

A tale of two businesses, identical incident but very different penalties....all because one didn't have the risks covered.



Two Landscape businesses Gavin's Landscaping and Bill Smith Gardening were both seeking approval by the local Council to undertake landscaping work under \$20,000.

A condition of applying was to supply the Council Safety Officer with a Safety Policy, insurance certificates, incident report form and a record of the safety meeting minutes.

Both were given two weeks to provide the information. (This information is required by law on all jobs, it is not just a council requirement).

Gavin decided to attend a one hour WHS Seminar to see what was required by law. He learnt that using an Excavator is High Risk Work (Mobile plant) and that he required a Safe Work Method Statement. (SWMS - called a Swims). It took about an hour to complete to make sure everything was covered. Gavin also created an induction form to list how to work safely around an excavator. Gavin spent a few hours and a couple of hundred dollars to get the paperwork right.

Bill Smith also used an excavator when needed. A friend gave him a Safety policy and an Induction form from a friend and thought he was fine because he had operated excavators for years.

Gavin and Bill supplied their paperwork to the council and were approved to undertake work.

To the Council both had ticked off the necessary paperwork but here is where it becomes very different.....

Which business do you think you are like right now?

The test is when an incident occurs. How much can you rely on your paperwork? Is it really what you do or is it just obtained to tick a box?

An identical incident occurs

A labourer was hit by the bucket and has gone to hospital with some very bruised or broken ribs.

What happened to Gavin?

Gavin learnt that some injuries need to be reported to WorkSafe. He had a number from the WHS Session and rang to check. WorkSafe listened to what happened and decided to come and see the site and check his paperwork. His labourer knew about the safety policy, was inducted and signed onto the SWMS.

So this was WorkSafe's summary for Gavin's Safety System.

Safety Policy	
Safe Work Method Statement	
Induction	
Safety Meetings	
Incident Form completed and copy given to Council	

WorkSafe interviewed to injured person. He agreed that he was inducted, signed the induction form and had also signed onto the SWMS which said he would ring the operators mobile number or stand at the gate to get the operators attention. When asked why he didn't he replied 'I thought he was working towards the fence and I just went to pick up the shovel. I thought I could make it.'

WorkSafe was advised he can be fined personally for breaching the safety rules but that once reviewed he would be likely to get a caution.

Decision - No further action

Gavin spent \$300

Total hours lost by Gavin 5 @ \$60 = Total \$600

What happened to Bill Smith?

Bill did not think he had to report it to WorkSafe. He took the injured worker to emergency and rang his insurance company and thought no more about it.

The worker filed a workers compensation claim as the insurance company requested. The injured labourer was back at work after a week, so Bill thought it was finished.

Total hours spent by Bill on Safety so far 1 = \$60

A copy of the workers compensation form went to WorkSafe who rang Bill and asked why he did not report it? Bill said he didn't think he had and besides, the injured is worker is fine and he is back at work.

Bill produced a safety policy but honestly could explain what was in it. Nor could he explain his induction process and did not have a Safe Work Method Statement. He said he had safety discussions but no record of what was covered. He had an incident form but had not filled it out for this incident.

WorkSafe said this appears to be a reportable offence as the labourer could have been seriously injured or killed and that he was admitted to hospital.

WorkSafe made an appointment with Bill to review his safety system. Bill was feeling quite nervous.

WorkSafe asked Bill about his safety policy, he was not familiar with it. Bill showed them the induction page but it was not signed by the injured person. Nor did it cover the foreseeable risk of working around an excavator.

Bill tried to explain the worker had never got in the way of the excavator before and he had done everything right by getting him to hospital and notified the insurance company.

WorkSafe said a person was injured and so their summary was:

Safety Policy	X
Safe Work Method Statement	X
Induction Page	X
Safety Meetings	X
Incident Form completed and copy given to Council	X

Because it was not explained to the injured worker, nor did Bill really understand what was in it.

Bill was advised that there was a very likely breach of the safety laws by not having safe systems of work, and not reporting an incident in which a person was admitted to hospital. A report will be prepared for and given to their prosecution section to consider. Once they have made their decision Bill, you will be notified and if it is to prosecute, you will be summonsed to appear in Court. The fines may be into the tens of thousands and into the millions for companies.

Bill was in shock. How could this incident turn into such a mess? How could he pay the fines or engage a lawyer? How was he going to tell his partner?

Total hours spent by Bill now 25 @\$60 = \$1500 Plus the lost sleep / worry / regret.

WorkSafe notified will be proceeding with prosecution.

1. No safe systems of work
2. Failing to report a Notifiable incident

Court date to be advised. Lawyers costs in this field \$450 per hour

	Cash Upfront	Hours building safety system	Hours being interviewed by WorkSafe	Follow up WorkSafe investigation	Lost sleep, worry, regret	Fines	Total
Gavin	\$300	5	1	None	None	None	660
Bill Smith	\$0	1	4	5	Yes	\$10-30,000?	\$15-50K?

On top of all this, he was also told by the Council that it may impact getting more work from the council if he was convicted of an offence under the safety legislation.

Are you still confident with your safety system paperwork?