

Workplace Health and Safety Inspectors

Inspectors from Workplace Health and Safety Queensland have regulatory powers to enter any workplace – including a school. These powers are prescribed in the [Work Health and Safety Act 2011 \(Qld\) \(the WHS Act\)](#) and the [Electrical Safety Act 2002 \(ES Act\)](#).

Specific information is provided in this factsheet if an inspector:

- wants to search, inspect or examine the workplace (i.e. school)
- [requests documents](#) (or other items) from the workplace (i.e. school)
- requests an [interview](#) with a worker(s) or requests a signed written statement from a worker.

Why would an inspector from the Regulator visit my school?

Inspectors visit schools for a range of reasons including to inspect, make enquiries, seize things, conduct tests, conduct interviews or issue notices; to conduct random audits, in response to a safety concern or complaint, to investigate the circumstances of compliance breaches, to investigate an incident or injury (e.g. [notifiable incidents](#)) or to assist in resolution of health and safety issues.

Monitoring of compliance and enforcement of non-compliance with the WHS Act and ES Act occurs through the inspectorate as delegates of Workplace Health and Safety Queensland (the Regulator).

Will adequate notice be given by an inspector?

An inspector is **not** required to give notification of a visit to a workplace. This is so the inspector can observe normal activities.

Entry to a school may be made **with or without the consent** of the school principal. The inspector, or anyone assisting the inspector, must not be refused access or assistance.

If advance notice is provided, principals may invite their [regional senior health and safety consultant](#) to attend in order to assist the principal.

What happens when an inspector arrives?

Workers should notify the principal, health and safety advisor (HSA) and health and safety representative (HSR) - if the school has one - of the presence of an inspector at the school.

An inspector must:

- as soon as practicable after entry to the workplace, take all reasonable steps to notify the principal and the HSR they have entered the workplace; and
- advise of the purpose of the entry and produce an identity card for inspection (or have it displayed so it is clearly visible) before exercising a power under either the WHS or ES Act.

General powers of an inspector when entering a school

An inspector has **general** powers to:

- inspect, observe or search any part of the workplace (e.g. examine use of a machine or a work process)
- take measurements, make sketches, take photographs* or film* or audio at the workplace
- conduct tests or take samples for analysis (e.g. presence of lead in paint)
- require a person to give reasonable help so the inspector can exercise their powers
- seize things as part of the investigation at the workplace. This may be for evidence or to analyse, test or examine the item. A common example is the seizure of items of plant or equipment related to an incident. A receipt is to be provided after seizure of an item.

* The identity of individuals (including students) can usually be obscured in photographs or film without affecting the accuracy or purpose of capturing the image e.g. for an investigation or further action. If principals have concerns regarding disclosure of student personal information these should be discussed with the inspector. Further advice about privacy issues can be sought from Legal Services, if required.

Specific powers of an inspector

Inspectors can exercise the following **specific** powers under the WHS Act or ES Act. **Note the guidance on pages 4 & 5 about requests for documents or interviews.**

- Request a person to produce documents (e.g. maintenance records).
- Request copies of [documents](#) (e.g. incident investigation reports, department procedures, CARAs, HSW committee minutes, training records, witness statements, manufacturer's instructions for equipment).
- [Interview](#) the principal, employees, contractors, volunteers and other people about an incident or to assess risks.
- Request a person to provide a signed written statement addressing matters within their knowledge with respect to an incident.

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

An inspector may:

- provide general advice on health and safety issues or give verbal directions
- exercise any powers authorised under the WHS Act or ES Act (e.g. request [documents](#) or [interviews](#), seize evidence, take samples or photos).
- issue an [enforcement notice](#) or an [infringement notice](#).

Commonly issued **enforcement notices** and **other penalties** by the Regulator are:

- **Improvement notices** - issued to remedy things or operations causing the contravention or likely contravention within a **specified timeframe**.
- **Prohibition notices** - issued if 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.

- **Infringement notices** (also known as an '[on-the-spot fine](#)') attract a financial penalty. The Regulator has priority areas for enforcement action including for non-compliance relating to improvement notices, incident notification and consultation. The school issued with the on-the-spot fine is responsible for payment of the fine.

Note: Notices are often issued in combination e.g. a prohibition and improvement notice.

What should the principal do if issued with an enforcement or infringement notice by the Regulator?

1. The inspector will explain the reason for implementing any actions, what to do to comply and the compliance date. If you are not clear about the explanation, ask the inspector to clarify these issues.
2. Request the inspector to email the notice to *<principal/school email address>* **and** WHSQnotices.OSW@qed.qld.gov.au to enable immediate action by the school principal on the notice.
3. The school must comply with an enforcement or infringement notice.
4. Immediately notify the school principal if the principal has not been directly issued with the notice.
Principals can contact the [Regional Senior Health and Safety Consultant](#) for assistance regarding compliance with a notice. A copy of the notice will be provided to the consultant by Organisational Safety and Wellbeing.
5. The school is responsible for paying an infringement notice fine and / or complying with the requirements of the enforcement notice.
6. Certain decisions of the Regulator are reviewable decisions and these are set out at Schedule 2A of the [WHS Act](#) (e.g. the issue of improvement, prohibition and non-disturbance notices).

What if an inspector requests a document or an interview?

While inspectors have powers to inspect or examine anything (including documents), the principal or workers should **not allow** the inspector to copy or take documents or interview workers **unless it is in response to a written notice** under the relevant section of the **WHS Act** or **ES Act**.

- **See the following two pages for specific guidance**

Inspectors should not be allowed to photograph or video documents as an alternative to seeking a request in writing.

- Confer with your Regional Senior Health and Safety Consultant if the inspector is requesting documents and has not entered the workplace within the last 30 days.

What if an inspector requests a document?

1. Politely ask the inspector **that the request to produce documents or other items be put in writing** and ask that the inspector cite the relevant section of the WHS Act (or ES Act).
 - There are exceptions if an inspector requires immediate access to a document, or if an item is being seized, the inspector may give notice verbally and issue a written notice at a later time but as soon as practicable.
 - Principals may wish to use the following sample email to advise the inspector of the department's requirements:

Thank you for your email/time today.

I refer to your request for documents/equipment/evidence. We are happy to assist, however, in accordance with the department's usual process please provide your request in writing.

Please attention your request to the Department of Education and:

- *cite the relevant provision of the legislation under which you are requesting this information;*
- *contain the required warnings under the WHS Act or ES Act;*
- *list the documents or items being sought; and*
- *provide a due date and where (or how) the documentation can be provided e.g. electronically.*

Please email this to: WHSQnotices.OSW@qed.qld.gov.au and <principal / school email address> to enable immediate action by the school principal on the notice.

Once received, we will take steps to comply with your request. If the school is not able to meet the due date we will be in contact as soon as possible.

2. Liaise with your region if further support is needed. Organisational Safety and Wellbeing will advise the Regional Senior Health and Safety Consultant.
3. **If a valid notice is provided by an inspector, the school (on behalf of the department) is required to provide the requested information.**
 - A valid notice will act as a lawful exception to the usual privacy and confidentiality obligations under the *Education (General Provisions) Act 2006* (Qld) and *Information Privacy Act 2009* (Qld), so documents including staff, student, parent or other names can be provided – these do not have to be redacted.
4. When the valid written request is received, the school must gather information as requested by the due date. If this is not possible, the principal should negotiate with the inspector a reasonable time for provision of the information.
 - The notice will be issued to the Department of Education for legal purposes. It is the responsibility of the school to gather and provide the documents.
5. The school must provide copies only and **retain original documents** at the school. Ensure a record is kept of the request and the response as this may be required in the future.
6. If a principal is unsure whether a notice is valid or about the appropriate documents to provide, they should contact their Regional Senior Health and Safety Consultant.

This information is part of the [Workplace health and safety Queensland inspectors](#) factsheet

What if an inspector makes a request to interview workers or asks for a signed statement from a worker?

The school Principal (or other workers) **should not** allow a worker to be interviewed or provide a written statement **voluntarily** because in doing so, the worker will not be covered by the protections under the legislation (i.e. against self-incrimination in any resultant proceedings etc).

1. Politely decline and **ask that the request for an interview be put in writing** (example below)
 - Inspectors must have entered the workplace **within the last 30 days** in order to have the power to request an interview under s171(1)(c) of the WHS Act. Workers should not agree to an interview if they have not met this requirement.
 - However, the 30 day timeframe **does not apply** if an inspector is exercising powers under s155(2)(a) or (c) of the WHS Act or s141(1)(c) of the ES Act (requiring a person to give evidence orally or requiring a person to give a written statement).

2. The principal may wish to use the following sample email to advise the Inspector of the department's requirements:

Thank you for your email/time today.

I refer to your request to interview workers/provide a written statement. We are happy to assist, however, in accordance with the department's usual process please provide your request in writing.

Please attention your request to the Department of Education and:

- *cite the relevant provision of the legislation under which you are requesting the interview/written statement;*
- *contain the required warnings under the WHS Act or ES Act*
- *specify the proposed date of the interview or, in the case of a written statement, the questions to be addressed in the statement and;*
- *the proposed day, time and location of the interview (the department's preference is that the interview be conducted at the workplace to ensure it is convenient for the worker and their support person).*

Please email this to: WHSQnotices.OSW@qed.qld.gov.au and <principal/school email address> to enable immediate action by the school principal on the notice.

3. The principal is to ensure the Regional Director is advised on receipt of a request for a worker to attend an interview or provide a written statement.
 - Organisational Safety and Wellbeing will advise the Regional Senior Health and Safety Consultant and Legal Services.
4. The principal should identify a contact person (if not themselves) for ongoing communication with the inspector and the region.
5. When a written notice is received requesting an interview or a written statement, the principal or manager must give the worker(s) reasonable support to comply with the request.

This information is part of the [Workplace health and safety Queensland inspectors](#) factsheet

What other support or processes should be implemented locally?

Health and safety incident investigations can be stressful for everyone involved. If a worker is to be interviewed by an inspector, Principals should:

- contact their Regional Health and Safety Consultant as soon as possible to advise them of any notices, requests for documents or interviews
 - the region will confer with Organisational Safety and Wellbeing (OSW) or other units as required
 - continue to liaise with the RHSC regarding concerns or queries
- ensure a school-based contact person is identified for further liaison between the Regulator and the region
- ensure the worker is kept up to date with progress / information
- advise the worker that they are entitled to have a support person present at the interview
- ensure the worker is aware of the department's [employee assistance service](#)
- while maintaining confidentiality as appropriate, keep relevant parties informed with consistent information e.g. at the school and the region
 - the workplace HSA and HSR (if relevant) may be needed to help source information as requested by the inspector
- manage operational issues such as arranging a replacement for a worker while they are attending an interview, and organising a quiet and appropriate space for the interview if it is to occur at the school.
- ensure records are kept of all correspondence and actions relating to the matters e.g. to or from the regulator, legal services, the region.

More information

- [What to expect when an inspector calls](#)
- [Office of Industrial Relations - Compliance monitoring and enforcement policy](#)
- [Creating Healthier Workplaces website.](#)
 - [Regional senior health and safety consultants](#)