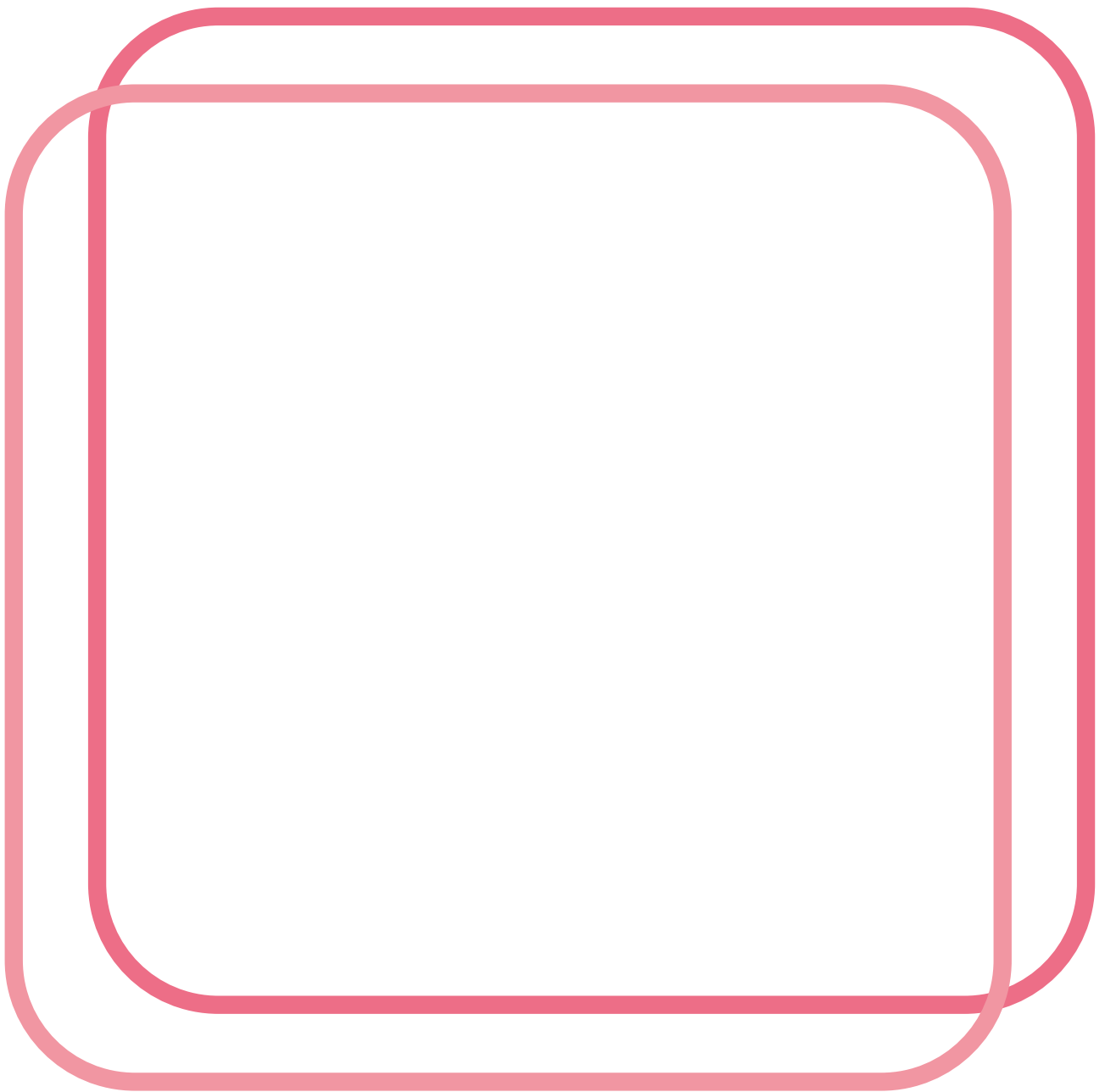


What to expect when a Health & Safety Inspector calls



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Safer Business - Better Health

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What to expect

Who enforces health and safety law?

Health and safety law is enforced by inspectors from the Health and Safety Executive 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 & 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 representative 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:

What to expect

Enforcing health & safety law

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.

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 Employment Tribunal if they so wish. 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.

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 notice 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 for serious breaches.

What to expect

Appeals

A dutyholder will be told in writing about the right of appeal to an Employment 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 notice is suspended while an appeal is pending.

Information to 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.

The inspector will provide employees or their representative 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 verbally or in writing.

What to expect

Complaints

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 Director General of HSE, Timothy Walker. 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.

You can also contact HSE's Local Authority Unit which will see that your complaint is followed up promptly and fairly with the local authority. If it is unable to resolve the problem it will report the matter to HSC. In cases of maladministration you can also make a complaint to the Local Government Ombudsman in England, Scotland or Wales.

Director General of HSE and Head of the Local Authority Unit can be contacted, in writing, at the:

Health and Safety Executive
Rose Court
2 Southwark Bridge
London
SE1 9HS