

SESLHD PROCEDURE COVER SHEET



Health
South Eastern Sydney
Local Health District

NAME OF DOCUMENT	Work Health and Safety - SafeWork NSW and other Workplace Safety Inspections: Coordinating Procedure
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KEY TERMS	WHS, SafeWork NSW, Inspector, Improvement Notices, Health and Safety Representative (HSR).
SUMMARY	On-site inspections by SafeWork NSW, Entry Permit Holders and also Health and Safety Representatives have the potential for fines and prosecutions to be issued against the organisation. This document outlines the procedure to manage such visits.

COMPLIANCE WITH THIS DOCUMENT IS MANDATORY

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1. POLICY STATEMENT

The purpose of this procedure is to outline how the organisation will coordinate and manage SafeWork NSW investigations, along with inspections conducted by Entry Permit Holders or Health and Safety Representatives (HSR). The procedure also outlines the management of Improvement Notices should this occur.

2. BACKGROUND

SafeWork NSW (previously WorkCover) are empowered under the NSW Work Health and Safety (WHS) and Workers Compensation legislation to investigate workplace incidents and suspected breaches of legislation.

Depending on the results of the investigation, SafeWork NSW may issue notices requiring the organisation to:

- Remedy unsafe work conditions or hazards
- Prohibit work from continuing until the hazard is fixed
- Provide proof of correct workers compensation insurance
- Issue on-the-spot fines for breaches of the legislation OR
- Initiate investigations that may lead to prosecution

HSR's have similar powers under the WHS Act and may issue cease work orders and improvement notices requiring the organisation to:

- Remedy unsafe work conditions or hazards
- Prohibit specific work from continuing until the hazard is fixed OR
- Notify SafeWork NSW regarding safety concerns and request their assistance to further investigate incidents

Entry Permit Holders (usually a union official) have similar powers under the WHS Act and these include:

- Providing advice and / or consult with relevant workers (examples):
 - assist health and safety representatives (HSR) if requested
 - assist in resolving issues as part of issue resolution
 - consult with relevant workers and the PCBU
 - assist with conducting an election of an HSR.
- inspect any work system, plant, substance, structure or other thing relevant to a suspected contravention of the WHS Act.

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3. PROCEDURE

3.1 Provision of information to SafeWork NSW Inspectors

Under the WHS Act there are two sections under which an inspector can request information;

- Section 155 – Normally a written request for information.
- Section 171 – Normally a workplace visit/entry.

When providing information to a SafeWork NSW Inspector they are required to make you aware of your right to “Abrogation of privilege against self-incrimination” under section 172 of the WHS Act.

Section 172 means, although you cannot refuse to answer a question or provide information on the grounds it may incriminate yourself, by providing the information it is not admissible as evidence against yourself in civil or criminal proceedings.

There are three stipulations to this legal privilege -

1. Should you provide false or misleading information then proceedings may occur.
2. There is no legal privilege for publically available information such as published policies.
3. This is for information specifically requested, if you volunteer further information other than that requested then this volunteered information is admissible.

This means before providing any information to the inspector you should always confirm who they are and that you request legal privilege. You should use a statement such as “I do not want to provide this information but understand I have to by law”.

It is important that all workers are aware that although we are compelled to give information under the WHS Act, we need to be wary of what information we volunteer.

3.2 SafeWork NSW inspectors are requested to:

- Notify the Sector WHS&IM Manager of their intention to visit the site or, if the visit is unannounced, notify the Sector WHS&IM Manager as soon as they arrive onsite.
- Communicate with the relevant department manager to ensure any required safety briefs are provided before entering the specific workplace.
- Show their SafeWork NSW identification on request.

3.3 HSR's are required to:

- On behalf of their workgroup provided representation to management on identified safety issues brought to their attention.
- Under special circumstances where a HSR is invited to perform an inspection in a workplace other than one belonging to their own workgroup, the HSR is expected to –
 - notify the local manager prior to performing the inspection.
 - if the visit is unannounced due to incident/situation involving a serious risk to the health or safety, notify the local manager and the Sector WHS&IM Manager(s) as soon as they arrive onsite.

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- Take reasonable steps to work with the Facility Manager to address the identified safety issue/s prior to issuing a Provisional Improvement Notice or Cease Work Order.
- Where possible, advise the Facility Manager that unless the safety issue is rectified a Provisional Improvement Notice or Cease Work order will be issued
- If they issue a Provisional Improvement Notice, ensure this is in writing and given to the Facility Manager immediately, so that appropriate action can be taken to address the safety issues or concerns.

Note – Facility Manager refers to the most senior SESLHD representative that is on site at the time the issue arises, example Director of Operation, Director of Nursing.

3.4 Entry Permit holders are required to:

Refer to Entry Permit Holders Memorandum of Understanding will outline this in more detail.

3.5 Director/Facility Manager will:

If pre-planned by a SafeWork NSW Inspector, a HSR in a workplace other than that of their own workgroup or an Entry Permit Holder:

- Liaise with the Sector WHS&IM Manager on any pre investigation matters and identify any legal advice deemed necessary
- Appoint a senior manager to act as employer representative during the investigation if the Director/Facility Manager is unable to fulfil this role
- During the Investigation:
 - Meet and accompany the inspector, Entry Permit Holder or HSR (along with the Sector WHS&IM Manager) during the investigation
 - Act as chief spokesperson for the organisation during the investigation
 - Cooperate with the inspector, Entry Permit Holder or HRS answering their questions clearly concisely and factually
 - Provide requested documentation
- After the inspection:
 - Provide the Chief Executive with a brief concerning the investigation's outcome and regular updates on progress with implementation strategies to meet any SafeWork NSW requirements
 - Act as chief spokesperson for the organisation about any post investigation follow up or communication
 - Assist to manage improvement strategies to address any SafeWork NSW recommendations or agreed recommendations from Entry Permit Holders or HSR's in consultation with the relevant managers, workers and their representatives.

For more detail, refer to:

[SESLHDPR/415 Managing for Performance](#)

[SESLHDPR/322 Work Health and Safety - Incident Management, Investigation and Reporting Procedure](#)

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3.6 Sector WHS&IM Manager will:

If pre-arranged by a SafeWork NSW Inspector, a HSR in a workplace other than that of their own workgroup or an Entry Permit Holder will:

- Arrange an appropriate time and place to meet the inspector, Entry Permit Holder or HRS
- Notify the Director and the HSR of the pending inspection
- Arrange for the relevant manager(s), workers(s) and HSR's to be present during the investigation
- Prepare any relevant materials (risk assessments, training records, monitoring reports etc) that relate to the matter
- Arrange support for the workers(s) and/or manager if required
- Liaise with managers to arrange any transport/work release requirements for workers(s) that need to be interviewed

During an inspection:

- Meet the inspector, Entry Permit Holder or HSR at the arranged time and place along with Facility Manager (or nominated senior manager)
- If a SafeWork NSW Inspector or Entry Permit Holder ask to sight their identification
- If a HSR, confirm the person is listed on the [SESLHD HSR register](#)
- Accompany the inspector, Entry Permit Holder or HSR during the inspection
- Keep a record of any materials, photos or other evidence taken by the inspector, Entry Permit Holder or HSR at the time of the inspection.

After the inspection:

- Coordinate improvement strategies to address any SafeWork NSW recommendations or agreed recommendations from Entry Permit Holders or HSR's in consultation with the relevant managers, workers and their representatives.
- Prepare a briefing note on the investigation for the CE on behalf of the Director/Facility Manager
- Provide the Director/Facility Manager with progress reports on the development and implementation of any improvement strategies
- Keep records (and copies) of any documentation, materials or other evidence sent to SafeWork NSW
- Ensure any PIN's or agreed arrangements are reported to NSW MoH via the fortnightly report Pin's and Prosecutions report.

3.7 Line Managers will:

If an inspector, Entry Permit Holder or HSR arrives unannounced:

- If a SafeWork NSW inspector or Entry Permit Holder ask to sight their identification
- If a HSR, confirm the person is listed on the [SESLHD HSR register](#)
- Notify the Director/Facility Manager and the Sector WHS&IM Manager that the inspector or other HSR is present and ask them to wait until they arrive to accompany them during the inspection.

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During an inspection:

- Ensure workers are available if required during the inspection
- Cooperate with the inspector and answer the specific questions clearly, concisely and factually
- Provide any requested documentation to SafeWork NSW Inspector
- Provide only requested documentation outlines in Entry Permit Holders Written Notification or agreed verbal brief in emergencies situations.

After the inspection:

- Develop and implement any improvement strategies to meet SafeWork NSW, Entry Permit Holders or HSR agreed recommendations in consultation with the Sector WHS&IM Manager and relevant workers and their representatives

3.8 Workers will:

If an inspector (other than an HSR who belongs to the workgroup) arrives unannounced:

- If a SafeWork NSW Inspector or Entry Permit Holder, ask to sight their identification
- Immediately notify their manager of the inspector's, Entry Permit Holder's or HSR's presence

During an inspection:

- Cooperate with the inspector, Entry Permit Holder or HSR and answer questions clearly, concisely and factually
- Provide any requested documentation to SafeWork NSW Inspector
- Provide only requested documentation outlines in Entry Permit Holders Written Notification.
- You are only required to answer the questions and provide the specific information requested.

After an inspection:

- Participate in the development and implementation of any improvement strategies to meet SafeWork NSW requirements

4. DOCUMENTATION

- [Appendix 1 – Inspection Flowchart](#)
- Minutes of Investigation
- Photos
- Written Notices provided by Entry Permit Holders
- Any records used for the investigation e.g. SWP's, Risk Assessments, etc

5. AUDIT – Not required

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6. REFERENCES

External

- [Work Health and Safety Act 2011 No 10](#)
- [Work Health and Safety Regulation 2017](#)
- [Code Of Practice - Work Health And Safety Consultation, Co-Operation And Co-Ordination](#)
- [SafeWork NSW - Investigations: What they mean for you](#)
- [When an inspector calls](#)

Ministry of Health

- [PD2013 050 Work Health and Safety: Better Practice Procedures](#)

Internal

- [SESLHDPR/271 Work Health and Safety - Statement of Commitment Procedure](#)
- [SESLHDPR/276 Injury Management - Recovery at Work Procedure and Our Commitment Poster](#)
- [WHS Definitions Dictionary](#)
- [F126 - WHS Record Keeping Matrix](#)

7. REVISION AND APPROVAL HISTORY

Date	Revision No.	Author and Approval
April 2011	1	Peter Kuszelyk, WHS Officer, Health safety and Wellbeing. Amended to reflect change to Local Health Network and Cluster.
_____ 2013	2	Peter Kuszelyk, WHS Officer. Amended to reflect change to WHS Act and Codes of Practice.
August 2017	3	Desktop Revision and Links Update - John Parkinson, WHS Consultant
October 2017	3	Updates endorsed by Executive Sponsor

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Appendix 1 – Inspection Flowchart

Managing SafeWork or other Workplace Safety Inspections

This quick reference tool is to assist with managing SafeWork NSW and other workplace safety investigations.
For full information refer to Co-ordinating WorkCover and other Workplace Safety Inspections

