

# Change • Challenge • Opportunity

## Injury & Disability Schemes Seminar

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12 - 14 November 2017 • Sofitel • Brisbane





# **LIVING BEYOND ITS USE BY DATE: Current Workers Compensation Arrangements and Possible Futures**

**Alan Clayton**



# What this presentation is about

- Why 'living beyond its use by date'?
- Historical legacy of scheme origins
- Some reforming fixes to some legacy issues
- Schemes cannot achieve their stated goals within the system frameworks
- Principles and approaches to achieving effective 21<sup>st</sup> century schemes



# Legacy of Scheme Origins

- Late 19<sup>th</sup> century response to consequences of industrial capitalism
- Clear distinction between ‘worker’ and ‘independent contractor’
- Emphasis on traumatic injury and difficulties with coverage of diseases
- Determination of work-relatedness
- Almost no focus on primary prevention



# Issues

- Complex and confused bases of coverage
  - Including deemed inclusions and exclusions
  - Challenge of ‘gig’ economy
- Complicated issues with injury and disease
  - Challenges with dealing with psychological injury
- Issues relating to federal structure of schemes

# Fixes for Legacy Issues - Coverage

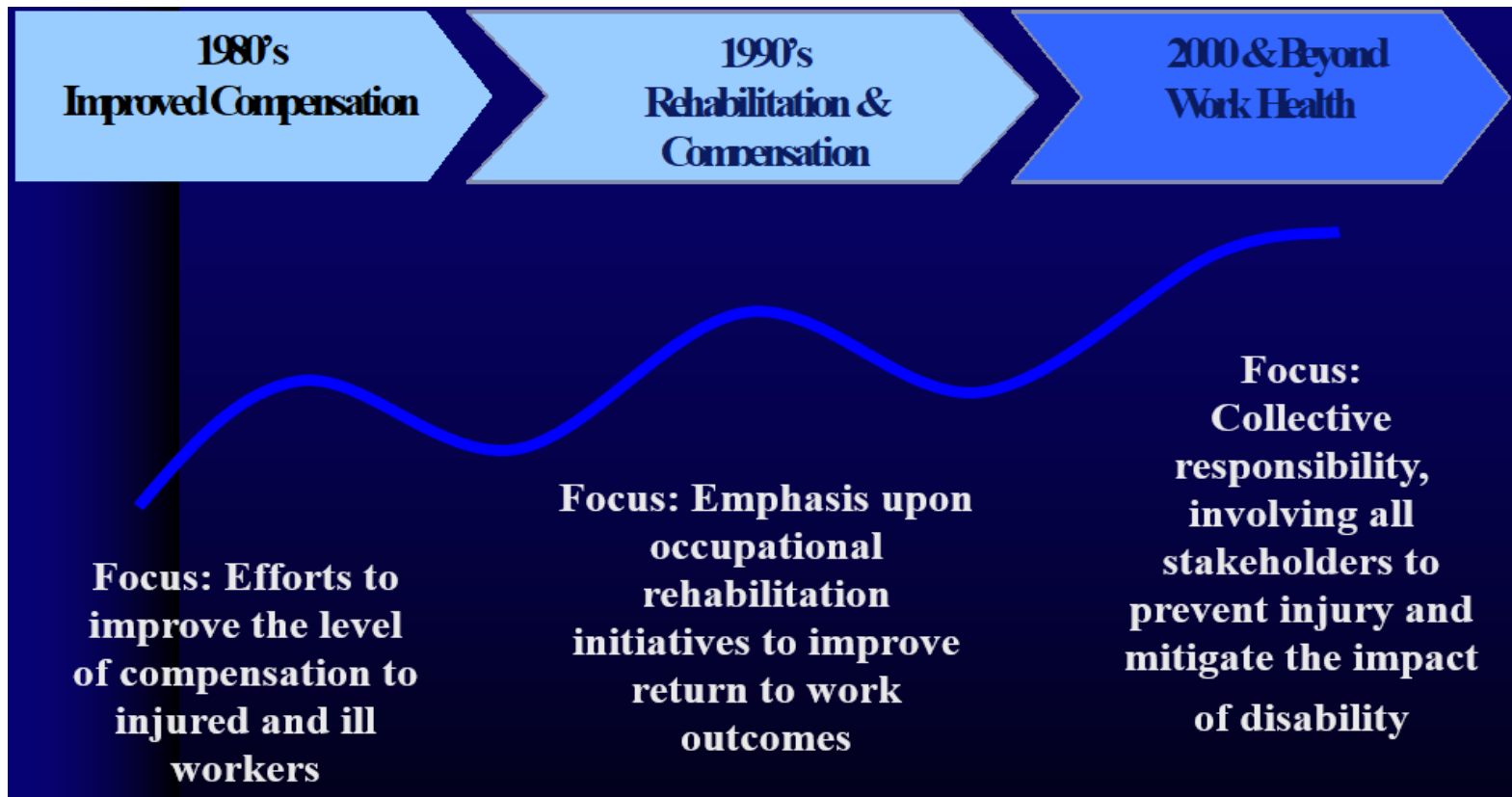
- Move to general coverage of ‘working’ rather than on determination of ‘worker’
- Extension of coverage to self employed
  - Opt in basis – Queensland, Switzerland, Germany, British Columbia
  - Mandatory – New Zealand

# Fixes for Legacy Issues - Diseases

- Difficulties with occupational diseases
  - Latency and other issues with occupational recognition
  - Disease schedules
  - Safe Work Australia 2015 schedule
  - Need for updating



# Where from and where to?







# Scheme Objectives

## WORKPLACE INJURY REHABILITATION AND COMPENSATION ACT 2013 - SECT 10

### Objectives of Act

The objectives of this Act are to—

- (a) reduce the incidence of accidents and diseases in the workplace; and
- (b) make provision for the effective occupational rehabilitation of injured workers and their early return to work; and
- (c) increase the provision of suitable employment to workers who are injured to enable their early return to work; and
- (d) ensure appropriate compensation under this Act or the Accident Compensation Act 1985 is paid to injured workers in the most socially and economically appropriate manner, as expeditiously as possible; and
- (e) ensure workers compensation costs are contained so as to minimize the burden on Victorian businesses; and
- (f) establish incentives that are conducive to efficiency and discourage abuse; and
- (g) enhance flexibility in the system and allow adaptation to the particular needs of disparate work situations; and
- (h) maintain a fully-funded scheme; and
- (i) in this context, to improve the health and safety of persons at work and reduce the social and economic costs to the Victorian community of accident compensation.



# Where to - Elements

- Need to reconstitute scheme bases to meet the needs and challenges of 21<sup>st</sup> century
  - Meta level - Understanding that scheme goals have to be achieved with alliances outside the scheme itself
  - Macro level – More sophisticated understanding of issues
  - Strategic level – Evidence led strategies underpinned by sophisticated regulatory approaches
  - Cultural level – Development and entrenching of positive work cultures
  - System level – Development of capability and capacity of all players

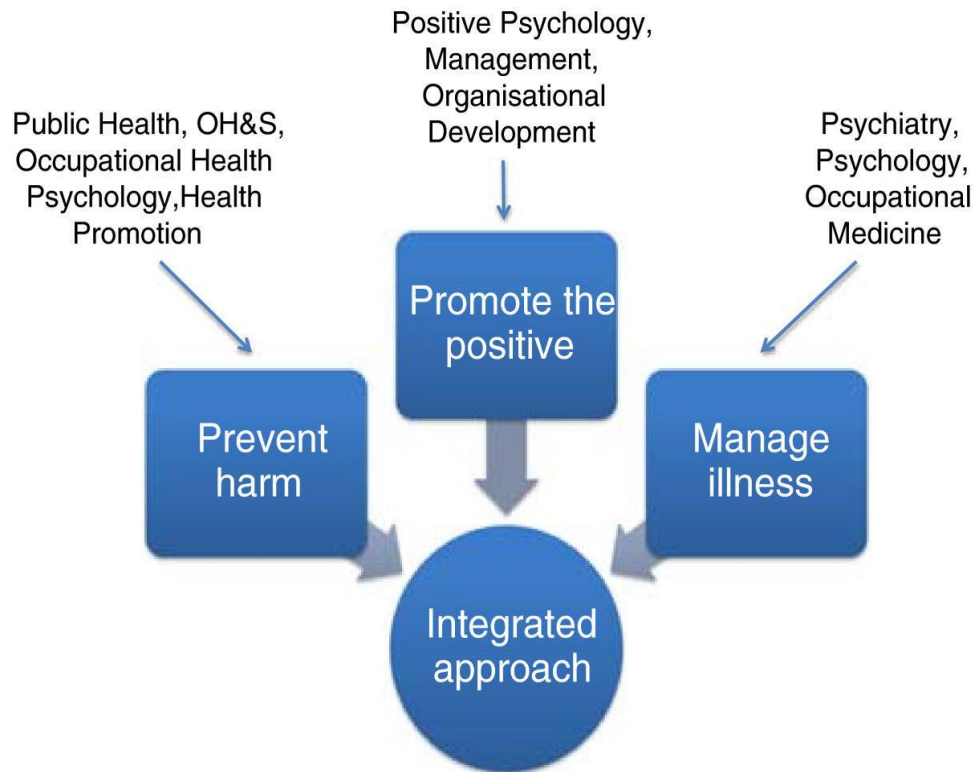
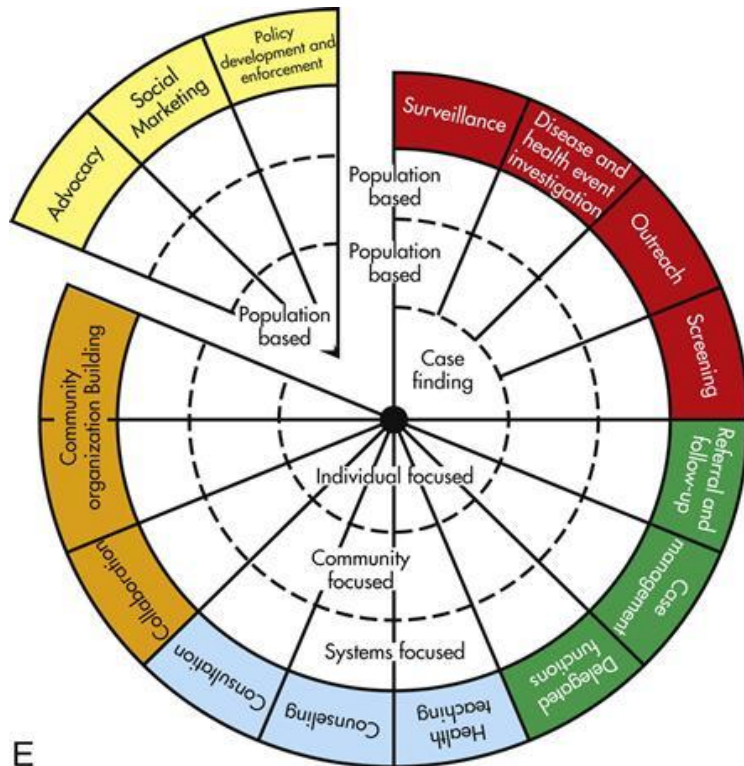


# Meta Level

- The achievement of scheme goals cannot be fully achieved within the framework of the scheme itself
- Need for a wider, sophisticated, web of alliances across a range of schemes
  - in short – there is a need for an integrated approach or public health model of accident compensation



# Public Health approach

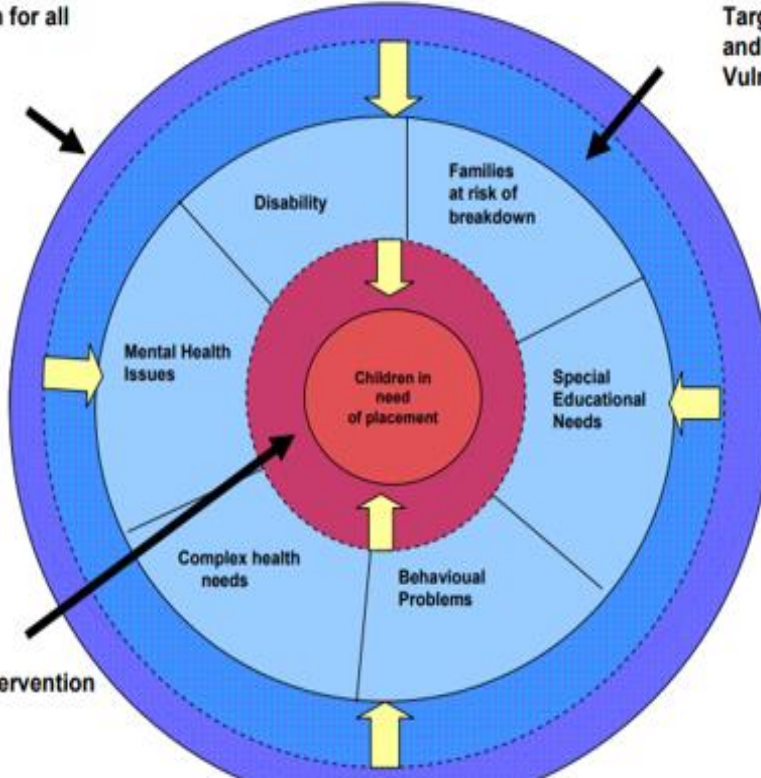




# Public Health Approach

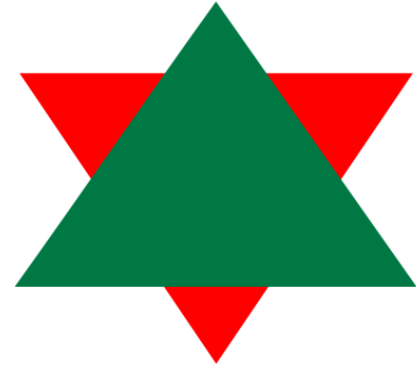
Universal Prevention for all  
Children/Families

Targeted Prevention  
and Intervention for  
Vulnerable Families



## A VIRTUOUS OR VENAL TRIANGLE?

The Role of the State, the Market and  
Civil Society



ALAN CLAYTON · DOROTHY SCOTT



# Structural v Personal

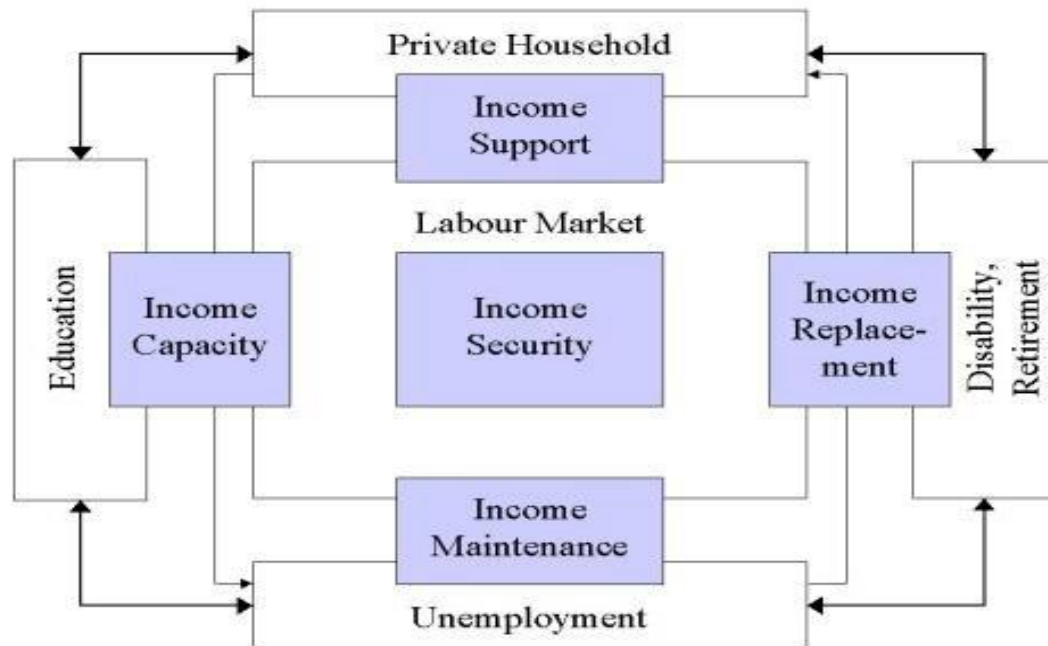
- Importance of structural rather than total focus on the personal
  - Safe place, safe person, safe systems
- Sweden – Vision Zero
  - Ethical and profoundly structural approach

# Macro Level – What type of schemes do we want?

- Choice of US or European roads
- Lisbon Strategy
- Stockholm Declaration
- Involvement with wider workforce development initiatives
  - Transitional Labour Markets
  - Flexicurity
  - Goal 100



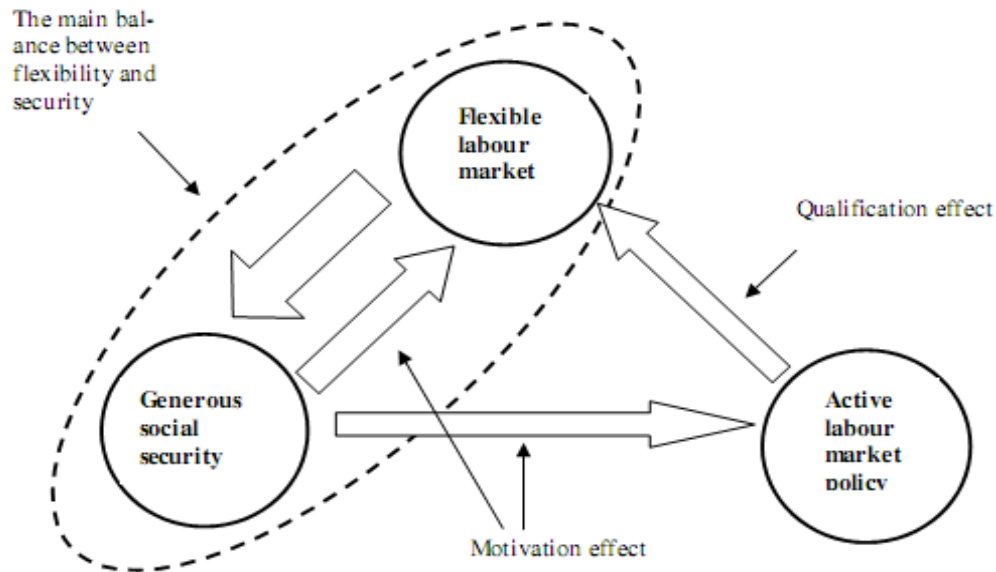
# Transitional Labour Markets





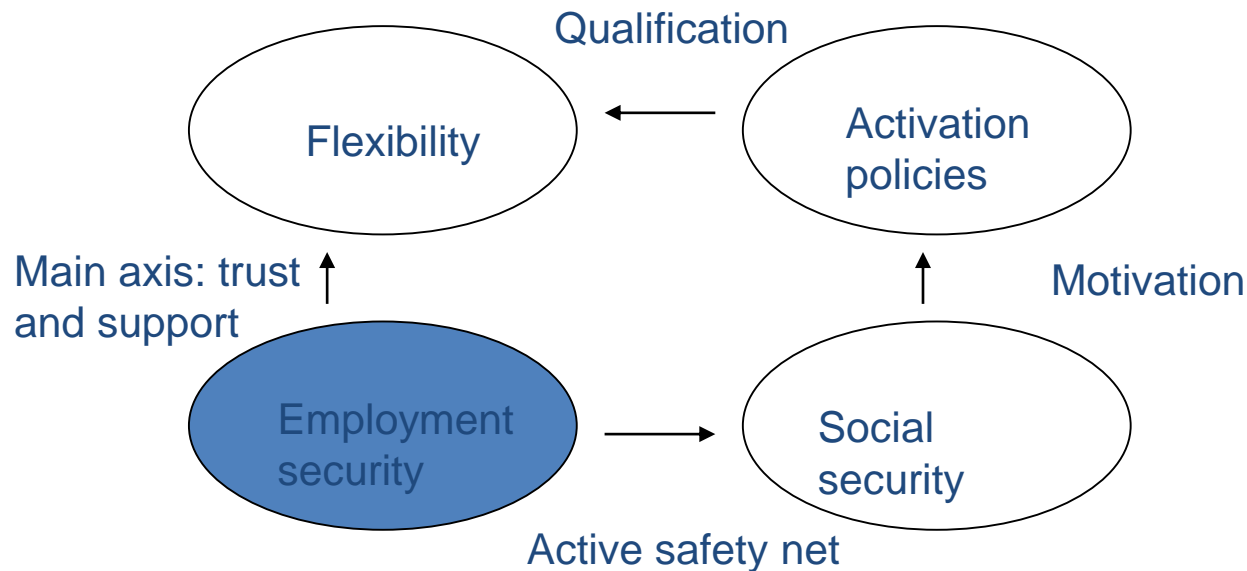


# Flexicurity – Golden Triangle





# Flexicurity – Silver Square



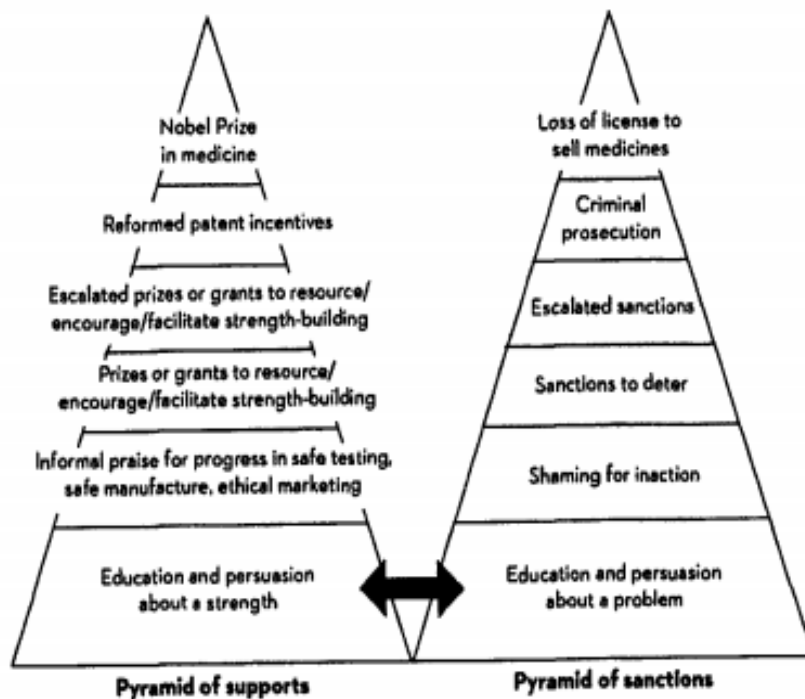


# Goal 100

- Intensive work training programme in Whyalla for long term unemployed
- Commenced 2006
- Employer backed
- First cohort of 100 – 86 found employment



# Responsive Regulation





# Organisational Capacity



Institut für Prävention und  
Arbeitsmedizin (IPA)



Institut für Arbeit und  
Gesundheit (IAG)



• Bochum

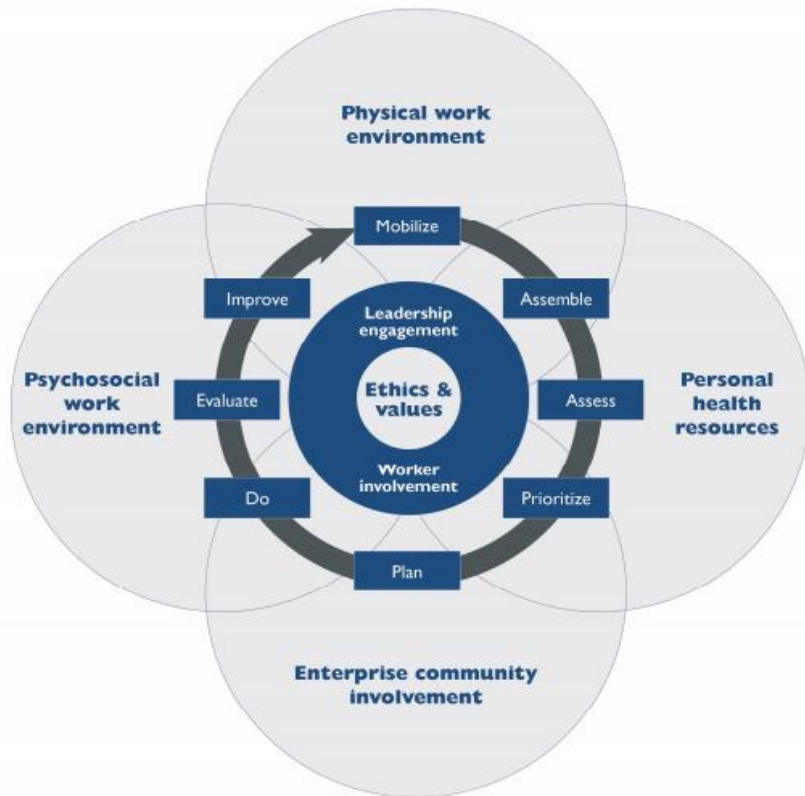
• Sankt Augustin

• Dresden

Institut für Arbeitsschutz (IFA)

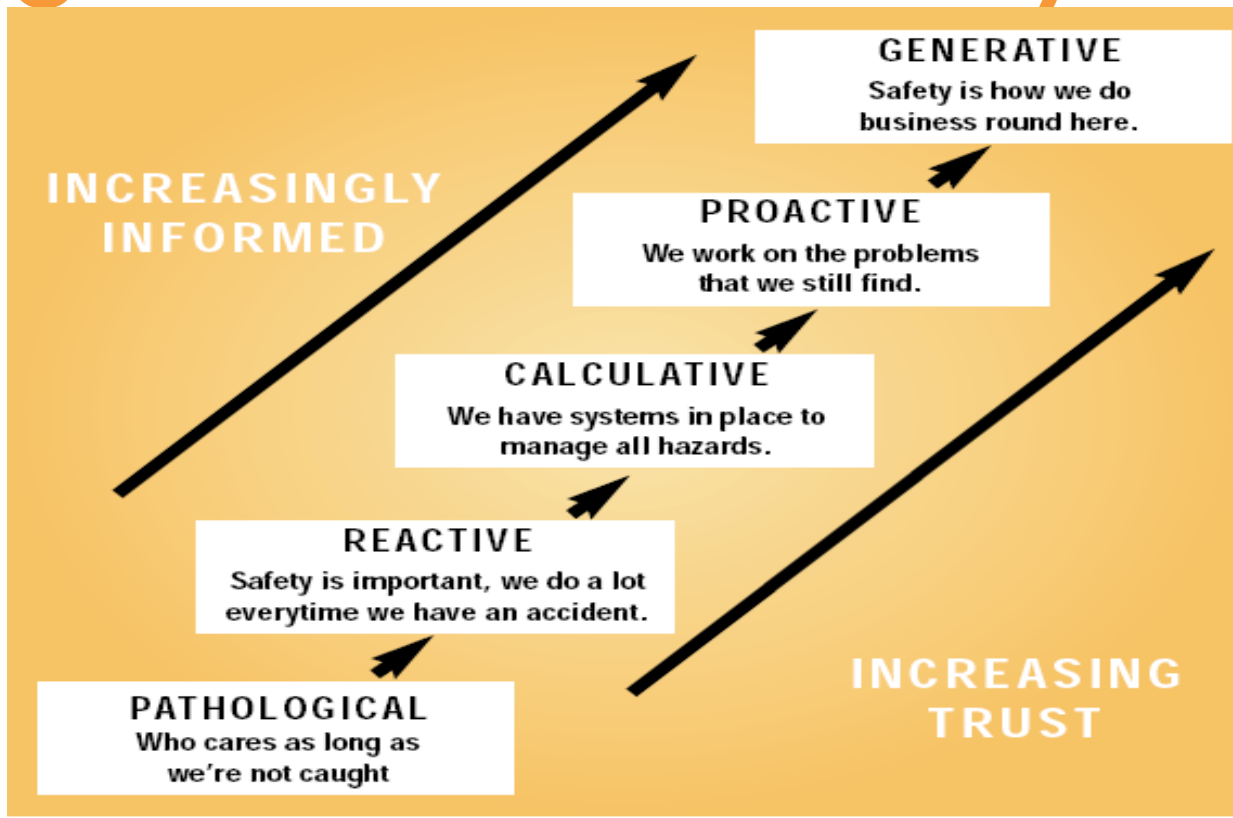


# WHO Healthy Workplace Model





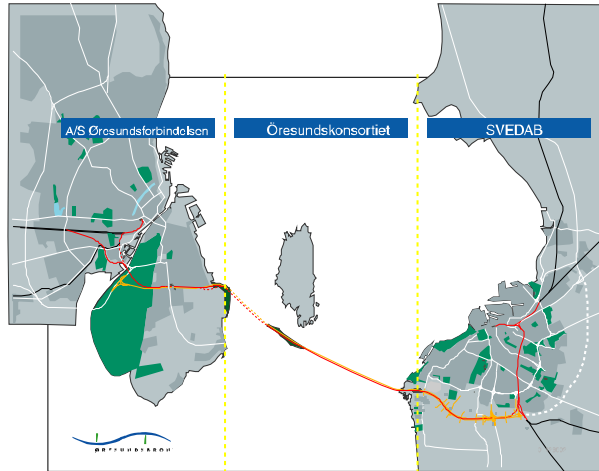
# Organisational Maturity Model







# Safety Culture – Oresund Bridge







# Oresund Bridge



# Developing Capability and Capacity

- NZ ACC staff development programme from 2005
- Systematic process
  - recruitment
  - mentoring
  - ongoing support



Te Kaporeihana Āwhina Hunga Whara

# What of the future?

Antipodes formerly regarded as world leading laboratories of social and industrial reform





# Pessimism

**VICTORIAN**  
**ombudsman**

Investigation into the management of complex  
workers compensation claims and WorkSafe oversight

September 2016

*'[Independent Medical Examiner X] strikes  
again. We need to use this guy more often.'*

Internal email from agent manager advising  
staff member to issue a termination

*'Knock your socks off and terminate away!'*

Internal email from agent staff member to  
manager in relation to a 130 week termination



# More Pessimism



**Black lung**

white lies

**Inquiry into the re-identification of Coal  
Workers' Pneumoconiosis in Queensland**



# Optimism





# Getting Good Ideas into Currency

## Dear David Ennals

New Society 16 December 1976

Richard G. Wilkinson

As a **Labour Secretary of State for Social Services** you have the misfortune to be confronted by the largest social class differences in death rates since accurate figures were first collected in the 1920s and 1930s. Almost all the major causes of death including heart disease, stroke, lung cancer, stomach cancer, cervical cancer, pneumonia and bronchitis, are two or three times more common among unskilled manual workers and their families (social class V) than among senior professional and managerial families (social class I). Breast cancer is the only major cause of death which is more common among the upper classes than the lower. The overall death rate is now 50 per cent higher in social classes IV and V combined (the bottom quarter of the population) than it is in social classes I and II combined (the top quarter of the population).

