



## Criteria for investigation

WorkSafe believes compliance with OSH laws is aided by it having a presence in the community and visiting workplaces. However, we must make appropriate choices as to where we can best apply our resources to improve safety in workplaces and thus we adopt a risk management approach to the activities of our inspectors.

WorkSafe exercises discretion in deciding whether incidents, cases of ill health, or complaints should be investigated. The importance of maintaining a proportionate response, and particular factors to be taken into account in deciding the level and type of response to be used/taken, is recognised. In order to ensure consistency in responses to similar incidents or breaches, transparent criteria are adopted for escalation to an investigation which can potentially lead to prosecution.

Investigations are undertaken in order to determine:

- compliance with the legislation;
- causes;
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law;
- lessons to be learnt and to influence the law and guidance;
- what response is appropriate to an alleged breach of the law.

To maintain a proportionate response, most resources available for investigation of incidents will be devoted to the more serious circumstances. It is neither possible nor necessary to investigate all issues of non-compliance with the law, or all incidents, notified to WorkSafe.

In selecting which complaints or reports of incidents, injury or occupational ill health to investigate and in deciding the level of resources to be used WorkSafe will generally take account of the following factors:

- the severity and scale of potential or actual harm;
- the seriousness of any potential breach of the law;
- the duty holder's compliance history, including such matters as prior convictions and notices issued;
- the high risk and strategic enforcement priorities;
- the practicality of achieving results;

- the wider relevance of the event, including matters of significant community concern or emerging issues;
- nature and quality of information provided;
- knowledge of the effectiveness of any consultative mechanism used at the workplace.

In determining whether or not a matter should be further investigated, WorkSafe will have regard to the following priority areas for investigation:

- work-related fatalities and serious injuries or health effects, where there is a risk of such consequences;
- non-compliance with notices or directions;
- offence against or obstruction of inspectors;
- offences against persons exercising OHS responsibilities at the workplace (e.g. safety and health representatives or other persons authorised under the legislation);
- discrimination against employees on the basis of their OHS activities;
- failure to notify incidents;
- breaches of the consultative provisions of the Act.

Where an investigation reveals non-compliance WorkSafe will take appropriate enforcement action, which may include improvement notices, prohibition notices, prosecution action, other sanctions or any combination of these (refer to WorkSafe enforcement and prosecution policies).

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