



tourism
INDUSTRY
ASSOCIATION NEW ZEALAND

Submission to
Ministry of Transport
on the Discussion Paper
Clear heads

24 April 2015

EXECUTIVE SUMMARY

1. The reputational damage that can be inflicted on tourism businesses when serious accidents involving fatalities occur is potentially very significant. TIA members are well aware of the risk of business failure if they do not effectively manage drug and alcohol impairment within their businesses.
2. TIA is supportive of the Clear heads discussion and understands its importance to the tourism sector. There is the opportunity to build on the capability already embedded within the sector so that the bar can be raised across the whole sector.
3. Many aviation, maritime and rail businesses operating within the tourism sector are already adhering to a set of legislative requirements around drug and alcohol management. For example all adventure activity operators (in-scope of the Adventure Activity Regulations) are required to have a clear drug and alcohol policy in their safety management plan.
4. TIA is supportive of an approach to drug and alcohol management that recognises the risk profile of the activity and the workforce.
5. TIA supports the option for a Drug and Alcohol Management Plan in all aviation, maritime and rail businesses.
6. TIA supports the option that the powers of TAIC are widened to include post-occurrence testing, though limited to those directly involved in safety sensitive tasks related to the occurrence as opposed to the recommendation of all involved.
7. TIA does not support the requirement for mandatory testing post-occurrence by operators or an external party (other than TAIC).

INTRODUCTION

About TIA

8. The Tourism Industry Association (TIA) is the lead association that represents the interests of about 1,500 tourism businesses in New Zealand. TIA represents a range of tourism-related activities including hospitality, accommodation, adventure and activities, attractions and retail, airports and airlines, as well as related tourism services.
9. The primary role of TIA is to be the voice of the tourism industry. This includes working for members on advocacy, policy, communication, events, membership and business capability. The team is based in Wellington and is led by Chief Executive, Chris Roberts.
10. In preparing this submission, TIA has engaged with a number of its members in the aviation and maritime sector.
11. Any enquiries relating to this paper should in the first instance be referred to Steve Hanrahan, TIA Advocacy Manager at steve.hanrahan@tianza.org.nz or by phone on 04 494 1849 or 0279 122 624.

BACKGROUND

12. TIA and its members understand the damage that can be done to the reputation of their businesses and NZ tourism when serious accidents involving fatalities occur in the industry. Accidents that prompted this discussion paper include tragic events in the tourism sector.
13. Many operators already have Drug and Alcohol Management Plans (DAP). The Adventure Activity Regulations 2011 were amended in 2012 to include a requirement for adventure activity operators to manage the drug and alcohol risk in their workplace, starting with a clear drug and alcohol policy in their safety management plan.

COMMENT

14. The Tourism Industry Association New Zealand (TIA) welcomes the opportunity to comment on the Ministry of Transport discussion paper and it's appropriate that we make a submission.
15. Visitor safety is a critical factor in ensuring a positive visitor experience. Implicit in the New Zealand tourism marketing brand 100% Pure is a safe positive experience for our overseas visitors when they come to NZ. The reputation of NZ as a destination has the potential to be severely impacted when fatal accidents occur.
16. We regularly liaise with WorkSafe and Maritime NZ on matters of safety relating to the tourism sector.
17. Our research indicates many tourism operators in the aviation, maritime and rail sectors already have safety management plans in place that include a DAP. Outside of those covered by the Adventure Activity Regulations, many of the TIA members we've

spoken to have a DAP, often as a requirement of their certifications from Maritime NZ and Civil Aviation Authority.

18. In 2013 TIA played a lead role in the development of the WorkSafe document 'Guidance for Managing Drug and Alcohol – Related Risks in Adventure Activities'. This best-practice document encourages adventure activity operators to adopt an approach that demonstrates they are 'taking the appropriate level of action for the level of activity risk and the level of workforce risk in your operation'.
19. In practice this means operators are required to:
 - Determine the level of risk in the activity. What hazards are associated with the activity? What hazards can be eliminated, isolated or minimised, and what can't?
 - Determine the level of workforce risk. What is the nature of the workforce e.g. are there regularly new, seasonal staff employed who are unknown to the operator? Which staff are in roles where their performance directly impacts participant safety?

The TIA Position

20. There is not a one-size-fits-all solution to managing drug and alcohol matters in the workplace. Tourism businesses have different risk profiles depending on the nature of their activities and their workforce. Operators must be able to develop a DAP that fits their risk profile. Tourism operators are aware they risk business failure if they do not effectively manage drug and alcohol issues.
21. Our position is in support of Option 2 and Option 5 of the discussion paper i.e. commercial operators to develop a specific drug and alcohol management plan (DAP), and post-occurrence testing for all involved in an incident (by TAIC).
22. The reputation of NZ tourism is severely tarnished when fatalities occur due to impairment. A minimum requirement for a DAP will sufficiently build workplace awareness and capability around managing drugs and alcohol risk in the workplace.
23. Option 2 is consistent with the previous TIA approach to managing drug and alcohol risks in the workplace, as seen in the Adventure Activities Guidance for Managing Drug and Alcohol. It places the onus on the workplace to develop a policy that fits the risk profile for their activity and employee mix.
24. Adopting Option 2 also goes some way to managing concerns that the Adventure Activity Regulations 2011 set too high a threshold for coverage resulting in some adventure activities not being in-scope. A requirement for a DAP, albeit limited to aviation, maritime or rail operators, goes some way to raising the bar for those operators not in scope of the Regulations.
25. While we advocate that a provision to undertake drug testing is a minimum requirement in the DAP we do not support prescribing which testing methods are applied. Many of the members canvassed apply a mix of drug testing options in their DAP. These include pre-employment, random, causal and post-occurrence testing. It is the responsibility of the operator to decide the mix of testing circumstances that best

suit the risk profile of their business and where they consider the testing would have the greatest impact. For some this will be in pre-employment and random situations, for others it may be in causal and post-occurrence situations.

26. We do support the view that those in safety critical roles should be tested, and it is then the responsibility of the operator to decide whether this group is sufficient or the wider team also need to be included.
27. It is important that a staggered roll out approach is applied to implementing the DAP programme in order to give operators time to adjust. The costs of implementing a DAP could be significant depending on the operators approach to implementation. Also implementation will require time for operators to adjust and get the right systems and processes in place. Good educational material will also be key to implementation success.
28. Option 5 enables TAIC to conduct post-occurrence testing for alcohol or drug impairment. TAIC investigates significant aviation, rail, and marine accidents and incidents.
29. We support TAIC being given the option to do this, though prefer to see the testing confined to those identified as being in safety sensitive positions involved in the occurrence – the current reference to ‘any person involved in an occurrence’ appears to be unnecessarily wide. This option also addresses our concerns about the definition of ‘occurrence’ as it’s our understanding TAIC are involved in occurrences of a significant nature only.

Why we don’t support Options 3 and 4

30. Option 3 (Mandatory testing post occurrence) is not supported by TIA at this time. We support post-occurrence testing within the DAP where the operator considers this supports their risk profile.
31. TIA members are also concerned that without a current definition of what constitutes an occurrence there is potential for mandatory testing of relatively minor incidents and accidents that do not warrant mandatory testing. Post-occurrence testing of a serious occurrence is covered in our support for Option 5.
32. Consistent with our view throughout this submission, we do not support Option 4 of enforcing maximum legal limits for alcohol. Operators should be allowed to determine their approach to alcohol management via their DAP. Many operators already have a zero tolerance in place as part of their current DAP.