

Welcome

[Introduction from our General Manager](#)

Industry news

[Recent OHS prosecutions against employees – the emerging liability](#)

[Spots still available in NSW to hear about new WH&S Act and regulations](#)

[QBE's rehabilitation model delivers](#)

[QBE clients awarded for innovation](#)

[Injury Support and Service Awards say thanks on behalf of Victoria](#)

[QBE congratulates the 2011 SISA Award winners](#)

[Comcare programs see successful rollover](#)

[QBE provides practical tools at Good to Great Forum](#)

[The 2012 QBE Connect National Training Calendar: Keeping you one step ahead](#)

[Update to Contractor Guidelines](#)

Legislative changes

[Deferral of WA OH&S harmonisation implementation](#)

People

[Case conferencing – QBE at the coalface](#)

Expand all Articles

Welcome

Introduction from our General Manager

Dear Valued Business Partner

Welcome to the final edition of *QBE Connect* for 2011, our national Workers Compensation newsletter, designed to keep you informed on the latest updates happening across Australia.

I was recently reminded of how each one of us has the opportunity to make a positive difference in our respective organisations. In a constantly changing business environment, we can each make a difference, with the coming year being another period of significant change in the health and safety arena.

The QBE team is prepared and ready to support you in all areas of your Workers Compensation activities in 2012.

With the new harmonised OHS laws commencing in most regions of Australia from 1 January (excluding Victoria and Western Australia), QBE has a range of training programs and resources to support your business requirements, including an improved National Training Calendar to be launched in February.

As always, you can read about many of the legislative and regulatory changes taking place across Australia in this edition, including key initiatives being implemented within QBE.

On behalf of QBE, I would like to thank you for your strong support in 2011 and also extend my congratulations to the recent winners of our industry's awards programs, some of whom we have profiled in this edition.

As we quickly approach the end of the year, I wish you all a safe and prosperous Christmas break and very much look forward to working with you again in the New Year.



Jason Hammond
General Manager – Workers Compensation
QBE Australia



Industry news

[Recent OHS prosecutions against employees – the emerging liability](#)

Recent prosecutions have indicated that employees may, in addition to or instead of their employer, be prosecuted for contravention of their Occupational Health and Safety (OHS) obligations – whether or not an incident or injury occurs.

Following are some cases in point:

OHS breaches when at the workplace, but not carrying out work

Construction worker – Joshua Bamford was recently convicted and sentenced to a four-month corrections order by the Victorian Magistrates' Court for recklessly endangering another person at his workplace. Evidence found that Mr Bamford misused work equipment when he fired nails from a nail gun, one of which hit an apprentice in the eye and blinded him.

Planking – In the Victorian Magistrates' Court, Stewart Kift and Cameron Debbesten were recently each fined \$1,500 after posting photographs of themselves online 'planking' on the tines of a forklift and a shed roof four metres off the ground in a Victorian factory. The employer summarily dismissed the workers on seeing the photographs and was not prosecuted.

OHS breaches when carrying out work

Death in prison van – In Western Australia, 2008, the occupant of a prison van died of heat-related injuries while being transported for five hours in a prison van with a faulty air-conditioner. G4S Custodial Services Pty Ltd, the employer, and its two employees were prosecuted. Pleading guilty in the WA Magistrates' Court, the employer was fined \$285,000 and the drivers \$11,000 and \$9,000 respectively.

Inexperienced driver dies – In Victoria, Mr Barton, a foreman for Orbit Drilling Pty Ltd, was given a 20-month suspended jail sentence in the Victorian County Court after being convicted of reckless endangerment. The foreman had directed an inexperienced driver to drive a truck with no brakes over extremely difficult terrain. The truck crashed, killing the driver. Both the foreman and the employer were prosecuted, with the employer being fined \$750,000.

Lessons for businesses

An important message from these cases is that it is becoming more likely that both employer and employee will face prosecution when an employee fails to comply with their OHS obligations, when they are carrying out work or when they're at the workplace but not carrying out work.

However, when the employee's OHS failures occur when they're not carrying out work, and the employer has instructed and supervised so far as is reasonably practicable to prevent those failures, the failures may just rest with the employee.

Employers should take all reasonably practicable steps to ensure:

- plant is maintained in a safe working condition
- appropriate training and instruction in the safe operation of

- plant is provided to workers
- there is adequate supervision
- tasks are allocated to workers having regard to their skills and experience
- safe work polices and processes are reinforced through regular training and communications
- workers are aware of their OHS obligation to take reasonable care for the safety of themselves and others at the workplace
- workers are aware of the serious consequences for those who engage in reckless conduct at the workplace
- misbehaviour or misconduct at the workplace is identified and appropriate disciplinary action enforced.

Directors and officers of companies, partnerships and associations of businesses should take reasonable steps to ensure that their organisation has measures in place to support each of these steps. Managers and supervisors should also take reasonable care in carrying out their role to ensure compliance.

*Barry Sherriff is a partner of Norton Rose Australia. He was a member of the National OHS Review panel on whose recommendations the model laws are based and the author of *Sherriff's Work Health and Safety Law Guide*, an online service available from SAI Global.

**Gary March is an associate at Norton Rose Australia.



Spots still available in NSW to hear about new WH&S Act and regulations

A reminder that WorkCover NSW is hosting free information sessions across NSW on the new Work Health and Safety Act and regulations to be introduced on 1 January 2012.

Until mid-December, these sessions will focus on how the new laws will affect your business as well as provide an open forum for questions and answers.

While many parts of the new legislation will remain the same or similar to current arrangements, it is important that businesses, industry and workers understand what the differences are.

[Register now](#)

Visit [WorkCover's events directory](#) for full details and to register for a session in your local area.

If you unable to attend one of the sessions, you can also enrol in [WorkCover's free webinar](#) at 10.00am on Thursday, 15 December.

[For further information](#)

For more information, please email <mailto:thirdparty@workcover.nsw.gov.au?subject=New%20work%20health%20and%20safety%20laws> or speak with your local Business Relationship Manager.



QBE's rehabilitation model delivers

Injured workers are getting back to work quicker thanks to the QBE's event-based billing for rehabilitation model, which has seen

a dramatic decrease in overall durations to rehabilitation programs since its introduction in January this year.

According to a recent review of the new model, injured workers from the Same Employer program are now getting back to work 76% faster than their 2009 and 2010 cohorts, and 82% faster in new employer programs for the 2011 cohort in comparison to 2009 and 2010 groups.

[Working towards even greater outcomes](#)

Positive aspects of the new model on service delivery were noted to include the clarity of expectations when engaging in a working partnership between QBE and the workplace rehabilitation provider. Clearer referral trigger points to providers, coupled with clear and measurable outcomes, were also highly regarded by both internal and external stakeholders within the Workers Compensation arena.

With review considerations of the model based around creating a higher level of flexibility for milestone payments and/or including further bonus payments attached to outcomes, July saw QBE work in partnership with the providers nationally to further identify areas of improvement within the new model.

These improvements were implemented nationally on 1 November with increases in some outcome payments and the addition of milestone payments – forming a shift from a purely outcome-based payment system to a combination of service outcome and milestone payments.

[For further information](#)

QBE remains committed to ensuring that services to the injured worker, employer and other stakeholders are never compromised. In improving event-based billing, we continue to work with all stakeholders to ensure that the right services are delivered at the right time, with minimal impact to our stakeholders.

If you would like to find out more about QBE's new rehabilitation model, please contact [Caroline Howe](#) on (02) 9375 4584.



QBE clients awarded for innovation

Two of QBE's clients were announced winners at the recent 23rd Annual WorkSafe Victoria Awards, beating out a record number of entries and 30 finalists.

PMP Print and Joe O'Meara of Youth Justice Custodial Services were awarded with the Employer Excellence and Return to Work Coordinator Excellence awards, respectively, for their innovative workplace initiatives and improvements.

QBE congratulates both PMP Print and Joe O'Meara for these most outstanding achievements.

[For further information](#)

To read about all this year's winners, please visit [the WorkSafe Victoria website](#).



Injury Support and Service Awards say thanks on behalf of Victoria

Etiihad Stadium came alive on 24 November as WorkSafe Victoria hosted the Annual Injury Support & Service Awards to recognise this year's outstanding achievements in return to work, claims and premium management.

With hosts Shelley Craft and swimming legend Michael Klim, the industry celebrated in style to say a big thank you to the finalists' inspiring contributions to the Victorian community.

[Nominations recognise exceptional effort](#)

The written nominations of 2000 words and eight pages of supporting evidence require a lot of coordination, time and effort. However, in acknowledging the special efforts QBE people go to everyday in assisting injured workers, employers and brokers, QBE was delighted to put forward a total of 11 nominations – a remarkable seven of whom made it as a finalist.

[QBE takes home two](#)

Supporting the finalists on the night were QBE's Jason Hammond, General Manager – Workers Compensation, and Andy Johnston, Victorian State Manager – Workers Compensation, who were proud to see two of QBE's own announced as winners on the night.

Jessica Basile from QBE's Geelong branch was awarded this year's Outstanding New Starter, with judges commenting that Jessica's passion for service teamed with creativity saw her delivering quality outcomes and meeting targets in a short amount of time.

Awarded for Excellence in Personal Injury Management was Suzanna Tan of QBE's Melbourne branch, who judges said had "a profoundly positive impact on the Workers Compensation scheme and also on many individuals' lives".

Jessica and Suzanna each took home an impressive trophy and \$1000 gift voucher.



QBE congratulates the 2011 SISA Award winners

QBE wishes to congratulate the winners of the 2011 SISA Awards which were announced in front of 450 members and guests at the annual Awards Dinner on 9 September.

The Awards were presented by the Honourable Jack Snelling, Treasurer and Minister for WorkCover, and Rob Thompson, CEO of WorkCover SA.

[About SISA](#)

The Self Insurers of South Australia (SISA) represents many of the private and public self-insured employers in South Australia.

As a proud member, QBE supports SISA in providing outsourced claims management, claims advisory services and OHS consulting. QBE business manager Gary Ulmer was also involved in the Awards judging process.

To read about this year's winners, please visit [the SISA website](#).



Comcare programs see successful rollover

QBE is pleased to announce the successful transition of the Optus and Visionstream Comcare programs.

QBE was announced as the successful tenderer in 2010 following the decision by Optus to test the market. Shortly after the announcement, QBE was approached by another licensee, Visionstream, which also sought to appoint QBE as its provider for outsourced claims and injury management under the Comcare scheme.

Both programs had an imperative to commence operation with QBE by 1 July 2011. Transition activities for the 1 July start-up involved many key players within QBE, ranging from senior management personnel, IT and finance personnel to ensure that the appropriate systems and supports were aligned.

QBE is delighted that both programs kicked off successfully on 1 July, and we are pleased to report that the Post Implementation Review (PIR) of transition activities demonstrated that all key areas of concern to Comcare through the transition process were very well managed.

Both licensees expressed very positive comments in relation to their experience of transitioning their self insurance programs to QBE, adding that the arrangement was sure to achieve excellent results.

Brian Butler, Manager Workers Compensation & Rehabilitation Employee Relations at Optus, said: "Optus is firmly of the view the transition has been very successful owing to the commitment of both companies and the individuals concerned.

"Optus is pleased to report that not only did the transition progress with significant management attention and assistance, the post implementation phase has seen Optus and QBE continue the relationship as a partnership focused on continual review and improvement."

QBE is committed and well positioned to growing its presence in the self insurance market in Australia, and is pleased that much interest is being shown in our self insurance capability by a number of self-insured organisations – in both the Commonwealth and State schemes.



QBE provides practical tools at Good to Great Forum

QBE hosted more than 50 attendees at its Good to Great Client Forum at Etihad Stadium, Melbourne, in August, providing customers with practical tools that could make a difference in their

work environment.

The focus of the forum was to provide customers with practical ideas to create a work environment and organisation culture that fostered focus, communication and employee participation, whilst driving improved bottom line results.

Keynote speakers on the day included Brian Cook, Chief Executive Officer of the Geelong Football Club, who is renowned for successfully overhauling the Club's business operations and assisted in a dramatic turnaround of its financial situation and success on the field – winning three premierships in the last five years.

Graeme Joy, best known as joint leader and navigator of the International North Pole Expedition, also shared how he has been able to draw striking parallels between success in expeditions and success in business.



The 2012 QBE Connect National Training Calendar: Keeping you one step ahead

QBE has undertaken a review of its National Training Calendar, with a singular focus to ensure our courses meet the needs of our clients across all regions.

Following your feedback, and the feedback of our staff, QBE is excited to launch an improved National Training Calendar in February 2012, when more information will be available on each region's plans for implementing the new harmonised safety laws to be introduced on 1 January.

(Note: Western Australia and Victoria have yet to commit to an implementation date, pending the outcome of further regulatory impact analysis.)

QBE looks forward to contacting its business partners in the New Year, aiming as always to keep you equipped with the standards and best practice that puts you one step ahead of your training needs.



Update to Contractor Guidelines

WorkSafe has advised that where a person who makes a claim for compensation post 1 July 2011 as a deemed worker under section 8 of the *Accident Compensation Act 1985* ("the Act"), there is only one "employer" for the purpose of the Act and that is the deemed employer.

For example, a claim made by a working director against his own incorporated company must be rejected if that working director is a deemed worker under section 8 of the Act. The only claim that can be accepted is one made against the "principal" within the meaning of section 8.

This represents a shift in the application of the Act as, prior to 1 July 2011, the employer, and proper recipient of the claim, was the claimant's own company.

Circumstances will differ and each claim will be assessed on its individual merits.

Some relationships are also exempt from the operation of section 8 of the Act – see, for example, section 7A and its application to owner drivers.

[For further information](#)

To read more about the recent changes, please see the relevant media release below:

- [Contractor guidelines, owner drivers](#)
- [General contractor provisions, contracts mainly for equipment and materials](#)
- [Contractor guidelines, rules for incorporated contractors.](#)

Alternatively, please speak with your local Business Relationship Manager.



Legislative changes

Deferral of WA OH&S harmonisation implementation

WorkSafe WA has requested a deferral of the implementation date of OH&S harmonisation, following concerns the timeframe is no longer attainable for the State.

The WA Minister has written to the Federal Government Minister responsible for the harmonisation of OHS laws, Chris Evans, seeking a re-consideration of the implementation date currently planned for 1 January 2012.

As the matter is with Senator Evans for his consideration and referral to other jurisdictional Ministers for their views on an appropriate alternate date, it is not possible for QBE to provide any greater clarity on this matter until the Senator has made a decision. However, it is worth noting that, as reported in *The Australian* newspaper in July, Senator Evans has received correspondence on this matter on other occasions.

As the final version of the model WHS regulations are currently not available – and as the public commenting period on the mining regulations component was only recently extended – WorkSafe WA has stated that there is insufficient time for a proper implementation process where workplaces across the State are given the opportunity to fully understand the obligations imposed by the model WHS laws.

A draft of the WA version of WHS Bill has been provided to the Commission for Occupational Safety and Health for endorsement and recommendation to the Minister. The introduction of this version is expected before the end of 2011, when it will then be introduced into WA Parliament for consideration.

[For further information](#)

For more information, please visit [the WorkSafe WA website](#) or

Speak with your local Business Relationship Manager.



People

Case conferencing – QBE at the coalface

In his book *Moments of Truth*, after stepping down as President of Scandinavian Airlines (SAS), Jan Carlzon wrote: “The first 15-second encounter between a passenger and the frontline people, from ticket agent to flight attendant, sets the tone of the entire company in the mind of the customer.” Carlzon described these encounters as SAS’s “moments of truth”.

QBE’s case managers have hundreds of all kinds of moments of truth everyday. They are connections between people – people who have a problem, people who are hurting and who want to be understood. Everyday, our case managers have the opportunity to show both existing and prospective clients why QBE, from all the available providers of their insurance needs, represents their best alternative.

Taking the time

Bevan, 52, a truck-driver in Melbourne, injured his back lifting a box that had been packed in excess of its 20-kilogram limit. Originally thought to be suffering an abdominal strain, he found five weeks after making a compensation claim that the cause of his injury was a disc pressing onto his spine. The immense pain caused both Bevan and his 85-year-old mother great distress and a surgical procedure to fix the problem failed.

Bevan’s case manager, Nathan Evans from QBE’s Melbourne office, visited him in hospital and organised a case conference with the surgeon. Nathan returned to the hospital to enquire after his health and present him with some options. Two weeks after the first procedure, Bevan underwent surgery again – this time, successfully – and his pain eased.

A routine QBE customer service officer’s call to Bevan (always made to a claimant after surgery) prompted him to give the officer a positive account of Nathan’s care and attention. The critical point was that his insurer had taken the time to visit him in hospital. But it doesn’t end there; Bevan’s recovery remains a work-in-progress and every week Bevan and Nathan talk on the telephone.

Nathan’s ‘moment’ has turned into a year of them and prompted Bevan on one occasion to confess that Nathan had helped him to “regain my life”.



This email was sent by: QBE Insurance (Australia) Limited
85 Harrington Street, Sydney, NSW 2000 Australia
We respect your right to privacy - [view our policy](#)

[Manage your Subscription](#)

