

## When an Inspector calls

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# When an Inspector calls

- HSE Inspectors
- LEA Inspectors
- &
- Fire Service inspectors



# Reasons for inspection

- They target and inspect duty holders in sectors which have the most serious risks
- Where they have information and intelligence that health and safety is a significant concern, such as:
  - previous performance
  - concerns raised by workers, the public or others
  - incident investigations
  - reports of injuries, diseases and dangerous occurrences



# The Inspection

- They may arrive without warning. This is not unusual.
- They do not always tell people they are coming, and the law permits visit at any reasonable time.
- Although they have the powers to come into your workplace, inspectors still must follow the government's code of practice on entering homes or businesses.
- You can complain if you think an inspector hasn't followed the code.

# During the Visit

The inspector may:

- speak to relevant people, for example managers, supervisors, workers and employee representatives
- observe a sample of workplace activities, conditions and practices (which may include looking at any machinery or other equipment that you have) and possibly include taking photographs
- assess relevant documents and records
- check whether risk controls are effective
- identify any breaches of the law
- consider appropriate enforcement

# Obtaining evidence using section 20 powers

The powers set out in sections 20(2) and 25 HSWA include powers to:

- Powers as stated in previous slides.
- Require the production of, inspect and take copies of relevant documents;
- Require anyone they think might give them relevant information to answer questions and sign a declaration of the truth of the answers;
- Require facilities and assistance to be provided; and
- Seize and make harmless (by destruction if necessary) any article or substance which they have reasonable cause to believe is a cause of imminent danger of serious personal injury

Inspectors are also given any other power which is necessary for the purpose of carrying into effect the relevant statutory provisions

## During the Visit

The inspector will also want to know about:

- The main health and safety issues in your workplace; and
- Your own knowledge or experience of health and safety.

The inspector may also talk to you about things like safety standards, guidance and everyday practices in your industry.

# What if there is something wrong?

- The inspector may act if they find you are breaking the law during the visit.
- They may also tell you to stop a dangerous activity in your workplace immediately.



## After the visit.

- After the inspector has finished looking round your workplace, they might:
  - Offer advice (either verbal or in writing);
  - Give you a notification of contravention;
  - Give you an improvement notice;
  - Give you a prohibition notice; or
  - Prosecute you for breaching health and safety laws.

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# Notification of contravention

# Notification of contravention

- This document informs you about the H & S laws you have broken.
- It also explains how you've broken them and will also tell you what you need to do to stop breaking the law.
- The inspector will only give you a NoC if they think you are in 'material breach' of the law. This means the inspector thinks you have broken the law seriously enough for them to write to you about it.
- If the inspector gives you a NoC, you'll have to pay for the cost of the visit.

# Improvement notice

An improvement notice will tell you:

- What is wrong;
  - Any changes you need to make to put things right; and
  - How long you have to make those changes.
- 
- You will be given at least 21 days to make any changes.
  - A criminal offence is committed if you don't make the changes in the timescale, they have given you.

# Prohibition notice

- A prohibition notice will be issued if there is a risk of serious personal injury now or in the future.
- A prohibition notice orders you to stop doing something until you have made it safe to continue.
- You commit a criminal offence if you don't comply with a prohibition notice.

# Prosecution & Disagreeing with their decision

## Prosecution

- You can be prosecuted for breaking health and safety laws or for failing to comply with an improvement notice or a prohibition notice.
- The courts can fine you or in some cases send you to prison.

## Disagreement with decision

- If you don't agree with what they have decided when they write to you, you may be able to challenge their decision.
- Please contact the inspector or their manager before you start any formal dispute against the decision(s). They may be able to look at the decision again.

## Recovering their costs – fee for intervention

The fee will include the costs for the time of the entire original visit. It may also include the inspector's time:

- At your business or workplace;
- Preparing reports;
- Getting specialist advice;
- Talking to you after the visit; and talking to your workers.

The fee can vary and will depend on:

- How long the original visit was;
- The time the inspector spent helping you put things right;
- The time it took the inspector to investigate your case; and
- Any time we spend on acting against you.

# Computer Documents

Generally, it is not the computer itself which is evidence in a case, but the information held within the computer.

- They can ask the duty holder to print out the information for you, using section 20(2)(m) powers.
- They can ask the duty holder if the computer is working properly as far as s/he knows.
- In less straightforward cases (for example, where they believe they need to prove that an entry was falsely dated, or in cases where the duty holder is not cooperative), they can utilise a computer expert, using section 20(2)(c) powers, who can examine it and extract any necessary information.

# Guidance to Duty holders

The previous slides outline the powers inspectors have and the areas it may cover.

Consideration should be given to:

- Training appropriate persons in order to prepare them for a visit.
- Ensuring personal involved in any inspection have adequate time available to provide full and uninterrupted assistance to the inspector. Additionally ensuring that all key personnel are available.
- That full unrestricted access is available to all areas affected.
- All records are available that may be requested and that key records are readily available (avoid handing an inspector a file(s) expecting them to search through for the appropriate document).
- Inform all personnel to be honest and open in their answers and to fully co-operate.

# Confirm Effective practices exist

Prior to any visit Duty Holders should ensure that an effective h & S practice exists and that basic practices are effective e.g.:

- Risk assessments – in date, proof that operatives were involved in their production and are fully trained and aware of the contents.
- Training – ensure that all operatives are fully trained, and that training is current and in date. Including refresher training.
- Audits, Inspections and checks – Ensure all checks, inspections etc are in date and recorded and that personnel carrying out checks are adequately trained.
- Documents & records – Ensure all are up to date and readily available. Any certification documents.
- Supervision – Ensure sufficient adequate effective supervision exist to ensure compliance with all requirements.
- Review – ensure an adequate review of systems and procedures exist and is in date.

# Disclosure

There is adequate protection (*Privilege*) to ensure that defendants are informed of any documents/evidence that may be used in their prosecution.

However it should be noted that this is not a one way only privilege and consideration should be given to training and advising staff (and management) on the Disclosure of documents in civil proceedings in England and Wales.

- In particular, in relation to:
  - Report minutes
  - Internal emails ( NB. The statement “please delete after reading” is not effective).
  - Handwritten comments
  - Verbal non-recorded comments made in a meeting of 2 or more people.

- Any Questions?

- Thank you for listening!

The End