

Workplace Health & Safety Update



The Power of Safety Inspectors - what else you need to know

WH&S Update 14/18

As mentioned in the last safety update – safety inspectors have very broad powers. Are you and your staff aware of what you need to do or know if an inspector is at your business investigating a workplace incident? Here are some frequently asked questions for all businesses and employees to know:

Q: What are the powers of safety inspectors when investigating workplace incidents?

A: Inspectors have the right to:

- enter and inspect any workplace
- take photographs and video recordings
- collect documents and other evidence
- issue on-the-spot fines, improvement or prohibition notices and non-disturbance notices.

Key tips:

- Remind workers of the inspectors right listed above.
- Instruct workers to provide all reasonable assistance to an inspector.
- Gather all relevant documents relating to the incident i.e. procedures and training records to help the investigation.

Remember: Those of you whom attended the session delivered by Jonathan Ivanisevic from Hopgood Ganim, titled 'What to do when 'it' hits the fan', will also remember his additional advice. He advised to establish legal professional privilege (gather relevant documents, statements and engage external lawyers) and undertake an investigation into the cause and circumstances of the incident for the purposes of providing advice into the incident and for use in any subsequent litigation.

Note: You should also ensure you have a process in place for a representative from your business to accompany the inspector to the incident site.

Q: Do your workers have rights to protect themselves or the business by refusing to answer questions?

A: In Queensland an inspector is able to compel answers to questions. A person must answer the questions unless they have a reasonable excuse. A reasonable excuse does not include the fact that the answer may incriminate them. An inspector can also obtain information that is provided voluntarily.

Any answer given under compulsion cannot be used against the person in any criminal proceedings, but answers given voluntarily can be used in evidence against the person given the answer.

Make sure your workers understand this distinction and clarify with the safety inspector if they are exercising their powers to compel an answer to be given by the worker.

Q: How you and your workers need to respond if they question them after a notifiable incident?

A: A notifiable incident is when an incident needs to be reported to the safety regulator, which is any incident resulting in serious injury or death as well as incidents resulting from a serious illness.

If a notifiable incident occurs at your workplace, you need to take all reasonable steps to minimise or eliminate the hazards and immediately notify WH&SQ. Make sure you communicate the following process with your workers, when dealing with a workplace incident.

Key tips:

Take care of the injured worker's needs, make them comfortable and remove any risks. Ensure the site remains untouched until an inspector arrives – other than for the reasons listed above.

Secure the worksite and provide appropriate care for other workers.

Notify senior management – as part of the incident response process all incidents must be immediately reported to management.

Notify WH&SQ in the required timeframe – in most cases by phone as soon as you become aware of the incident – if requested you may also have to provide a written report within 48 hours of the initial notification.

(Source: Health and Safety Bulletin, 1 July 2014, by Michael Selinger)

For more information about emergency response training sessions or running a training session internally, please contact Lisa Dwyer on 3915 4213 or esm@brismark.com.au