

Workplace Health and Safety Queensland

What to expect when an inspector calls

Why do inspectors visit workplaces?

Inspectors focus on ensuring that workplace safety practices comply with the requirements of workplace health and safety laws. Inspectors may also provide information and advice on these laws. As part of this role, inspectors may visit workplaces for a variety of reasons, including to:

- investigate workplace incidents
- investigate reports of unsafe or unhealthy conditions and dangerous work practices
- assess workplace health and safety risks to workers and members of the public
- conduct workplace health and safety inspections and investigations, and
- provide information and advice on how to comply with workplace health and safety laws.

Each inspector visit is likely to be for a different purpose and some workplaces may receive multiple inspector visits in a short timeframe. For example, one inspector visit may focus on assessing noise levels while another inspector visit may concentrate on examining manual task practices.

Inspectors may sometimes visit workplaces in teams as inspectors may specialise in a particular aspect of safety management (e.g. ergonomics, hazardous substances, etc.). They may also take along other individuals who are not inspectors, including technical experts, interpreters or police officers.

What are inspector powers? How do they work?

The Act provides inspectors with a range of powers that may be exercised to improve workplace health and safety in Queensland. These include the powers to:

- enter a workplace or suspected workplace or any place where specified high risk plant is situated (i.e. amusement rides, cooling towers, escalators)
- enter land around domestic premises to gain access to a workplace or suspected workplace
- enter any place with a warrant or the property owner's consent
- investigate, observe and search any premises they have reason to believe is a place of work (e.g. observe the use of a machine, observe the work processes)
- request interviews and make inquiries of managers, supervisors, workers and other people (e.g. take a statement from a worker who witnessed an incident)



A guide for obligation holders under the *Workplace Health and Safety Act 1995*

Every year approximately 100 people die and 30,000 Queenslanders are seriously injured at work. This means that on average 577 Queensland workers suffer a serious work-related injury or disease every week¹. Overall, total workplace incidents cost the Queensland economy over \$5.2 billion each year.

Workplace Health and Safety Queensland (WHSQ) inspectors work with industry to help reduce these effects. Inspectors work with employers to improve health and safety in Queensland workplaces and have a key role in administering the *Workplace Health and Safety Act 1995* (the Act). This brochure is designed to help you understand more about the work of inspectors, particularly the reasons for an inspector visit and what to expect when an inspector visits your workplace.

¹ Workplace Health and Safety Queensland, Queensland Employee Injury Database, data as at May 2009

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- inspect, measure, test, photograph or film any part of the workplace or anything at the workplace
- gather information, examine and copy documents (e.g. training records, employee records, manufacturer's instructions)
- make enquiries or conduct surveys to assess the degree of risk at the workplace or the standards of health and safety existing at a workplace
- issue directions to require resolution of any alleged safety breach/es (e.g. verbal directions, improvement notices, prohibition notices to stop an activity or use of an item, and/or fines)
- enquire into the circumstances and probable causes of workplace incidents
- take any person, equipment or materials into the workplace to assist the inspector to exercise a power
- require a person to give reasonable help
- require a person to produce certain documents or ask other people to provide these documents (e.g. maintenance records kept by a mechanic contracted by an employer to do the work)
- seize objects believed to be defective or hazardous,
- seize evidence of an offence against the Act (e.g. plant, equipment or substance involved in an incident).

What happens during an inspector visit?

Workplaces are not usually provided with advanced notice of inspector visits. This helps to ensure that the intention of the visit is not compromised.

Inspectors carry photo identification and will identify themselves as soon as they enter a workplace.

When entering a workplace, an inspector will notify the employer or the most senior management person on site of his/her arrival. This person must then inform any elected workplace health and safety representatives in the workplace that an inspector is on site and make it possible for these representatives to speak with the inspector if they wish.

The inspector will take all reasonable steps to identify any workplace health and safety representatives on site to provide them with an opportunity to raise any safety concerns.

What happens when inspectors visit to investigate workplace incidents?

WHSQ exercises discretion in deciding the extent to which workplace incidents will be investigated. In making these decisions, WHSQ is guided by the principles set out in the Queensland occupational health and safety *Compliance and Enforcement Policy 2009*.

During a visit to a workplace to conduct an investigation into an incident, an inspector may:

- take action to secure the scene of the incident to prevent evidence relating to the incident from becoming lost or misplaced (e.g. cordoning off part of the workplace)

- seize evidence of an offence against the Act or an item of plant, part of a workplace or an entire workplace
- take photographs, make sketches, and take notes
- speak with employers, managers and workers, especially those who witnessed the incident under investigation
- take formal statements from witnesses
- examine workplace health and safety related records and documents
- take another person to the workplace to assist in the investigation (e.g. a technical expert), and/or
- take proportionate and responsive enforcement action.

If evidence is seized an inspector will issue a *Receipt for Property* and in some circumstances, a *Notice of Requirement (or further requirement) to Enable Seizure* and must return the item within six months or at the end of any court proceedings relating to the item. If any items are being seized, the inspector will explain the process for seizure, including whether you can continue to use the item until it is collected. The inspector will also advise who you can contact within WHSQ for updates about when the item is likely to be returned.

An investigation of a serious workplace incident will usually begin immediately after the incident is notified to WHSQ. An inspector may visit the workplace on several occasions in order to complete the investigation. The time taken to complete the investigation will vary depending on the circumstances. More complex incidents may take many months to complete.

In the event of a workplace death, the next of kin will be contacted by WHSQ and advised of a contact person and how they can access further information about the investigation.

How does an inspector enforce the law?

Inspectors may use a number of methods to ensure that workplace health and safety laws are upheld. Inspectors may:

- provide advice and information
- issue verbal directions (these are generally only used where rectification can occur before the inspector leaves the site)
- issue notices to require rectification of alleged safety breaches (e.g. improvement and prohibition notices)
- issue infringement notices (on the spot fines) as penalties for non-compliance
- seize items (e.g. plant, equipment or substances),
- cancel or suspend licences, approvals, certifications and authorisations, and
- commence legal proceedings for alleged breaches in the Industrial Magistrates Court.

The Queensland occupational health and safety *Compliance and Enforcement Policy 2009*, available on the WHSQ website www.worksafe.qld.gov.au, provides further information about these enforcement options as well as the investigation and prosecution policies.

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When taking enforcement action, inspectors will explain:

- the reasons for taking the action
- the evidence on which they have based their decision
- what you should do to comply and in some cases the date by which you should comply, and
- where you can obtain guidance on how to comply.

If you are unsure about what is required, please ask the inspector to clarify any issues.

What if I disagree with an inspector's decision?

If your interests are affected by an inspector's decision, you have the option to request a review of a decision, appeal a decision or apply to cancel an infringement notice.

Reviews of decisions

You must complete an *Application for Review of Decision* form with enough supporting information to enable the review to be undertaken. This form is available from www.worksafe.qld.gov.au.

The application should be made within 14 days of receiving the original notice. Completed forms should be submitted to your local WHSQ office. There is no application fee.

The review will be undertaken internally and you will receive written notice about the outcome. There are three possible outcomes from the review:

- confirmation of the original decision
- variation of the original decision, or
- setting aside of the original decision and the making of a substitute decision.

You may also apply to the Industrial Court for a stay of the original decision while the internal review process is underway.

If you disagree with a decision, you can also appeal to the Industrial Court.

Appeals to the Industrial Court

You must lodge a notice of appeal in writing within 30 days of receiving the original decision. If you are appealing a review of a decision, you must submit your written notice of appeal within 30 days of receiving the reasons for the review decision.

All appeals must be lodged with the Industrial Court.

The Industrial Court may:

- confirm the decision being appealed
- vary the decision being appealed
- set aside the decision being appealed and make a substitute decision, or
- return the issue to WHSQ.

For more information visit the Industrial Court of Queensland website, www.qirc.qld.gov.au.

Application to cancel an infringement notice

If you believe you have been incorrectly identified as the alleged offender in an infringement notice you may apply to have the notice cancelled for a mistake of fact. This process does NOT apply to improvement and prohibition notices.

To apply for a mistake of fact you must complete a Statutory Declaration and provide information supporting your claim for a mistake of fact. Statutory Declarations are available from any courthouse and must be completed in the presence of a Commissioner for Declaration. All documentation should be submitted to your local WHSQ office.

You will be notified in writing about the outcome of your application within 14 days of a decision being made. If your application is unsuccessful, a new payment date will be provided.

If for any other reason you believe that the infringement notice is not valid (for instance if you believe you did not commit the alleged breach), you can also make an *Application for a Review of a Decision* at your local WHSQ office.

More information about reviews of decisions, appeals and applications for cancellations of infringement notices for a mistake of fact is outlined in the Act, explained on the back of the relevant enforcement notices and is also available on the WHSQ website, www.worksafe.qld.gov.au.

What is expected of me during an inspector visit?

You must provide reasonable help to assist the inspector in their work. It is an offence to obstruct, threaten or interfere with an inspector who is exercising his/her powers under the Act.

What conduct should I expect of inspectors?

Inspectors are expected to deliver high quality, professional services in which they:

- treat obligation holders and other people with respect, dignity and sensitivity in all circumstances
- interact with obligation holders and other individuals in a timely and efficient manner
- remain professional and consistent in all activities
- undertake activities without favouritism or discrimination
- explain all decisions, and
- conduct all activities in accordance with the values outlined in the Department of Justice and Attorney-General Code of Conduct, and Global Code of Integrity for Labour Inspection.

Further information about these Codes is available on the WHSQ website, www.worksafe.qld.gov.au.

If you feel that an inspector has not operated within these principles, you can make a complaint to the WHSQ Regional Director in your area. A list of WHSQ offices and contact details are included at the back of this brochure

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How do I find out more about workplace health and safety?

The WHSQ website is a great resource to help you comply with workplace health and safety laws. The website has a range of fact sheets, checklists, safety alerts and videos for free download to help you manage health and safety in your workplace. You can subscribe to WHSQ's free eNews to keep up to date with the latest developments in workplace health and safety laws, inspector activities and upcoming events.

You can also access the *Workplace Health and Safety Act 1995*, the *Workplace Health and Safety Regulation 2008* and various codes of practice for free on the WHSQ website, www.worksafe.qld.gov.au. You can also call the WHS Infoline on **1300 369 915**.

Who do I talk to about workers' compensation?

All employers in Queensland are required to have a workers' compensation policy that covers their employees.

Workers' compensation insurance in Queensland is handled by WorkCover Queensland, except where the employer has been granted a licence to self-insure. Contact WorkCover by telephoning **1300 362 128** or visit www.workcoverqld.com.au.

Only a small number of large employers who meet specific requirements are able to self-insure. Q-COMP regulates the licensing of self-insurers. Q-COMP can be contacted by telephoning **1300 361 235** or visit www.qcomp.com.au.

Where is my local WHSQ Office?

All offices are open from 9am to 4.45pm Monday to Friday. You can also visit our website at www.worksafe.qld.gov.au or phone the WHS Infoline on **1300 369 915**.

Lutwyche

Level 4, Lutwyche Shopping Centre
543 Lutwyche Road
Lutwyche Qld 4030

Mt Gravatt

Level 2, Block C
643 Kessels Road
Mt Gravatt Qld 4122

Bundaberg

16 Quay Street
Bundaberg Qld 4670

Cairns

10-12 McLeod Street
Cairns Qld 4870

Emerald

14 Ruby Street
Emerald Qld 4720

Gladstone

Level 2, Government Building
Cnr Oaka Lane and Roseberry Street
Gladstone Qld 4680

Innisfail

12 Fitzgerald Esplanade
Innisfail Qld 4860

Ipswich

Level 1, Ipswich Courthouse
Corner East and Limestone Streets
Ipswich Qld 4305

Logan

Level 1, Wembley Place
91 Wembley road
Logan Central Qld 4114

Mackay

Floor 1, Post Office Square
Cnr Gordon and Sydney Streets
Mackay Qld 4740

Maryborough

319-325 Kent Street
Maryborough Qld 4650

Mount Isa

75 Camooweal Street
Mount Isa Qld 4825

Nambour

Floor 1, Centenary Square Building
52-64 Currie Street
Nambour Qld 4560

Robina

Level 5, Robina Town Centre
Robina Town Centre Drive
Robina Qld 4230

Roma

Cnr Bowen and Spencer Streets
Roma Qld 4455

Rockhampton

Level 2, State Government Building
209 Bolsover Street
Rockhampton Qld 4700

Thursday Island

Block C
TAGAI Business Services
1 Hargrave Street
Thursday Island Qld 4875

Toowoomba

Level 1, James Cook Centre
Cnr Herries and Ruthven Streets
Toowoomba Qld 4350

Townsville

254 Ross River Road
Aitkenvale Qld 4814