



BARNLSLEY

Metropolitan Borough Council

Public Health Directorate
Regulatory Services
PO Box 634, Barnsley S70 9GG

What to expect when a health and safety inspector calls

A brief guide for businesses, employees and their representatives

About this leaflet

This leaflet is intended for those in business who have duties under health and safety law ('duty holders'), for example employers and those in control of workplaces. It explains what you can expect when a health and safety inspector calls at your workplace. It also tells employees and their representatives what information they may expect from an inspector during a visit.

Who enforces health and safety law?

Health and safety law is enforced by inspectors from the Health and Safety Executive (HSE) or by inspectors from your local authority, Barnsley Metropolitan Borough Council.

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 and 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 BMBC Regulatory Services *Enforcement Policy Statement*. The inspector should provide employees or their representatives 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:

Informal

Where the breach of the law is relatively minor, the inspector may tell the duty holder, 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 duty holder 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 (see 'Appeals' below). 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 Employment Tribunal (see 'Appeals' below).

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 BMBC Regulatory Services *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 or prohibition notice, or a court remedy order, carries a fine, or six months' imprisonment, or both.

Unlimited fines and in some cases imprisonment may be imposed by higher courts.

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;
- where and within what period an appeal may be brought; and
- that the remedial action required by an improvement 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, eg employers, have arrangements in place for consulting and informing employees or their representatives, eg 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 representatives 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 orally or in writing.

Complaints

This leaflet sets out what you can expect when a health and safety inspector calls at your workplace. If you have a complaint that these procedures have not been followed then you can contact the inspector's manager to discuss the matter.

The inspector who has given you this leaflet is from **Barnsley Metropolitan Borough Council (BMBC)**. 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 BMBC formal complaints procedure. In cases of maladministration you can also make a complaint to the Local Government Ombudsman.

If you are still not satisfied you can contact the Independent Regulatory Challenge Panel who will look into complaints regarding advice given by HSE or LA inspectors about health and safety which you think is incorrect or goes beyond what is required to control the risk adequately. Before you raise an issue with the panel you should have first tried to resolve the matter with the relevant HSE or LA inspector and their manager.

Further information can be found at: <http://www.hse.gov.uk/contact/challenge-panel.htm>

How to find out more about health and safety law and how it is enforced

More information, including what businesses must do by law, can be found at: <http://www.hse.gov.uk/abc>

Further information

HSE priced and free publications are available by mail order from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA Tel: 01787 881165 Fax: 01787 313995 Website: www.hsebooks.co.uk (HSE priced publications and free leaflets can be downloaded from HSE's website: www.hse.gov.uk .)

For information about health and safety visit <https://www.barnsley.gov.uk/services/business-information/health-and-safety-at-work/business-health-and-safety-regulations/> or www.hse.gov.uk.

This document contains notes on good practice which are not compulsory but which you may find helpful in considering what you need to do.

Your enforcing authority is:

Barnsley Metropolitan Borough Council, Regulatory Services, PO Box 634, BARNSELY S70 9GG
Tel: 01226 773743 email: regulatoryservices@barnsley.gov.uk

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