

MODEL OPERATING POLICY

Planned program of work to monitor outcomes of selected inspector interventions



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2. DEFINITIONS

Regulator	Means the Executive Director of SafeWork SA or their delegate
WHS Act	Means <i>Work Health & Safety Act 2012 (SA)</i>
SWSA	Means SafeWork SA

3. PURPOSE

This policy outlines a framework to assess and verify ongoing work health and safety (WHS) legislative compliance by duty-holders following selected inspector interventions at workplaces where a legislative non-compliance was identified.

4. POLICY SECTION

SWSA has an interest in confirming that duty-holders continue to maintain safe and healthy workplaces and systems of work. This is particularly important where inspectors have intervened at a workplace, and action was taken to remedy identified legislative breaches or serious risks.

One way of confirming continued compliance is for inspector(s) to conduct a follow-up (monitoring) inspection at the identified workplace. The further inspection will be conducted between six (6) and 12 months after the latter of the following has passed:

- Completion of initial intervention work; or
- Completion of any associated comprehensive investigation; or
- Completion of any associated prosecution or other enforcement action.

The respective team manager and investigating inspector will make the determination of what workplaces should be the subject of a follow-up visit.

Exceptions to this policy are:

- If the relevant business or undertaking no longer operates, or
- The specific activity that was the subject of the intervention is no longer undertaken, or
- The Manager of the relevant team considers that there would be no material benefit in conducting the follow-up inspection, or
- Other regulatory or enforcement action is planned, or
- For any other reason the Director of the relevant team determines this policy does not apply, or

- Where the duty holder has entered into a WHS undertaking with the regulator since the prior inspector intervention for the alleged contravention.

The purpose of conducting a monitoring inspection includes:

- Assessing whether initially-implemented risk controls/remedies have been sustained (or improved upon);
- Reinforce the lessons learnt from the reason for the original intervention and be satisfied that the potential for such a reason occurring again is eliminated or reduced so far as is reasonably practicable;
- Assessing whether any broader risk management controls or systems have been implemented in addition to the initial compliance activity;
- Identify any further specific or systematic improvements to workplace health and safety that may be required; and
- If the implemented risk controls are not satisfactorily implemented, take appropriate compliance and enforcement action.

The monitoring inspection may be conducted in conjunction with any other planned program inspection work or response inspection work that involves the relevant workplace at/or around the relevant time period.

The inspections may also be timed to enable inspector verification of any submission by the relevant duty-holder to a court claiming that WHS improvement had been made in response to the breach of legislation that is the subject of proceedings brought by the WHS regulator.

If the relevant previous inspector intervention occurred at a construction site, or another transient workplace, the inspection may be undertaken at a comparable site where the relevant duty-holder operates.

In the case where the duty-holder has entered into an enforceable undertaking agreement, one term of the undertaking is by default, a statement of assurance about future work health and safety behaviour. The person nominated by SWSA Executive to monitor enforceable undertakings will verify compliance with this term throughout the life of the undertaking. By verifying this term, this policy regarding monitoring inspections would be considered met.

Where a duty holder is subject to potential prosecution action in relation to the prior inspector intervention, a perception of bias may arise if the same inspector attends the workplace to complete an inspection sometime after an investigation is complete but prior to the matter being finalised in court. One way to manage this perception is for a different inspector to complete the inspection. A different set of eyes may be advantageous in assessing the level of compliance.

Regulator policy

Wherever possible, the inspector conducting the monitoring inspection should be a different inspector to the one that conducted the original investigation

5. PROCEDURE

Responsibility	Description
Inspector & Team Manager	<p>Determine requirement for monitoring visit</p> <p>Collaboratively identify and agree on an investigation that will require a monitoring intervention at, or soon after, the completion of the initial intervention, investigation, prosecution or other enforcement action (as determined appropriate to the particular circumstances).</p> <p>Inspector</p> <ul style="list-style-type: none"> • Add an activity, 'case conference' to the relevant InfoNET file • Make a notation in the 'comment' field of the activity saying 'monitoring engagement letter' • Enter a 'follow up' date on the activity for the date the monitoring visit is scheduled for. <p>The InfoNET file can then be closed at an appropriate time. The file does not need to remain open whilst waiting for the monitoring inspection.</p>
Inspector	<p>Communicate with duty holder</p> <p>Draft and send engagement letter (see appendix 1) to the relevant duty holder on letterhead paper.</p> <p>Attach the letter to InfoNET on the above created case conference outcome.</p>
Inspector	<p>Inspection</p> <p>Upon receipt of the InfoNET Oracle email follow-up reminder:</p> <ul style="list-style-type: none"> • Open a new associated InfoNET file against the original InfoNET file (the original file number will be found on the InfoNET Oracle reminder email) <ul style="list-style-type: none"> ○ <i>You may need to secure the original hard file to ascertain the original intervention activities and outcomes to understand what you are going to re-inspect</i> • Arrange the monitoring inspection • Conduct the monitoring inspection <ul style="list-style-type: none"> ○ <i>If the initial inspector intervention occurred at a mobile or transient workplace, undertake your monitoring inspection at a comparable site where the relevant duty-holder operates.</i> <p>At the completion of the monitoring inspection, meet with the duty holder [or their management representative(s)], and any relevant Health & Safety Representatives to discuss your observations and the inspection outcomes.</p> <ul style="list-style-type: none"> • Acknowledge sustained/improved risk controls/remedies that are evident since completion of initial intervention (or, as relevant, investigation/prosecution/other enforcement action). • Identify any additional specific or systematic improvements that appear necessary. • Take appropriate compliance and enforcement action to secure these improvements (which may include referral of the matter elsewhere with the WHS regulator).

Inspector	Record keeping Take notes in your inspector notebook. Complete and issue an Inspection Report for the inspection(s) together with any relevant notices.
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6. FURTHER INFORMATION

- Principles of Operation for the WHS Inspector

7. REVIEW

This policy must be reviewed two (2) years after the date of issue, and must be immediately modified if practices and/or procedures change.

Author/Document Owner: Operational Support

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Your ref :
Our ref :

Date

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Town
Postcode

<select>

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Fax (08) 8463 4966

Email [name.surname]@sa.gov.au

ABN 50-560-588-327

Dear Recipient

I refer to the following inspector intervention that occurred at your workplace:

- On dd/mm/yyyy
- Brief statement of circumstances triggering the intervention
- Brief statement of risk controls, remedies implemented at the time (and, if relevant, if in response to Inspector Notices)]
- Brief statement of outcome of prosecution or other enforcement action and date completed

SafeWork SA conducts a follow-up program where inspectors return to a select sample of workplaces where there has been a prior inspector intervention. The follow-up inspection or inspections takes place between 6 and 12 months after the initial intervention work, or, if relevant, prosecution or enforcement action has been completed. The purpose of the follow-up inspection is to ensure that work health and safety improvements are sustained.

The purposes of the follow-up inspection(s) include:

- Assessing whether initially-implemented risk controls/remedies have been sustained (or improved upon);
- To reinforce the lessons learnt from the trigger for the intervention and be satisfied the potential for such a trigger occurring again is eliminated or reduced so far as is reasonably practicable;
- Assessing whether any broader risk management controls or systems have been implemented in addition to the initial compliance activity required;
- To identify any further specific or systematic improvements to workplace health and safety that may be needed; and
- Take appropriate compliance and enforcement action to secure these improvements.

You may expect such an inspection to occur at your workplace at any time over the next 6-12 months.

If, at the time of inspection, an inspector identifies that initially implemented risk controls or remedies have not been sustained, or that other improvements are reasonably practicable, the inspector may take appropriate compliance and/or enforcement action.

SafeWork SA encourages your continued attention to implementing systematic management of work health and safety risks.

Should you require any further information, please contact the SafeWork SA Help Centre on telephone 1300 365 255 during normal business hours. Further information is also available at www.safework.sa.gov.au.

Yours sincerely

[Name]

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SAFEWORK SA