

Advice Leaflet 45
What to Expect When A Health & Safety Inspector Calls
Brief Guide for Businesses, Employees & Their Representatives



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Health & Safety Commission

About This Leaflet

This leaflet is intended for those in businesses who have duties under health and safety law ('dutyholders'), for example employers and those in control of workplaces. It explains what you can expect when a health and safety inspector calls at your workplace.

It also tells employees and their representatives what information they may expect from an inspector during a visit.

Who Enforces Health And Safety Law?

Health and safety law is enforced by inspectors from the Health and Safety Executive (HSE) or by inspectors from your local authority.

Inspectors have the right to enter any workplace without giving notice, though notice may be given where the inspector thinks it is appropriate. On a normal inspection visit an inspector would expect to look at the workplace, the work activities, your management of health and safety, and to check that you are complying with health and safety law. The inspector may offer guidance or advice to help you. He/she may also talk to employees and their representatives, take photographs and samples, serve improvement notices and take action if there is a risk to health and safety which needs to be dealt with immediately.

Enforcing Health And Safety Law

On finding a breach of health and safety law, the inspector will decide what action to take. The action will depend on the nature of the breach, and will be based on the principles set out in the Health and Safety Commission's (HSC) *Enforcement Policy Statement*. The inspector should provide employees or their representatives with information about any action taken, or which is necessary for the purpose of keeping them informed about matters affecting their health, safety and welfare.

Inspectors may take enforcement action in several ways to deal with a breach of the law. In most cases these are:

Informal

Where the breach of the law is relatively minor, the inspector may tell the dutyholder, for example the employer or contractor, what to do to comply with the law, and explain why. The inspector will, if asked, write to confirm any advice, and to distinguish legal requirements from best practice advice.

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Improvement Notice

Where the breach of the law is more serious, the inspector may issue an improvement notice to tell the dutyholder to do something to comply with the law. The inspector will discuss the improvement notice and, if possible, resolve points of difference before serving it. The notice will say what needs to be done, why, and by when. The time period within which to take the remedial action will be at least 21 days, to allow the dutyholder time to appeal to an Industrial Tribunal if they so wish (see 'Appeals' below). The inspector can take further legal action if the notice is not complied with within the specified time period.

Prohibition Notice

Where an activity involves, or will involve, a risk of serious personal injury, the inspector may serve a prohibition notice prohibiting the activity immediately or after a specified time period, and not allowing it to be resumed until remedial action has been taken. The notice will explain why the action is necessary. The dutyholder will be told in writing about the right of appeal to an Industrial Tribunal (see 'Appeals' below).

Prosecution

In some cases the inspector may consider that it is also necessary to initiate a prosecution. Decisions on whether to prosecute are informed by the principles in HSC's *Enforcement Policy Statement*. Health and safety law gives the courts considerable scope for punishing offenders and deterring others. For example, a failure to comply with an improvement or prohibition notice, or a court remedy order, carries a fine of up to £20 000, or six months' imprisonment, or both. Unlimited fines and in some cases imprisonment may be imposed by higher courts.

Appeals

A dutyholder will be told in writing about the right of appeal to an Industrial Tribunal when an improvement or prohibition notice is served. The appeal mechanism is also explained on the reverse of the notice. The dutyholder will be told:

- how to appeal, and given a form with which to appeal;
- where and within what period an appeal may be brought; and
- that the remedial action required by an improvement notice is suspended while an appeal is pending

Information for Employees Or Their Representatives

During a normal inspection visit an inspector will expect to check that those in charge, e.g. employers, have arrangements in place for consulting and informing employees or their representatives, e.g. safety representatives, about health and safety matters. Such arrangements are required by law.

An inspector will meet or speak to employees or their representatives during a visit, wherever possible, unless this is clearly inappropriate because of the purpose of the visit. When they meet, employees or their representatives should always be given the opportunity to speak privately to the inspector, if they so wish.

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The inspector will provide employees or their representatives with certain information where necessary for the purpose of keeping them informed about matters affecting their health, safety and welfare. This information relates to the workplace or activity taking place there, and action which the inspector has taken or proposes to take. The type of information that an inspector will provide includes:

- matters which an inspector considers to be of serious concern;
- details of any enforcement action taken by the inspector; and
- an intention to prosecute the business (but not before the dutyholder is informed).

Depending on the circumstances, the inspector may provide this information orally or in writing.

Complaints

This leaflet sets out what you can expect when a health and safety inspector calls at your workplace. If you have a complaint that these procedures have not been followed then you can contact the inspector's manager to discuss the matter.

If the inspector is from the **Health and Safety Executive** you can speak or write to the inspector's manager who will investigate your complaint and tell you what is going to be done about it. Most complaints are settled in this way, very often immediately. If you are still not satisfied write to the Chief Executive of HSE, Geoffrey Podger. He will see that your complaint is followed up promptly and fairly. You can also write and ask your MP to take up your case with HSE, with Ministers, or the independent Parliamentary Commissioner for Administration (the Ombudsman).

If the inspector is from a **local authority** you can contact the inspector's manager and ask for your complaint to be investigated. If you are still not satisfied you can use the local authority's formal complaints procedure. In cases of maladministration you can also make a complaint to the Local Government Ombudsman in England, Scotland or Wales.

If the inspector is from another enforcing authority you can contact the inspector's manager and ask for your complaint to be investigated. If you are still not satisfied you can contact the Chief Executive of HSE, Geoffrey Podger. He can be contacted, in writing, at the Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE1 9HS.

How to find out more about health and safety law and how it is enforced.

More information, including what businesses must do by law, can be found in this HSE leaflet:

An introduction to health and safety. Health and safety in small businesses Leaflet INDG259(rev1) HSE Books 2003 (single copy free or priced packs of 5 ISBN 0 7176 2685 7)

Web version: <http://www.hse.gov.uk/pubns/indg259.pdf>

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Further Information

HSE priced and free publications are available by mail order from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA Tel: 01787 881165
Fax: 01787 313995 Website: www.hsebooks.co.uk (HSE priced publications are also available from bookshops and free leaflets can be downloaded from HSE's website: www.hse.gov.uk.)

For information about health and safety ring HSE's Infoline Tel: 0845 345 0055
Fax: 0845 408 9566 Textphone: 0845 408 9577 e-mail: hse.infoline@natbrit.com
or write to HSE Information Services, Caerphilly Business Park, Caerphilly, CF83 3GG.

This document contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.

This document is available online at <http://www.hse.gov.uk/pubns/hsc14.pdf>. A printed version is also available in this format from HSE Books.

Local authorities may produce their own further information on enforcing health and safety. Your enforcing authority for the following list of *relevant statutory provisions* of the Health & Safety at Work etc Act 1974 is the **West Yorkshire Fire & Rescue Service**.

Relevant Statutory Provisions

Petrol:

- Petroleum (Consolidation) Act 1928 and subordinate legislation
- Public Health Act 1961 (Section 73 only) (Derelict Petrol Tanks)
- Petroleum Spirit (Plastic Containers) Regulations 1982
- Carriage of Dangerous Goods by Road Regulations 1996 (Regulations 5, 6 and 20 only)
- Dangerous Substances & Explosive Atmospheres Regulations 2002 (in respect of petrol filling stations only)

Explosives:

- Manufacture & Storage of Explosives Regulations 2005

Dangerous Substances:

- The Dangerous Substances and Marking of Sites) Regulations 1990

General Fire Precautions:

- The Health & Safety (Safety Signs & Signals) Regulations 1996 (only in respect of fire safety signs in the workplace)
- The Construction (Design and Management) Regulations 2007 (in respect of a construction site which is contained within, or forms part of, premises which are occupied by persons other than those carrying out the construction work or any activity arising from such work as regards regulations 39 and 40, in so far as those regulations relate to fire, and regulation 41).