

Part 5: Other factors that may impact on the safe operation of the rosters

In this section we identify some of the other factors that may impact on the safe operation and effective management of working time schedules. In this section we draw extensively on interviews with key industry stakeholders; for this reason we include direct quotes to help illustrate arguments. We have structured these factors as follows:

- 5.1 Attitudinal factors and managerial culture
- 5.2 Cost incentives and disincentives associated with the rosters
- 5.3 Industrial relations and OHS consultative arrangements
- 5.4 Local labour market and community factors
- 5.5 Local factors that compromise safety outcomes

5.1 Attitudinal factors and managerial culture

The attitude of senior managers towards working hours is critical. Managers have carriage for most of the key operational and personnel decisions; they are the key decision-makers at site level. Senior managers are heavily involved in the determination of what kinds of schedules and rosters are introduced and the way they are implemented.

These issues are vital to them as managers because they impact so directly on cost, operational efficacy, staffing levels, utilisation of capital equipment and supervision. In addition, under industrial and OHS self-regulation of working time schedules, senior managers have **both** flexibility to implement the rosters they believe will most benefit their operations, as well as having a direct duty of care to control the hazards.

An understanding of the attitudes that managers have towards work schedules and the managerial culture that underpins these attitudes is therefore integral to assessing how likely they are to be effectively managed.

a) Senior management across the industry does not appear completely convinced that work schedules represent a serious hazard

- **Managers are dubious about the status of the evidence**

Interviews with senior managers across the sites indicated that the majority of senior managers were *not* completely convinced there were significant hazards associated with their rosters. Many senior managers appeared dubious about the validity and reliability of the available research and scientific evidence about the risks. Some thought that the issue had been driven more by political rather than substantive OHS concerns and this made many of them sceptical about the evidence.

One manager commented that the issue had been largely driven locally by the media:

“I’m dubious...[I think] it is media hype that they [the media] have spread in these areas and whether it’s actual, I’m not convinced. We’ve had one [employee] go leave to work that roster that is meant to be such a problem”

Manager

- **Managers want “hard” evidence about risk**

While some managers were open to thinking about the risks associated with rosters, they wanted to be able to directly measure the impact and risk; they wanted ‘hard’ statistical evidence of the risk before they would concede the need for change. Most wanted to see proof that fatigue was manifesting itself in accidents, incidents and lost time injury rates.

One manager commented:

“Until you can measure it [the impact of the roster] you can’t be convinced. I can show you the statistics that we have got on our safety performance. Most of those things would come back to things not identified to the roster, but things, quite simply such as not wearing personal protection, housekeeping issues and management of these areas”.

Senior Manager

Another manager said

“How can you set limits? Who determines what the reasonable limits should be? Who decides what kind of information should be considered when evaluating rosters? This is still an evolving area of study”.

Senior Manager

Another senior manager argued

“There is no medical evidence about how much recuperation time you need, who says what the minimum breaks are...there are no guidelines...you have to take into account x, y, and z. ...it’s up to the individual to manage these things...if they can’t do that they should go work somewhere else”

Senior Manager

The majority of managers who had carriage for making decisions about rosters were generally unconvinced that their rosters posed an OHS **risk to the extent that change to current practice or regulation was required**. Many explained that they had not observed any particular problems and that the rosters had been in place for some time without any obvious proof that fatigue was causing accidents, incidents or poor performance.

Some managers were openly dismissive of claims that certain rosters could generate fatigue and that this may impact on performance. These individuals wanted direct, quantitative ‘scientific’ evidence of a causal link between accidents and rosters. Others were more open and keen to be exposed to new information.

b) Middle management is more convinced of the problem but has little capacity to convince senior management

Middle and technical staff did not necessarily hold the same views as more senior management and many expressed concern with the working hours of both operators and staff alike. However, these managers did not always express these views to senior managers nor did they have significant impact on decision making about rosters.

One middle manager argued:

“I think that because we have moved away from the shorter working day, to a longer working week of over 60 hours, it’s actually changing people’s behaviour and I think it’s detrimental...It’s one of the things that I haven’t directly expressed to management, purely because management are saying ‘we need to address attitudes and behaviours of individuals’, but I don’t think that this is [for them] linked to anything to do with shift work. It’s more in line with looking at the accidents and saying ‘behavioural changes’. They’re not really looking at the whole picture”

Middle manager

Many supervisors who had direct contact with employees on a daily basis and saw them in their work environment were more convinced about the impact on many employees. One supervisor explained:

“People start taking shortcuts, they become blasé, they become lazy. Lazy in following procedures...like ‘dammit, I’m not going to follow procedures because it’s easier and I’m tired. That’s the sort of attitude they get, basically people do silly things. We haven’t been able to reduce accidents on sites and I believe it is because of the extended hours. We’ve got all this technology, yet our accidents and incidents are high...”

Supervisor managers

c) Industry assumes that the absence of prescriptive state regulation of work schedules means there is no significant risk

Government has a critical role in setting the regulatory framework for OHS (eg Gunningham, 2002). Its interventions can change behaviour on the ground and give legitimacy and status to particular hazards. By deciding to intervene (or not to intervene) government sends a strong message to industry about their responsibilities and the perceived level of risk associated with a particular hazard.

The Review found that many mining industry managers have assumed that the absence of specific government regulation and codified performance standards means that the government assumes the hazards and risks are yet to be proven. The industry appears unaware of regulative initiatives in other states (such as Western Australia and Queensland).

Management is very aware of the flexibility they have under industrial relations regulation, that there is no effective cap on maximum hours and that outcomes are based on what can be industrially negotiated or imposed. They also know that in Tasmania, other than a broad general duty of care to manage all hazards, OHS legislation is silent on the specifics of working hours and rosters. This is taken to mean that, within reason, there is considerable flexibility. As one senior manager commented:

“If there is no legal requirement, then there is no legal requirement and realistically [this means] you push for the most compressed roster at the lowest price”.

Manager

Another manager described the difficulty he had due to the lack of standards:

“It is difficult to demonstrate you are managing these issues if you don’t have any guidelines”.

Manager

The message that some across the industry appear to have is that the absence of specific regulation means that the experts cannot demonstrate the risk and/or that government is not convinced of the risk. This has contributed to a level of complacency among many.

d) There is a level of complacency about long working hours in the mining industry

There appears to be a pattern of long working hours in the metalliferous sector that has intensified over the last decade.

As previously noted trends showed, between 1991 and 1996, the percentage of employees in the metalliferous mining sector working in excess of 41 hours per week increased from 51.5% to 65.3% (ABS, 1991 and 1996). A national survey of working hours and rostering arrangements across the mining industry in 2000 confirmed that well over 60% of metalliferous employees routinely worked in excess of 49 hours per week (Heiler et al, 2000). In addition, the Review found that technical, supervisory and managerial staff routinely worked even longer hours, with 70 or even 80 hours per week not being unusual. This pattern of working hours appears to impact on attitudes towards long hours in the industry.

• Long hours are seen as a “badge of honour”

Management who have historically worked or are currently working long hours appears somewhat complacent about long hours in their own workplaces. There is a view that long hours are part of the culture of the industry and some managers recall almost sentimentally their own past when they worked shift work. Among some, long hours and shift work are viewed as almost a “badge of honour” or a “rite of passage” that go with the job. As one middle manager recounted:

“I had a conversation with a [senior] manager and he said ‘oh, we’ll get the guys to work back’ and I said ‘well how long would that be’, he said ‘oh 16 hours’ and I said, ‘no that’s too long’, and the manager said, ‘Well I used to do that’ and I said ‘well I don’t care, you can’t have your people working that long’”

Middle manager

• Managers work long hours themselves and have little sympathy for production employees

The current arrangements where technical and managerial staff work long hours and are often on call does not predispose them to take seriously the more structured hours of operators. While they may be disgruntled about their own hours, they can be unsympathetic to the issue of hours for operators. They don’t perceive how the structured rosters can be any more of a problem than their own long hours. One manager commented:

“I can’t understand why they [operators] complain. I wish I could work the [even time] roster the blokes work; I’d work their roster instead of mine any day”

Middle manager

• **Long hours for many managers may be a temporary situation**

A sizeable proportion of managers and technical staff are not likely to stay in the Tasmanian industry for the long term. They have considerable mobility to move out of the industry or move to another part of the industry. The younger technical staff in particular, many of whom are single, have a view that they will do the ‘hard yards’ and while they may be unhappy about their long hours, regard it as a temporary, transitional problem.

Thus so long as decision makers, technical and other staff are themselves working long hours, it is unlikely that they will be inclined to view rostering arrangements (that involve fewer hours) as a serious concern or take seriously the concerns of employees on roster. However, the nature of their work is different and while long hours are an issue for many of them, the impact on OHS cannot be directly compared to similar hours among production employees.

e) **Many managers said they could not take too seriously the needs of local communities and families**

While some managers were sympathetic to the impact of the rosters on local communities and families, they believed that their responsibilities were principally to shareholders. Many believed they did not have the luxury of taking too seriously the needs of families and communities, certainly not at the expense of shareholder interests.

There was also a stronger view that the days of ‘paternalistic’ local mining companies who were able or willing to take into account the needs of the local communities were outdated, inefficient, unproductive and unaffordable. They believed that in order for companies to survive, they had to be able to select rosters that suited their needs and maximised their operational flexibility. Any interference by regulators could, they believe, compromise the very viability of the companies.

As for the needs of local communities, there was a view that employees had the ultimate preference to work the schedules or not. As one manager strongly argued;

“When you opt to work a certain roster, you trade other things...if it is not suitable for their family they shouldn’t work here”

Senior manager

f) **The test applied to whether the rosters were safe was that there was a continued supply of workers to work them**

There was a view that the primary test of whether the rosters were safe and popular was that there was a steady stream of workers prepared to work them.

There was a belief among many managers that if the work schedules were not as bad as they had been portrayed by some in the media, the union movement and the community.

The struggle for time

Unformatted resource information for research purposes

They believed that if this was the case, that workers would 'vote with their feet' and choose to work elsewhere. There was a view that the rosters acted as a 'natural selection' filter and that those who did not want to work them would choose to relocate and take their families elsewhere. The belief was common among management that employees had a genuine and unrestricted choice to work (or not to work) and that this could be used as a test of the appropriateness of the rosters. As one manager explained:

“Locals have a particular mind set and they think they have a right to a job at the mine and they don't. They can exercise their choice about whether they work these rosters or not; they can choose how they operate and how they work. Anyway, 56 hour rosters are becoming the norm across the industry now...”

Senior Manager

Other managers, however, realised that merely being prepared to work the rosters should not be taken to mean that employees actively supported them. Some understood that the restricted local employment opportunities meant that many employees, especially those who wanted to stay with their immediate and extended families on the West Coast, would be prepared to work any kind of roster. A manager of a smaller contracting company explained:

“The local guy here likes the roster 'real well' because now he's got a full-time job and he doesn't have to move his family away from the Coast”

Contract company manager

g) There is a level of scepticism about the issue of working hours and about the Review

Finally, there was some scepticism about the way the issue of working hours has emerged in the Tasmanian industry. This feeds into a level of cynicism about the Review among many managers. Some managers argued that the issue had been “beaten up” by:

- high profile locals with an outdated paternalistic view of the role of local mining companies
- unions who wanted to use the issues as an industrial bargaining chip or as a way onto sites where they currently do not have a presence
- local employees who resented the influx of contractors whom they called 'seagulls' whom they believed were taking their jobs and not contributing to the local community
- the media who saw a good local human interest story.

Some in management positions expressed the opinion that the decision to undertake a review into the issue was largely something the government did to placate community concern, rather than genuine concern about an emerging OHS issue. Others believed that the Review itself would be the end of the issue, having satisfied community desire for something to be seen to be done.

Expectations of the outcomes of the review were also mixed. Some thought it would not make a difference at all. For example:

“I don’t expect anything to come out of it [the inquiry]. It might include some interesting conclusions but nothing that will change how things currently operate”

Manager

Others were more positive:

“I think if nothing else, it’s going to help educate and probably improve systems. At least people are aware again, or talking about [the issues]”

Manager

5.2 Cost incentives and disincentives associated with the rosters

a) Costs and benefits identified by management

A separate report¹ was commissioned to investigate costs and benefits of the rosters as identified by management. The report found that:

- The costs and benefits identified were difficult to accurately quantify and calculate
- There was a narrow range of costs assessed that focused on immediate short-term costs to the company
- The real financial benefits associated with the rosters were more strongly associated with the employment arrangements and payment systems that underpinned the rosters.

Financial benefits associated with the three-panel (56 and 49-52 hour) rosters were identified as:

- Being able to employ fewer staff and reduced costs
- Higher component of overall take home remuneration being incentive payments (up to 60%)
- Fewer supervisors and improved supervision
- Improved productivity through reduced maintenance costs (fewer operators using machinery)
- Reduced costs associated with shift changeover
- Better equipment availability
- Improved communication.

Financial benefits associated with the four panel (42-44 hour) rosters were identified as:

- A more motivated workforce
- More rested and therefore more efficient
- Improved safety
- Lower turnover and absenteeism
- Improved productivity as a result.

¹ This report was prepared by Mark Treffry, and independent consultant. The detailed report is found in Appendix 2.

The most compelling savings were found to be associated with the three panel rosters were

- Employee staffing levels
- Lower hourly rates and longer hours allowed for under particular employment arrangements
- Different cost configurations for sick leave (i.e. paid base rates for sick leave).

b) Narrow identification of costs associated with the roster

It appears that the main costs that companies consider most seriously are those that they need to take seriously in the short term (such as wages). The kinds of cost that may accrue to employees in the longer term are more likely to be displaced and be externalised. There are number of reasons for this.

- **Some companies and contractors operate with small margins and cost on cost minimization**

Some mining companies appear to be financially marginal and this situation can be volatile. A combination of different factors at each site, including the cost of extraction, aging plant and equipment, marginal and more expensive reserves and exposure to international commodity price fluctuation all impact at different times on margins.

At some sites in particular, where costs of production are high, plant, equipment and other infrastructure is old and deteriorating, commodity prices low or extremely volatile, and margins small with shareholders having to be satisfied, the focus of attention is on immediate cost minimization and cutting. For contracting companies, local competition and/or a desire to obtain a foothold in the industry can also motivate a cost-cutting approach.

In the absence of other incentives or disincentives, these companies and contracting companies will push for the cheapest operating configuration sustainable and/or allowable. To cite one mine manager again:

“...the reality is that we will push for the most compressed roster at the lowest price...”

Manager

- **Narrow range of costs are assessed**

For example, the report found that costs (and savings) potentially associated with the following are missing from the analysis:

- equipment damage
- mistakes and errors
- non-productive material movements
- accidents
- injuries
- mistakes
- near misses.

In terms of tracking the costs to employers of potential costs of the roster that may be associated with safety, most sites do not look for this information and are not in a position

to ascertain any link that may exist. They do not track incidents and accidents by time of day, point in the shift or point in the roster that might provide them with a clearer picture of potential costs and savings.

- **Cost can be displaced to contractors**

There has been a move away from direct employment across some of the sites and a trend toward using contractors in various parts of the mine operation. The structure of these arrangements can vary from site to site. Again, this varies in terms of the roster arrangements and the requirements of the principle companies. Some principles have included details of the rosters that have to be worked in the contractual arrangements with the sub-contractors, while other companies have left the roster arrangements to the sub-contractors to decide. As one manager explained:

“The kind of contracts that are written are direct drivers for the rosters – it all depends on the money available and the rate of production we want – there is a built-in incentive for the contractor to work longer hours”

Manager

Some principles will require contractors to comply with their site rosters, others will leave it open. One principle explained that

“We didn’t want to buy into the industrial arguments about rosters, we drew a line in the sand and put X into a different box. We decided that they [the sub-contractor] had their own corporate culture and they could make decisions about their own rosters”

Manager

The principals make decisions about the use of contractors at their sites primarily on the basis of cost and other efficiencies. A combination of conditions in contracts and competition between sub-contractors is at least partly responsible for the kinds of rosters that are appearing across the industry.

The interesting phenomenon is that conditions required of subcontractors are often not imposed on the company’s core workforce and so there is a differentiation between hours and conditions and payment systems within the one workforce. Sometimes this is because the work contractors undertake is short term, but this is not always the case. There is obviously latitude for principle contractors to require certain arrangements as they see fit. The review found emerging recognition among management about their OHS responsibilities with respect to contractors, but this was patchy.

c) Companies will not have to directly pay for many of the costs associated with rosters

- **Employees and the community pay for badly designed rosters**

Costs associated with employee ill health, family disruption and stress are not usually factored into the analysis. Even where the costs accrue to the company in terms of increased absenteeism and reduced performance, these are rarely specifically considered. These factors are real and are acknowledged and identified by companies as is evidenced by the existence of incentives (such as performance and production incentives and penalties for sick leave) which are designed to minimize these costs for the company.

Many of the social and personal costs associated with the rosters that may accrue are borne by employees and the broader community. These are costs associated with short and longer term ill health, family dysfunction, antisocial behaviour of children, loss of family life, gambling, excessive alcohol and drug consumption. These costs are borne by individual families, social services, the health systems and local communities. They do not manifest themselves as direct costs to companies, so there is no immediate cost incentive for companies to respond to them.

- **Some costs will be untraceable to individual companies**

Moreover, because some of the effects are not evident in the short term, they are unlikely to be traceable to a particular company or roster. The ownership of some operations changes frequently, as do arrangements with contracting companies. Labour moves around between sites, companies and contractors. These factors mean that the impact of the rosters on employees – such as increased exposure to harmful agents or emotional dysfunction - may not be able to be easily traced back to individual companies. Thus there is little chance of any company or contractors being held accountable for the damage caused by poor roster arrangements through common law processes or by the existing statute law.

In summary, these factors combined mean that cost disincentives that might be expected to alert companies to problems with their rosters can be discounted and displaced. So long as direct cost savings can be realised by companies, from an economic perspective, the short- and longer-term costs to individuals or families and the community can be ignored. Therefore, we should not expect companies to be motivated by costs unless they will be directly borne by or attributed to companies. Indeed, the most cost-effective solution for companies may in fact be the most intensive and damaging roster for employees.

As one manager explained:

“Generally, the roster’s designed and the happiness [of employees] doesn’t come into it”

Manager

5.3 Industrial relations and OHS consultative arrangements

The role of consultation

These factors refer to practices, structures and characteristics in place at a workplace level that potentially impact on the safe operation and effective management of the rosters. Occupational health and safety outcomes are a product of regulation, enforcement, management approach and practices and a range of workplace factors including resources, industrial relations arrangements and financial imperatives to name a few.

Those factors associated with the effectiveness of consultative arrangements are explored here.

a) Reaching agreement about the roster is likely to be associated with improved OHS and productivity outcomes

The level and quality of consultation about roster choice and design are acknowledged as important indicators of the ultimate success of the roster. Employees are more likely to be supportive of rosters with which they have had involvement in selecting. They are more likely to be able to integrate them with family and social lives and to be more prepared to work with management to minimize adverse effects. One supervisor explained how not having had a choice about the original roster impacted on the employees he supervised:

“The blokes didn’t get to choose the roster. They weren’t very happy because they’d always wanted to have a choice. It sure made my job harder – high number of sickies, taking short-cuts... yeah... it made my job very hard... they are handling this roster a lot better”

Shift supervisor

The fact that the design of the roster carries significant OHS risks for health and safety, means that it is workplace hazard. As such, employees should be consulted about the roster and – ideally - collaborate in decisions that may affect them in OHS terms. While many managers may view rosters as an industrial issue, its demonstrated status as a health and safety issue requires that employees are involved in its management.

Thus the level and quality of industrial relations and OHS consultation across the sites is an important indicator of both the ultimate success of the roster in management and in health and safety terms.

5.3.1 Industrial relations consultation

a) The degree of negotiated agreement and consultation appears to be associated with roster outcomes

The importance of roster arrangements to both management and employees has meant that, traditionally, they have often been the focus of negotiation, consultation, and/or industrial dispute.

The Tasmanian sites display great variation in the extent to which employees have been involved in and consulted over roster decisions.

Some sites have consulted with their employees and reached agreement; at others employees have had little input. Some companies have given some employees choice over a limited range of aspects of the roster; others have had no input and no choice.

There is certainly no automatic guarantee that employees will have input or be consulted about the roster, and changes can and are made without negotiation and agreement.

While it can be difficult to satisfy the needs of all parties who have an interest in the roster configuration, the active involvement of employees in decisions that impact on health and safety is an integral component of a duty of care approach.

b) Is being consulted the same as reaching agreement?

• Is there an industrial requirement to consult or reach agreement ?

From an industrial relations perspective, whether or not employees are consulted and agreement reached on issues such as rosters will be shaped by:

- discretion of management
- content of those employment contracts
- any prior agreement between the parties to consult and reach agreement.

• Under current legislation there is no universal 'right' that employees have to be consulted over an issue such as rosters, nor does agreement necessarily have to be reached between the parties. It all depends on the form of employment contract, the content of those agreements, the formal rules that are associated with those forms of contracts and what employees agree to at the time of commencing employment or as a result of dispute settlement.

This also varies by jurisdiction, so that the jurisdiction in which the contract is located (state or federal) will also impact on what the parties are required to do and what they can expect. Each type of employment contract carries with it different requirements to consult and reach agreement over such matters as rosters.

Finally, in the absence of formal rules governing consultation and negotiated agreement, management has the final discretion.

• *c) Consultative patterns and outcomes at Tasmanian sites*

The situation in Tasmania is highly fragmented. Consultative processes and outcomes varied markedly between **and** within sites. Multiple consultative forms often co-exist within the same sites. The situation across the Tasmanian sites is also volatile, influenced by changes in ownership, entry and exit of contractors, activities and influence of trade unions and their members and needs/motivations of management.

Analysis of the main consultative, industrial and rosters arrangements, however, reveals a particular trajectory.

• *Factors associated with roster outcomes*

Analysis of the major outcomes across the industry suggests that there is a strong association between roster outcomes and an undertaking to reach agreements between employees and management; consultative arrangements and structures; and the form of the employment contract. This leads to a number of potential outcomes:

• *i) Consultation with agreement*

- Some sites had structured consultative arrangements where employees were routinely consulted and agreement sought with them on major issues.
- These were much likelier to be associated with collective, structured industrial relations arrangements and structures.
- Employment contracts were more likely to take the form of union collective agreements and non-union collective agreements.
- These arrangements are more often associated with even time rosters.

ii) Consultation without agreement:

- Some sites consulted with their employees but did not seek to always reach agreement on issues such as working time arrangements.
- These arrangements were more likely to be associated with individual industrial relationships and more informal consultative arrangements.
- Employment agreements were more likely to take the form of individual contracts, casual employment or labour hire contracts.
- These arrangements are more often associated with uneven and more intensive rosters.

This is a comment from a mine manager at a site that meets this profile, where employees are consulted but where management reserves the right to retain control over roster arrangements:

“We are not introducing a 4/4 [even time roster] here...if they don’t like it they don’t have to work here”

Manager

•

iii) No consultation and no agreement

- Some employees found themselves in a situation where companies were sold and they were retrenched. Under new ownership, before employees were recruited, roster arrangements were put in place that became a condition of employment.
- Other employees, especially those who worked for small contracting and labour hire companies found the rosters to be conditions of employment.
- These arrangements were likelier to be associated with individual industrial relationships and more informal consultative arrangements.
- Employment agreements were more likely to take the form of individual contracts, casual employment or labour hire contracts.
- These arrangements are more often associated with uneven and more intensive rosters.

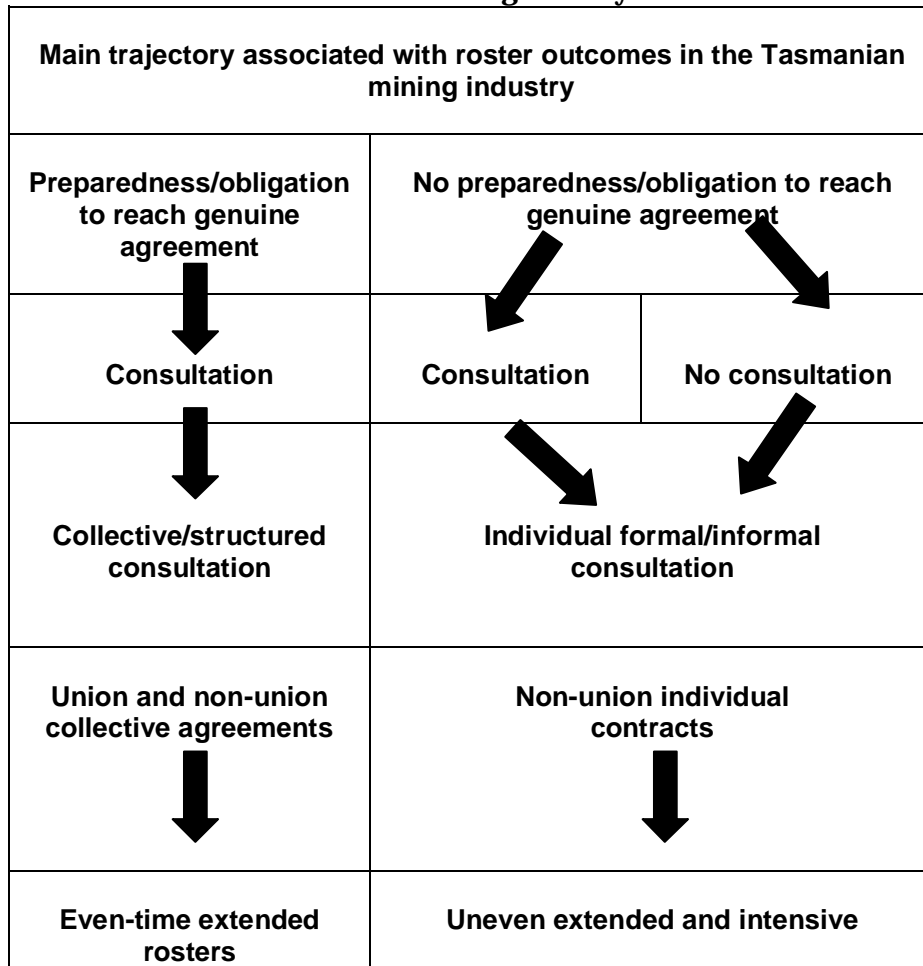
An employee at one site where this appeared to be the approach explained the attitude of management:

“They [management] says ‘if you don’t like it [the roster], you don’t have to work here”

Employee

In Table 5.3a below we summarise the trajectory that appears to exist between consultative arrangements, obligations to reach agreement and roster outcomes.

Table 5.3a: Main factors associated with roster outcomes in the Tasmanian mining industry



The main factors associated with outcomes appear to be whether there is a **genuine** preparedness or legislative obligation to reach agreement about the rosters. A preparedness to consult without agreement does not appear the strongest factor on its own.

This makes the industrial relations regulatory framework very vulnerable to bargaining outcomes and bargaining/employment contract outcomes, union presence and effectiveness.

5.2.2 OHS consultation

a) Is there an OHS requirement to consult?

In principle, the general duty of care approach to occupational health and safety is predicated on active consultation and involvement of employees in the assessment of workplace hazards and the management of risks (Creighton and Stewart, 1990; Quinlan and Bohle, 1991).

The self-regulatory occupational health and safety framework that underpins the Tasmanian system - and indeed all Australian State OHS systems - is based on what is known as 'Roben's-style health and safety legislation'. Originally developed in the 1970s in England, it was set against a background of unsatisfactory health and safety performance and a framework of prescriptive legislation that did not appear able to keep up with new and emerging hazards and which did not require the involvement of the workplace parties.

Critically, and importantly for this Review, this approach rests fundamentally on very active and informed employee and employee representative involvement and consultation around health and safety at a workplace level.

The Tasmanian *Workplace Health and Safety Act 1995* makes provision for particular forms of consultation. However, it does not in general require that an employer consult with employees unless specifically directed by the Director of Industry Safety for the purpose of preventing injuries to and risks to the health of employees and contractors (section 39 (5)).

Part 3 Section 9(1)c of the Act requires that employers provide information, instruction, training and supervision. Part 5, sections 26-32 set out provisions for health and safety committees and representatives. However, neither committees nor representatives are compulsory and the Act is silent on what other forms of structured consultation may be acceptable in the absence of OHS committees and representatives prescribed.

Having structured consultative arrangements for health and safety is recognized as increasing the likelihood of quality employee input and involvement (DMR Guidelines for Safe Mining, CCH Guide). As we noted, active employee input and involvement is integral to a self-regulatory approach. **Where this involvement is absent or lacking we can expect the integrity of the Duty of Care approach to be compromised.**

b) Tasmanian consultative trends

As with industrial relations consultative arrangements, we found a wide variation in the forms and quality of consultative arrangements between and within the sites in Tasmania.

Some companies (irrespective of the sites) could be characterized as having primarily 'structured' OHS consultative arrangements, while others have far less formal structures and processes. These two forms of OHS consultative arrangements are characterized by the following features:

(i) 'Structured' OHS consultative systems

Some companies had what could be described as 'structured' OHS consultative arrangements that involved a combination of the following:

- A variety of different consultative opportunities: promotion of and support for a variety of different reporting systems that allowed for individual *and* group *and* committee verbal and written reporting systems.
- Team-based quality improvement committees where safety issues were incorporated into total quality control.
- Structured, regular, team, start of shift and toolbox meetings where issues and concerns were recorded and then disseminated.
- Formally constituted OHS committees.
- Elected OHS representatives.

- Formalized ‘closed loop’ systems for minuting, recording, tracking and ensuring follow-up of OHS issues.
- Transparent and visible tracking, reporting of accountabilities and responsibilities associated with OHS issues.
- Active involvement of a wide selection of employees across the sites.

Employees at these sites were also more likely to express confidence in these arrangements. They were more likely to say that issues could not only be raised but that they would be followed through. These sites were also more likely to have structured, consultative arrangements.

(ii) ‘Less formal’ OHS consultative systems

These sites and companies had less structured OHS consultative arrangements and were more likely to have self-described ‘informal’ systems. While other safety management systems for technical and engineering issues may have been in place for particular hazards, these sites tended to be characterized by:

- Principle focus on individual, direct reporting of OHS issues.
- Less focus on formal minuting and recording of issues in meetings and less structured communication and follow-up systems.
- Where collective discussions of health and safety occurred, they tended to be informally run and not proceedings not adequately reported or disseminated (such as start-of-shift meetings run by the supervisor).
- Where OHS committees existed, they tended to be management safety committees and did not necessarily include employee representatives.
- Where employees were on the committee, they tended to be significantly outnumbered by members from management.
- Lack of visibility of recording, tracking, monitoring of unresolved OHS issue.
- Often at these sites, management was indifferent to committee structures (being happy to have one if employees requested one), or openly unsupportive of OHS committees. For example, one senior manager explained his views on OHS committees:

“No one here has asked for a committee...I prefer free and open discussion; you often get silly little safety issues blocking up committees...I like our informal system...we are too small to have administrative burdens like that – so it’s [an OHS committee] a ‘loser’ here. Safety committees are a rort, the status of individuals gets elevated and they don’t communicate...We prefer it flat and open rather than ‘constipated’ by a committee”

Manager

Significantly, at these sites, employees were far less likely to express confidence in these more informal processes and much more likely to express frustration at the lack of follow-through of issues.

While employees may have had the opportunity to raise issues, and be ‘consulted’, this did not guarantee active collaboration in decisions about health and safety, Nor did these informal arrangement translate into action and this was a source of great frustration for many employees. As one employee (at the same site) explained:

“Some things get through and dealt with properly, other things don’t; you just give up after a while”

Another explained

Employee

“You only tell them for so long and when nothing happens you give up”

Employee

In summary:

- OHS consultative arrangements across the sites and between the companies were diverse. The quality of processes was variable and the outcomes patchy.
- Industrial relations arrangements appear to be closely associated with particular OHS consultative processes and outcomes.
- Current OHS consultative arrangements at some sites and in some companies are not adequate to ensure that OHS employee or employment concerns are being acknowledged and managed properly.
- While the Workplace Health and Safety Act makes provision for structured committees and representatives, it assumes that employees feel sufficiently secure to ensure that management implement and genuinely support these structures.
- The Workplace Health and Safety Act fails to define ‘adequate’ consultation and in the context of fragmented and individualistic industrial relations arrangements which can compromise effective consultation, this has become a significant weakness of the Act.
- Unless there are clearer standards for what can be considered adequate consultative structures, there can be no guarantee that consultation will be effective over the hazards associated with rosters or indeed many other OHS issues.

5.4 Labour supply and local labour market issues

The issue of choice was raised often by managers. There was a view that if employees were not happy with the rosters they could work elsewhere. Employee ‘preference’ was used often as a justification for the more intensive rosters. However, choice and alternative were severely limited for many employees. For them the choice was between working at the mines or not working at all.

- **Employment opportunities are limited on the West Coast**

Employment opportunities on the West and North West Coast of Tasmania are limited and this distorts the local labour market. The structure of the local labour markets is such that in towns such as Queenstown, Rosebery, and Zeehan, full-time employment is largely restricted to the mines. Supplementary and other employment opportunities exist in places such as Strahan, but these are seasonal and or largely part time. For males in particular, the main source of viable employment is in the mines. The mining companies not only offer local well-paying jobs that would be almost unprocurable elsewhere on the coast, but often offer the *only* employment for many employees.

‘Preference’ and choice for many employees is therefore limited by these factors. For many it means they obtain work in the local mines and accept the conditions as they stand, or they relocate. Relocation for many employees who are second or third generation, whose immediate and extended families live locally, can be a difficult and traumatic decision.

This means that labour supply, which may operate to alert companies to unsatisfactory or unsustainable employment conditions, are not likely to operate on the West Coast in particular.

One manager explained:

“We’ll change [the roster] when we start losing the workforce, but when you’ve got a buyers market [as we have] that’s simply not going to happen”

Manager

Management’s belief is that if the rosters were truly onerous, employees would not be prepared to work them. This is naïve where the options to working at the mine are to be unemployed or to relocate the entire family away from friends and family. Thus employee “preferences” is not a criteria by which to judge whether the rosters are causing health, safety or family problems. It means that employees will sometimes put up with conditions that employees in other situations would not tolerate.

5.5 Local factors that compromise health and safety outcomes

James Reason (1997) outlined a range of what he called “local factors” that are known to contribute to increased risk of accident and incident at a workplace level. He identified the following:

- Poor workplace design
- Clumsy or inappropriate automation
- Inadequate tools and equipment
- Unworkable procedures
- Absence of effective supervision
- High workloads
- Shiftwork and long hours
- Time pressures
- Inadequate training and supervision
- Poor job planning
- Understaffing
- Inadequate PPE
- Poor teamwork
- Poor leadership

Many of these issues can result in compromised safety performance. The ability to respond to other than the most obvious safety issues can be limited, and at times even this can be compromised. Having to deal with a range of these problems can place additional pressure on employees and managers, many of whom are already coping with the problems caused by long hours and rotating rosters. In other words, these factors can compound and increase roster related problems.

At some sites in Tasmania, many of these factors were in evidence. These issues will be examined in closer detail in the next Stage of the Review, but some of them can be highlighted here as a way of explaining how, for some sites, hazards associated with rosters is low of the list of priorities.

- **Old and deteriorating plant and equipment**

At some sites plant and equipment, including safety is old and has not been replaced. This can create a range of problems. It can mean that equipment that was once effective to control noise or dust is now missing or ineffective. There were examples of:

- Broken dust extraction systems that were not repaired or replaced; this led to increased dust levels
- Aging plant and equipment that created higher noise levels
- Broken pumps in processing areas and limited availability of spare parts; this can lead to a build-up of feed in work areas
- Deterioration in housekeeping leading to obstructed walkways
- Limited supply of eye-wash and shower facilities
- Inadequate amenities (lack of potable water, refrigerators to keep food in)
- Lack of lifting devices

Some of these issues can lead to the inappropriate use of personal protective equipment as a primary control for hazards such as noise and dust. Instead of engineering the problem away through replacing equipment or investing in noise screens, ventilation systems and so on, controls are based on employees using hearing protection and dust masks. However, in some cases, both noise and dust hazards are so serious and it is unlikely that PPE is acting as an effective control.

- **Quality and supply of PPE**

At a few of the sites, PPE was, at times, not available or not of high quality. This appeared to be at least partly associated with financial problems facing these sites and decisions to allocate funds in particular ways. Where this combines with deteriorating plant and equipment, the result can be high levels of frustration for employees and compromised safety behaviours.

Several employees gave examples of these kinds of problems:

- *“For example, the pumps. We’re unblocking at least once a day; the place used to be clean; now we’re walking up to our knees in crap. The guys are casuals and the (new contractor) haven’t provided boots or overalls. It took me three months to get a pair of boots. There are no gloves in the store. People are working on pumps, there’s acid in the water and there’s no proper soap to wash with, just ordinary soap that doesn’t work.”*

Employee

“One of the pumps had acid going through it and it was blocked. I had no gloves but no one said I shouldn’t touch it without gloves. I told the supervisor there were no gloves in store and I shouldn’t do it without...the supervisor just looked away and said nothing. I felt I had to do it”

- **Acceptance of lower standards**

The Review found that there was a correlation between provision and quality of amenities, housekeeping standards and other health and safety behaviours and outcomes. Some sites displayed a combination of high quality in all of these areas. Conversely, at those sites where amenities and housekeeping was poor, other safety systems also appeared to be inadequate. At these sites, it was difficult for employees and other managers to take seriously other than the most pressing and obvious safety issues. At these sites behaviours tended to be either reactive and at times, the problems appeared to overwhelmingly, it was easier to ignore them. As one engineer explained:

“I keep my eyes closed most of the time, especially about small things. We wouldn’t have accepted it a few years ago but things have slipped.”

- **Lack of continuity associated with the use of OHS experts**

The use of external experts is an essential and appropriate part of safety management systems, especially in the Tasmania mining industry. However, there did appear to be a problem associated with the follow-up and continuity of work undertaken by external experts. At times, expertise would be brought in to assess hazards and risks, but the follow-up work would be left with site personnel. There was not always the resources, expertise and time to fully implement what consultants had recommended. Unless the issues were pressing, they were not always fully implemented. As one employee explained:

“The experts come down from Melbourne to give assurances that its OK and then nothing happens”

Employee

5.6 Summary

There were a number of other factors identified that further compromise the safe operation of working time schedules. These include:

- Attitude of management towards extended hours
- The narrow way that costs and benefits of the rosters are calculated
- Fragmented and patchy quality of industrial relations and consultative arrangements
- Limited job opportunities in the local labour market.
- Lack of safety resources and deterioration of safety standards at some sites

The interaction of these factors is creating a situation where management increasingly accepts extended hours as a necessary component of their operation. In combination they reduce the incentives that might normally facilitate better management of the hazards identified.

The financial pressure to realise short-term saving through more intensive rosters is great and there is no incentive that would encourage companies to respond to the health and safety costs created by the rosters. These costs are, and will continue to be borne by individuals, families and the broader community.

At the same time, employees have an increasingly limited capacity to shape outcomes at a workplace level due to fragmented bargaining and patchy consultative arrangements. Limited local job opportunities are decreasing employee options and increasing job insecurity. In addition, some of the most intensive rosters are in place where the organisational resources underpinning safety management are severely depleted. These factors together severely compromise the safe operation of working times schedules across the industry.