

The background of the slide is a close-up photograph of two hands shaking in a firm grip. The hands are positioned in the center-left of the frame. The background is a light blue-grey color with a pattern of white dots and lines, resembling a network or a digital map. The text is overlaid on a white circular area on the right side of the image.

Contractor Safety Management Do's Don'ts and the Down Right Silly

PRESENTED BY: Sue Bottrell
Lawyer/ OHS Professional

The Silly



Unravelling Some Myths

POLL (true / false)

- I am concerned I will be held legally responsible if a contractor has an incident, even when doing work not under my direction?
- I am required to check if my contractors are complying with their own safety management systems?

Daniel v. Directors, & of Metropolitan Railway Co. (1871)

" ... the ordinary business of life could not go on if we had not a right to rely upon things being properly done when we have committed and entrusted them to persons whose duty it is to do things of that nature, and who are selected for the purpose with prudence and care, as being experienced in the matter, and are held responsible for the execution of the work."

To Prequalify Contractors Do You....?

POLL (yes/no)

- collect and assess safety management system documentation?
- Do you think this effective in confirming day to day operational safety management?

Prequalification - The Do's

- Establish legal relationship
- Confirm obligations of parties
- Clarify operational responsibilities
- Set expectations
- Obtain assurances
- Short/ sharp / focused

**PREQUALIFICATION IS NOT A MEANINGFUL PROCESS TO ASSESS
OPERATIONAL SAFETY**

Effective Prequalification – The Do's

Draft accurate and clear engagement clauses

1. Clearly assign obligations (us and them)
2. Confirm we engage them because they are experts
3. Confirm we rely on them to manage risks associated with their work
4. Confirm we do not supervise, direct or even monitor them in respect of their own work, except where it impacts on our work or compliance with our instructions

Ask the right questions

1. Obtain assurance of understanding their role and signing up to it
2. Obtain assurance of safety outcomes not processes
3. Focus on critical issues and ask questions in the most concise way possible.

The Don'ts

PREQUALIFICATION IS NOT A MEANINGFUL PROCESS TO ASSESS OPERATIONAL SAFETY

1. Don't rely on documentation to prove management of safety
2. Don't approve or authorise contractor safety management systems



Contractor Induction

“Contractors are more likely to be injured than direct employees, not through their own work but by those who hire them through a failure to inform them of risks arising from the Principal Contractors work”



Induction – Not Training

Leighton v Brian Allen Fox High Court 2008

“A Principal Contractor owes no stringent or strict common law duty to train subcontractors engaged to work on a site in the way the subcontractor is to perform its specialty work;”

Contractor Induction – The Do's

- This is the most important phase of contractor safety management
- Give them context and highlight your critical concerns
- Focus on
 - Critical risks posed by PC operations to contractors
 - Critical risks that are of concern to you
 - Instructions on management of critical risks
 - Incident response (emergency and reporting)
 - Coordination and communication
- Get to the point

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ContractorLIFE

Episode 2: Onboard - Not Overboard

Don't

- Tell your contractor how to do their job
- Focus on generic risks e.g. manual handling
- Reference legislation (boring)
- Explain risk management theory (boring)
- Pad it out

Licensing & Induction

- IT IS NOT REASONABLY PRACTICABLE TO CONFIRM LICENSES ON AN ONGOING BASIS
- You can assume trades are licensed until they aren't
- Obtaining a register of licenses at a point in time is of questionable value
- They are out of date the moment after they have been collected
- Cannot stay on top of changes to staff by contractors
- Administrative nightmare
- Undertake random license checks as part of monitoring



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ContractorSAFE and LinkSafe work together to deliver to our clients not only cutting edge contractor management but advice and support and prequalification and induction content you can be confident in.

- Sue Bottrell – Lawyer OHS Professional
- David Erczmann – LinkSafe GM



A Final Thought

“Build a philosophy of compliance centered on the achievement of purpose rather than the completion of process.”

Greg Smith Lawyer

Wayland Legal





Sue Bottrell

Lawyer / Director



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