



→ WORKING WITH HEALTH AND SAFETY

HOW INSPECTORS PROMOTE AND ENFORCE HEALTH AND SAFETY AT WORK



WHAT IS A DEPARTMENT OF LABOUR HEALTH AND SAFETY INSPECTOR?

Health and Safety Inspectors promote safe work by informing and educating. This involves helping employers and others understand the value of safety and how to achieve it, so they can keep their people and their businesses working.

In an ideal world safety education would be all our Inspectors did. But when the Department receives complaints about safety, or reports of accidents and incidents, an Inspector may investigate.

Inspectors are appointed under the Health & Safety in Employment Act 1992 (HSE Act), which promotes the prevention of harm to people at work.

They also enforce the Machinery Act 1950 and the Hazardous Substances & New Organisms Act 1996. Inspectors are required to perform their role with professionalism, integrity and impartiality.



Ministry of Business,
Innovation & Employment



WHY WILL AN INSPECTOR VISIT A WORKPLACE?

Sometimes Inspectors visit workplaces to provide information and support, or to assess the quality of health and safety practices in the workplace. Inspectors may ask or provide information about fundamental employee rights.

Sometimes Inspectors visit workplaces after the Department has been notified about an incident where someone was seriously injured, or has received a complaint about workplace health and safety standards.

Inspectors have the right to enter any workplace, without giving notice, at any reasonable time. However, they will often contact the workplace beforehand to make an appointment.

WHAT HAPPENS ON SITE?

When an Inspector first arrives at a workplace, they will introduce themselves to the person in charge of the workplace at the time, and will explain the purpose of their visit. The Inspector will identify themselves by showing their certificate of appointment as an inspector, and may also provide a business card.

During an investigation or a workplace assessment the Inspector will seek information about how health and safety is managed. They have the right to:

- examine your safety information and records, including accident registers
- discuss how health and safety is systematically managed
- observe work activities
- ask for a demonstration or explanation on the use of processes or plant
- ask how employees are involved in health and safety matters
- interview and take statements from various people
- inspect personal protective equipment
- check if employees health is monitored
- take photographs, measurements and samples.



EMPLOYEE INVOLVEMENT DURING THE VISIT

Involving employees in health and safety is an effective way to make workplaces safer and healthier. So Inspectors will be looking to ensure that employers have given their employees reasonable opportunities to participate in their workplace's health and safety.

Inspectors will work closely with health and safety representatives at the workplace and may want to speak privately with Health and Safety Representatives and other employees, if they agree.

WHAT HAPPENS IF AN INSPECTOR SEES UNSAFE PRACTICES?

Inspectors encourage people to voluntarily comply with health and safety obligations. If people are genuinely willing to comply, and the unsafe practices are minor and unlikely to lead to anyone being seriously harmed, the Inspector may reach an agreement with the employer that the problem will be fixed, and take no further action. Sometimes a written warning will be issued.

WHAT ENFORCEMENT ACTION CAN INSPECTORS TAKE?

Under the HSE Act, Inspectors have a range of enforcement tools. These are:

■ PROHIBITION NOTICE

If an Inspector believes someone is likely to be seriously harmed because a hazard in the workplace is inadequately controlled, they will serve a Prohibition Notice immediately, stopping the activity, process or the use of equipment. The notice stays in force until the Inspector is satisfied that the hazard has been adequately controlled. The Inspector will write on the Prohibition Notice the reasons why they believe the notice is necessary.

■ IMPROVEMENT NOTICE

An Improvement Notice will explain why any activity, process or piece of equipment breaches the HSE Act, why an improvement needs to be made and by what date. The Inspector is likely to explain and fully discuss the steps that could be taken to fix the problem. The Inspector will discuss the Improvement Notice and time frames, and if possible, resolve points of difference before serving the notice. The time limit to comply with the Notice is ultimately at the discretion of the Inspector.

An Inspector can take legal action if an Improvement Notice or Prohibition Notice is not complied with.

■ INFRINGEMENT NOTICE

The Department can also issue Infringement Notices for offences if a prior warning about the same or similar matter has already been given. If you are issued with an Infringement Notice you will be required to pay a fee anywhere within the range of \$100 to \$4000.

■ PROSECUTION

Prosecutions will be taken in the most serious situations. That is, where the most serious instances of non-compliance have occurred or where non-compliance is flagrant or wilful, or the harm or potential harm is severe.

The decision to take such action is not made during the visit or solely by the inspector, it is a very considered decision made after an investigation is complete and the file is reviewed by others within the Department.



YOUR RIGHTS

■ APPEALS

If you think an Improvement or Prohibition Notice is unreasonable you should contact the Department of Labour to discuss your concerns.

You also have the right to appeal to the District Court within 14 days of the notice being served. However, the notice will remain in force until the Court alters or revokes it.

If you think an Infringement Notice is unreasonable you must write to the Department within 28 days outlining your concerns. You have the right to seek a hearing with regard to the alleged offending or to seek a review of the penalty that has been imposed. These options are explained in full on the reverse of the infringement notice.

If a prosecution action has been commenced it is recommended that independent legal advice be sought.

HOW TO RAISE CONCERNS ABOUT THE SERVICE YOU RECEIVE FROM US

If you think you have been treated unfairly by an Inspector or have concerns about any enforcement action taken against you, you can contact the Department of Labour to discuss the matter. We will ensure that your concerns or complaint are followed up in a fair, appropriate and timely manner.

See overleaf for contact information.



CALL US FREE ON 0800 20 90 20 OR VISIT OUR WEBSITE AT WWW.DOL.GOV.T.NZ



WHERE CAN I GET MORE INFORMATION ABOUT INSPECTORS AND ENFORCEMENT?

For more information on how Inspectors enforce the HSE Act, read the Department's enforcement policy called *Keeping Work Safe* which can be found on the website at www.dol.govt.nz/publications/research/keeping-work-safe/index.asp

For general information on health and safety, call us on 0800 20 90 20 or visit our website www.dol.govt.nz

newzealand.govt.nz

The Department of Labour was integrated into the new Ministry of Business, Innovation and Employment on 1 July 2012. All references to "Department of Labour" now refer to the Labour Group, Ministry of Business, Innovation and Employment.