



# Enforcement policy

This document should be read in conjunction with the [WorkSafe Prosecution Policy](#).

- All provisions of the *Occupational Safety and Health Act 1984* and Occupational Safety and Health Regulations 1996 are important in regard to requirements for compliance, and will be appropriately enforced. However, the enforcement action which is warranted will depend on the circumstances of the case, in particular the seriousness of the breach as reflected by the penalty Parliament has provided.
- Non-compliance will be addressed by: improvement notice, prohibition notice, prosecution action, or verbal direction or any combination thereof. Verbal direction in the context of the enforcement policy only relates to situations where a breach can be immediately rectified and inspected prior to the inspector leaving the site.
- Action taken by the inspector, including verbal directions, will be conveyed to the employer, safety and health representatives or safety and health committee or any other relevant party while the inspector is at the workplace.
- Where an inspector obtains sufficient evidence to establish a prima facie case, and there is a reasonable prospect of a conviction, consideration will be given to taking prosecution action, instead of or in addition to applying alternative enforcement actions, in circumstances including:
  - where the issue of notices is not considered sufficient for ensuring compliance with the Act or regulations;
  - where an alleged breach of the Act or regulations either has resulted, or could have resulted, in a fatality or serious injury;
  - alleged failure to comply with an improvement or a prohibition notice;
  - where an inspector alleges a person has repeated the same offence;
  - in cases of discrimination against an employee for any action in relation to occupational safety and health;
  - breaches of the consultative provisions of the Act; and
  - obstruction of an inspector.
- In cases falling under one or more of the above circumstances, a prosecution will only be initiated where:
  - an inspector obtains sufficient evidence to establish a prima facie case;
  - there is a reasonable prospect of success; and
  - it is judged to be in the public interest.
- WorkSafe's 'Prosecution Policy' is provided as an Appendix to this enforcement policy. The 'Prosecution Policy' details the relevant considerations associated with decisions relating to instituting and continuing a prosecution, and also covers considerations relating to appeals. The abovementioned three items of a prima facie case, reasonable prospect of success and the public interest are discussed in detail in the 'Prosecution Policy'.
- Circumstances may arise in the process of investigating a serious injury or fatality whereby WorkSafe forms the view the evidence is appropriate to action under the Criminal Code, and the Police Service and/or Coroner's Office will be briefed accordingly.

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