

A new look at old tools: responses to unanswered questions on sli.do

Professor Arie Freiberg

Questions: Any best practice frameworks available for a regulator considering a new licensing scheme or reviewing an existing scheme?

How do we measure performance?

How do you measure the effectiveness of a licensing scheme. What are the key metrics that could be measured?

The report I mentioned during the webinar, prepared by PwC for IPART in NSW ([IPART - PWC - A best practice approach to licensing schemes - Conceptual Framework - March 2013 \(nsw.gov.au\)](#)) is very helpful. It sets out a road map for well-designed, well-targeted and well-administered licensing schemes. In turn, the questions it asks could be utilised to develop performance metrics.

Question: Many regulators engage in 'fit and proper' testing. Are there grounds to establish a 'centre of excellence' in this task, or even a national body to do it?

In 2018 the NRCoP brought out Dr Femke de Vries from the Netherlands as the keynote speaker for that year's annual forum on Regulating Workplace Culture. Dr de Vries has worked in senior leadership roles at both the DNB and AFM, the Netherlands equivalents to APRA and ASIC. Dr de Vries introduced Australasian regulatory audiences to the excellent work done in the Netherlands following the GFC, across a range of dimensions going to the conduct and capability of financial institutions, including a joint expert centre for fit and proper testing [Fit and proper assessments \(dnb.nl\)](#)

Kerri Melkersson

Question: From a machinery of government perspective was creation of RSHQ considered to be a solution to a problem of a regulatory role being buried in a mega dept?

The creation of RSHQ as an independent statutory body was Recommendation One from the CWP Select Committee report number two, namely there should be a Mine Safety and Health Authority, established as a statutory authority and body corporate, with responsibility for ensuring the safety and health of mining and resource industry workers in Queensland. The view was that the responsibility for overseeing the health and safety of workers should not rest with the body also charged with promoting and supporting the industry; namely the then Department of Natural Resources and Mines. It was considered that the split focus of the department was not in the best interest of a productive coal industry and a safe and healthy workforce, with the report stating "A dedicated and independent statutory mining safety and health body would be best positioned and most trusted by workers and the wider industry to address these aims without dilution".

Question: RSHQ's requirement of medical practitioners to be registered creates a situation of dual registration. Isn't this an overuse of regulation?

It is RSHQ's position that this is not an overuse of regulation. As outlined in the presentation, mining is a hazardous environment, where decisions made about a worker's fitness for work and health, may affect not only the health and safety of the individual, but that of their peers. On occasion, general requirements under AHPRA registration may not satisfy our requirements. Occupational respiratory health surveillance is also a complicated and evolving area, as evidenced by the recent establishment of a National Dust Diseases Taskforce. Undertaking these functions under our scheme is a choice for the doctors and medical providers, so therefore, if they consider the regulatory burden is too onerous, they could choose not to participate. The cost of health surveillance is borne by the employer of the coal mine worker, and therefore affords the medical provider the ability to pass on costs associated with the registration (and associated

audit) process. This is a competitive market, with up to 50,000 health assessments performed each year, with obvious linkages to occupational fitness for work services, pre-employment medicals and workers' compensation assessments. Feedback from medical providers suggests that any loss/impact associated with having to be registered and performing health surveillance under our scheme, can be accounted for in the broader suite of occupational health services provided to the mining industry.

Jeness Gardner

Question: Jenness-is ERA doing a follow up review to check progress on reduction in business licensing?

No, we are unable to self-refer. Our inquiries are requested by the Treasurer.

Question: When regulation was halved in Western Australia were there negative consequences as well as positive ones?

Regulation was halved in a case study in British Columbia that we looked at as part of our review. The assessment of the BC example pointed only to the positive effects.

Question: Would greater use of sunseting force the proper review and reform of licensing that is so clearly lacking?

We think this would be helpful – see our recommendation 6 from our inquiry! Recommendation 6: In order to ensure agencies review whether older schemes are needed and remove redundant licensing schemes, Streamline WA should consider automatic repeal (sunset) legislation that operates for a limited time. The sunset legislation should apply to business licensing schemes that have not had the need for the scheme reviewed for over 10 years. Streamline WA should also consider circumstances for exemptions from the sunset legislation, and whether primary and/or subsidiary legislation should be included.

Question: As regulators, are we our own worst enemies by clumsy and duplicative licensing schemes which are neither properly enforced or reviewed?

At times I think this is true. We can get overwhelmed by getting on with the task of regulating that stepping back and reviewing the purpose and process can be left to languish .. for some time! 😊 Policy makers can also leap to introduce new licensing without undertaking the work to look at what is in existence and could be repurposed or amended to address the issue of the day. We think the process of review and refinement needs to be ongoing and embedded throughout the regulation making and enforcing cycle.

Question: Any good ideas about how to encourage senior officials who aren't regulators to give priority to 'stewarding this asset'?

Report on it and they will come! If there is a person/office accountable and a regular public report updating on stewardship of the regulation assets we think it is more likely to get done.