



# What to expect when an inspector calls

## **A guide for persons conducting a business or undertaking**

This brochure will help you understand the reasons for an inspector visit and what to expect when an inspector comes to your workplace.







## What to expect when an inspector calls

### Introduction

Across the state, approximately 40 workers are killed in workplace incidents and more than 24,000 serious injuries are reported each year - the associated economic cost is estimated at nearly \$6 billion.

Workplace Health and Safety Queensland (WHSQ) and Electrical Safety Office (ESO) inspectors and investigators play a vital role in responding to incidents, monitoring businesses, and enforcing compliance to ensure the workforce is equipped in creating businesses that are safer, healthier, fairer, and more productive.

Businesses have a primary duty of care to make their environments safe for workers. WHSQ and ESO have a primary duty to regulate businesses to ensure they comply with these obligations.

Under work health and safety and electrical safety laws, inspectors have legal powers to enter any workplace with or without consent. Businesses must provide reasonable assistance to inspectors if requested, and it's an offence to hinder, obstruct, impersonate, assault, threaten or intimidate an inspector as they carry out their duties to investigate.

A workplace death is always very serious for a business. Consequences are dire and can include huge fines, prosecution, imprisonment – and then there's the loss of reputation resulting in your customers or partners losing confidence. Worse still is the devastating impact the death of a loved one brings to family, friends, and colleagues.

You can avoid this by ensuring your business is aware of its obligations and has systems in place that demonstrate how you minimise health and safety risks in your workplace.

### Workplace duties

Work health and safety, electrical safety and safety in recreational water activities laws are administered by Workplace Health and Safety Queensland (WHSQ) and the Electrical Safety Office (ESO). They are responsible for ensuring workplaces and individuals comply with these laws through effective compliance monitoring and enforcement.

WHSQ and ESO attend Queensland workplaces every day to perform safety checks, seeking to ensure workplaces and individuals comply with the following core principles:

- Workers should be protected from exposure to the risks of illness and injury at work.
- People should not have their health and safety put at risk because of work being carried out.
- The people in control of the work that creates the risk are in the best position to eliminate or minimise exposure to those risks.
- Persons conducting a business or undertaking (PCBUs), officers, workers and others need to be proactive in ensuring health and safety in the workplace.
- Owners, managers and people in control of the business must communicate and collaborate with workers and their representatives to manage work health and safety risks.
- Where there are multiple duty holders, they need to work together to exchange ideas and information about eliminating or minimising risks in their workplace.

## Compliance and Monitoring Enforcement Policy (CMEP)

The Compliance Monitoring and Enforcement Policy (CMEP) was developed to inform workplaces of WHSQ and ESO's approach to compliance monitoring and enforcement and to guide inspectors and their managers in their decision-making and use of enforcement measures.

The CMEP is consistent with the Safe Work Australia National Compliance and Enforcement Policy which sets out key principles that underpin all WHSQ and ESO activities. These principles include being consistent, constructive, proportionate, responsive and targeted in the compliance and enforcement activities undertaken.

Incidents and complaints notified to WHSQ and the ESO are triaged to ensure that resources are directed appropriately and efficiently, taking into account a range of factors including jurisdiction, the scope of the relevant legislation, the severity and scale of potential or actual harm, the seriousness of any potential breach of the legislation, a duty holder's compliance history, and strategic enforcement priorities.

Not all complaints and incident notifications received are assessed as requiring an investigation or assessment response by an inspector. Other responses following triage include referring the matter to other more appropriate authorities, writing to the relevant duty holder to advise them of the complaint received and requesting that they review the relevant parts of their safety management system (an administrative response), or taking no further action.

Compliance responses should be proportionate and responsive to the specific situation, taking into account relevant information, including:

- the level of actual or potential harm
- any relevant history of non-compliance
- whether the contravention has been identified as a priority area for enforcement
- the likelihood of ongoing contraventions.

WHSQ and ESO will give priority to compliance activities that focus on the industries and mechanisms which pose the greatest risk to the health and safety of workers and others. Inspectors will use their legal powers to monitor and enforce compliance which includes directing compliance, imposing a penalty and providing information and advice about compliance.

Inspectors will not give prior notice of entry to a workplace except in specific circumstances (e.g. remote sites where it is necessary to ensure someone is on site or where it is necessary to ensure a particular person is available) and where advance notice will not compromise the intention of the visit.

## Workplace conduct

The health and safety of all people at work is our highest priority. This value underpins our daily mission when working with the Queensland community, and applies equally to WHSQ and ESO staff.

You must provide reasonable help to assist the inspector in his or her work, if they request it. It is an offence to hinder, obstruct, impersonate, assault, threaten or intimidate an inspector or a person assisting an inspector.

WHSQ and ESO are committed to providing a safe and healthy work environment for inspectors and will not tolerate verbal abuse, cyber abuse such as publishing seriously harmful content on a social media platform, violence or aggressive behaviour towards inspectors carrying out their duties.

If an offence is committed against an inspector, WHSQ and ESO will take action to hold individuals to account.





# Why inspectors visit workplaces

In Queensland there are around 40 fatalities each year due to traumatic workplace incidents and more than 24,000 serious work-related injuries. These deaths and injuries carry with them a devastating and personal impact on workers and their families, with a significant financial cost to the Queensland community. Overall, workplace incidents are estimated to cost the Queensland economy over \$5.8 billion each year.

WHSQ and ESO inspectors will visit a workplace in response to a health and safety incident and to monitor and enforce compliance. Inspectors may:

- investigate breaches of work health and safety and electrical safety laws
- assist with resolving work health and safety issues
- assist with resolving right of entry and workplace access disputes
- review disputed provisional improvement notices
- conduct inspections and national, state-wide and regional audit campaigns
- provide information and advice on the laws.

Compliance monitoring and enforcement is designed to ensure:

- obvious risks to the health and safety of workers and others are managed
- breaches of the laws are addressed quickly
- work is conducted in a way that is electrically safe
- PCBUs are fulfilling their duties to ensure the health and safety of workers and others
- officers of a PCBU are exercising due diligence to ensure the PCBU is complying with any relevant duties.







### Residential premises

WHSQ and ESO inspectors have the power to enter residential premises when:

- the inspector suspects a residential premise is used as a workplace
- entry is authorised by a search warrant
- entry is at a reasonable time (i.e. the times the inspector believes the work is being done)
- it is used for storing or handling dangerous goods
- it involves the use or storage of high risk plant that affects public safety.

An ESO inspector may also enter a place if the entry is urgently required to investigate the circumstances of a serious electrical incident or dangerous electrical event.

The inspector must leave a residential premise if it does not meet any of the above criteria.

## Inspector powers

WHSQ and ESO inspectors have legal powers under the law which allow them to enter any workplace. An inspector can enter with or without the consent of the person with management or control of the business and without prior notice.

WHSQ and ESO inspectors carry out their role with minimal disruption to any workplace where possible however, when an incident occurs or dangerous work practices exist, they will intervene to ensure everyone is safe.

The laws provide inspectors with a range of powers that help them do their job. This includes the power to:

- enter a workplace or suspected workplace
- inspect, examine and make inquiries
- seize things (including documents)
- bring and use any equipment or materials they need
- take measurements, conduct tests and make sketches or recordings (e.g. photographs, films, audio and video)
- take and remove samples for analysis without paying for it
- copy documents (e.g. training records, employee records, manufacturer's instructions)
- require a person to provide a document
- require a person to answer questions
- require a person to provide his or her name and residential address
- issue a non-disturbance notice to preserve or prevent the disturbance of a site
- take affidavits
- issue improvement, prohibition and infringement notices
- exercise any compliance power or other power that is necessary.

# What inspectors do during a visit

Inspectors will carry photo identification and identify themselves once they have entered the workplace.

They will take all reasonable steps to notify the relevant person conducting the business or undertaking, the person with management or control of the workplace, any health and safety representative for workers and any work health and safety officer of their arrival and the reason for their visit. The person with management or control of the workplace, health and safety representative or a work health and safety officer will be invited to accompany the inspector during the visit.

Inspectors may visit a workplace as a team because they specialise in a particular aspect of safety management (e.g. ergonomics, hazardous chemicals). They may bring other individuals who are not inspectors, including technical experts, interpreters or police officers. An inspector can also require a person at the workplace to help during the visit.

The inspector will explain the focus of the visit and the inspection process. They may review documented procedures, observe work practices, speak with workers and supervisors and look at tools and equipment.

During workplace visits, inspectors may identify breaches that can be rectified immediately to achieve compliance. These will be recorded by the inspector and noted on the PCBU/ workplace's record. Breaches that cannot be rectified immediately will result in a notice to remedy.

At the end of the inspection, the inspector will summarise the key findings and explain any actions that need to be taken. When the inspector identifies a contravention or serious risk, they will use their powers to address the matter, which includes issuing notices. If notices are issued, the inspector will explain these as well as your right of review if you disagree with the decision.

When an inspector visits a workplace to ensure you are complying with the law, they will observe the workplace, talk to PCBUs and workers and review safety documents.

An inspector will use this information to determine the level and suitability of control measures being used to manage risks. This assessment will produce one of five residual risk ratings:

1. Controls are in place. The controls are working and are effective (i.e. the hazard or risk has been eliminated or residual risk is minimised).
2. Controls are in place, so far as is reasonably practicable. There is some remaining risk because better controls do not appear to be available or a better alternative would require an investment grossly disproportionate to the risk. Ongoing monitoring of this risk is needed.
3. Controls are low level with no evidence of investigation into higher order controls. Low level control measures may still be considered a contravention if higher level control measures are reasonable and available.
4. Controls are inadequate. There are known problems or limitations with existing controls and further action is needed to eliminate or minimise exposure to the risk.
5. The risk is uncontrolled. Controls either have not been implemented, or are grossly inadequate. Urgent action is required.

A residual risk rating of three or higher would indicate a breach has occurred and enforcement action is required to prevent workers and others being exposed to the likelihood of serious injury or illness.

## Visits to investigate workplace incidents

WHSQ and ESO exercise discretion in deciding the extent that workplace incidents will be investigated. They are guided by the principles set out in the National Compliance and Enforcement Policy.

During an investigation into an incident, an inspector may:

- take action to secure the scene to prevent evidence from becoming lost or misplaced (e.g. prevent access to part of the workplace)
- seize evidence such as 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
- take formal statements and/or affidavits from witnesses
- examine records and documents (and take copies)
- take another person to the workplace to assist in the investigation (e.g. a technical expert)
- take proportionate and responsive enforcement action
- require persons to answer questions and produce documents.

If evidence is seized an inspector will issue a receipt for the seized item. The inspector will explain the process for seizure, storage and return of the seized item. The owner of the item may apply for it to be returned after a six-month period. The inspector will also advise who to contact for updates about when the item is likely to be returned.

## Notifiable incidents

A serious workplace incident investigation will usually begin immediately after WHSQ or ESO are notified. There is a requirement that certain types of workplace and electrical safety incidents must be notified to WHSQ and ESO. For workplace incidents this includes the death, serious injury or serious illness of a person or involves a dangerous incident. For electrical safety, this includes a serious electrical incident or dangerous electrical event. More information regarding notifiable incidents is available at [worksafe.qld.gov.au](https://www.worksafe.qld.gov.au).

An inspector could visit the workplace several times to complete the investigation. The time it takes to complete the investigation will vary depending on the circumstances. More complex incidents can take many months to complete.

In the event of a workplace death, WHSQ or ESO will contact the deceased's next of kin. During this contact, the next of kin will be consulted about their preferences for ongoing contact and how they can access further information about the investigation.



# What to expect from enforcement measures

Inspectors have several enforcement measures available to direct compliance or penalise non-compliance. These work as an effective incentive for compliant behaviour and as a deterrent to non-compliance. If an inspector detects a breach they can:

- provide an opportunity for the PCBU to immediately rectify a breach
- issue one or more of the following:
  - A prohibition notice, requiring an immediate action if the inspector reasonably believes an activity is occurring, or may occur, at a workplace that involves or will involve a serious risk to the health or safety of a person from an immediate or imminent exposure to a hazard.
  - An electrical safety protection notice (ESPN) if there is an immediate electrical risk to people or property.
  - An improvement notice for a contravention of the law that does not result in the issue of a prohibition notice or ESPN.
  - A non-disturbance notice requiring immediate action for a business or person to preserve a site.
  - An unsafe equipment notice for defective or hazardous electrical equipment that is likely to cause a serious electrical incident.
  - An infringement notice (on the spot fine) if the inspector believes, on reasonable grounds, that a person is committing or has committed an infringeable offence. For example, failing to provide first aid equipment. Infringement notices may be issued to an organisation, individual or both. There are many contraventions where issuing an infringement notice is mandatory. For example, failing to stop high risk construction work that is not carried out in accordance with a safe work method statement. The list of infringeable offences that are priority areas for enforcement, are available at [worksafe.qld.gov.au](https://www.worksafe.qld.gov.au) and will change periodically to reflect current and emerging risks.
- seize items (e.g. plant, equipment or substances)
- institute court proceedings for an offence.

Enforcement measures are specific and proportionate to the situation, and consider:

- the level of risk
- the level of actual or potential harm
- the availability, clarity and status of standards or guidance
- any relevant history of non-compliance
- whether the contravention has been identified as a priority area for enforcement.



When taking enforcement action, inspectors will explain:

- the reasons for taking the action
- the evidence on which they have based their decision
- the actions required in order to comply
- the date by which compliance is required
- where to get guidance on how to comply.

If you are unsure about what is required you should ask the inspector to clarify.

# What review rights exist

An application can be made to review some inspectors' decisions, such as the issuing of an improvement or prohibition notice. However, the decision to issue an infringement notice cannot be reviewed.

## Internal reviews of decisions

You may apply for an internal review of an inspector's decision. An application for internal review must be made within 14 calendar days of the decision. For an improvement notice, an application must be made in the time stated on the notice or 14 calendar days, whichever is shorter. The outcome of the review may be:

- confirm the original decision
- vary the original decision
- substitute the original decision for another decision.

If the review relates to a prohibition or non-disturbance notice, you may apply for a stay (i.e. suspension) of the original decision while the internal review process is underway.

If the review relates to an improvement notice, a stay is automatically granted once the application for internal review is lodged. You will receive written notice about the outcome of the internal review.

If applicant is dissatisfied with the internal review decision or the regulator's decision, they may apply for an external review.

## External reviews of decisions

The external review will be conducted by the Queensland Civil and Administrative Tribunal (QCAT) or the Queensland Industrial Relations Commission (QIRC) depending on the type of decision.

If the decision is reviewable by QCAT you must submit your written notice of appeal to QCAT within 28 days of receiving the notice of decision.

If the decision is reviewable by QIRC, you must file a written application for a review with the industrial registrar. The application must be filed within 30 days of the applicant receiving the notice.

QCAT and QIRC may:

- confirm or vary the original decision
- set aside the original decision and substitute another decision
- set aside the original decision and return the matter to the decision-maker with appropriate directions.

The list of reviewable decisions can be found on [worksafe.qld.gov.au](http://worksafe.qld.gov.au) and outlines who is eligible for a review and who would undertake the external review.

## Infringement notices

Neither the decision to issue nor the content of an infringement notice is reviewable. The recipient of an infringement notice may choose to:

- pay the fine in full
- apply to the state penalties enforcement registry for a payment plan
- elect to have the matter heard in a magistrates court.

## Inspector conduct

Inspectors come from diverse backgrounds. Some have trade experience and some have tertiary qualifications in occupational health and safety disciplines.

Inspectors undergo an induction as well as on the job coaching, mentoring and training on work health and safety and electrical safety issues.

Inspectors are expected to deliver professional services where they:

- treat all people in the business and at the workplace with respect, dignity and sensitivity
- interact with duty holders and other individuals in a timely and efficient manner
- remain professional and consistent
- ensure confidential information or documents are not used or disclosed inadvertently
- undertake activities without favouritism or discrimination
- explain all decisions
- conduct all activities in accordance with the values outlined in the Code of Conduct for the Queensland Public Service and Global Code of Integrity for Labour Inspection.

If you feel that an inspector has not operated within these principles, you can make a complaint to the regional office in your area.



# Who to 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 Queensland on 1300 362 128 or visit [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au).

## Further information

Visit [worksafe.qld.gov.au](http://worksafe.qld.gov.au) to:

- find more information about the Compliance Monitoring and Enforcement Policy
- download information and tools to help you manage health and safety in your business
- subscribe to eSAFE and follow WHSQ and ESO on social media sites
- keep up to date with changes to work health and safety and electrical safety laws
- find out about audit campaigns, industry events and information sessions
- arrange a free safety advisory visit
- access work health and safety and electrical safety laws and codes of practice.

Visit [worksafe.qld.gov.au](http://worksafe.qld.gov.au) or call 1300 362 128.



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