised the Scheme as satisfying the work, health and safety requirements of their prequalification schemes relating to building work valued less than \$50 million. This creates compliance savings for builders, especially those working in multiple jurisdictions. The OFSC is also working with the states and territories and other work, health and safety regulators to determine new ways to compare performance and share knowledge on best practice approaches in safety regulation.

## Regulator Performance Framework

The Government released the Framework as part of 2014 Spring Repeal Day on 22 October 2014.

The Framework encourages regulators to undertake functions and achieve objectives with the minimum impact on the regulated community by measuring and publicly reporting performance.

Details of the Framework are available on the [Government's Cutting Red Tape website](#).

All Commonwealth regulators that administer, monitor or enforce regulation were required to implement the Framework from 1 July 2015.

The Framework contains six pre-determined KPIs which are standard for all regulators. Individual regulators are required to develop and report on a range of measures that determine their success against each KPI. The measures are specific to the regulator and were required to be published following endorsement by the regulator's accountable authority and approval by the relevant Minister.

## Development of OFSC key performance measures

In accordance with the requirements within the Framework, the OFSC developed a range of measures to be used to assess its performance. These performance measures were endorsed by the FSC as the OFSC's accountable authority and approved by the Minister for Employment.

Table 1 lists OFSC key performance indicators and measures.

**Table 1 – OFSC Regulatory Performance Framework summary table**

Key Performance Indicator	Measure
KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities.	<b>1.1</b> OFSC uses appropriate methods to provide support and guidance for regulated entities in their dealings with the OFSC and continuously improves those methods in light of experience
	<b>1.2</b> The OFSC engages with regulated entities and peak bodies to continuously improve by monitoring and refining practices and requirements where practicable
	<b>1.3</b> The OFSC undertakes periodic formal reviews
KPI 2: Communication with regulated entities in clear, targeted and effective	<b>2.1</b> The OFSC provides information and advice that is up to date, clear, accessible, concise and appropriate to target audience to make it easier for regulated entities to comply with obligations
	<b>2.2</b> OFSC dealings with regulated entities are undertaken in a transparent and timely manner with clear advice about actions required and the reasons.

Key Performance Indicator	Measure
KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed	<b>3.1</b> The OFSC applies a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. The risk-based compliance model is regularly re-assessed
	<b>3.2</b> OFSC recognises the compliance record of regulated entities including using earned autonomy for those with a strong compliance track record. All available relevant data on compliance is considered.
KPI 4: Compliance and monitoring approaches are streamlined and coordinated.	<b>4.1</b> OFSC takes a streamlined and co-ordinated approach by working with states and territories to ensure maximum recognition of the Scheme as meeting the WHS components of their pre-qualification schemes.
	<b>4.2</b> Regulated entities are provided with sufficient notice of intended site audits and mutually acceptable audit dates are negotiated to minimise business interruption.
KPI 5: Regulators are open and transparent in their dealings with regulated entities.	<b>5.1</b> The OFSC publishes its risk based framework, assessment criteria and a range of guidance material in a format which is clear, understandable and accessible.
	<b>5.2</b> The OFSC demonstrates responsiveness to requests from regulated entities and complaints.
KPI 6: The Regulator actively contributes to the continuous improvement of regulatory frameworks.	<b>6.1</b> OFSC has co-operative relationships with regulated entities which makes it easy for them to contribute to improving the regulatory framework.
	<b>6.2</b> OFSC has co-operative and collaborative relationships with stakeholders involved in WHS regulatory activities.

The OFSC’s measures were published on the OFSC website on 9 July 2015 and are available at:

<http://www.fsc.gov.au/sites/fsc/resources/az/pages/regulator-performance-framework-measures> .

The remainder of this report discusses the OFSC’s performance outcomes against the six pre-determined KPIs and the associated regulator specific measures for the period 2015-16.

The KPI discussion uses the term ‘regulated entities’ to refer to construction companies consistent with the terminology of the Regulator Performance Framework.



# KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities

## Summary of Performance against KPI 1

The OFSC provides comprehensive and tailored guidance and support to regulated entities and entities seeking accreditation under the Scheme. It does this through a range of approaches including through online materials, telephone assistance and active collaboration with regulated entities.

The OFSC regularly seeks feedback from regulated entities through consultative forums, surveys, other meetings and reviews. This process has helped the OFSC to tailor and streamline its processes to reduce the compliance burden on regulated entities to the fullest extent possible, while ensuring that safety standards on Commonwealth funded building sites are not diminished.

## Measure 1.1

*The OFSC uses appropriate methods to provide support and guidance for regulated entities in their dealings with the OFSC and continuously improves those methods in light of experience.*

### Support and guidance for regulated entities

The OFSC takes a collaborative approach to the Scheme’s accreditation application and audit processes. It works with regulated entities until they reach the required standard or they elect to discontinue their application.

The OFSC provides comprehensive guidance material including key policy documentation, which is available on its website: [www.fsc.gov.au](http://www.fsc.gov.au). The OFSC’s online application system and reporting forms also include in-context guidance material which is written in plain language.

Figures 1 and 2 below provide an example of online help provided to regulated entities.

**Figure 1 – View of FSC Online reporting screen before guidance is expanded**

The screenshot displays a web form titled "2.1 Incident details". It contains several input fields and a dropdown menu, each with a "Learn More" link. The fields are:

- Incident Type:** A dropdown menu with "Dangerous Occurrence" selected.
- Is this a notifiable incident?:** A radio button with "No" selected.
- \* Date of incident (DD/MM/YYYY):** A text input field with a calendar icon and a "Learn More" link.
- \* Time of incident (12hr HH:MM AM/PM):** A text input field with a clock icon and a "Learn More" link.
- \* Breakdown agency of incident:** A dropdown menu with "-- Please Select an Item --" and a "Learn More" link.
- High Risk Construction category:** A dropdown menu with "-- Please Select an Item --" and a "Learn More" link.

**Figure 2 – View of FSC Online reporting screen after guidance is expanded**

2.1 Incident details

Incident Type  
Dangerous Occurrence

Is this a notifiable incident?  
No

\* Date of incident (DDMMYYYY) [Learn More](#)  
The date that the incident occurred. This field can be entered manually or using the date finder.

\* Time of incident (12hr HH:MM AM/PM) [Learn More](#)  
The time of the incident. Please enter the time in 12 hour format (HH:MM) and specify whether it was AM or PM.

\* Breakdown agency of incident [Learn More](#)  
-- Please Select an Item --  
The break down agency of incident is intended to identify the object, substance or circumstance that was principally involved in, or more closely associated with, the point at which things started to go wrong and which ultimately led to the most serious injury or disease.

1. Machinery and fixed plant
2. Mobile plant and transport
3. Powered equipment, tools and appliances
4. Non-powered hand tools, appliances and equipment includes
5. Chemicals and chemical products includes
6. Material and substances includes
7. Environmental agencies includes
8. Animal, human and biological agencies
9. Other and unspecified agencies includes

Please see the [Reporting definitions and guidance](#) for more detailed information in what is included in each of the above categories.

High Risk Construction category [Learn More](#)  
-- Please Select an Item --  
Select from the list of 19 high risk construction categories the one, if any, that relates to the incident.

The OFSC provides additional support to regulated entities via the FSC telephone assist line and mailbox.

In 2015-16 the OFSC responded to 685 phone calls and 57 emails and returned enquiries on average within one business day.

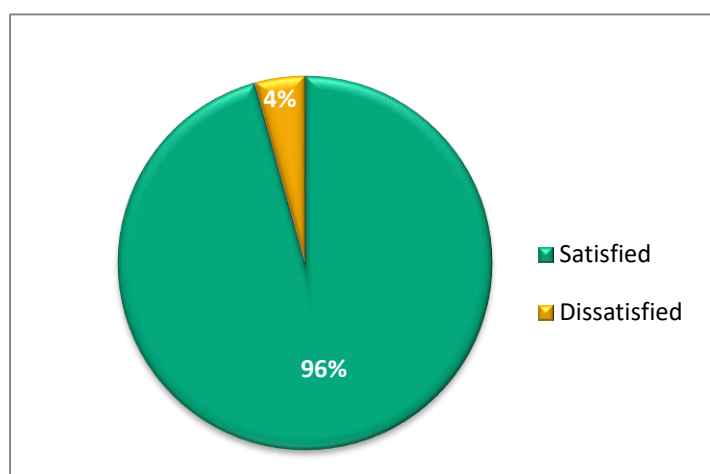
### Regulated entity feedback results

#### ***Annual survey of regulated entities***

In April 2016 the OFSC distributed its annual feedback survey to 359 accredited entities, of which 225 completed the survey. This represents a response rate of 62.7 per cent.

Figure 3 shows that 96 per cent of regulated entities were satisfied with the level of service provided by the OFSC.

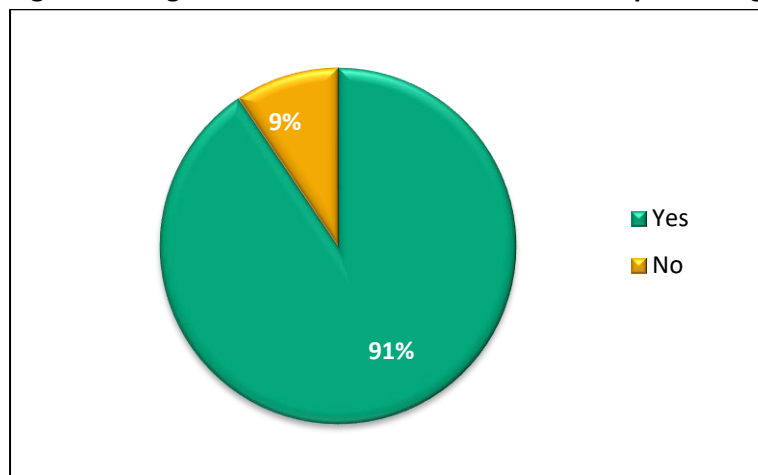
**Figure 3 – Regulated entities satisfaction with the level of service by the OFSC**



The OFSC also asked regulated entities about the cost of accreditation relative to the value they receive from participation in the Scheme. While there is no direct charge for accreditation, there may be some costs for regulated entities in complying with the Scheme.

Figure 4 shows that 91 per cent of respondents considered the scheme represents value for money (up from 63 per cent in 2014).

**Figure 4 – Regulated entities view of the Scheme representing value for money**



#### **Audit feedback survey questionnaires**

The OFSC distributes feedback forms to regulated entities that have been audited to capture information on their audit experience. In 2015-16 the OFSC distributed audit feedback forms following all 401 audits that were conducted during this reporting period.

Forms were returned for 32 audits which represents a return rate of 12.5 per cent. This is less than in previous years but the return rate may have been influenced by the number of other opportunities available for regulated entities to provide feedback. These opportunities included roadshows, the annual survey and meetings with accredited entities and associations. The OFSC is currently considering ways to increase the response rate, notwithstanding these other avenues for feedback.

The feedback forms indicated 98 per cent of respondents were positive about OFSC performance.

A number of regulated entities took the opportunity to recommend improvements to the Scheme. Suggestions related to reduced paperwork, balance in the number of audit criteria to be assessed in a single day audit and the clarification of corrective actions. The OFSC discussed these matters in a number of different forums and, in particular, considered the number and mix of audit criteria at the most recent FSO forum. The OFSC also continues to work with regulated entities to clarify these matters and to ensure audits and associated Scheme processes operate in the most efficient and effective manner possible.

## Measure 1.2

*The OFSC engages with regulated entities and peak bodies to continuously improve by monitoring and refining practices and requirements where practicable.*

### **Consultation with regulated entities and peak bodies**

As part of its normal business, the OFSC has meetings and discussions with individual regulated entities and funding agencies. During 2015-16, in addition to normal business, the OFSC also undertook a range of broader communication and consultation forums, workshops and meetings including:

- 5 'roadshow' technical workshops for builders and constructors involving around 177 participants. A key feature of the workshops was an introductory session undertaken personally by the FSC, followed by separate workshops for accredited entities to discuss common issues with application of the Scheme criteria and requirements and for new entities seeking information about applying for and undertaking the accreditation process.
- 19 forums and meetings involving whole of industry issues (such as verification of competency requirements), information sessions for potential tenderers related to specific projects, discussions with industry associations and meetings with other regulators (such as Safe Work Australia);
- 2 governance meetings (OFSC Industry Reference Group and the Australian Government Agency Reference Group).

Feedback, including evaluation forms for workshops, was overwhelmingly positive.

[The Industry Reference Group](#) was established to promote information sharing, facilitate feedback from industry and provide advice to the FSC on the activities of the office. It has ten members drawn from a cross section of industry bodies and accredited entities to ensure a balance of views.

[The Australian Government Agency Reference Group](#) is the consultation forum for client agencies. It has nine members drawn from major Australian Government construction procurement agencies. At the last reference group meeting OFSC consulted on the implementation of the new funding agency reporting requirements and how the resultant data output will benefit agencies and regulated entities alike.

As a result of these activities the OFSC identified a range of emerging matters that warranted broader discussion and actions in consultation with the building and construction sector:

- safety issues related to use of elevated work platforms
- safety issues related to use of cranes, particularly mobile cranes
- confusion and inconsistency in the application of industry 'verification of competency' (VoC) requirements
- Safe Work Method Statement (SWMS) requirements

The OFSC's response to the last two matters is discussed in the next section.

As noted under Measure 1.1, the OFSC conducts an annual survey of regulated entities and distributes audit feedback forms to encourage entities to raise any concerns they may have.

### ***Targeted initiatives in 2015-16***

In 2015-16 the OFSC developed a fact sheet to provide information regarding its standards and expectations when reviewing SWMS during an audit. This fact sheet was developed in consultation with key stakeholders including Master Builders Australia and FSOs.

The [SWMS fact sheet](#), issued in August 2015, explains in detail what the OFSC requires in relation to both the content of SWMS and the process used to develop them. Importantly, the fact sheet also details what is not required by the OFSC in relation to SWMS content, dispelling a number of common misconceptions, including that OFSC requirements were responsible for driving unreasonably long and detailed SWMS.

The OFSC is presently consulting with industry before finalising a fact sheet on Verification of Competency (VoC), and further discussions will be held with Safe Work Australia to ensure a common message from both agencies. The VoC factsheet will be tested with industry reference group members and FSOs before being published on [www.fsc.gov.au](http://www.fsc.gov.au).

## **Measure 1.3**

*The OFSC undertakes periodic formal reviews.*

### **2014 Review**

The OFSC undertook a comprehensive review of the Scheme just prior to the announcement of the Framework. The purpose of the review was to identify options to streamline, modernise and reduce unnecessary regulatory or compliance burdens associated with the Scheme while maintaining safety outcomes.

The review was informed by an advisory panel comprising representatives of key industry associations, unions, government agencies and the OFSC. To capture the views of stakeholders, a discussion paper was released in February 2014, followed by a survey of all accredited entities. There was a good response to the discussion paper and survey which provided the OFSC and the panel with valuable insights into the experience of regulated entities in gaining and maintaining accreditation.

[A report](#) detailing the outcome of the review was released in June 2014 and made 25 formal recommendations on ways the Scheme and the operations of the OFSC could be improved.

In October 2014 the Government agreed to implement all recommendations made in the review, with minor amendments to two of them.

### **New review frameworks**

The 2014 review recommended that Scheme thresholds be reviewed every three years and a comprehensive review of the Scheme be undertaken every five years. The aim of the threshold review is to ensure coverage of regulated entities is not expanded in real terms. The first threshold

review is scheduled for 2017-18 and the next Scheme review is scheduled for 2019-20. The OFSC has put in place a new review framework to guide the review process.

The threshold review will consider a range of data sources including the Building and Construction Index to ensure the Scheme reflects the changing costs of the building industry. The Scheme review will provide accredited entities and external stakeholders with opportunities to contribute submissions on areas for improvement.

## KPI 2 – Communication with regulated entities is clear, targeted and effective

### Summary of OFSC performance against KPI 2

KPI 2 assesses whether communication by regulators is accessible, timely and transparent.

The OFSC ensures all material is subject to appropriate quality assurance processes before publication. The OFSC also invites feedback on its material via its regulated entity surveys.

The results for the OFSC's timeliness measures in 2015-16 indicate it is providing a responsive service to regulated entities for key elements of the accreditation process. Feedback from regulated entities and client agencies indicates they are satisfied with OFSC's overall level of responsiveness.

### Measure 2.1

*The OFSC provides information and advice that is up to date, clear, accessible, concise and appropriate to the target audience to make it easier for regulated entities to comply with their obligations.*

#### Quality assurance of information and advice

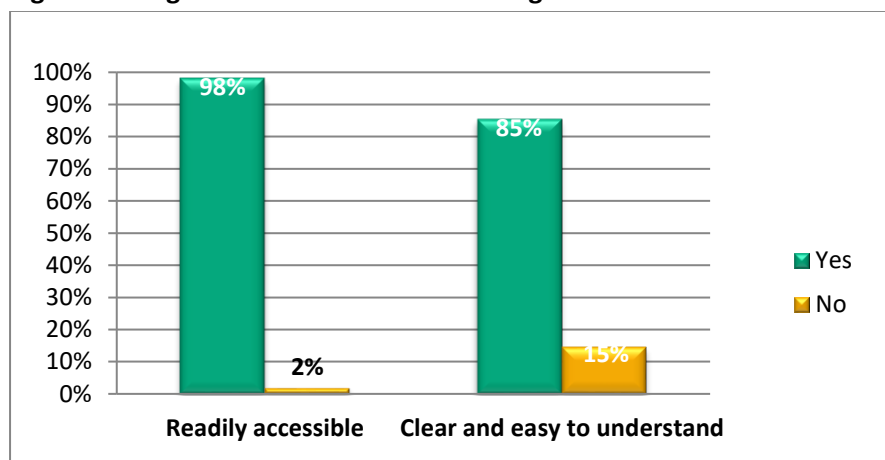
All OFSC material is subject to approval by the relevant Director and where appropriate, the FSC to ensure the information is clear, consistent and targeted. All online material must also satisfy the Government's web accessibility guidelines.

The OFSC's guidance material is regularly reviewed in response to feedback from key stakeholders and emerging issues. Selected guidance material is also tested through a range of stakeholders including the reference groups, industry associations, FSOs and government agencies.

#### Regulated entity feedback on guidance material

The 2016 regulated entity survey asked entities whether the OFSC's guidance materials are readily accessible and easy to understand. Figure 5 provides a summary of regulated entity feedback. Overall 98 per cent of respondents agreed that the OFSC guidance material was readily accessible and 85 per cent agreed the material was easy to understand.

**Figure 5 – Regulated entities view of OFSC guidance material**



According to the survey about 15 per cent of regulated entities did not find the OFSC guidance material easy to understand. Most of these respondents commented that the audit criteria were difficult to interpret and apply.

A number of submissions to the 2014 review sought greater clarity of the audit criteria. A key message was the importance of plain English guidance for audit criteria, as well as advice that would assist with consistency of interpretation of the criteria. This led to a review of the audit criteria and the development of [FSC Audit Criteria Guidelines: The FSC Audit Criteria Explained](#) (the Guidelines).

The main purpose of the audit criteria review was to clarify the intent of the criteria and to improve their flow. For the majority of the criteria, requirements remained unchanged but several changes were made to simplify language, to write the criteria in a way that made it more apparent what the criteria were about and to introduce better flow.

The Guidelines set out the intent behind each of the audit criteria. They also provide examples of the evidence that can be provided to FSOs during the audit process that may demonstrate compliance with the criteria. Importantly, they also provide 'Notes' that identify what won't satisfy the audit criteria. This information can be used by a regulated entity to assess whether its processes and implementation address the criteria.

The audit feedback form asks regulated entities if they could find Work Health and Safety Management System, Scheme and Hazard criteria on the internet and if they understand what these documents mean. These forms indicate 94 per cent of respondents agreed or strongly agreed they could find the audit criteria on the internet and that the criteria were easy to understand.

### **Website and FSC Online**

The OFSC provides regulated entities with comprehensive information about the Scheme through its independent website at [www.fsc.gov.au](http://www.fsc.gov.au). During 2015-16 the website hosted 55,572 visitor sessions, about 64 per cent of which involved new visitors to the site.

The OFSC has uploaded to its website a range of new material in 2015-16 including [news articles](#), the [SWMS fact sheet](#) and two [biannual data analysis reports](#). It also made revisions to key documents,



including the [audit criteria](#), the [WHS performance reporting pack](#), the [accreditation application form](#) and various [fact sheets](#).

In addition to the OFSC's website, regulated entities are now also able to use 'FSC Online' (online application and reporting system) to submit applications and their Work Health and Safety (WHS) performance reports under the Scheme. In 2016 OFSC streamlined reporting requirements, removing a number of areas of duplication and adding in a small number of new key points of data. The online system now provides interactive data validations throughout the reports and has detailed inbuilt help and guidance to assist users with completing sections and fields. Figures 6 and 7 provide an example of an online report with onscreen help.

**Figure 6 – View of online report before the help icon is selected**

2.2 Project Site details where incident occurred ?

Select from previously entered address  
--Choose Previous Addresses--

\* Address Line 1  Address Line 2

\* Suburb/Town/City  \* State/Territory  -- Please Select an Item -- \* Postcode/Zip Code

**Figure 7 – View of online report after the help icon is selected**

\* Date of incident (DD/MM/YYYY)  Learn More \* Time of incident (12hr HH:MM AM/PM)  Learn More

\* Breakdown agency of incident  -- Please Select an Item -- Learn More High Risk Construction category  -- Please Select an Item -- Learn More

2.2 Project Site details where incident occurred ?

Select from previously entered address  
--Choose Previous Addresses--

\* Address Line 1

\* Suburb/Town/City  \* State/Territory  -- Please Select an Item -- \* Postcode/Zip Code

**Information**  
Provide the location or full street address of the project. Please ensure you provide the town/suburb, State and postcode.  
Ok

## Measure 2.2

*OFSC dealings with regulated entities are undertaken in a transparent and timely manner with clear advice about actions required and the reasons.*

### OFSC timeliness and transparency

The OFSC ensures responsiveness by adopting a collaborative approach when working with regulated entities. Once they have applied for accreditation, regulated entities are given a designated contact within the OFSC that they can call if they have any questions about the process. The OFSC also maintains a telephone service and email enquiry mailbox to assist with handling questions or concerns from regulated entities. The OFSC returns telephone and email enquiries on average within one working day. Table 2 provides a breakdown of enquires by category.

**Table 2 – Type and number of enquiries received by the OFSC during 2015-16**

Enquiries by Topic	Number of Enquiries*
Application Process Information	145
E-Citizen/FSC Online	90
Reporting	84
Policy Advice	82
Scheme Requirements	63
Audit Process and Requirements	61
Not OFSC Related	41
Other	176
<b>TOTAL</b>	<b>742</b>

*\* Enquiries includes those received by the OFSC both by email and telephone*

The OFSC has timeliness KPIs (see below) to track its performance against key components of the accreditation process. It provides annual reports on these measures to its reference group meetings and invites feedback on them from group members.

OFSC correspondence provides details of a regulated entity's risk rating and how this has been determined, providing regulated entities with the ability to identify weaknesses in their systems and areas to focus on to achieve improvement. The risk rating system is discussed in more detail under KPI 3.

#### **Performance against timeliness indicators**

In 2015-16 the OFSC achieved its responsiveness targets in relation to activities associated with the accreditation of regulated entities:

- All applicants received an acknowledgement within 5 working days of lodging their application.
- More than 95 per cent of accreditation applications were assessed and contact was made with the applicant within 10 working days. This exceeds OFSC's target of 90 per cent.

In 2016, the OFSC introduced a new timeliness target for provision of audit reports to regulated entities. It will report against this target in the Framework report for 2016-17.

The OFSC has also sought feedback from regulated entities and client agencies on its overall level of responsiveness. Generally, the industry and Government reference groups have considered the OFSC performance to be good with no concerns raised over the reporting period.

Further, the 2016 survey asked regulated entities to rate OFSC responsiveness to enquiries. The survey results indicate 94 per cent of respondents rated OFSC's responsiveness as 'good' or 'very good'.

## KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed

### Summary of OFSC performance against KPI 3

KPI 3 assesses whether regulator actions are proportionate to the risk being managed.

The OFSC has introduced a risk based model to better target audit resources to regulated entities with a higher risk rating.

Strongly performing regulated entities are rewarded with a reduced compliance burden in terms of audits and related paperwork. Feedback from regulated entities and stakeholders indicates the risk based model is appropriate and provides an incentive for entities to improve safety performance.

### Measure 3.1

*The OFSC applies a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. The risk-based compliance model is regularly re-assessed*

#### Risk rating statistics

Following the 2014 review, the OFSC introduced a risk based accreditation model to better target audit resources to regulated entities with a higher risk of non-compliance with Scheme criteria. The OFSC conducts periodic audits of all regulated entities but the compliance burden is reduced for regulated entities that consistently demonstrate high performance in complying with the Scheme requirements over time.

The OFSC implemented the risk model in 2015 and has been progressively rating regulated entities based on audit results.

As at 30 June 2016 about 45 per cent of accreditations have been given a risk rating.

Table 3 provides a breakdown of accreditations with a low, medium and high risk rating. Future reports will provide a comparison of the overall risk profile of regulated entities from year to year. When the risk model was first developed, the OFSC expected that a significant majority of regulated entities would fall into the low risk category and the rating statistics to date have confirmed this is the case.

**Table 3 – Summary of completed regulated entity risk ratings as at 30 June 2016**

Rating	LOW	MEDIUM	HIGH
Percentage	83.22	13.29	3.50

The OFSC has sought feedback from regulated entities and funding agencies on its risk based model. Generally, the industry and government agency reference groups have had few comments on the model.

Regulated entities have not expressed any concerns about the model in response to feedback surveys.

### **Measure 3.2**

*OFSC recognises the compliance record of regulated entities including using earned autonomy for those with a strong compliance track record. All available relevant data on compliance is considered.*

#### **Benefits to regulated entities of the risk based approach**

The OFSC takes regulated entity risk ratings into account in determining the number of site audits it conducts in monitoring accredited entities or assessing applications for reaccreditation.

The risk level of a regulated entity is determined by the entity's performance against specified risk indicators. These indicators emphasise performance at audit, including the number and nature of non-conformances, non-conformance closure rate, incident trends, fatalities, adherence to reporting requirements and whether the entity has any further conditions applied to its accreditation or any outstanding compliance action.

For regulated entities with a strong track record of compliance with these indicators, an annual audit is the only site based intervention undertaken by the OFSC. Further, at reaccreditation, good performance will result in a streamlined application process and the regulated entity receiving the maximum available period of six years accreditation. To date, more than 80 per cent of companies due for reaccreditation have been eligible for annual audits and a streamlined reaccreditation process.

## KPI 4 – Compliance and Monitoring Approaches are streamlined and coordinated

### Summary of OFSC performance against KPI 4

KPI 4 assesses whether monitoring by regulators is streamlined and co-ordinated.

The OFSC has taken steps to ensure the Scheme is recognised by state and territory prequalification schemes.

As at 30 June 2015 all state and territories, except Tasmania, have recognised the Scheme as satisfying the WHS requirements of their prequalification schemes. This creates compliance savings for builders, especially those working in multiple jurisdictions.

The OFSC also seeks to collaborate with regulated entities to ensure all audits occur at a mutually agreed time and that all regulated entities receive audit notification and criteria scope prior to audit.

### Measure 4.1

*OFSC takes a streamlined and co-ordinated approach by working with states and territories to ensure maximum recognition of the Scheme as meeting the WHS components of their pre-qualification schemes.*

#### **Recognition of Scheme by state and territory prequalification schemes**

All states and territories have 'pre-qualification' requirements for builders that wish to undertake state and territory funded construction projects. The pre-qualification requirements include various criteria such as financial viability, sustainable development, human resource management and quality assurance. This is in addition to work, health and safety requirements. In the past there was a myriad of state and territory pre-qualification arrangements for builders, with more than 10 in New South Wales alone and over 25 nationally.

As part of the review of the Scheme in 2014, the OFSC held discussions with states and territories about recognition of the Scheme for non-residential construction projects valued less than \$50 million. As a result, all jurisdictions except Tasmania agreed to recognise the Scheme as automatically meeting their state and territory prequalification requirements. Victoria was the latest State to recognise the Scheme with the Victorian Government extending recognition in August 2015.

The OFSC is currently working with Tasmania to achieve Scheme recognition in that jurisdiction.

The OFSC asked regulated entities in its 2016 regulated entity survey about the benefits of state and territory recognition. In response 94 per cent of regulated entities stated that recognition is likely to benefit accredited entities and 93 per cent stated it would benefit them.

## **Measure 4.2**

*Regulated entities are provided with sufficient notice of intended site audits and mutually acceptable audit dates are negotiated to minimise business interruption.*

### **Audit scheduling**

In 2015-16, the OFSC conducted 401 audits of regulated entities noting that some entities seeking initial accreditation may have been audited on multiple occasions in order to satisfy the Scheme requirements. The OFSC works with regulated entities to identify appropriate worksites to audit and ensures an FSO is available to conduct the audit on the agreed dates. The OFSC also works to ensure that the audit compliance burden is minimised by notifying relevant regulators twice a month of audits to occur in each jurisdiction to avoid double up in audits, and is flexible in scheduling dates that don't coincide with a regulated entity's own obligations (for example in regard to certification and training).

In scheduling audits the OFSC ensures all regulated entities receive an audit notification and criteria scope prior to audit to assist in effective and efficient conduct of the audit. All audits are conducted at a date mutually agreed to with the regulated entity. The OFSC works with regulators on a regular basis to provide a copy of the audit schedule in order to ensure multiple audits do not occur within a close timeframe.

## KPI 5 – Regulators are open and transparent in their dealings with regulated entities

### Summary of OFSC performance against KPI 5

KPI 5 assesses whether the OFSC is open and responsive in its dealing with regulated entities.

The OFSC provides a comprehensive suite of information to regulated entities.

The results of audits and risk rating information are sent to regulated entities or available on-line. Regulated entities can also access performance information data through FSC Online.

The OFSC seeks to work collaboratively with regulated entities through the accreditation and audit process to ensure they are fully informed and understand the process. It provides additional support to entities through its telephone assist line and inbox.

During 2015-16 the OFSC received very positive feedback on its responsiveness and no complaints.

There were no Administrative Appeals Tribunal reviews relating to OFSC decisions during this period.

### Measure 5.1

*The OFSC publishes its risk based framework, assessment criteria and a range of guidance material in a format which is clear, understandable and accessible.*

#### **Regulated Entity access to information**

The OFSC has developed a comprehensive suite of information for regulated entities and client agencies, including audit criteria and guidelines, WHS Performance Reporting pack and fact sheets.

Essential information is sent to regulated entities during the accreditation process and all information is available on the FSC's website [www.fsc.gov.au](http://www.fsc.gov.au). This includes the assessment criteria and guidance material for regulated entities and agencies. The OFSC is currently finalising a fact sheet on the risk based framework which will be available in 2016-17.

The FSC Online application and reporting system is discussed under Measure 2.1. As noted previously, the OFSC has upgraded its online resources to promote greater Scheme transparency and ease of access to plain language guidance material. For example, while the OFSC sends regulated entities audit and risk rating results and the reasons for them via hard copy letters, regulated entities can also choose to access this information online.

The OFSC is examining options for FSC Online to provide regulated entities with access to suite of comparison metrics to enable them to compare their safety performance with Scheme averages and

best practice. The OFSC will work with industry stakeholders during 2016-17 to determine what metrics are appropriate and meaningful to regulated entities.

### **Regulated Entity survey results on accessibility**

The 2016 annual survey asked regulated entities about whether all the information they require is available online and, if not, to identify any gaps.

The survey results indicated that 97 per cent of respondent considered all the information they needed was available on the OFSC website.

## **Measure 5.2**

*The OFSC demonstrates responsiveness to requests from regulated entities and complaints.*

### **OFSC responsiveness**

The OFSC takes a collaborative approach to the accreditation and audit process and is highly responsive to requests for information or assistance from regulated entities.

The OFSC works with new entities until they reach the required standard or they elect to discontinue their application. As noted previously, the OFSC provides comprehensive information about the Scheme on its website. It also provides additional support to regulated entities through the OFSC telephone assist line and mailbox.

*Figure 8* indicates the number of contact points when regulated entities can expect the OFSC to contact them during the accreditation process. Under the new risk-based compliance model, the reaccreditation process for most regulated entities (those with a low risk rating) is simpler because they do not need to go through the audit process.

### **Figure 8 – OFSC contact points**

- |   |
|---|
| <ol style="list-style-type: none"><li><b>1. Application Process</b><ol style="list-style-type: none"><li>1.1 Acknowledgement of application</li><li>1.2 Liaison with regulated entities about additional information if required</li><li>1.3 Status update sent advising the regulated entity of progress with application</li></ol></li><br/><li><b>2. Audit Process</b><ol style="list-style-type: none"><li>2.1 Liaison with regulated entity about suitable project</li><li>2.2 Email to regulated entity requesting suitable date and site details</li><li>2.3 Confirmation of audit sent to regulated entity</li><li>2.4 Email to regulated entity with audit notification letter</li><li>2.5 Letter and audit report sent to regulated entity</li><li>2.6 Email to regulated entity acknowledging action plan</li><li>2.7 Steps 1 – 6 may be repeated if there are follow-up audits.</li></ol></li><br/><li><b>3. Approval Process</b><ol style="list-style-type: none"><li>3.1 Accreditation offer sent to regulated entity</li><li>3.2 Certificate of accreditation sent to regulated entity</li></ol></li></ol> |
|---|



The following illustrates the OFSC's approach to ensuring it is responsive to requests from regulated entities. A number of entities have approached the OFSC seeking accreditation once they become aware that a project they wish to tender for requires Scheme accreditation. Audit priority is given to those entities seeking accreditation in a tender situation.

As noted on page 18, the OFSC survey results indicate that 94 per cent of respondents rated the OFSC's responsiveness as 'good' or 'very good'.

### **Complaints**

The OFSC encourages regulated entities to raise any concerns with their office contact in the first instance. In general, the same audit officer deals with regulated entities throughout the accreditation process to encourage consistent communication and continuity. Any issues that are unable to be resolved at audit officer level will be escalated internally, up to and including, to the FSC.

The OFSC also has a formal complaints process whereby regulated entities can lodge a formal complaint through the audit officer, telephone assist line or the OFSC inbox. For a complaint to be investigated as a formal complaint it must be lodged using the [OFSC's Complaints Form](#).

In addition, the *Fair Work (Building Industry-Accreditation Scheme) Regulation 2016* lists a range of decisions of the FSC that can be reviewed. [The review process](#) is detailed on the OFSC website. If a regulated entity is not satisfied with the review decision it can take its concerns to the Administrative Appeals Tribunal.

During the reporting period no formal complaints were lodged with the OFSC and there were no requests for review of a decision of the FSC.

## KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks

### Summary of OFSC performance against KPI 6

KPI 6 assesses whether the OFSC is working with regulated entities and WHS stakeholders to continuously improve the Scheme.

The OFSC actively seeks feedback from regulated entities through stakeholder forums, regulated entity meetings and surveys.

The OFSC periodically meets with WHS regulators to discuss best practice approaches to safety regulation. In 2015-16, the OFSC has implemented a number of initiatives to improve the Scheme based on these activities. They include clarifying the audit criteria, streamlining WHS reporting, state and territory recognition and roadshows to provide training and information.

### Measure 6.1

*OFSC has co-operative relationships with regulated entities which makes it easy for them to contribute to improving the regulatory framework.*

#### Continuous improvement activity

The OFSC's consultation activity is summarised under Measure 1.2. The OFSC has two stakeholder forums which provide feedback on continuous improvement options. In addition, the OFSC regularly holds meetings with individual regulated entities to discuss aspects of their accreditation. In 2015-16 the OFSC held 18 meetings with regulated entities at their request. Feedback from forums and the other meetings mentioned above is summarised under KPI 1.

The OFSC also conducts an annual survey of regulated entities and distributes audit feedback forms to encourage entities to raise any concerns they may have. The survey provides regulated entities with an opportunity to suggest changes to the operation of the Scheme. In 2016 regulated entities suggested a range of changes relating to:

- content and application of the audit criteria;
- the application and audit process;
- provision of training and information;
- promotion and recognition of the Scheme; and
- Scheme reporting

In 2015-16 OFSC has reviewed its audit criteria (refer page 16), provided training and information (refer pages 9-10, 13, 23), promoted the scheme and encouraged state and territory recognition (pages 12, 21) and streamlined scheme reporting (page 17).

## **Measure 6.2**

*OFSC has co-operative and collaborative relationships with stakeholders involved in WHS regulatory activities.*

### **Consultations with other WHS regulators**

In 2015-16 the OFSC held a number of meetings with WHS stakeholders during the reporting period. They included Safe Work Australia and various state and territory WHS regulators. These meetings focussed on areas of broad concern to the industry and discussion included consideration of the ways that the national reach of the Scheme could be used to highlight industry wide issues, examples of best practice, and solutions to issues. These discussions are ongoing.