

## Workplace Health and Safety Queensland Inspectors

The *Work Health and Safety Act 2011 (the Act)* provides the legal framework for the management of health and safety in Queensland workplaces and applies to all department workplaces. The Act establishes a range of duties and duty holders which includes school principals, institute directors and department staff. The Act is administered by Workplace Health and Safety Queensland, Department of Justice and Attorney-General through the role of the Workplace Health and Safety Inspector.

### What is a Workplace Health and Safety Inspector?

The main role of an inspector is to monitor compliance with workplace health and safety legislation. It is also part of their role to provide information and advice on the legislation. Under the *Work Health and Safety Act 2011*, inspectors have particular legal powers.

### Why would an inspector visit my school?

Visits to schools can be random, part of a targeted audit program or in response to a concern or a health and safety incident or injury. During a visit an inspector may:

- 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 or students.
- Conduct workplace health and safety inspections and audits
- Provide information and advice on the legislation

### What powers does an Inspector have and what can they do in my school?

Inspectors may enter any workplace (e.g. a school or TAFE campus) at any time with or without the consent of the person with management or control and exercise their powers while they are in the workplace. Prior to an inspector exercising powers under the *Act* the inspector should produce his or her identity card for inspection.

### After entering a workplace, Inspectors have the power to:

Provide information and advice about how to comply with the law.	e.g. through discussion, advice or enforcement notices.
Review disputed PIN.	e.g. attend site after a request for review of a PIN
Issue notices to require compliance with the law.	e.g. question a witness to an incident and take a witness statement
Investigate contraventions and assist to prosecute offences.	
Inspect examine and make inquiries.	e.g. inspect equipment and other areas of the workplace.
Inspect, examine and seize anything including documents.	e.g. look at training records, employment records, operators manuals, inspection reports
Bring and use any equipment or materials they may need.	e.g. sound level meter to measure noise in the workplace.
Take measurements, conduct tests and make sketches or recording.	When required, Inspectors can photograph students as part of their powers to gather information at a workplace. ★
Take and remove samples for analysis.	e.g. take air quality samples and remove for analysis.
Help resolve work health and safety issues.	
Help resolve right of entry disputes.	

# Health & Safety Fact Sheet

- ★ In the vast majority of instances the identity of individuals (including students) can be obscured in photographs without affecting the accuracy or purpose of capturing the image e.g. for an investigation or further action. If Officers in charge of workplaces have concerns regarding disclosure of student information these should be discussed with the WHSQ Inspector. Further advice about privacy issues can be sought from Legal & Administrative Law Branch if required.

## Will I be given adequate notice of an inspector's visit to my school?

Advance notice is not usually provided prior to a visit to a workplace. This is to ensure that the inspector can observe normal activities and procedures. Where advance notice is provided, officers in charge of workplaces can invite their regional/institute health and safety consultant to attend for assistance with issues raised during the visit.

An inspector must advise the person with management or control of the workplace and the HSR they have entered the workplace as soon as practicable, however this is not needed if it would defeat the purpose of entry or cause unreasonable delay.

## How should I assist an inspector at my school?

Schools should provide assistance as requested by the inspector in performing their duties, a person asked to assist a workplace inspector must not, without reasonable excuse, refuse or fail to comply.

. This could include the following:

- Notifying your school's Workplace Health and Safety Officer and Representative of the presence of an inspector at your school
- Providing documents as requested
- Answering questions and providing information
- Providing the inspector with access to persons at your school (eg. a witness to an incident, a person with knowledge about a work practice). This may mean arranging a replacement for a staff member while they are talking to the inspector.
- Allowing a staff member time and a quiet location to give the inspector a statement
- Allowing the inspector to access school equipment, such as a photocopier, scanner or computer.

## What are the possible outcomes of a visit from an inspector?

An inspector may take enforcement action during or after their visit to your school. This could include:

- Providing general advice on health and safety issues
- Giving verbal directions
- Issuing improvement notices, prohibition notices, non-disturbance notices, dangerous goods directives, electrical safety protection notices, remedial action, enforceable undertaking, or on-the-spot fines (infringement notices)
- Exercise any authorised powers
- Cancel or suspend licenses, approvals, certifications and authorisations.

The inspector will explain the reason for implementing any actions, the evidence on which they have based their decision, what you should do to comply, where to get further guidance and the compliance date. If you are not completely clear about the explanation, please ask the inspector to clarify these issues.

If an inspector issues a [formal written request](#) to obtain documents or interview staff, forward this request immediately to Legal and Administrative Law Branch (LALB) on fax (07) 3237 0634. Refer also to [Health and Safety Incident Recording, Notification and Management](#) for more information.

# Health & Safety Fact Sheet

## Types of Enforcement Notices Issued by an Inspector

**Improvement Notices** – may be issued if an inspector reasonably believes a person is contravening, or has contravened the WHS Act or Regulation and it is likely that a contravention will continue or be repeated. The notice will outline the provisions of the WHS Act that have or may have been contravened, the reasons for the notice and a reasonable date to fix the contravention. An improvement notice will set out the action that must be taken to rectify the contravention and state the day by which the contravention must have been remedied.

**Prohibition Notices** – may be issued if an inspector reasonably believes that an activity presents a serious risk to a person's health or safety. The notice prohibits that activity continuing or being carried out in a specific way, and is issued to the person with control over the activity. A prohibition notice requires an **immediate** action.

**Non-disturbance Notices** – may be issued if an inspector believes it is necessary to enable them to exercise their powers. A notice may require the person to preserve the site or prevent disturbance for up to seven days, and must include the measures to be taken to do so.

### **Infringement Notice – “on-the-spot fine” -**

An on-the-spot fine is an infringement notice. An inspector may impose an on-the-spot fine for certain offences against the [Work Health and Safety Act 2011](#), [Work Health and Safety Regulation 2011](#), [Safety in Recreational Water Activities Act 2011](#) and the [Safety in Recreational Water Activities Regulation 2011](#),. An infringement notice imposes a financial penalty for an offence of the legislation which is readily identifiable. In most cases, it will be issued along with other notices. Fines imposed upon schools, TAFE institutes and other departmental workplaces may be at 'corporation' than 'individual' rates, i.e. calculated at the maximum rate for each offence. The principal/manager of the departmental workplace issued with the on-the-spot fine is responsible for payment of the fine.

### **What should I do if an inspector issues a notice?**

1. Your workplace must comply with a notice – unless an application for review of a decision is lodged.
2. Immediately notify the officer in charge of your workplace if they have not been directly issued with the notice.
3. A notice issued to one departmental workplace may have consequences for other workplaces in the department. For this reason it is essential that a copy of the notices be:
  - Immediately escalated through local management to ensure the Institute Director or Regional Director is informed of the notice; and
  - A copy provided to the Director, Organisational Health within three (3) working days of receiving the notice.
4. Pay an infringement notice fine.

Contact your Regional Senior Health and Safety Consultant or TAFE Health and Safety Coordinator regarding assistance related to an enforcement notice.

<http://education.qld.gov.au/health/contacts/hscontacts.html>

### **Review of Inspectors Decisions**

Decisions made by Workplace Health and Safety Queensland Inspectors can be reviewed e.g. extensions of time to comply with improvement notices

#### **More information:**

- Creating Healthier Workplaces Website: <http://education.qld.gov.au/health/safety/index.html>
- Legal and Administrative Law Branch, Department of Education, Training and Employment
- [Health and Safety Incident Recording, Notification and Management](#)
- [Workplace Health and Safety Queensland](#) - search for 'review of decision' or 'enforcement'

