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ITC
International Training Centre

FACILITATOR'S GUIDE

Pacific Sub-Regional Foundation Skills Training for OSH and Labour Inspectors

Cook Islands - Kiribati-Tuvalu
Solomon Islands - Tonga - Vanuatu

21-25 November 2016
Auckland
New Zealand

International Labour Organization

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Contents

About this Programme

This *Foundation Skills Programme* is specifically designed for Labour and Occupational Safety and Health (OSH) Inspectors in the Pacific.

Strong and effective labour inspection is an essential element of good labour governance and, for this reason key international labour standards on labour inspection are accorded the status of "Priority Conventions" of the International Labour Organisation (ILO).

A number of Pacific Governments have prioritised improving their labour and OSH inspection functions under Outcome 1 of its Decent Work Country Programme (DWCP). Outcome 1.2 provides that:

> *"OSH and Labour inspection systems are, with the support of the social partners, in place and able effectively implement and enforce new OSH legislation and labour inspection legislation or standards."*

The purpose of this training programme is to deliver Labour and OSH Inspectors with foundation skills relating to core Inspector functions and practice under their existing and pending legislation. While some states have updated or enacted new legislation for the regulation of OSH and labour Standards some are still progressing towards this. This programme is therefore also designed to provide generic key principles of Inspection. Where possible trainees will be asked to complete exercises that relate to their own jurisdiction.

This programme comprises:

- Pre-course preparation exercises to be completed by all Labour and OSH Inspectors
- A five day practical training course to be completed by Labour and OSH Inspectors that includes assessment exercises and practical exercises including Inspector visits to workplaces in Auckland supported and led by Work Safe New Zealand
- A selection of chapters on course materials that will become a useful hard (and soft copy) guidance resource for each trainee
- Inspection and report templates designed for inspectors to use for their routine inspection activities, accident investigations and work regarding hazardous substances
- Links to further reading and resources
- Audio visual presentations.

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Pre Course Preparation

Before attending the training you will need to *individually* complete the two activities set out below. It may be useful to discuss the requirements of these activities as a team before you get started. Contact your ILO representative for assistance if anything is unclear.

Task One

During the training course you will be asked to describe a real life experience you have had in your role as a Labour Inspector. You will be asked to describe:

"The most challenging thing I have had to deal with as an Inspector ..."

You may want to take notes of your experience so you can remember what you want to explain. Try to identify an example that has been a challenge for you from a personal 'human' perspective rather than describing a technical challenge. For example you may have had a challenging experience when you had to deal with someone who was older than you and intimidated you because of their 'rank', who was a different gender from you and was reluctant to answer your questions or someone who was related to you and wanted you to favour their situation because of that relationship. You may also have experienced a challenge when you were confronted with serious injury of death in the workplace. Be prepared to be open and discuss why the situation was a challenge, what you did to overcome the challenge and any lessons learnt for your future practice.

Task Two

For this activity, you will complete at least TWO self-assessments of site visits you undertake before the Foundation Skills course commences. To complete this exercise, you will need to complete the assessment sheet on the following page for TWO workplaces. Please bring these sheets to the course with you. You will be using these to discuss your practice as an Inspector. They will not be handed in or assessed.

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Inspector on-the-job self-assessment

Routine inspection ☐ / Inspection on compliant or incident ☐	Scale					
Self-assessment item (If item is not applicable mark NA)	**Never**	**Most of the time**			**Always**	**NA**
Interview skills						
When I asked the employer questions I received mainly yes or no answers.	1	2	3	4	5	
When a person I questioned appeared to be hiding something or not telling the truth I tried to ask questions differently to get at the truth	1	2	3	4	5	
I did not ask some questions because I did not want to upset the employer	1	2	3	4	5	
Routine Inspections						
When I completed the routine check I asked to observe the use of equipment by workers	1	2	3	4	5	
When I completed the routine check, I checked the employer's answers by asking his or her workers questions to verify what the employer said	1	2	3	4	5	
I hurried my process during the visit so that I did not disrupt the employer's workplace	1	2	3	4	5	
I dealt with any tension in the workplace by using light hearted conversation	1	2	3	4	5	
I recorded my observations, findings and all interviews in such a way that they made sense later and were an accurate record with time, date and place.	1	2	3	4	5	
Preparation						
I planned clear objectives for the visit and I achieved these	1	2	3	4	5	
I had all the tools and information I needed to meet the main objectives of my visit	1	2	3	4	5	
I explained my role/ powers to people I talked to and checked that they understood	1	2	3	4	5	
I explained why I was there to people I talked to and checked they understood	1	2	3	4	5	
Education and empowerment						
I persuaded the employer to comply with all areas of the legislation that were not met without having to start formal steps	1	2	3	4	5	
I knew all necessary information to advise the employer about how to comply	1	2	3	4	5	
Enforcement						
If I took formal steps I explained the process carefully to the employer	1	2	3	4	5	
If i took formal steps I my grounds to make my decisions were just and fair	1	2	3	4	5	

Ongoing practice and strategy						
I considered ways to educate others about issues found at this workplace to prevent problems	1	2	3	4	5	
I debriefed with a colleague, the team or a senior about my visit	1	2	3	4	5	

Course Programme

Day One Sessions

1 hour 30 minutes	**Course Opening and welcome**	**1 Introduction** • Registration, Speeches, Housekeeping, introductions, expectations and the agenda
15 minutes	**About the Course**	**2 About the Course** • Explanations about the delivery and style learning activities on the course and a quick orientation of the folders.
15 minutes	**ILO Turin**	**3 ILO Turin Virtual Reality Pilot** • Brief introduction
45 minutes	**Part One: The ILO and Defining Labour Inspection**	**4 International Labour Standards and context** • ILO Conventions and global inspection standards
30 minutes		**5 Defining Inspection: An Introduction**
1 hour 30 minutes		**6 Legislation, interpretation and application** • Overview of the purpose of inspectorate legislation • Exercise: What does legislation tell an inspector about how to do their job?
1 hour		**7 How Inspectors must behave: ethics** • How do we act in our formal role as Labour Inspectors? • Exercise: Facing challenges
1 hour		**8 Presentations** • Exercise: Presenting what we know about our roles based on scenarios
30 minutes	**Round-up**	**9 Day ahead and day in review** • Topic chapters handed out for overnight reading • Day reviewed and day ahead

Informal evening seminar		

Day Two Sessions

Refer the participants to the detailed **Day Two Agenda** and **Timetable** in Folder

Approximate Time	Section	Day Two Sessions
20 minutes	**Assessment**	**10: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
30 minutes	**Part Two: Principles of Inspection**	**11: Types of Inspectorate interventions** • Investigating something that has allegedly happened • Checking compliance at a selected workplace • Educating, empowering and enforcing • Identifying the similarities and differences in approach
30 minutes		**12: Benefits of preparation** • The 6 "Ps" and preparing your kit •
1 hour		**13: Inspections** • Key principles Assisting and educating the employer
20 minutes		**14: "Isaac's Story" – Audio Visual** • Discussion
2 hours		**15: Accident investigations** • Fundamentals of accident inspection
2 hours		**16: Hazardous substances** • Workplaces with hazardous substances – some fundamentals: Audio-visual • The Globally Harmonised System (GHS) and practice with Safety Data Sheets. • Exercise: Interpretation of an SDS and writing a hazard alert

10 minutes	**Round-up**	**17: Day ahead and day in review** • Topic chapters handed out for overnight reading • Day reviewed • Day ahead

Day Three Sessions

Refer the participants to the detailed **Day Two Agenda** and the **Timetable** in their Folder

Approximate Time	Section	Day Three Sessions
1 hour	**Assessment**	**18: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
2 hours 30 minutes	**Part three: Practical Inspection**	**19: Investigative interviewing skills** (with reference to the P.E.A.C.E model) includes role play exercises. *'Conversations with a purpose'* • Asking the right types of questions • Keeping things on track • Getting the best information and evidence • Managing the 'conversation'
1 hour 30 minutes		**20: Addressing Conflict** • Managing challenging behaviour of others during inspections or investigations • Managing your impartial role during inspections or investigations •
1 hour		**21: Recording and managing information** • File management and protecting information • All you ever wanted to know about using notebooks
30 minutes	**Round-up**	**22: Day ahead and day in review** • Topic chapters handed out for overnight reading • Day reviewed • Day ahead

Day Four Sessions

Refer the participants to the detailed **Day Two Agenda** and the **Timetable** in Folder

30 minutes	**Assessment**	**23: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
20 minutes	**Audio Visual**	**24: "Finaunga's Story"** Discussion on under reporting and protection of workers who report
1 hour	**Part three: Practical Inspection (continued)**	**25: Reporting** • Forming a conclusion • Principles of natural justice • Impartial evidence based language • Using a report template
90 minutes		**26: Preparation practical** **Field visits supported by Worksafe NZ** **OR ...** **(If field visits cannot proceed) Role Played visits** • Participants work in pairs or groups to prepare for role-played site visits or actual field visits.
2 hours		**27: Practical inspectorate visits** • Field visits supported by Worksafe NZ • OR Role Played visits
1 hour	**Recap**	**28: Field Visit feedback/ sharing of experience**
15 minutes	**Round-up**	**29: Day ahead and day in review** • Reading homework handouts

		• Day reviewed • Day ahead

Day Five Sessions

Refer the participants to the detailed **Day Five Agenda** and **Timetable** in Folder

Approximate Time	Section	Day Five Sessions
90 minutes	**Virtual Reality training Pilot**	**30: Turin team presentation** • A run through of the virtual reality pilot
45 minutes	**Part Five: Developing Practice**	**31: Strategic Planning** • Why observe, share, analyse and record trends? • Ideas for engaging with useful stakeholders • Ideas for planning strategic work programmes
30 minutes		**32: Ongoing learning and development for Inspectors** • Creating a reflective practice model • Maintaining a record of learning
45 minutes	**Round up**	**33: Action Planning** • Country level implementation
15 minutes	**Recap**	**34: Review 'park up' board and revisit expectations** • Address any remaining 'parked' issues • Revisit expectations from day one
15 minutes	**Evaluation**	**35: Training Evaluation** • Complete forms
45 minutes	**Closure**	**36: Closure** • Certificates awarded • Contact details of the facilitators • Farewell and final words

Session 1: Introduction

90 minutes

A Formal Welcome will occur first involving ILO and Worksafe NZ.

After the formal welcome ...

- The course facilitator will briefly introduce herself and co-facilitator
- Refer the participants to their folder and the detailed **Day One Agenda**.
- Start and finish times and breaks. 8.30 start and finish times may vary. Each day is timed to be 6 - 6.5 hours of content except the last day which is slightly shorter. Day four afternoon are workplace visits in Auckland and may finish at different times depending where they are
- Cell phones and devices
- Confidentiality
- Use a 'PARK UP' list on butcher's paper in a visible place during the course. Issues that cannot be dealt with easily can be 'parked' and dealt with later
- Ask if there are any questions.

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Introductions exercise

Hand out folded ILO name cards for each person to write the name they would like to be called on the course.

Ask participants to spend five minutes preparing the following introductory points which are printed below and also in **folder and slide.**

Each person will then introduce themselves to the whole group and **use** the laser pointer to show where they come from on the relevant country maps shown on slides.

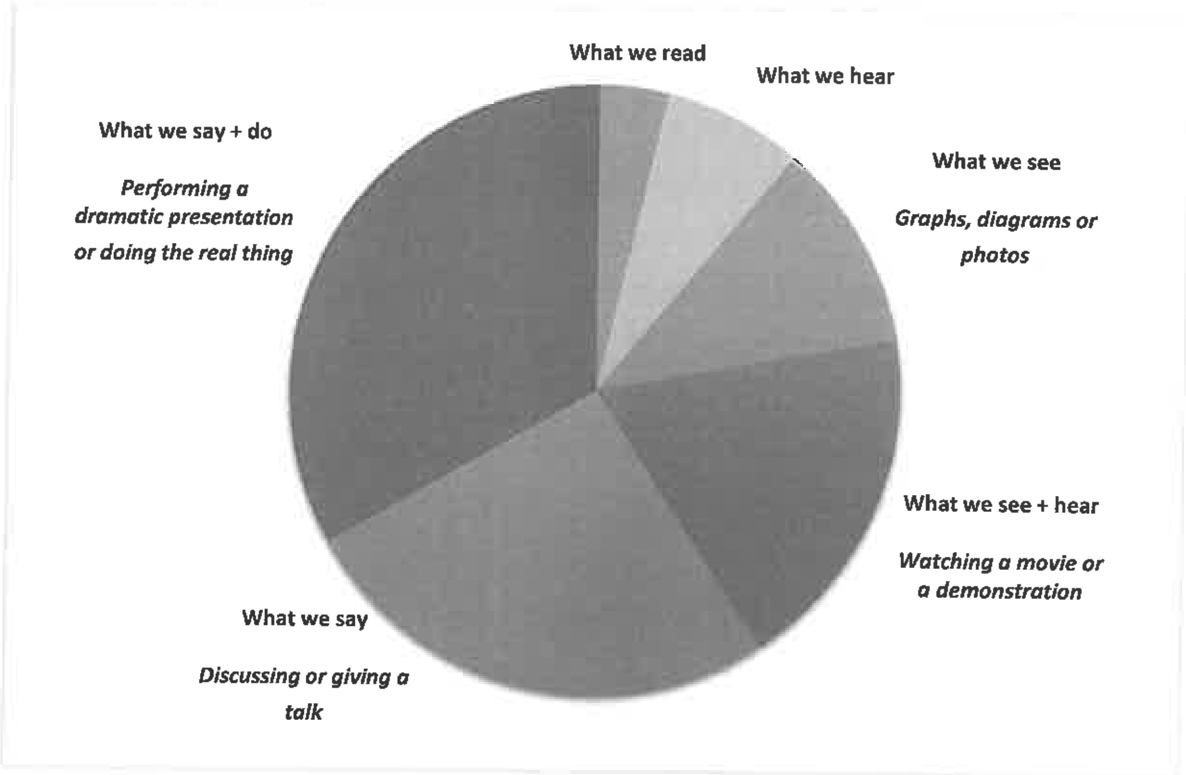
Introduction Exercise Instructions:
My full name is:
On this course you can call me:
I come from:
My Inspector role is:
I have worked as an Inspector for:
The thing I like most about being an Inspector is:
The most challenging thing I have had to deal with as an Inspector is:
Two things I would like to get out of the course are:
My favourite food is:
OR
In my spare time I like to:

Session 2: About the Course

15 minutes

Explain that:

- This five day course includes a mixture of practice and theory based activities including (on the afternoon of day four) visits to Auckland workplaces with Inspectors from Worksafe New Zealand.
- Refer the trainees to the full five day agenda in their folder.
- There will be presentations by each of the facilitators with PowerPoint slides and some audio visual presentations
- The facilitators are happy to be asked questions during the course or breaks. Ask questions and discuss matters with others such as the Work Safe NZ Inspectors
- All trainees will be required to participate fully in activities
- Display **slide**. Go through what is in the folder. Assessment will be by reading homework and then facilitator led discussion each morning to check what has been learnt. Everyone prepare to answer questions!
- The reading homework will be chapters which give full accounts of material presented that day and are designed to fit into the folders. By the end of the course the folder will become a guidance resource to take home and use
- The trainees will be learning a variety of different ways with some information repeated in different mediums. Display **slide** to show the ways that people learn and retain information.



What we read
What we hear
What we see
Graphs, diagrams or photos
What we see + hear
Watching a movie or a demonstration
What we say
Discussing or giving a talk
What we say + do
Performing a dramatic presentation or doing the real thing

The week's agenda at a glance

Show the **week's agenda** on slide. Explain there is a detailed agenda in Folder.

Day One Sessions

- Course Welcome
- About the course
- Turin team introduction
- Part One - Defining Labour Inspection: About the ILO, powers and obligations and appointment of Inspectors; ethics and legislation, presentations.
- Recap/ Homework distributed

Day Two Sessions

- Recap on homework
- Part Two - Principles of Labour Inspection: Inspection, Investigation and Hazardous Substance management
- Recap/ Homework distributed

Day Three Sessions

- Recap on homework
- Part Three – Practical Inspection: Investigative Interviewing, Addressing Conflict, Recording and managing Information
- Recap/ Homework distributed

Day Four Sessions

- Recap on homework
- Reporting
- Part Three: Practical Inspection continued- Assisting employers to establish systems; preparing for and attending workplace visits with Work Safe NZ
- Recap/ Homework distributed

Day Five Sessions

- Virtual reality project
- Role played site visits debriefed
- Part Four: Developing Inspectorate Practice
- Action Planning by country
- Evaluation
- Course Closure

Course Objectives

Explain the following course objectives from Folder:

Section Objectives	Session goals
Defining Labour Inspection *To set a firm platform for inspectors to acknowledge and appreciate their place in a global profession of regulators.* *To begin to establish an understanding of trends in Labour Inspection globally and innovative ways to regulate towards fair, healthy, safe and productive workplaces.*	By the end of the week you will have a sound understanding of: • The role of a Labour Inspector as a global profession and the importance of making Labour Inspection a valuable contributor to a fair, healthy, safe, competitive and productive economies • The basic principles of international Inspection and modern developments in inspection with a focus on the strategic and transparent balance between educative and enforcement actions • How legislation supports and defines the work of an Inspector including the appointment, powers, functions and duties under existing and pending legislation and ILO standards.
Principles of Labour Inspection *To establish a sound knowledge and application of the role of a Labour Inspector and practice applying skills.*	By the end of the week you will have a sound understanding of: • The role-relevant principles including inspection ethics, with reference to best practice standards.
Practical Labour Inspection *To establish sound techniques and a knowledge and application of fundamental procedures for and provide practical opportunities to understand and or test the learnings in local situations.*	By the end of the week you will be able to: • Plan for different types of inspection and investigation that include clear objective setting, risk analysis, employer profiling, and maintaining an up to date, and transportable inspection kit • Demonstrate a sound understanding of the fundamentals of investigating an accident or OSH incident including the preservation of evidence and maintaining the integrity of evidence

	• Demonstrate a foundation understanding of Hazardous Substance management • Demonstrate a sound understanding that you understand how to use an interview process to gain the best evidence and information • Demonstrate you are able to use conflict management techniques that help them remain impartial and to de-escalate and resolve conflict situations that you are confronted with in your role • Demonstrate you are able to manage all parties to a workplace dispute or all parties with an interest in an inspection or investigation including unions and employer groups and aggressive uncooperative employers • Use modern front line regulator techniques to educate and enable employers to comply • Demonstrate you understand why it is important to keep an impartial, accurate and if appropriate confidential record of your day to day work through the use of notebooks and file management • Become familiar with useful inspectorate templates.
Inspection reporting *To establish a consistent method and format for internal and external reporting that is useful, efficient and professional.*	By the end of the week **you will be able to:** • Demonstrate you can write an accurate, understandable and useful report for both external and internal readers by using a method and templates designed for this.
Developing Inspectorate practice *To establish a structured 'culture of learning' that can continue to support best practice and application of skills learnt on this course* *To establish the concept of a team approach to thinking about and planning strategic*	By the end of the week **you will have:** • Explored ways to develop effective relationships with employer and employee organisations • Explored a selection of ways to think about planning and implementing operational strategies for inspection • A sound knowledge and have practiced skills to develop a 'culture of learning' in your Inspectorate which includes regular reflective practice and constructive peer review • A sound understanding of giving and receiving

regulation of workplaces.	constructive feedback and will have practiced this • Have learnt the importance of maintaining a learning record and how to commence using this.
Assessment and Evaluation *To ensure that the training delivered is understood, can be applied and will enhance the overall performance of the trainee's Inspectorate in their home jurisdiction.*	By the end of the week you will: • Have been assessed in your group learning as having the knowledge skills and capabilities in relation to the session goals and have demonstrated a sound level in all sessions or if not have clearly identified areas for development.

Session 3: Turin ILO introduction Virtual Reality project 15 minutes

Session 4: International Labour Standards and Context

45 minutes

ILO to present this following session using slides taking no more than 25 -30 minutes.

Display slides to explain the history, the key conventions on Labour Inspection and concepts behind the ILO and check how the Pacific country's present connect to each of the ILO concepts through general group discussion and facilitator prompted questions.

Explain: The ILO is a specialised agency of the United Nations and was established in 1919. The ILO focuses on *the world of work, and in particular, decent work.* The ILO has four strategic objectives that form part of its work. These are:

1. Promote and realize standards and fundamental principles and rights at work
2. Create greater opportunities for women and men to decent employment and income
3. Enhance the coverage and effectiveness of social protection for all
4. Strengthen tripartism and social dialogue.

End the ILO session with the following exercise emphasizing the key message from this game is that Inspection – whether it is OSH or labour inspection - arises in many contexts – e.g. domestic workers.

Handout a 'ILO Matching Game' packet to groups of 3-4 and **explain** that instructions are in **Folder**. Instructions are reproduced on **slide. Award prizes** for the fastest finished, the most correct answers etc.

'Matching Game' Exercise Instructions
Each group will be given a packet in which they will find the names of 6 ILO Conventions. They will also find Articles (text) that match each Convention. Match 3 Articles with the name of each Convention. When each group is finished and the answers are checked a group discussion will consider the following questions. • What do these Conventions have in common? • What is the relevance of the Conventions to the Practice of Labour and OSH Inspection?

Session 5: Defining Inspection- An introduction **30 minutes**

Brainstorm: A brief definition of an Inspector

Display slide showing: **What do Inspectors do?**

Have the participants **brainstorm** and give their answers. These can be written on the whiteboard.

Explain the desired answers as they come in one by one on **slide** as follows:

- Check that workplaces are compliant with labour and OSH standards
- Help employers to comply with labour and OSH standards
- Educate others about labour and OSH standards
- Promote laws that are relevant and up to date
- Investigate complaints about breaches of labour standards
- Investigate accidents and their cause
- Take formal action against those who breach labour and OSH laws
- Issue permits relating to rights to work including foreign workers

- Take steps to prevent people getting injured or harmed in the workplace

Discuss any other ideas that came up.

Display slide and ask: **What powers do Labour Inspectors have to help them do all of these things?**

Have the participants brainstorm and give their answers. These can be written on the whiteboard.

- Enter workplaces with or without prior notice
- Interview people at workplaces
- Interview people who are connected to employing workers
- Investigate accidents or complaints about non-compliance with labour, OSH or related laws.
- Take copies, (sometimes) seize, inspect evidence to decide whether there is breach/ offence of labour, OSH or related laws
- Take formal action against employers or others who breach labour, OSH or related laws in their country.

Discuss any other ideas that came up.

Display slide and ask: **What principles guide Labour Inspectors in their work?**

Have the participants brainstorm and give their answers. These can be written on the whiteboard.

• Be consistent in approach	CONSISTENCY
• Take action that matches the harm	PROPORTIONATE ACTION
• To be accountable to the public	ACCOUNTABILITY
• To act fairly	FAIRNESS

Discuss any other ideas that came up and note that these four principles may come up again!

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Session 6: Legislation, interpretation and application 1 hour 15 minutes

For most countries OSH and Labour Inspectors are governed by legislation about what they do and how they do it. Where this is not the case there is guidance in the ILO Conventions or local policy.

Legislation is in Acts of Parliament. Often other inspectorate rules are found in 'sub-ordinate' legislation such as Regulations or Codes. A good example of a Code is a Code of Ethics.

Display the following on slide and ask representatives of each jurisdiction to explain the relevance of the Acts to their role and whether there is any sub-ordinate legislation they are aware of.

Country	Title	Content includes ...
Cook Islands	Employment Relations Act 2012	Labour Standards
	Dangerous Goods Act 1984	Hazardous Substance management
	Workers Compensation Ordinance 1964	
Kiribati	Occupational Health and Safety Act 2015	OSH
	Employment Ordinance 1966	Labour Standards
	Employment Amendment Act 2008	Discrimination through gender, disability, HIV Aids, young people as employees in hazardous work, equal pay
Tuvalu	Employment Ordinance 1966	Labour Standards

We are now going to look at some more detail in the legislation. The aim of this session is to practice looking up and finding key parts of the legislation as well as understanding why it is there.

Appointment of Inspectors

Inspectors are always government appointed officers. The method of appointment is usually set out in legislation. The ILO Convention on Labour Inspection also says Inspectors should be appointed by the government.

Ask why this is necessary? Preferred answer is that this ensures that there is no private commercial interest influencing the running of the Inspectorate.

Display **slide** to show examples of appointment sections from the legislation just mentioned.

Where do we find the functions, powers and duties of Inspectors?

Explain that: We are going to learn about where to find the functions, powers and duties of Inspectors.

Ask: Why do Statutes around the world usually state the functions, powers and duties of Inspectors?

Preferred answer is that: The reason functions, powers and duties are in legislation is so that Inspectors can be supported to do their job.

- **Powers:** Without for example the law that gives inspectors the power to enter workplaces they could legally be asked to leave by the owner. This would prevent them from carrying out any inspection of that workplace.

- **Duties:** With this power comes responsibility to exercise those powers carefully, accurately, fairly and transparently so that the inspectorate has integrity and people take them seriously. We will return to these concepts many times during this course.

- **Functions**: are a more modern concept that set out what Inspectors do, for example educate, enforce, and assist employer groups to establish codes of safety practice. A 'functions' section in legislation is a bit like a broadly worded job description. It is designed to give Inspectors the stated permission to broadly engage with employers and workplaces to not just inspect but to educate, persuade and recommend necessary changes to the law. Without this stated permission some 'reluctant' employers might try to prevent an Inspector from carrying out their duties like education. Functions set out the 'mandate' or permission to do things. They also 'back up' Inspectors in their work. For example they may be asked why they are not taking a tougher approach when they find an employer has done something wrong. They can refer to the function that describes a first stage education response before formal action.

Legislation : Appointment, Powers, Duties & Functions: Exercise Instructions:

- Divide into three jurisdictions: Kiribati, Cooks Island and Tuvalu and get flip charts and marker pens and your copies of your own legislation you have brought with you.
- Those from Vanuatu, Tonga and Solomons can each join one of these groups.
- The idea of this exercise is to practice looking up and finding key parts of legislative documents.
- Using the help of the white board brainstorm each group is to find the relevant sections that relate to the:

  - Appointment of Inspectors (usually just a single section)
  - Functions of Inspectors (not always included in older legislation)
  - Powers of Inspectors (these may be across *many* different sections)
  - The Duties or Obligations of Inspectors (may also be across different sections and contained in Codes of Ethics)

- Use flip charts and marker pens to set out answers. Once these have been checked for accuracy transfer them into your Folders.

Brainstorm: What other things are found in the legislation?

Answers should be:

Details about procedure: Showing ID, identifying the employer, notices, legal proceedings and the effect of these, the offences or breaches that are in place for workplace compliance such as minimum wage, unsafe machinery, how to share information with other agencies, how to work with other agencies, level of penalties, any exemptions that may apply to some types pf employers or employees, duties of employers and employees, the right of an employee to remove themselves from risk or report risk and a protection from being dismissed for doing so, notification procedures, recording requirements, site preservation.

Note that details like this are sometimes found in the main Act of law but often in 'sub ordinate legislation called Regulations or Codes. Acts sometimes contain 'Schedules' at the back that usually contain templates for forms such as for example Improvement and Infringement Notice templates.

Explain that we are going to complete an exercise in groups to find legislation relevant to the Inspectorate role. Instructions are in **Folder**. Display **slide** with the same instructions.

Read through the Instruction and explain the following:

For this exercise we are using the legislation for Kiribati, Cooks and Tuvalu. However Tuvalu may choose to use the Kiribati Act for this exercise which is a modern OSH Act.

The aim of this exercise is to help us to understand the Inspector role in more detail and know where to find the law when it is needed. It will also highlight where there may not be 'law' but where policy or best practice may be needed.

Inspectors should carry copies of key sections with them on visits especially ones that explain their powers.

On folder page x there is a template with the headings. Inspectors can put their own legislation sections under these headings in their own time after the exercise is completed or when they have legislation enacted. This will become a quick check resource to use. It is also a good exercise for new Inspectors to complete as they learn the role.

This idea can also be expanded to cover more detailed areas of compliance, for example where to find regularly used relevant sections about compliance with hazardous substances. But CAUTION- Whenever creating a hard copy reference of legislation is it vital to keep this accurate and updated because legislation, regulations, codes and policy can regularly change.

Before starting the exercise also explain (using the whiteboard) how to accurately quote legislation, and subordinate legislation. Emphasise that where using legislation to confirm something for an employer is it best to give a copy of the section rather than paraphrase.

Legislation General: Exercise Instructions

Form three groups into jurisdictions of Kiribati, Cook Islands and Tuvalu. Others to join groups so there is an even number in each group.

Kiribati Group to use: Kiribati Occupational Health and Safety Act 2015 and Employment Ordinance 1966 and Employment Amendment Act 2008.

Cook Islands Group to use: Dangerous Goods Act 1984 and Employment Relations Act 2012

Tuvalu to use: Employment Ordinance 1966 or Kiribati Occupational Health and Safety Act 2015

Each group is to find as many sections as they can that would fit under each heading.

Record the group's answers on flip chart paper and these will be put up on the walls for everyone to see and check for accuracy.

In the **Folder** there is a template with the headings. Inspectors can put their own legislation sections under these headings in their own time and when they have legislation enacted. This will become a quick check resource to use. It is also a good exercise for new Inspectors to complete as they learn the role.

This idea can also be expanded to cover more detailed areas of compliance such as where to find relevant sections about compliance with hazardous substances. But CAUTION. Whenever creating a hard copy of legislation is it vital to keep this updated because legislation, regulations, codes and policy can regularly change.

	Section and name of Legislation, Regulation, Code or Policy	Key words
Inspector Appointment		
OSH		
Labour		
Inspector Powers		
Enter Workplaces		
Communicating with the employer on entry		
Gather evidence		
Interview		
Interview with caution		
Inspection		
Obstruction		
Notices		
Proceedings		
Protection of Inspectors from prosecution		
Reporting		
Recovery of money from employers		
Inspector Duties and Obligations		
Requirement to keep complainants name confidential		
Requirement to keep commercial information confidential		
Natural Justice		
Conflict of interest		
Duty to assist employers before prosecuting		
Other		
Protection from prosecution for inspectors		

Process for complaints against Inspectors		
Disclosing information to other agencies		

Applying the legislation and other rules

Explain that we are now going to look at how to apply functions, powers and duties. IN this exercise you may not know all the answers. Discuss in the group, learn from each other and then in the whole group general discussion we will cover off the 'gaps'.

Refer to these instruction in **Folder.**

- Divide into two groups:

  Group One & Group Two

- Spend 20 minutes preparing a simple instruction sheet (bullet points are fine) on flip chart paper for a ***new inspector*** to know what to do (or not do) in the following situations. Use the material we have covered and also your own experience. Choose how to present your instructions to the whole class.

Group one: Questions 1-5

1. You intend to make an unannounced visit to a workplace where there has been complaint that there are migrant workers who are being treated badly and are underpaid.
2. You arrive at a workplace and the employer is a close friend of your family who asks you to go easy on him because he is struggling to keep his business going.
3. An employer refuses to answer your questions.
4. You arrive at a workplace and you cannot find out who the employer is but you still want to stay and carry out a routine inspection and talk to workers.
5. Workers at the workplace refuse to answer your questions but after your visit two women workers come and see you at the Inspectorate Office and tell you about children under 16 in the workplace. However, they want you to promise them that their names will be kept anonymous.

Group Two: Questions 6-10

6. Workers at a quarry workplace run away when they see you arrive.
7. A brother of the employer hears you are at the workplace and arrives in the middle of your visit

and stops the employer talking to you. 8. You visit the workplace and discover that the employer has not improved the safety and handling procedures for his corrosive chemicals after being issued with notice to do so. 9. A union representative sees you writing things down in your notebook and demands to see all of your notes and have an immediate copy. You inspect a locally based fishing vessel. The Captain orders you off the boat.

How do Inspectorates approach Enforcement?

Display: slide showing the flow chart showing the ultimate outcome of compliance for all Inspectorate work.

Explain: we are going to now consider how inspectorates approach 'enforcement' by using these powers, functions and duties. This is important to know because it guides Inspectors to make consistent decisions when they interact with workplaces.

Facilitate: a whole group discussion using the following questions:

1. When you find an employer is non-compliant what do you do?
2. Do you use a graduated approach or a strict enforcement approach?
3. When do you educate an employer towards being compliant?
4. When do you issue improvement, prohibition notices?
5. When do you consider more formal action such as bringing legal proceedings against an employer?
6. What are some of the ways you have found to be successful when getting an employer to comply with legislation?
7. What are some of the ways that have not worked and why?
8. How do you make sure the approach of the Inspectorate is consistent and fair?
9. Why is it important to have a consistent and fair approach?

Display: slide which has the following bullet points:

A modern enforcement approach is something like:

- Educating employers and workers about their rights and obligations
- Educating and supporting employers and employees to eliminate risk
- Facilitating and strengthening workplace relationships to improve labour relations, employment standards and OSH compliance
- Using 'hard' enforcement tools as a 'last resort'
- A collaborative Government approach.

Summarise and close session 1.5 by explaining that:

- Legislation defines and supports Inspectors to carry out their role through stating their appointments, powers, functions, and duties.

- A modern Inspectorate enforcement approach begins with a collaborative and educative approach followed by harder enforcement but should always be consistent.
- Repeat the mantra and refer to the poster on the wall:

Be consistent in approach	CONSISTENCY
Take action that matches the harm	PROPORTIONATE ACTION
To be accountable to the public	ACCOUNTABILITY
To act fairly	FAIRNESS

Session 7: How Inspectors must behave: Ethics 1 hour

Ethics and facing the challenges to impartiality

Explain that: The next session focuses more closely on how to maintain impartiality as an inspector.

Explain that: We will now work on how these ethics are applied. Ethics are often misunderstood as good manners and being polite to people. However they the things that have challenged human beings throughout history. The following exercise is designed to get you to consider hard questions in your role when two different codes or sets of rules collide. To get the most out of this exercise you need to be as open and honest as you can about the dilemma you may feel in your role when you have to make decisions you might not make if you were not in your role. We can then discuss the ways you can do this without feeling compromised.

Display slides and refer to the 'ethics' slides displayed on the walls as posters.

Explain that: Break into three groups, read through the scenario allocated to your group, discuss how you as an inspector would handle this situation and why. Apply the inspector ethics discussed. Agree on how to present your answers back to the whole group. You can use role play or direct presentation.

Allocate groups: Count off 1,2,3 around the room to allocate members to each group. All the 1s to Group 1 with scenario 1 etc.

Refer to: the exercises in the **Folder** that repeat the following scenarios and questions.

Ethics: Exercise Instructions

- The facilitator will break you into three groups and each group will be allocated one of the following scenarios.
- Read through the scenario.
- Discuss as a group how you as an inspector would handle this situation and why.
- Agree on how to present your answers back to the whole group as if they were a group of new Inspectors being trained.
- You can use any method you like to present your answers. For example you can incorporate role play, humour or direct presentation.
- You can also change the scenario to fit a type of workplace in your jurisdiction.
- Flip charts and marker pens are available.

- You have 20 minutes to prepare the presentation.

Scenario 1: Palm Oil Business

You have been an Inspector for five years. You carry out a routine inspection on a family owned palm oil business that supplies the stores and supermarkets. You visited this workplace one year ago and at the time the family agreed to improve the wiring in the sheds which was not properly insulated and in part exposed to moisture from outside. You revisit and discover that none of these things have been done. The father of the family (who is never available to talk to you) is the controller of the business and you suspect that the sons (who you always deal with) may be afraid of him. The sons are willing to make the improvements but it is likely that they have not been provided with the finance to do so. They may not tell you that directly because they are embarrassed to appear afraid of their father. You feel sorry for the sons who seem to work hard and are trying to get a big contract with a large biscuit and cake making factory. They are worried this 'issue might leak out and jeopardise their chance of getting the contract. You are very concerned that there may be a fire or electrocution due to the wiring. It is looking much worse than last year and there are about 35 employees who work in the sheds. However the sons plead with you to give them more time to cooperate promising that they will make the changes this year when the money becomes available.

Scenario 2: Second hand clothing warehouse

You are female and 20 years old and have been a labour inspector for 1 year. You are visit a second hand clothes warehouse that imports bales of clothing from New Zealand and Australia and sells the clothes to the local community. There are 30 workers. The warehouse is divided into a clearing and sorting area on one side and a retail area on the other. When you and another Inspector arrive you are stopped outside by a friend of your father, Henry. Henry and your father are strong Union men. Henry had heard about the visit from some of the workers at the factory. Henry is very forthright in his manner and opinions and treats you like a little girl who knows nothing. He takes you aside and says that there are allot of unhappy workers at the plant who are very afraid of the employer and are forced to sign documents that they know to be untrue. The workers, Henry says, are told to sign that they have worked for significantly less hours than they actually work. You can see out the corner of your eye the employer and your Inspector colleague (who have by now met at the entrance) looking at the two of you very seriously. Henry then hurries off calling back to you so that everyone can hear him say "I will call you tonight, to see how you got on at righting wrongs in this workplace! Don't let me or your father down!"

Scenario 3: Fish processing factory

You have been an OSH Inspector for 3 years. One night your second cousin, Eugene comes to see you. Eugene owns and runs a fish processing factory. He seems to do very well financially. Eugene has two teenage sons and you are godfather to one of them. Both boys are attending an exclusive rugby academy in Auckland. You are proud of your godsons and you hope to see them play in the All Blacks one day. Eugene tells you he has been notified that he will be visited by two Inspectors. He tells you that there are a few problems with some workers not using cleaning products properly. He tells you he is heavily committed to his sons' education in Auckland and if anything affects his reputation his business will falter and he may have to bring the boys home. Eugene offers to pay you some money and asks you to either take him off the list for a visit or be one of the Inspectors to visit so that you can produce a favourable report. You know there have been complaints about the plant from workers who say they experience itchy eyes and skin from not having protective clothing and using unlabeled cleaning products. The workers say that Eugene pays them to keep quiet. You need money at the moment because your wife has been sick and not able to work for two months.

Close session 1.6 by:

Making observations about what seemed to generate the most challenge. (It is likely to be conflict of interest situations). Note there is a difference between knowing the law and then actually applying it in practice when employers and employees and others do not act in a way that we would expect or like them to.

- Repeat the mantra and refer to the poster on the wall:

Be consistent in approach	CONSISTENCY
Take action that matches the harm	PROPORTIONATE ACTION
To be accountable to the public	ACCOUNTABILITY
To act fairly	FAIRNESS

Session 8: Presentations 1 hour

Presenting legislation detail to employers

Explain that: in the next exercise we go into some more detail about the Inspectorate role which is educating employers about their duties. Again we will prepare and present to the whole group. People who took an active role in the earlier exercise should let others take a lead this time.

This time we want to build confidence in presenting material relating to the corner stone of OSH compliance which is what duties employers have to keep their workplaces safe and heathy. The Kiribati Occupational Safety and Health Act 2015 will be used for this exercise.

Remind the group that this is a safe environment to practice and making mistakes is good because it is a strong way to learn.

The audience in each presentation will pretend to be employers.

Divide into groups of 2- 3. Allocate one of the presentation instructions for each group and order the presentations from 1-6 so that the progression through the section on duties is progressed as it appears in the Act. The presentation are reproduced below and are in the **Folder** for each group.

Allow groups **20 minutes to prepare** their presentations. Facilitators should move between groups and assist. Groups may need help to ensure they cover any definitions from the legislation in their presentation but not get bogged down with 'legalese.' Remind them to 'remember who their audience is: employers. They will know exactly who their employers are likely to be and can come up with good ways to get the message across.

Have each group present to the whole group as though the audience are employers. The 'employers' then must feedback on whether as an 'employer' they:

1. Found the material easy to understand and
2. Were persuaded to make changes.

Close session 1.7 by showing display slide to show what has been covered. Congratulate everyone for their efforts.

Presentation 1 – Categories of people that employers owe a duty to.

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that they owe a duty to keep more than just employees safe and healthy in their business. You are going to educate them about section 12 (3).

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand the different people that they have to keep healthy and safe as they carry out their business activities in the workplace they operate."

Your presentation should:

1. Explain the objective of the training you are going to give
2. Explain in an understandable way what the law says and how it applies
3. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati)

Section 12(3)

For the purpose of subsection (1) and (2) ... [which sets out all the duties of employers to have safety and health measures in place in the workplace] ...

(a) 'employee' includes an independent contractor engaged by an employer and any employees of the independent contractor;
(b) 'site visitors' means persons who are not employees of the employer and have a legitimate purpose to be at the workplace; and
(c) The duties of an employer under those sub-sections extend to such an independent contractor and the independent contractor's employees in relation to matters over which the employer-
    (i) Has control; or
    (ii) Would have had control but for any agreement between the employer and the independent contractor to the contrary.

Teaching methods – use at least three of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic
- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand

- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Presentation 2 – Employers' duty to assess and identify hazards

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that they owe an overall duty that is very wide. You wil educate the employers about section 12 (1) and 12(2)(a) which is one of the ways the employer must do this by identifying and assessing hazards.

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand the importance of their obligation to safety and healthy workplace and in particular to identifying and assessing hazards."

Your presentation should:

4. Explain the objective of the training you are going to give
5. Explain in an understandable way what the law says and how it applies
6. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati)

Section 12(1)

An employer shall provide and maintain, so far as practicable, a working environment for employees and site visitors that is safe and without risks to health.

[One of the ways the employer must do this is ...]

Section 12(2)(a) identify existing and new hazards at work and assess each identified hazard to determine whether or not it is a significant hazard to any employee and site visitor at work; ...

Teaching methods – use at least three of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic
- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand
- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Presentation 3 – duty to eliminate, minimise, isolate and provide protection to employees from hazards

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that they have a four step approach they must take to reduce hazards in the workplace. You are going to educate them about section 12(1) in relation to section 12 (2) (b).

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand how to work through the process outlined in the Act to reduce hazards."

Your presentation should:

7. Explain the objective of the training you are going to give
8. Explain in an understandable way what the law says and how it applies
9. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati) Section 12(1) An employer shall provide and maintain, so far as practicable, a working environment for employees and site visitors that is safe and without risks to health. [One of the ways the employer must do this is ...] Section 12(2)(b) do the following to reduce the hazards and risks of each significant hazard found at the workplace- (i) Take steps as far as is practicable to eliminate each significant hazard from the workplace; (ii) If the hazard remains significant, takes steps as far as is practicable to minimize the hazard; (iii) If the hazard remains significant, take steps as far as is practicable to isolate the hazard from employees at the workplace; and (iv) If the hazard remains significant, introduce a system to control each employee's exposure to the hazard and provide relevant protective clothing and equipment to protect employees from any harm that might arise from that hazard...

Teaching methods – use at least three of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic

- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand
- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Presentation 4 – Employers duty to provide training and supervision

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that they owe a duty to train and supervise employees in safety and health. You will educate the employers about section 12(1) as it relates to section 12(2) (c).

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand their duty to train and supervise employees to carry out their duties safely and without risk to their health."

Your presentation should:

10. Explain the objective of the training you are going to give
11. Explain in an understandable way what the law says and how it applies
12. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati) Section 12(1) An employer shall provide and maintain, so far as practicable, a working environment for employees and site visitors that is safe and without risks to health. [One of the ways the employer must do this is ...] Section 12(2)(c) provide such information, instruction, training and supervision as is necessary, and to which the employee is entitled to, to enable employees to perform their work in a manner that is safe and without risks to health; ...

Teaching methods – use at least three of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic
- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand
- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Presentation 5 – Employers duty to monitor health and safety in the workplace

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that they must monitor health and safety in the workplace. You will educate the employers about section 12 (1) as it relates to 12(2)(d).

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand the importance of their obligation to monitoring health and safety the workplace"

Your presentation should:

13. Explain the objective of the training you are going to give
14. Explain in an understandable way what the law says and how it applies
15. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati)

Section 12(1)

An employer shall provide and maintain, so far as practicable, a working environment for employees and site visitors that is safe and without risks to health.

[One of the ways the employer must do this is ...]

Section 12(2)(d) as far as is practicable –

(i) Monitor the health and safety conditions at the workplace;
(ii) Monitor the health of the employees at the workplace;
(iii) Keep information and records relating to the health and safety of employees at the workplace;
(iv) Provide the results of any health monitoring of an employee to that employee.

Teaching methods – use at least three of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic
- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand

- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Presentation 6 – Who pays for the health and safety systems, equipment, training and supervision in a workplace?

You are training a group of employers to understand their obligations under the Kiribati Occupational Safety and Health Act 2015.

You need to get the employers to understand that cannot get employees to pay for anything that the employer has to do to keep them safe and healthy in the workplace. You are going to educate them about section 12 (4).

Your objective is to ensure that:

"By the end of this presentation the employers will be able to understand that they cannot pass the cost of setting up and supporting OSH systems in their business onto employees."

Your presentation should:

16. Explain the objective of the training you are going to give
17. Explain in an understandable way what the law says and how it applies
18. Persuade the employer it is good for his or her business to keep their workplace safe and healthy by giving at least three reasons why this is so.

Occupational Safety and Health Act 2015 (Kiribati) Section 12(4) An employer shall not require an employee to pay, whether in cash or kind, for any plant, systems, arrangements, facilities, equipment, information, instruction, training or supervision provided and maintained at a workplace under this Act."

Teaching methods – use at least THREE of these in your presentation.

- Talk to the 'employers' about the key concepts of the topic
- Use visual display - flip chart, power point or pictures or diagrams
- Tell a story or give realistic examples that you know employers would understand

- Get the employers to DO SOMETHING to help them better understand what you have told them. For example bring them into a discussion or ask them for their opinions
- Check whether the topic has been understood by summarising the key concepts.

Session 8: Day in review, day ahead and reading homework 30 minutes

Display slide. Handout the reading chapters for **Day One.**

Explain that the reading handouts have content about the things that have been covered on the first day. By the end of the course they will form Chapters for the folder for the Inspectors to use when they return to their Inspector roles. The folders are ring bound to allow for amendments and additions as each country may develop their legislation, regulations and policies further.

Explain that in the morning there will be a session reviewing this reading. The facilitators will 'quiz' the group and people will be picked on to answer questions about what they have learnt and read.

Summarise what we have learnt today by asking each person to give one thing and not to repeat what anyone else has said.

Display slide to confirm the review of the day's topics.

Display slide showing the **agenda for Day Two**. Also refer to a more detailed version on WB Page 24.

Check if there are any questions.

Ask an appropriate person to formally close the day.

Day Two Sessions

Refer the participants to the detailed **Day Two Agenda** and **Timetable** in Folder

Approximate Time	Section	Day Two Sessions
20 minutes	**Assessment**	**10: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
30 minutes	**Part Two: Principles of Inspection**	**11: Types of Inspectorate interventions** • Investigating something that has allegedly happened • Checking compliance at a selected workplace • Educating, empowering and enforcing • Identifying the similarities and differences in approach
30 minutes		**12: Benefits of preparation** • The 6 "Ps" and preparing your kit •
1 hour		**13: Inspections** • Key principles Assisting and educating the employer
20 minutes		**14: "Isaac's Story" – Audio Visual** • Discussion
2 hours		**15: Accident investigations** • Fundamentals of accident inspection
2 hours		**16: Hazardous substances** • Workplaces with hazardous substances – some fundamentals: Audio-visual • The Globally Harmonised System (GHS) and practice with Safety Data Sheets. • Exercise: Interpretation of an SDS and writing a hazard alert

10 minutes	**Round-up**	**17: Day ahead and day in review** • Topic chapters handed out for overnight reading • Day reviewed • Day ahead

International
Labour
Organization

WORKSAFE
NEW ZEALAND

Session 10: Review of homework reading

15 minutes

Possible questions (and answers) for review of homework reading

What does ILO stand for, and when was it established?	• The International Labour Organisation established 1919
What is the key ILO Inspection Convention?	• The Labour Inspection Convention (81)
Name some ILO Standards that are related to OSH?	• The Occupational Safety and Health Convention, 1981 (155) • Protocol of 2002 to the OSH Convention, 1981 • Occupational Health Services Convention, 1985 (161) • Framework for Occupational Safety and Health Convention, 2006 (187)
What are six things that are generally true for all Labour /OSH Inspectors internationally	• Appointed /employed by their country's government. • Regulate labour standards • Provide advice and education to employers and workers on maintaining healthy, safe and fair workplaces • Maintain standards relating to working time, wages, occupational safety and health, child or forced labour • Bring to the notice of national authorities defects in national law • Ensure that labour law is applied equally to all employers and workers
What are six powers that Labour/OSH Inspectors generally have internationally?	• Enter workplaces with or without prior notice • Interview people at workplaces • Interview people who are connected to employing workers • Investigate accidents or complaints about non-compliance with labour, OSH or related laws • Take copies, (sometimes) seize, inspect evidence to decide whether there is breach/ offence of labour, OSH or related laws • Take formal action against employers or others who breach labour, OSH or related laws in their country.
Name the four principles that apply to how Inspectors carry out their role?	• CONSISTENCY • ACCOUNTABILITY • PROPORTIONATE ACTION • FAIRNESS
Name some ethical principles.	Do not accept gifts in return for favoritism, Do not allow personal friendships or family ties affect judgment. stand firm when an employer 'pulls on your heart strings'. Use the ethics posters for reference.

Close session by awarding prizes for 'good homework'. Ensure there are no further questions or add to the 'park' board as appropriate. Explain we are starting on Part Two now: Principles of Inspection.

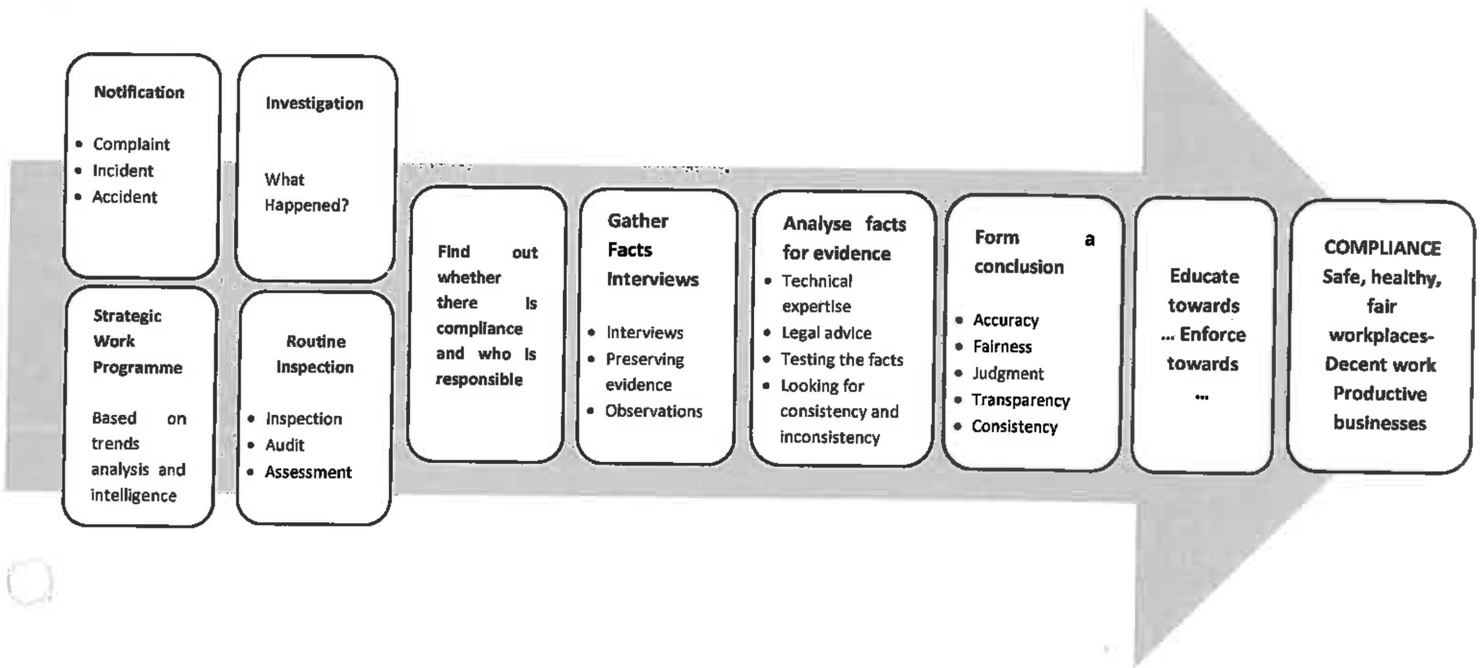
Session 11: Types of Inspectorate Intervention

30 minutes

Display slide and **explain** the following flow chart showing an overview of inspection processes. This forms the basis for the stages that will be covered in the following sessions.

Explain that this flow chart will also be included in tonight's chapter reading.

Close the session by explaining that this slide will be reshown to remind participants how subsequent session materials apply to the Inspectorate process.



Session 12: Benefits of Preparation

30 minutes

Explain that most of what we will go through this afternoon about investigations is about planning. Before we start we want to pause and consider why planning is so important for an Inspector. Explain that most of what we will go through this afternoon about investigations is about planning. Before we start we want to pause and consider why planning is so important for an Inspector.

Brainstorm Exercise

Ask the Inspectors to brainstorm the benefits of planning and record on whiteboard. Group similar suggestions together.

If necessary prompt the group. The following points should be covered:

- Purpose is clear
- Evidence is not overlooked
- Evidence is gathered before it can be altered or destroyed
- Resourcing decisions can be made
- Timelines can be estimated and worked to
- Risks are identified
- Co-ordination/ organisation if investigations involve multiple Inspectors or agencies.
- Less scope for getting bogged down in an investigation
- Transparency for Managers to understand and effectively support

Display the slide showing the "T.R.A.I.N" acronym that summarises principles behind the benefits of preparation.

T-imeliness

R-eliability

A-ccuracy

I-ntegrity

N-o surprises

Display slide showing the 6 P's to re-enforce the benefits of planning:

Perfect - Pre - Planning - Prevents - Poor - Performance.

Close session 2.3 by: summarising the importance of preparation.

Session 13: Inspections **1 hour**

Reason to Inspect?

Explain: that we will look at Inspections by a discussion based session and then we will have a more detailed session on accident investigations. Much of the process is the same. The reading materials that will be handed out for tonight's homework repeat some of the same things for both inspections and investigations. That is because the materials are designed to 'dip into' at a later date as a resource.

Explain: that unlike an investigation into something that has happened an inspection is often referred to as the proactive side of an Inspector's role.

The reason to inspect a workplace may be a follow up after an accident investigation or it may be part of the inspectorate's planned strategy. For example a trend analysis may have revealed that there is an increase in injuries reported involving corrosive cleaning chemicals at hotel resorts. The Inspectorate may therefore plan to inspect all hotels on the Island.

Inspections may also be carried out on a geographical area or an industry such as manufacturing. We will return to discussions on the last day about strategies for choosing where to inspect.

The principles of inspecting a workplace are the same as when investigating something that has happened except that the inspection can focus on areas that you as the Inspector feel are important to check. An investigation can do this too but the main purpose of an investigation will always be to find out what caused an accident or whether a breach of employment standards has occurred. The focus is often narrower although not necessarily simpler!

Display slides and follow through the Inspections discussions.

Session 14: "Isaac's Story" Audio-Visual

Explain: We will now watch a video made by Work Safe New Zealand (then called Department of Labour) in 2005 which was part a documentary production made in 2005 following concerns about the high rate of serious workplace accidents in South Auckland involving Pacific workers. It is a true case study about a man seriously injured at work in South Auckland. We will then have a discussion about what we have seen.

Play: the audio visual about Isaac.

Discussion: Display **slide.** Have a 10 minute whole group discussion about the video and the issues it raises for the trainees in their own jurisdictions. Include in the discussion questions about asking more questions than just- do you have safety clothing to- does it fit and is it suited for the job.

Refer: the trainees to the link on line that will access this and other videos from this documentary series. **http://www.dol.govt.nz/publications/video/come-home-safely/.**

Session 15: Accident Investigations 2 hours

Explain that: we are going to discuss some fundamentals of inspecting workplace accidents. Some parts of the investigation process require skills and knowledge that we will also cover in more practical detail later in the course such as interviewing, note taking and reporting.

Display slide again to reconfirm the context and point to the part we are dealing with in the intervention process.

Explain: This part of the course is led by an expert in this area with examples and illustrations. The presenter will engage all participants throughout the lecture by asking questions of the participants about how they relate their own experience and knowledge.

Display: slides with the bullet points of the chronological steps of an accident. Explain that these headings and their subheadings are all set out in **WB pages 28 - 31** with space for note taking. Warn that it will be important to make note of learnings because participants will be asked to put together an investigation plan in the second half of the investigation session.

Continue working through the following content using as appropriate slides

Slide Introduction

Notifications / Complaints

Pre- Investigations into an accident

Interviews

Slide Investigations

Who Investigates?

Why Investigate?

Planning Investigations?

Basic facts

Sequence of events

Contributory factors

Management

Duty holders

Response to Notifications and Investigation Advice

Scope of Inquiry

Powers of Inspectors "KNOW YOUR POWERS!"

Visit to the Scene

Incident Scene

Review

Victims!!!!

Notebooks. Explain that we will deal later with notebooks.

Sketches

Photos

Video and/or Audio Recording

Who to interview?

Interviews. Explain we will deal later with interviews.

Exercise: Prepare a 'virtual' investigation kit

Explain the following exercise and that the instructions are in the exercise section in the Folder.

- There are two scenarios - A workplace accident investigation and a labour standards investigation. Both are about a complaint or notification received.
- Each trainee is to work on one of the scenarios on their own for **10 minutes** and then join a small group for **10 minutes** with the same scenario and come to an agreed preparation list.
- Each group to share their lists with the whole group.
- The preparation list should include equipment, documents, checklists for procedures, contacts details, forms, resources you may need as well as any research or INTEL to find out before the visit. A suggested approach is to have two lists – an 'always ready' kit and things for this particular case.

Workplace Accident Investigation You receive the following notification at 11.50am Thursday 13 October 2016 that a worker has been seriously injured at the Port when he was crushed between the wharf and a docking vessel while assisting with ropes	
What has happened?	A male worker has been crushed between a vessel and the wharf at the Port. He is seriously injured with suspected internal injuries. His work mate has suffered minor injuries to his arms and back while pulling his seriously injured work mate from the water when the vessel moved away.
Who is involved?	• The injured worker • His work mate
Location where the incident happened?	Wharf C, Berth 2, The Port.
When did this happen?	11.30am. Thursday 13th October 2016
Are people being cared for?	The supervisor, Bart Kool of Kool Stevedoring saw what happened from his office and called emergency services. They are attending the worker now (as at 11.45am.) The co-worker is being talked to and cared for by other work mates on the wharf.

You are asked to attend the scene. **10 minutes** to read the scenario for your group and start a 'list' using the headings that have been used in the investigation session. **10 minutes** into your appropriate group and come to an agreement about a single list. Nominate someone to present the list to the whole class for discussion and comparison.

Labour Standards Investigation You receive the following complaint:	
What has allegedly happened?	Three women workers from the resort complain that: • They have not received minimum wage rate for the hours they have worked during the last six weeks. • They say there are about 30 staff in the same position at the resort. • Some are members of the Union but they are too scared to tell the Union because they think they will get the sack. • They say that there are also five migrants working at the resort cleaning. The migrant workers sleep and eat in a single old shed behind the manager's house and look tired and very sick. • The cleaners are not doing a good job and this might mean the resort business will not prosper and it will close and they will all lose their jobs. • Everything went bad when the new owner Karl Flute took over 18 months ago. He is very aggressive and yells at people. • The women want to remain anonymous because they believe Karl will sack them if he knows they have complained.
Is there an employment relationship?	• To be confirmed with the employer but looks very likely. • The women show their letters of offer from the resort saying they are employees.
Who is involved?	• The three women complainants: Mary Flower; Sarah Alloy; Elizabeth Sink. • Potentially all the workers at the report including five migrant workers. • Karl Flute as the employer
Workplace location?	• Laid Back Paradise Inn, 65 Beach Road, Big Island.

When did this start?	• Allegedly since Karl Flute took over about 18 months ago.
Are there immediate OSH concerns?	• Potentially the allegations that migrant workers are living in sub-standard conditions raises issues of immediate and ongoing harm to some workers.
Are there other issues?	• Potentially the allegations about the migrant workers indicate that they may not be working as per the conditions of their permits.
10 minutes to make a list on your own of what would be in your pre-prepared investigation kit and anything you would need to quickly prepare, take, find out or mentally prepare for before attending this particular scene. Your kit preparation should be based on the content we have covered today. **10 minutes** in a group and come to an agreement about a single list. Nominate someone to present the list to the whole group for discussion and comparison.	

Session 16: Hazardous Substances

2 hours

Explain that: we will discuss some fundamentals of hazardous substances in the workplace. Emphasise that this is a vast area and this session is a 'starting point' for increasing the expertise of the Inspectorate in a local context.

Explain: This part of the course is led by an expert in this area with examples and illustrations. The presenter will engage all participants throughout the lecture by asking questions of the participants about how they relate their own experience and knowledge to what they are hearing and seeing.

Display: slide with the bullet points (see below) of the content to be covered in this session about hazardous substances. Explain that trainees can take notes and also that all of this material is in the reading chapters that will be handed out at the end of the day.

Introduction by use of video

- What are hazardous substances?
- How the use of hazardous substances causes harm
- Prevention and minimisation
- Key messages for employees and employers

More detailed guidance for employers

- Understanding the Globally Harmonised System (GHS)
- Using information from SDS, and other sources
- **Exercise** Use Safety Data Sheets to enable employers to create plans for use and storage

Video: *Hazardous Substances - Safety Essentials* (Vocam 2006)

Before playing the DVD **display slide** and **explain** that it will cover the following topics.

Explain: We will stop at the end of each topic to answer questions and discuss:

- Identifying Hazardous Substances
- Common Hazards
- The Hierarchy of Control
- Personal protective Equipment
- Storage and Disposal
- Emergency response
- Case Studies

The Globally Harmonised System (GHS) and Safety Data Sheets

Display: slide to show the goals of the GHS.

- Enhance the protection of human health and the environment by providing an internationally comprehensible system for hazard classification and communications
- Reduce the need for national testing and evaluation of chemicals
- Provide a recognised chemicals management framework for those countries without an existing system
- Facilitate international trade in chemicals for which hazards have been assessed and identified on an internationally accepted basis.

Explain:

- The GHS was designed to allow for clear information to workers and others on the hazards of substances.
- The GHS harmonises criteria for health, environmental and physical hazards and harmonises means of communicating hazards including labelling and SDS.
- The GHS is concerned with hazard, not risk.
- Hazard is relatively objective and amenable to international agreement. Assessing risk can be very subjective, and depends on many variables.
- Safety Data Sheets contain hazard information, and briefer information in the way of pictograms is provided on labels for containers
- The target groups are workers, consumers and emergency responders.

What is in Safety Data Sheets?

The GHS sets out the format for SDS, in 16 sections, as follows (note that these are set out in the reading chapter that will be handed out):

1. Substance identification

2. Hazard identification

3. Composition
4. First aid measures
5. Fire fighting
6. Accidental release measures
7. Handling and storage
8. Exposure control and PPE
9. Physical & chemical properties
10. Stability and reactivity
11. Toxicological information
12. Ecological information
13. Disposal information
14. Transport information
15. Regulatory information
16. Other information

Hand out the SDS **handouts** that illustrate the categories and ask trainees to have a look to identify the categories just referred to. **Allow** for questions and discussion.

Ask and discuss:

- About Inspectors' local experience and context
- What has gone well or not so well
- Ways to improve these areas.

Safety Data Sheet Exercise

Explain that: the instructions for the exercise are in the Folder which are duplicated below.

Handout the SDS sheets that are to be used to help answer the questions in the scenarios.

Trainees have **30 minutes** to work through the scenarios and complete the questions using the SDS sheets.

Review exercise: After that regroup as a whole class to go over the work. Facilitator answer sheet is included below after the handout reproduction.

Scenario 1: Diesel

- Bill's Pork Snacks factory operates in an area where the electricity supply is unreliable.
- He runs a standby diesel powered generator which has a 500 litre steel supply tank, when the power fails.
- The supply tank is refilled from 200 litre fuel drums, from time to time. Six full fuel drums are stored on wooden pallets at the back of the generator shed.

Answer the following questions, with information from the SDS:

What GHS Hazard Statements apply to diesel? (Section 2)	
What should be done in case of skin contact? (Section 4)	
What is diesel incompatible with? (Section 10)	

What may happen if diesel gets in the eye? (Section 11)	

Scenario 2: Poolstar Hichlor	
• The High-Top Luxury Hotel has a large swimming pool for the use of guests. • The pool is kept very clean and tidy by the building and plant staff, who use a variety of pool chemicals to keep the water sparkling and safe. • In the secured storage area, three 20 kg containers of Poolstar Hichlor are kept on a raised shelf. **Answer the following questions**, with information from the SDS:	
What is the correct chemical name for Poolstar Hichlor? (Section 3)	
What should be done in case of eye contact? (Section 4)	
What is the storage advice? (Section 7)	
What is the warning under the Stability and Reactivity heading? (Section 10)	

Scenario 3: 'Envirocid Plus'	
• The Coco Cream Company are very proud of their high quality coconut products, exported all around the South Pacific region. In order to keep all the stainless steel vats, pipes and pumps fully sanitised they need to use a powerful cleaning product called Envirocid Plus. • Two 25 litre containers are kept under lock and key, in a cabinet with good signage. **Answer the following questions**, with information from the SDS:	
What are the two chemicals in this product? (Section 3)	
What are the precautions for safe handling? (Section 7)	
What are incompatible materials for Envirocid Plus? (Section 10)	

What happens on skin contact? (Section 11)	

Scenario 4: Accidental Mixing **Answer the following questions**, with information from the SDS:	
What would happen if Poolstar Hichlor is spilt, and accidentally mixes with:	
Diesel?	
Envirocid Plus?	

SDS Scenarios – Facilitator Guide Only –Answers to Questions

Diesel Scenario		
What GHS Hazard Statements apply to diesel? (Section 2)	Physical	Flammable liquid
	Health	May be fatal if swallowed and enters airways Causes mild skin irritation Suspected of causing cancer
	Environmental	Toxic to aquatic life with long lasting effects
What should be done in case of skin contact? (Section 4)		Wash affected area thoroughly with soap and water. Remove contaminated clothing and wash before reuse or discard. If symptoms develop, seek medical attention.
What is diesel incompatible with? (Section 10)		Strong oxidising agents
What may happen if diesel gets in the eye? (Section 11)		May cause irritation in contact with the eyes, which can result in

		redness, stinging and lachrymation (lots of tears)

Poolstar Hichlor Scenario	
What is the correct chemical name for Poolstar Hichlor? (Section 3)	Calcium hypochlorite, hydrated
What should be done in case of eye contact? (Section 4)	Flush eye(s) with copious amounts of cold or lukewarm water for at least 15 minutes retracting eyelids frequently. Remove contact lenses if present. Seek medical assistance.
What is the storage advice? (Section 7)	Store in a cool dry place and out of direct sunlight. Store away from foodstuffs. Store away from heat and sources of ignition. Store away from ammonia, urea and amines. Keep containers closed when not in use.
What is the warning under the Stability and Reactivity heading? (Section 10)	Calcium hypochlorite is a strong oxidising agent. Dissolve only in water. Contamination may start a chemical reaction which generates heat, liberates hazardous gases (chlorine) and may cause combustion accompanied by explosion.

Envirocid Plus Scenario	
What are the two chemicals in this product? (Section 3)	Sulphuric acid Nitric acid
What are the precautions for safe handling? (Section 7)	Do not ingest. Do not get in eyes or on skin or clothing. Do not breathe in vapour or mist.

	Use only with adequate ventilation. Wash thoroughly after handling.
What are incompatible materials for Envirocid Plus? (Section 10)	Extremely reactive or incompatible with: alkalis. Reactive or incompatible with the following materials: organic materials, metals and moisture. Do not mix with bleach or other chlorinated products – will cause chlorine gas
What happens on skin contact? (Section 11)	Causes severe burns
Accidental Mixing Scenario	
What would happen if Poolstar Hichlor is spilt, and accidentally mixes with:	
Diesel?	Poolstar Hichlor is a strong oxidising agent and is incompatible with diesel. There will be a fire and/or explosion.
Envirocid Plus?	Poolstar Hichlor when mixed with acids forms chlorine gas.

Session 17: Day in review, day ahead and reading homework 10 minutes

Display slide. Handout the reading chapters for Day Two and explain that there are places to fill in the trainee's own legislation when that is enacted.

Explain again that the reading handouts have content about the things that have been covered on the second day. By the end of the course they will form Chapters for the folder for the Inspectors to use when they return to their Inspector roles. The folders are ring bound to allow for amendments and additions as each country may develop their legislation, regulations and policies further.

Explain again that in the morning there will be a session reviewing this reading. The facilitators will 'quiz' the group and people will be picked on to answer questions about what they have learnt and read.

Summarise what we have learnt today by asking each person to give one thing and not to repeat what anyone else has said.

Display **slide to** confirm the review of the day's topics.

Put up **slide** showing the **agenda for Day Three**. Also refer to a more detailed version on WB Page 24.

Check if there are any questions.

Ask an appropriate person to formally close the day.

Day Three Sessions

Refer the participants to the detailed **Day Two Agenda** and the **Timetable** in their Folder

Approximate Time	Section	Day Three Sessions
1 hour	**Assessment**	**18: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
2 hours 30 minutes	**Part three: Practical Inspection**	**19: Investigative interviewing skills** (with reference to the P.E.A.C.E model) includes role play exercises. *'Conversations with a purpose'* • Asking the right types of questions • Keeping things on track • Getting the best information and evidence • Managing the 'conversation'
1 hour 30 minutes		**20: Addressing Conflict** • Managing challenging behaviour of others during inspections or investigations • Managing your impartial role during inspections or investigations •
1 hour		**21: Recording and managing information** • File management and protecting information • All you ever wanted to know about using notebooks
30 minutes	**Round-up**	**22: Day ahead and day in review** • Topic chapters handed out for overnight reading • Day reviewed • Day ahead

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Session 18: Review of homework reading

1 hour

Session 19: Investigative Interviewing Skills

2 hours 30 minutes

Check: Audio visual resources for this session are working and embedded in the PowerPoint slides.

- 3 x video clips
  - https://www.youtube.com/watch?v=RoB--jhPlus

  YOUTUBE search "Acting reel- Investigation Interview Good Interviewing"

  - http://www.bing.com/videos/search?q=investigative+interviews+good+and+bad&FORM=VIRE1#view=detail&mid=46CB644E7415A157599746CB644E7415A1575997

  YOUTUBE search "Acting Reel- Investigation Interview Bad Interviewing"

  - https://www.youtube.com/watch?v=1G2U73V4LuI

Introduction

Display slides

Explain that interviewing and questioning people is a core part of an Inspector's role.

As we noted briefly yesterday we need to interview people to:

- Obtain facts
- To confirm evidence
-

Both types of interviews serve a slightly different purpose but are equally important.

We should think about any Inspectorate interview whether formal or 'informal' as

"A Conversation with a purpose."

In the preparation investigation session yesterday we identified that there is always a need to plan and prepare for interviews with victims and witnesses in accidents and with anyone who can provide information in an inspectorate investigation. After interviews there is often a further need to evaluate and decide whether further interviews are necessary.

In this session we are focusing on how we conduct inspectorate interviews.

There are four things that guide both types of interviews:

- Asking the right questions
- Keeping things on track
- Getting the best information and evidence
- Managing the 'conversation'

Background to the P.E.A.C.E Interviewing model

We are going to practice each of these areas in this session and we will be following a process based on **P.E.A.C.E** interviewing that was developed in the UK.

P.E.A.C.E stands for Preparation, Engage, Account, Conclusion, and Evaluation. Write this on the whiteboard.

Explain that PEACE originated in the UK Police Force as research found that officers were conducting interviews unethically and using bullying tactics and interrogating interviewees. In 1992, PEACE was introduced and taught to officers to build rapport and remain open minded. Reviews were positive and the PEACE framework has become the international best practice for interviewing.

The model can be adapted to any agency. NZ Police and NZ Customs use the PEACE model as an investigative interviewing tool.

While the PEACE framework sets out from the beginning to end the process and structure for a formal type interview, it can be adapted for use in less formal situations too, such as telephone conversations and site visits. The NZ Labour Inspectorate have adapted and trained in this model.

Audio Visual: Bad and Good Interviewing

Explain: Before we get into more detail we will first look at two sample acted interviews.

Play: First the bad interview and discuss the problems with it then the good interview.

YOUTUBE search "Acting Reel- Investigation Interview Bad Interviewing"

- https://www.youtube.com/watch?v=1G2U73V4LuI

YOUTUBE search "Acting reel- Investigation Interview Good Interviewing"

- http://www.bing.com/videos/search?q=investigative+interviews+good+and+bad&FORM=VI

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RE1#view=detail&mid=46CB644E7415A157599746CB644E7415A1575997

Asking the right questions – open and closed questions

Before we go further we also need to look at types of questions that are used in interviews.

Play: the following audio visual of open and closed questions.

Open versus Closed Questions **(1 min 21 seconds)** https://www.youtube.com/watch?v=RoB--jhPlus

Role Play: The two facilitators will now act out the following scenario. One is to play an Inspector and one an employer.

In front of the group the 'Inspector' is to ask questions of the 'employer' but only using questions that get yes or no or one word answers. The 'employer' should answer with only yes, no or one word answers. The questions should relate to whether the employer has documentation and safety systems. The employer and Inspector should be friendly and have a 'nice' rapport. Allow the questions to continue for **three to minutes.**

The Inspector should:

- Be very friendly with the employer and go out of the way to be nice.
- Ask questions that get yes or no answers or single word.
- Occasionally ask for some documentation to back up the answers but when the employer gives a reasonable explanation why he has not got it accept this immediately and apologise for being a 'nuisance'.
- The employer tells you all the employees are having a day off because they have worked so hard and he likes to reward them with an extra paid day holiday now and then. You are impressed by this and accept what he tells you without asking to come back and check things with the employees.

The 'employer's 'instructions:

- You want to get on the 'right' side of the Inspector because you are doing a number of things wrong and you don't want him or her to find out.
- You answer 'yes' to some questions when you know you should probably give more explanation or say 'no.'
- When you don't have documents to back up what you are saying you act very friendly and 'honest' saying you have them stored at home packed away while your house is being painted and it will be very difficult to retrieve them just now. You apologise and say how awful you feel about not being able to show them to the inspector but you are very upset because your elderly mother is dying.

Debrief this demonstration: by asking the whole group the following questions.

- What type of questions was the inspector using? **Desired answer:** closed questions
- What is the problem with closed questions when you are trying to gather facts to work out if someone is compliant? **Desired answer:** the person can more easily lie. You don't get anything more than what you asked. You obtain more information by using open questions.
- What do you think influenced the Inspector's decision to not check further documentation to test the 'yes' and 'no' answers? **Desired answer:** Swayed by the friendliness and honesty', not wanting to rock the boat.

- **Have the 'employer' now explain his back story:**

— The employer knew the Inspector was coming and told the employees not to come in today so that he could not ask them anything. Y

— He withheld pay for not working today. Employees are not happy about any of this but are too scared to complain to anyone because the employer told them they will be sacked if they do that.

— The employer has no safety systems in place.

— A number of employees have had serious injuries from unsafe chemical use but these were nnot reported.

— The employer has very little of the documentation that the inspector asked for. The employer's plan was to get on the 'right' side of the Inspector during the visit and that plan worked. The employer is very pleased with himself!

- What types of questions might have helped to 'uncover' facts that remained hidden? **Desired answer:** open questions which are TEDS - Tell me, Explain to me, Describe to me, Show me then probing questions: how, what, why, who, when where?

Explain: Conclude this introduction by explaining that this exercise was to illustrate the importance of lifting the stones and getting under the skin of the inspection or investigation.

P.E.A.C.E in more detail

Discuss the PEACE acronym using **slide** and reinforce what happens in each stage.

Explain that:

- **Planning and Preparation** Factors to consider when planning for an interview
- **Engage and Explain** Getting the interview started, explaining the purpose, establishing

rapport and setting ground rules

- **Account** Where we obtain the interviewees story and clarify, and if necessary challenge it. Use the *Free Recall* and *Conversation Management* models.
- **Closure** Closing the interview
- **Evaluation** How did the interview go? What was achieved?

Next we will move on to each PEACE acronym in more detail.

'P' - Planning and Preparation

How an interviewer prepares for an interview can be subjective, and it can cover a variety of factors. Think about the earlier planning session and note anything you think will build on.

Ask participants what they need to consider when planning for an interview after they have confirmed who they are interviewing and why.

Desired answers (but encourage local experience answers):

- **Background information -** In all interviews, we must have available as much background information as possible. For example: Inspectorate history, Companies Office information, open source such as Google, Facebook etc. If the interview is part of an accident investigation the background information will be part of a much wider plan and the order in which interviews take place may be very important.
- **Practical arrangements -** Preparing the mechanics of the interview, such as location, seating arrangements, documentation, and equipment etc. Is an interpreter required? Will the interview be recorded? If off site what needs to be thought about? Noise, safety, confidentiality. Sometimes if carrying out inspections in the field in pairs one can record and one can interview. More formal interviews may need to be electronically recorded.
- **Topics for exploration -** What information needs to be obtained during the interview (e.g. hours of work and entitlements?). Preparation of headings can be good but don't let it restrict the later process if the free flow from an interviewee brings up areas you had not previously been aware of. OSH obtain information from a witness, understand the circumstances of an event, and establish cause of an event. These may be the suitable re prepared headings.
- **Opening question -** A good opening question is paramount in order to get the interviewee talking and will identify topics that the interviewee is willing to talk about. If the opening question is too narrow the free flow of information may be restrictive or go

off track.

- **Evidence and Exhibits -** The "physical evidence" collected during an investigation. It includes documents, the item concerned, photographs and any other items.

- **A description of the exhibit** is required if it is to be introduced in the interview and we seek the interviewee to adopt it.

Discuss the various additional persons that may be present in an interview and their roles.

- **Interpreters -** An independent interpreter should be employed to assist in formal interviews. The interpreter should be briefed on their role including the necessity to translate exactly what is said and not to paraphrase, and not to have side conversations

- **Support Persons -** Support persons should be briefed on their role (i.e. they are not a party to an interview).

'E' - Engage and Explain

Explain that this is the opening phase of the interview and can determine its success.

Inspectors do not need to befriend the interviewee; however, they will need cultivate a cooperative relationship.

Most of the 'Engage and Explain' stage is establishing rapport which is influential in ensuring the success of the interview. It also sets out ground rules and lets the interviewee know what you expect from them in the interview. It lets the interviewer assess the interviewee's communication abilities and modify his or her language and consider special circumstances.

Effort should be made to treat the person with courtesy, respect and professionalism. This can help start even the most challenging conversations with interviewee's who are hostile, unwilling to give information and evasive.

Rapport Activity

Break participants into groups of 3-4 participants.

Get each group will be required to think of two examples from their experience - one where rapport has successfully been established and the desired result has been achieved, and one where rapport hasn't been established and the desired result has not been achieved. Ask each group to present back to the group about:

- Where rapport was established- what techniques were used to establish rapport? Why do these techniques work?

- Where rapport wasn't established- what was done wrong? What could have been done better?

Explain the effective uses of pauses to participants. Tell them how silence is awkward and the average person usually fills the silence within 6.5 seconds. These can be used to get additional information.

Explain what must be covered off during the engage and explain phase

- Introductions
- Presentation of ID
- Explanation of reason for visit
- Any applicable powers/legislation
- Expectations of interviewee
- Approximate time the interview will take

Point out that in most cases Inspectors will be practicing the engage and explain phase of the PEACE model without realising they are doing it.

Stress the importance of making your reasons for being present clear, and explaining the process to the interviewee.

Ask why these two things (reasons for being present and explaining the process) are so important

- Affords fairness and reasonableness
- Complies with the law
- Strengthens rapport (interviewee is given an explanation rather than directions or orders)
- Makes the interviewee feel more comfortable with what's happening
- Removes ambiguity from interviewee as to what is expected of them

Account

Explain that this is the crucial stage of the interview as this is where the interviewer obtains the interviewee's *full* account of events. Effective questioning skills are essential for the end account to be accurate, reliable and admissible.

Point out that for some situations, not all the techniques taught in the account phase will be necessary. Inspectors need to be able to discern when and where the skills taught in this course will be most appropriate.

For example, when applied to the police, an evaluation of the process showed that while overall the PEACE framework have strengthened interview skills and obtained better results, it was not necessary to illicit a full "PEACE" interview for minor offences e.g. a quick notebook Q&A on the side of the street.

Interviewers should be seeking the full story about the event being investigated. If a person lies to the interviewer, later stages of the process provide scope to expose this during the "challenge stage", or at a later stage in the investigation.

Not obtaining a confession is not necessarily detrimental to an investigation, and can aid a subsequent prosecution if you are able to disprove the suspects account through evidence gathered.

Explain that the Account stage varies in PEACE according to the interviewee.

For co-operative interviewees and when the inspector just wants to gather information the <u>Free Recall</u> model is used.

For the uncooperative interviewee the <u>Conversation Management</u> model should be used but only after planning a strategy.

Use whiteboard to illustrate the difference in models.

Explain that with either model the interviewer must 'keep in the conversation'. Emphasise that an interview should not be closed, until all relevant information and evidence has been obtained. They are to confirm that everything has been covered and that the interviewee has given all the information they are able to.

Ask: Why might an Inspector not 'stay in the conversation?'

Possible answers: Hasn't prepared, is uncomfortable with searching too far because it will uncover more problems and more work for the inspector, the employer is aggressive and unpleasant, the Inspector is pressured by work and wants to get away as soon as possible, the Inspector is conflicted because he or she is being asked to show deference for some reason. Discuss how these may be overcome. Refer back to the ethics session as appropriate.

'Free Recall' for cooperative interviewees- suited for routine inspections

Explain that *Free Recall* allows the interviewee to give their account of what happened in their own words and at their own pace, with no interruptions. The aim of free recall is to generate as much information as possible using a minimum of questions. TEDS questions (Tell me, Explain to me, Describe to me, Show me...) should predominantly be used in an effort to identify the 'topics' the interviewee can remember or is willing to talk about.

Choose a good 'opening question'- It is very important that an appropriate and effective opening question is asked. The question should be designed to identify as many topics as possible and get the interviewee talking.

People do not volunteer ALL information at the first opportunity so after a free flowing account has been obtained, the interviewer should encourage repeated attempts at recall/retrieval by expanding and clarifying the account.

Probing, open and closed questions will help with clarification and identifying further topics to be explored.

Emphasise the importance of summarising after each topic.

Free recall – **Use whiteboard** to show how free recall works as a method to get all the information needed.

An example of how free recall works.

Explain to the participants you will interview a participant about their previous employment. The purpose is to uncover the circumstances in which they left their job.

Ask one of the participants to think back to their previous employment.

The facilitator will interview the participant about their previous employment using the free recall model.

The facilitator will ask the opening question:

"Tell me about your previous employment?"

As the participant gives their account of their previous employment, the co-facilitator will identify the topics on the whiteboard.

As the interview progresses into exploring each topic, the co-facilitator makes notes on the whiteboard and ensures that the class are following along with the process and can identify topics and how to explore, summarise etc.

Generic Free Recall practice

Divide participants into pairs with one playing the part of the interviewer and one of the interviewee.

Explain that for the first round of interviews the interviewers will have a generic, non-work related reason for interview.

The purpose of this exercise is to enable interviewers to practice using an opening question, identifying topics, exploring topics and summarising topics.

Allocate the first interviewer the topic "find out about the interviewees favourite sport or movie".

Stop the interview after about 10 minutes and debrief.

Then swap roles and allocated the second interviewer the topic "find out everything you can about what the interviewee did last weekend".

Stop the interview after about 10 minutes and debrief.

Work based Free Recall practice – scenarios

Use the *Deductions at the Retail Store* and *Public Holidays in Construction* interviewer and interviewee scenarios.

Work based Free Recall practice

Divide the participants into new pairs.

Explain that now they will do exactly the same process (e.g. opening question, topics, exploring topics and summarising) but will use work based scenarios.

Conversation Management

Explain that this model is used for interviewing uncooperative people (i.e. those who are evasive, remain silent, provide "no comment" responses, you suspect are lying or are hostile).

In these interviews the interviewer has to take control in the early stages of the interview.

Similar to Free Recall, a free report is initiated.

The main difference between the two models is that instead of clarifying at the end of the Free Recall model Account stage, the interviewee is challenged in the Conversation Management model.

The interviewee is challenged with the evidence of facts at the end of the Account phase and invited to give an explanation.

Perform Demonstration or use video to show participants how Conversational Management works.

Real life example of how Conversational Management works.

Referring back to the participant who was interviewed about their previous employment-recall one aspect of the participant's interview (eg "I left on good terms because I wanted a change").

The facilitator will resume the interview back at this statement and explore this further, and get the interviewee locked into this statement.

The co-facilitator will then explain to the class that this statement conflicts with a statement from the employer that states that the participant left after being given a written warning for a code of conduct issue.

The facilitator will then present the challenge to the participant.

Generic Conversation Management practice

- Generic Conversation management scenario 1.
- Generic Conversation management scenario 2

Generic Conversation Management practice

Explain to participants that this first activity is a scripted activity for the purpose of familiarising them with the concept of "locking in a lie", and then challenging in an "explanation seeking" manner.

Divide the participants into pairs, and provide the scenario *Generic Conversation Management Scenario 1.*

Allow the participants about 10 minutes, then bring them back together and debrief.

Repeat this process, using *Generic Conversation Management Scenario 2* and debrief.

Work based Conversation Management Practice – scenarios:

- Minimum wage at the mini market
- Safety procedures at the petroleum refinery

Work based Conversation Management practice

Divide the participants into new pairs.

Explain that they will do exactly the same process (e.g. opening question, topics, exploring topics and summarising and challenging) but will use a work based example.

Provide copies of the 'minimum wage at the mini market' and 'accident at the brewery.'

Reconvene the group and debrief for 20 minutes

Ensure that all participants understand how each model works and when to apply it.

Revisit the overview of each model on the white board prompting participants for each step in the process.

'C' - Closure

Emphasise the importance of maintaining rapport right through the process including closure- you may deal with this person more than once.

Inspectors usually interview using pen and paper. At the conclusion of formal interviews or witness statements the Inspector will ask the interviewee to read over the notes (or have the notes read to them). If they want to make amendments these can be noted with a single line through the text – all amendments should be initialed by both parties.

The interviewee is asked to sign the interview notes (each page) and if they refuse this should be noted and the reasons why they refuse also noted.

'E' - Evaluation

Explain that this part of the process emphasises that we always learn from every interview we do and should always either peer evaluate or self-evaluate.

The feedback forms that can be used for either peer or self-evaluation of interviews following the PEACE process are in the **Folder**

Emphasise to participants that when giving feedback, they should consider:

- Provide feedback in terms of clear stated goals.
- Be specific and don't generalise your comments.
- Focus on concrete behaviour that needs to be either reinforced or corrected.
- Be descriptive in terms of what action rather than personalities.
- Remind about the CRC model (commend, recommend, commend).

Session 20: Addressing Conflict Behaviour

1 hour 30 minutes

Explain that: As an inspector you will encounter angry people. They may either be:

- Openly angry towards you or to others in your presence.
- Uncooperative and moodily silent.

What are your experiences with angry people in your role? What has been the cause?

What are the benefits of an inspector learning to manage other people's anger?

Desired answer: If an inspector can effectively diffuse anger and encourage a person to focus on what they need to do, the inspector will develop a well-respected professional reputation. The Inspector can also model good behaviour for employers and employees so that avoiding potentially dangerous situations in a workplace where angry behaviour gets out of hand can be avoided.

Tips for dealing effectively with conflict

Note that the following material is in the reading chapters that will be distributed tonight.

Display slide which has the headings which come in one by one in animation

Keep yourself safe

If you feel that you are physically unsafe or so upset by a person's behaviour, that you don't think you can respond professionally on your own, immediately remove yourself from the situation.

Get others to help

Always talk to a peer or your boss and have them work with you to discuss situations where you have had to remove yourself. Always record in writing what happened as soon as possible after the incident.

If you are confronted with someone who is threatening you there may be others nearby who can assist you.

Don't respond with anger

It is natural to want to fight back if someone attacks you.

But, it is important to try to remain calm even if this may not be what your body is telling you to do.

Distance yourself from the anger

It is important to separate the anger as belonging to others and not directly to yourself. In cases you have not caused the anger you can 'distance' yourself. Even of your presence as an inspector sparks an angry outburst this is anger directed at your role and not you personally even if it may seem that way. Separating your own emotions can help you to deal more calmly and impartially with the situation.

Predicting hot spots

During your preparation before a workplace visit, check whether you can predict if you may be confronted by angry people. For example you may know about the particular workplace concerned and whether there are any existing problems and tension. Check whether there is any available internal Intel that would help you prepare.

Walk in the other person's shoes

When you prepare to engage with someone think for a moment about the perspective they may come from. For example before visiting a workplace for a routine safety check you may want to imagine you are the employer and what existing pressures they might face.

Remember how you wanted to be treated when you last felt angry.

Find out why the person is angry

You may not always be able to prepare for an angry outburst as they can often come suddenly and unexpectedly. You need to try to understand why the person is angry so you can move to a solution.

Encourage the person to talk in a free flow way and only interrupt to ask open clarifying questions. Sometimes this is called allow the person to vent or let off steam.

Reflect back to show that you understand the cause of their anger

When you reflect back, try and keep calm and use an even tone of voice. Ensure you don't use any threatening gestures. A person will often calm down if you are calm. They often instinctively mirror what they see, hear and feel.

Remember to reflect your understanding about the cause of their anger- you do not have to agree with them.

Try not to use patronising statements, such as, "I understand how you feel," or, "That sounds really frustrating." Instead, use specific, clear statements that rephrase what the other person has said (don't overdo this, or do it in a thoughtless, formulaic way). For example, "So when you heard the Inspector was coming you felt this was going to take up more time of your already busy day and this made you angry?"

Avoid judging the person's behaviour

Don't focus on the person's behaviour by saying things like, "*You* carried on like this last time and I thought *you* got over this way of behaving when things upset you." This shows a lack of respect and will likely only inflame the situation.

Demonstrate an interest in resolving the situation

Try to focus on getting a solution. This comes once you understand what the anger is about. If you have done something to cause the anger don't try to defend yourself. Simply apologise and ask what you can do to resolve the situation or offer to discuss things you both want and work backwards to come up with ideas to achieve this. That might involve you doing something to make things right and it might mean the other person will accept they will do things.

Take care when apologising for your employer or blaming your employer

Apologising is a powerful diffuser if it is genuine and you have the authority to do so. As a public official you must take care not to bring your Government Department into disrepute by saying things like, "This would not have happened if we had more resources or if we were trained better. I am sorry the Department has got that wrong or has not funded this properly."

Being a good role model and coach

Sometimes you can help an employer see the benefit of good communications. This may work in a workplace where the employer has repeated disputes. You can try to 'sell' the benefit to his or her business. Angry forms of communicating lead to disputes which cost money, affect productivity and cause high worker turnover. Suggest good tips or refer them to places on the internet or library where they could get materials. Consider a seminar with expert speakers as part of a team strategy if this seems to be a theme behind the more non-compliant workplaces.

Exercise: Practice defusing anger

Explain that: Break into three groups and discuss for about 20 minutes the scenarios in the **Folder** and consider how to use the tips for dealing effectively with angry people that we covered in this session to diffuse the situation.

Facilitators should move between groups prompting only if necessary and listening to progress and supporting with feedback as appropriate.

Explain that: We will then have each group report back to the whole group about what they came up with.

The scenarios are duplicated as follows.

Scenario 1: Aggressive Employer

As an Inspector you arrive at a restaurant.

You have notified the business that you are coming to complete a routine inspection.

You received a phone call in reply from the owner's son agreeing to a time for the visit.

When you get there the son is 'away in town' and the employer comes out of his office and starts waving his arms and yelling at you. "I don't want you inspectors here! I told my son to ring you back and he would not. You are wasting my time! I run a good business and am trying to be successful like what the Prime Minister said when he visited my workplace last year. He praised me and wants me to continue what I am doing. Look, here is a photo of us both together. I will complaint to his office that you are making trouble for me!"

Group question: How will you as the Inspector deal with the employer so that you can get a routine check completed?

Scenario 2: Angry union workers

You as an Inspector arrive at a workplace in town in response to an accident notification. The workplace is on the top floor of a building. It has been difficult locating the workplace because the building is shared by so many businesses. You are annoyed that you did not have accurate directions and feel very frustrated. It is a very hot rainy day.

You enter the workplace which is a sewing room with about 30 machines. A woman is on the floor and appears to be unconscious, emergency services are attending to her and two other women seem to be near her comforting her. Other women are standing around crying or shouting at two men. The men are shouting back. You are approached by a third angry man who says he is from the union and that you must send the other two men, the owners of the business, to prison. He tells you, "This workplace is very dangerous and this woman is nearly dead from an electric shock!" He also says "You people from the Inspectorate should have done something before this. You must act immediately or I will report you to the media and have you loose your job!" Several of the women now focus on you and also start yelling at you all at once.

Group question: How can you as the Inspector ensure that everyone present cooperates effectively with your accident investigation?

Scenario 3: Grieving family members

You as an Inspector are making a follow up visit to the Port after a fatal accident occurred the previous week. You need to interview some more workers and also talk to the management. When you arrive you are confronted by two members of the deceased man's family demanding you tell them what you are doing. Both men are very drunk and one has a machete. You observe that there are other workers and people who look like managers of the Port standing a short distance away. They all look afraid.

Group question: What steps will you take as the Inspector to ensure your safety and that of others in the workplace so that you can continue your investigation process?

Key Points for dealing with angry people

End this session by summarising key points:

- Anger is a human emotion
- As an inspector you must learn to deal with angry people calmly and professionally
- Keep yourself safe if there is immediate danger
- Separate your own emotion from the situation. Try not to get angry yourself.
- Stay calm, speak slowly, and use non-threatening body language.
- Find out what is making the person angry by letting them 'vent their story –using open-ended questions to clarify at appropriate stages.
- Listen carefully and without over doing it reflect your understanding of the cause of the anger without necessarily agreeing with it
- Apologise if appropriate but take care when apologising on behalf of your employer to avoid undermining your position as a labour inspector who by law may enter and inspect workplaces
- Find 'common ground' so you can reach a solution and turn the situation into one that educates the employer and improves their level of compliance
- Record the incident as soon as possible
- Debrief with your boss or colleague and consider learnings for next time

Session 21: Recording and managing information

1 hour

Introduction

Ask trainees to explain how they currently record what they do. Do they keep hard or soft files or both? How do they take notes in the field? How are these notes stored? What experiences do they have about recording their work? Do they have people ask for information? What are the rules for disclosing that information?

Display slide of the picture of one style of note taking! Paper everywhere!

Ask trainees why it is important to the Inspectorate to record what they do and protect information they gather?

Desired answer:

• Be consistent in approach	CONSISTENCY
• Take action that matches the harm	PROPORTIONATE ACTION
• To be accountable to the public	ACCOUNTABILITY
• To act fairly	FAIRNESS

Explain that:

- File Management and Protecting Information covering key principles about information gathering, disclosure and storage.
- We are going to cover the importance of keeping a record of work completed day to day.
- The usefulness of a notebook system as used by other regulators.
- "Do's" and "don'ts" of notebook use
- Show an example of a typical notebook and its contents and complete an exercise.
- All this content will be covered in the reading chapters given for tonight's homework.

File Management and Protecting Information

Explain: Inspectors use information from a wide variety of sources and they must understand what parts of that information they should keep, how to store it and whether or not they should or can disclose it. This will ensure that any information an Inspector uses to make decisions is accurate and complete.

Display **slide** and **explain**: This information may include:

Written information and documents	• Complaints about alleged breaches, accident notifications, records, contracts and any other information submitted by employees, employers or others. • Inspector notes and notebooks, inspection checklists, written records of interviews, discussions, phone calls and observations. • Test results, draft reports and final reports. • Government documents such as internal memos, directives and policy documents.
Audio visual information	Photos of accident sites, equipment and workplaces, electronic recordings of interviews.

Inspector obligations

All information that an Inspector deals with (verbally or written) is usually regarded as official government information, even material recorded in the Inspector's own notebooks. Names and contacts details of people can also be regarded as private information.

Legislation

Sometimes legislation has rules about the obligations of Inspectors in relation to information they obtain and hold.

Ask: What is the legislation in your jurisdiction? Explain that in the reading chapter on this topic that they will be given there is space to record any legislation that exists or will be enacted.

Confidentiality

As a general rule Inspectors must keep all information safe and cannot disclose it unless they need to disclose it for the purposes of carrying out their duties. This will usually be a disclosure to an employee. For example the time and wage records for an employee must be disclosed to the employee to verify if the document is consistent with the employee's actual work time and pay. If the employee has an authorised representative then such a record would also be disclosed to that person so they can advise the employee.

Gathering information

Display slide and **explain:** Inspectors should gather information that is RELEVANT and OFFICIAL and be aware of information that is SENSITIVE.

Relevant information	Information that is only what is relevant to the Inspector's official purpose. People will voluntarily tell an Inspector many things, sometimes to try to 'colour' the Inspector's view. The Inspector should politely but firmly tell people when the information they are given is irrelevant to their purpose.
Official information	Mostly all information gathered by Inspectors is official information. There should be no 'off the record' conversations where Inspectors collect information that is 'secret' to only them and the other person. This practice will bring the Inspectorate into disrepute and make the Inspector vulnerable to bribes.
Sensitive Information	As a general rule the identity of a person who submits a complaint to an Inspector in good faith must remain

confidential unless the person genuinely gives consent to disclose and the Inspector has taken reasonable steps to ensure the complainant will not be in danger if their identity is disclosed.

The identity of witnesses and records of witness related interviews are only disclosed when they are relevant to the conclusion in any investigation or inspection report.

An Inspector must not disclose commercially sensitive information about an employer unless it is relevant to his or her duties. An example of commercially sensitive information that is not likely to be relevant to an Inspector is the price a store keeper pays to obtain wholesale goods. An example of commercially sensitive information that is likely to be relevant is whether the turnover was high during a month that the employer says he or she has not employed labour.

Protecting and storing information

Display slide and explain:

- Every office must have a facility for Inspectors to securely store files, notebooks and evidence as well as a system for recording and retrieving this information.
- Files and documents must not be left openly visible on desks or computer screens when the office is unattended or when people who do not work for DLIR visit the office.
- Inspectors must always protect any information they carry with them into the field. If it is not possible to keep such information with the Inspector at all times the information should be in a locked bag and or in a secure container or folder inside a locked Inspectorate vehicle.
- If an Inspector must take any information to their home they must not disclose this information to their family, friends or neighbours either intentionally or by accident. The Inspector must keep the information secure at all times.

- An office notebook or office shared electronic system should be used to record the date that any physical information (such as employer record books or exhibits from accidents) is obtained by the Inspector. The office should have a secure locked place for keeping such evidence. The record must also show the Inspector who first took custody of the information or evidence, when the information and evidence was obtained, who gave the information or evidence to the Inspector and the 'chain' of its handling from when it was first obtained.

There is an **Evidence Chain of Custody Tracking Form** in the Template section of your Folder.

Sharing information with other agencies

It may be necessary to share some information with other Government Agencies particularly if this is for the purpose of the health, welfare and safety of individuals or the public. For example it is important for an Inspector to alert the appropriate welfare agency if he or she obtains information that an employer is exploiting children workers or forcing any people to work for them. This referral of information is best done in writing.

Summarise by displaying **slide** with the following points:

- Inspectors must only gather information that is relevant and official.
- Inspectors must understand and manage sensitive information.
- Information must not be disclosed unless it is for the purpose of Inspectorate duties.
- Protection and storage of all inspectorate information is very important.
- Information may for a good reason be shared with other agencies.

Keeping a record of work completed day to day

Explain Some introductory points about note taking and recording the work Inspectors do.

- Few people have the ability to accurately recall the details of an event that occurred sometime earlier. Inspectors should record enough details about an event so that months later they or someone else will easily understand what has occurred.
- Recording for Labour Inspectors may be in a file note in hard copy or electronic copy. They may scan a copy of a handwritten file note. Notes can also be in email content when confirmation of a phone call conversation with an employer has been sent immediately

after the conversation is concluded.

- File notes, drawings and records are often reviewed and compared during an investigation or audit and, especially in complex investigations, can help guide our actions and decisions as the investigation progresses.
- Good file notes tell the story of the investigation and so if another Inspector has to pick up or join the investigation they are able to quickly understand the state of the investigation.
- Good file notes also support the maintenance of evidence and can be used when preparing for, and applying to another formal body for adjudication for example a judge in a court.
- All notes made of any activities during the course of a Labour Inspector's work may potentially need to be referred to at a later date. Often this is for evidential purposes or to defend a process of decision making or action.

Any notes made must include at the start the following:

1. Dates and times
2. Places
3. Events
4. People present
5. People spoken to

Explain that: If the notes relate to a specific file then they should be filed chronologically on that file in both the hard and electronic versions or as current business rules instruct. If you choose to use a Notebook system photocopy the relevant entry from the notebook and file. It is possible to scan notebook entries onto the electronic file as a record But check whether this is available locally before proposing as an option.

Explain: the following seven bullet points displayed on slide as they are shown one by one as detail about each is given.

All note taking should have the following characteristics:

- Completeness
- Conciseness
- Accuracy
- Appropriateness
- Relevance
- Timely – recorded at the time or soon after
- Collaboration

1. Completeness

Your notes should be complete as partial facts are of no use to anyone. No verbal explanation should be required to clarify what you have already written. Include negative results as well as positive. It is better to record too much than too little.

2. Conciseness

Your notes must be brief, clear and understandable. They should clearly explain what you saw, heard and did. Use short simple sentences, as long sentences can be confusing.

3. Accuracy

Restrict your notes to facts.

Accuracy should be demonstrated in:

- Correct times and dates
- Names of all persons, their occupation, contact details and if they are willing, their date of birth and immigration status and passport details.
- Places
- Items of evidence
- Conversations- Conversations must be recorded verbatim, with "I said….", "S/he said…."

To ensure accruracy when recording a conversation on paper with an individual who is a potential witness it is good practice to ask them to read and sign the note taking as a true and correct record.

Note anything that breaks a sequence of time as you take your notes for example a person taking a break. This may be relevant at a later date and gives a more accurate story.

4. Appropriateness

Remember anything noted can potenitally be disclosed so do not put in your personal opnions or comments. For example it would be inappropriate to make a note of an employment advocate's opinion by noting "he should go back to law school."

Avoid flourishing language like - "I would greatly appreciate your kind response by…"or "it has been a real pleasure working with you to gain your compliance." These send the wrong message of you being a consultant rather than a firm regulator. Keep the language straight forward and impartial.

Avoid statements that are generalised, have no evidential basis or are beyond your speciality expertise in terms of opinion. For example it is inappropriate to put in a record, *the employer stood resolutely in defiance and made it clear he was the volatile abusive character that many people say he is. I suspect he is either personality disordered or bi polar.*

A final word of caution on approriateness- do not doodle or make personal notes on any recorded material.

5. Contemporaneous – recorded at the time or soon after

Notes must be made contemporaneously (existing or occurring at the same time, of the same period). Therefore, notes must be made at the same time as the event, or at a time that the event can be considered to be fresh in your memory.

The time between the event taking place and the making of the notes should be as short as possible. Sometimes it is either not possible or not prudent to record notes at the time of the event. In such circumstances, the notes should be made as soon as practicable afterwards.

If the contemporaneous notes are taken on loose sheets of paper they are part of the evidence and also remain official information that a person who saw you take them can ask for later. Keep them on file in the approriate chronological space with identifying names, times and dates even if you transcribe them into a subsequent file note.

6. Collaboration

Collaboration between Labour Inspectors who may be simultaneously interviewing people at a workplace is sometimes a useful way of ensuring the correct version has been recorded. This is not to say that you should change your notes if you believe what you have is what you heard or experienced. However it can be a good practice in certain circumstanes for the more functional details like names and contact details. If collaboration occurs make a brief note of this to confirm later a clear unbroken pathway as to how the information got on to the page.

Ask participants to comment on what they have heard so far. Pose the question: Is this something you can easily make happen or does it already happen? Guide the discussion to find where any resistance or blocks are to recording work and discuss these further bringing back in the key reasons for recording all work. Use the 'park' board if necessary.

Use of a Notebook system

Using notebooks is standard practice for many regulators. It ensures that there is a chronological record of all activities especially when away from the office.

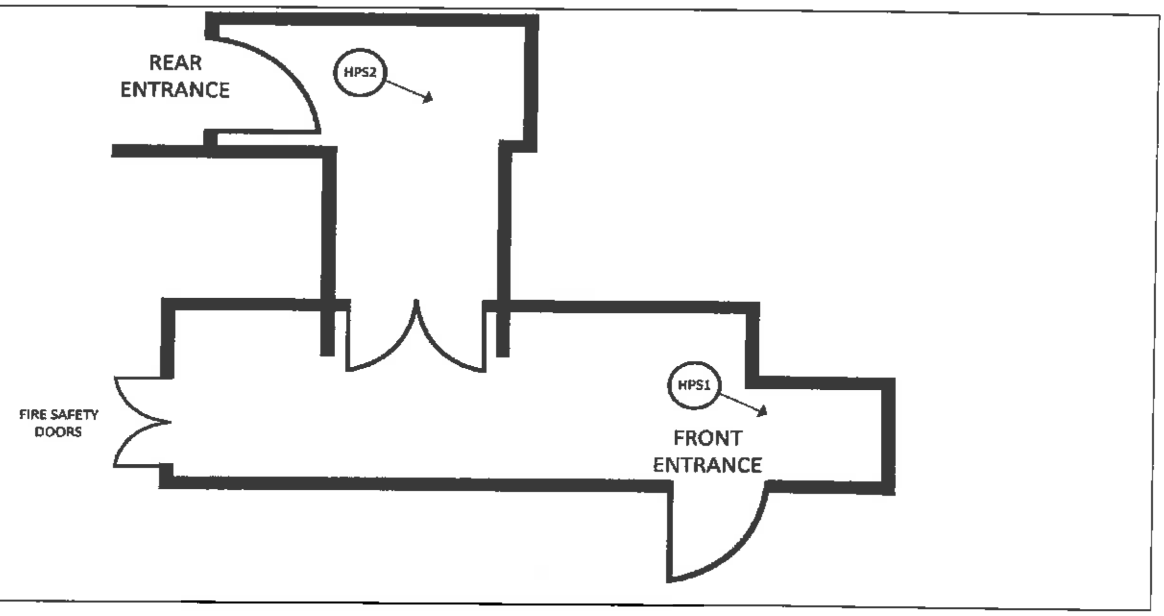
Optional: Play a brief video clip of Laurie Norton, Nelson NZ RSE Inspector and Senior Labour Inspector explaining his notebook use in his current job and as a British Customs Officer. He gives an example of how useful his notebook recording proved to be.

Refer to Folder which shows the following sample notebook recording:

A Specimen notebook entry

	Friday 8 July 2016
Inspectorate file 34/16	***Highprice Grocery Store, 67 High Street, Anytown***
0930	*As a result of an anonymous complaint I visited Highprice Grocery Store on the 8th July 2016 at 0945.*
0945	*As I entered the store at the front entrance I was met almost immediately by a person who introduced himself as the store manager.*
	I introduced myself, my role and showed my identification card.
	I asked the following questions to establish the store manager's identity.
Q	*What is your full name?*
A	*JOHN MATHIAS SMITH*
Q	*What is your date of birth?*
A	*26 September 1961*
Q	*What is your address?*
A	*Apartment 34, 357 Main Road, Anytown*
Q	*What is your position at this workplace?*

A	*I am the store manager*
Q	*Who is your employer?*
A	*Highprice Grocery Store Limited*
Q	*Who is the director of the company?*
A	*MICHAEL MOON, he might have a surname but I don't know it.*
Q	*What is Michael Moon's address and contact details?*
A	*He lives upstairs, above the store. His cell phone number is 027 456 789.*
Q	*Is Mr Moon on the premises in the store or his home upstairs today?*
A	*No he is visiting relatives in Big Island. He is not back until next Friday.*
0950	*I observed a power board behind the main checkout counter just inside the front entrance. There were four sockets and 13 plugs inserted. The power board was hanging free about 20 centimetres from the ground from a main power source about 1 metre above. Some of the plugs had black melted plastic edges. There was water pooling underneath where the power board hung. I took a photo of this. The photo is recorded as HPS1.*
	I asked JOHN MATHIAS SMITH questions to find out more about this serious electrical hazard.
Q	*Can you explain why you have all these plugs in this power board?*
A	*We've just installed more tills and haven't got the electrician to come to put in more power points yet.*
	I advised JOHN MATHIAS SMITH that the power board was a safety hazard and as it was it was breaching section x of the x Act. On request he took me around the rest of the store and I identified another similar electrical hazard in front of the rear entrance. It appeared to be powering lights for the rear of the building and a ham slicer. I took a photo of this. The photo is recorded as HPS2.
Q	*I issued a notice to immediately correct the two electrical hazards observed and indicated I would return in one hour to check that this has been done. I gave JOHN MATHIAS SMITH a copy of the Code of Electrical Safety Made Easy for Workplaces and pointed out the pages that covered safe practices for power chords.*
1010	*I drew a sketch of the store and marked where I took the two photos of the electrical hazards.*



Explain: The following are ways to keep and maintain notebooks:

1. Use a hard backed A4 minute book with page numbers and lines and without perforated tear out pages. This avoids having loose pieces of paper or questions later about which page a note was written on. If you put errors in they can be crossed out.

2. Head each entry with the following:

a. Date

b. Place

c. Time

d. Persons present

3. Get full details of people involved in any conversations. For example, occupation, phone numbers, date of birth (if willing to give this), address and (if willing) immigration status and passport details.

4. Record all questions and answers verbatim ensuring exact words or jargon are noted. If someone uses an expletive then record this in full.

5. Notes should be comprehensive enough to describe the situation or event.

6. Record conversations as, I said "...", She said "...". When recording a conversation with more than two people use initials and a key, for example Mary Brown becomes MB, John Smith becomes JS. MB said "...", JS said "...".

7. Collaborate if necessary with another inspector working alongside you.

8. Keep loose papers with initial notes, after they have been transcribed in your notebook so as to show a direct link from when you obtained the information and when you might present this later to for example, a court.

9. Where applicable note any times when conversations stopped for breaks

10. If an entry refers to a conversation with a potential witness, ask them to sign the notebook as a true and correct record.

11. Rule off each entry in the notebook and keep in a safe place.

12. Use a blue or black pen and be neat, methodical and accurate

13. When you have filled your notebook, keep it. You may still need it.

14. Notebooks remain the property of the Department and should not be taken when you leave your employment as an Inspector

Special notes in a notebook

Explain: there are other things that should be recorded about where/ when the record was made and stored.

Sketches	Draw in the notebook with pen: • Show dimensions of machinery, equipment or scene in general • Show a plan, i.e. birds-eye view of scene or sketch map • Show location of victim, witnesses of complainant • Show distances from where photos were taken
Photos	Record in notebook the date and time of photo, location, orientation of camera, and a description of what the photo shows
Video or audio recording	Record in notebook when a digital record has been taken of a scene with video, cell phone, tablet, record of skype conversation or audio/visual interviews of witnesses. As with photos record the time, location and where the device or saving device has been kept since.

What not to do with your notebook!

Display Slide and Explain that:

"No E L B O W S"

1. No E erasures- use single strike out if necessary so the mistake is visible
2. No L eaves (pages) torn out
3. No B lank pages
4. No O ver writing
5. No W riting between the lines
6. No S eparate sheets or scraps of paper added AND
7. No private memoranda like shopping lists, personal contact phone numbers
8. Use the same coloured type pen within the same series of notes or throughout the whole notebook.
9. No doodling!!

Notebook Exercise:

Handout a poor version of a 'mock' notebook page and have the participants come up with the errors based on the rules we have discussed. Allow **ten minutes** and then handout the best practice version and lead a short discussion.

Summarise by displaying **slide** with the following points:

- Notebooks are a standard international tool for Inspectors.
- Notebooks keep an ongoing record and can be a good record to rely on later if they are used according to the notebook rules.
- Notebooks remain the property of the Inspectorate and are not for personal use.

Session 22: Day in review, Day ahead — 30 minutes

- Handout homework reading chapters and again note space for marking local legislation.
- Finish the day with a brief summary of what we have learnt by asking each person to give one thing and try not to repeat what anyone else has said.
- Display slide with main topics for day three.
- Put up slide showing the agenda for Day Four.
- Explain that the first session will again be a review of the homework reading and after another audio visual about another serious accident in South Auckland the rest of the morning will be preparation for the afternoon visits. Remind everyone to have their safety gear ready to bring.
- Check if there are any questions.
- Ask an appropriate participant to formally close the day.

Day Four Sessions

Refer the participants to the detailed **Day Two Agenda** and the **Timetable** in Folder

30 minutes	**Assessment**	**23: Learning assessment** • Facilitator led questions, answers and group discussion on yesterday's learning and overnight reading.
20 minutes	**Audio Visual**	**24: "Finaunga's Story"** Discussion on under reporting and protection of workers who report
1 hour	**Part three: Practical Inspection (continued)**	**25: Reporting** • Forming a conclusion • Principles of natural justice • Impartial evidence based language • Using a report template
90 minutes	**Preparing to visit workplaces** **Visiting Workplaces**	**26: Preparation practical** **Field visits supported by Worksafe NZ** **OR ...** **(If field visits cannot proceed) Role Played visits** • Participants work in pairs or groups to prepare for role-played site visits or actual field visits.
2 hours		**27: Practical inspectorate visits** • Field visits supported by Worksafe NZ • OR Role Played visits
1 hour	**Recap**	**28: Field Visit feed back/ sharing of experience**
15 minutes	**Round-up**	**29: Day ahead and day in review** • Reading homework handouts • Day reviewed

		• Day ahead

Session 23: Review of homework reading and visits 1 hour

Facilitator led questions, answers and group discussion on homework reading on interviewing, addressing conflict and recording in notebooks.

Session 24: Video: "Finaunga's Story" – from *Come Home Safely*
20 minutes

Play and work through the questions on slide to form a whole group discussion. The purpose of this exercise is to inspire discussion about a real case study involving a fatality of a Pacific island workers in Auckland and a fear of reporting a hazard before the fatal accident occurred.

International
Labour
Organization

WORKSAFE
NEW ZEALAND

Session 25: Reporting

1 hour

Introduction to Inspectorate reporting

Explain that:

We have focused throughout the course on how to behave, how to communicate verbally, how to record what we do, how to keep ourselves safe and how to apply the law and policy and regulations accurately and consistently.

A major area where the Inspectorate 'shows' itself and reflects what it actually does when inspectors report on their investigations and inspections. That is what this session will focus on.

All reports that an inspector writes should reflect the principles of labour/OSH inspection we have covered at different stages in this course.

To provide a simple format to guide reports let's remind ourselves of the following four things that underpin inspectorate work:

- Consistency
- Transparency
- Accuracy
- Impartiality

Ask the participants: to give examples of what we mean by each of these.

Why is it important to have reports that cover these principles?

Desired answer:

Because the work the Inspectorate does will be respected and credible and therefore effective or explained as ...

1. If reports are not consistent with previous reports
2. If reports are not based on a transparent and fair process
3. If reports are not based on accurate facts or the best evidence
4. If reports are not impartial and are based on personal opinions or bias then ...

   the work that inspectors do will not be taken seriously and the inspectorate will be ineffective.

Remind the participants about their place in the international profession and their identity within that as they visualised on the first day.

Key message to summarise: Reports are a very visible part of the work of an Inspector.

Explain that: we are going to discuss four different types of reports and introduce the templates that are in the draft booklet. Then we will give participants time to practice writing reports using these templates. Before doing this here are SEVEN fundamental things to consider when writing reports.

The following sets out **SEVEN questions to guide inspectors** when they are writing reports.

Display slide showing the following six headings.

1. Why do I need to report this?
2. Who is my audience?
3. What is the question(s) my report has to answer?
4. What are the relevant facts?
5. What is the relevant law and policy?
6. What is my conclusion?
7. Have I met the principles of being a labour/OSH Inspector?

Explain each of the seven **steps** in turn engaging the participants in questions and discussion and using some examples to illustrate:

1. Why do I need to report this?

Ask the question of the group and then provide the following:

- To explain the findings of a routine inspection of safety or employment standards and how you arrived at the conclusion and decision including reasons for any follow up steps.
- To explain the findings of an investigation into the cause of an accident and how you arrived at the conclusion and decision including reasons for any follow up steps.
- To explain your findings and follow up actions and if necessary have them approved.
- To explain trends or high risk concerns that may need referral or data entry for statistical purposes to inform strategic planning.
- To alert the public or industrial sectors of identified hazards. "Hazard alerts."

2. Who is my audience?

By asking this question you focus on who your audience is and this helps you to craft your report so that the audience understands what they need to understand.

Display slide with the following quote:

"You never really know a man until you understand things from his point of view, until you climb into his skin and walk around in it."

Lee, Harper. To Kill a Mockingbird. J.B. Lippincott & Co., 1960

Explain that: this is what you have to do when thinking about your audience. You should think about this before your write, during your writing and then at the end when you review your report.

Ask: Who is the audience for the following reports?

- A Report on the findings of a routine inspection of safety or employment standards and how you arrived at the conclusion and decision including reasons for any follow up steps.

  Desired answer: employers, employees, representatives of parties involved, unions. Then secondary potentially media, interested associations, general public, pressure groups. If the decision of the inspection findings is challenged through a formal process potentially formal decision makers eg. Tribunal or court or higher level of government inquiry.

- A Report on the findings of an investigation into the cause of an accident and how you arrived at the conclusion and decision including reasons for any follow up steps.

  Desired answer: employers, employees, representatives of parties involved, victims and their families, unions. Then secondary potentially media, interested associations, general public, pressure groups. Ultimately decision makers such as courts, judges, tribunals if prosecuted.

- A Report to identify workplace hazards. "Hazard alerts".

  Desired answer: for general public particularly industry groups, employer associations, employers and employees, unions. May be published in relevant outlets.

- To explain trends or high risk concerns that may need referral or data entry for statistical purposes or INTEL to inform strategic planning.

Desired answer: Internal audience likely policy or strategic management but may be requested for government reporting in groups.

Summary: Generally all audiences need to have simple, plain information with enough relevant detail to enable them to understand. Most Inspector reports are for a general audience.

3. **Keep your report language 'simple and direct' by:**

   - Using the active rather than passive voice.
   - Short sentences
   - Words that are familiar, necessary, accurate and relevant. Use a dictionary or thesaurus to find a simpler word if necessary.

Display slide to show an example of pruning a sentence to be SIMPLE & DIRECT:

1. *If a fire starts when a worker is on duty, the worker should press the alarm button to alert other people to cause them to exit the building. (28 words)*
2. *If a fire starts when a worker is on duty, the worker should press the alarm button and leave the building. (21 words)*
3. *If a fire starts, press the alarm and exit the building! (11 words).*

4. **What is (are) the question(s) to be answered by my report)?**

   Sometimes this is referred to as the 'issue' to be answered.
   - There may be a single issue, but often there are several;
   - Failure to isolate the correct issue(s) could result in you misunderstanding the basis of the finding of the breach and proceeding on an incorrect basis.

Ask someone to volunteer wording for a routine inspection report if you were to write the issue.

Desired answer:

To determine the employer's level of compliance to the relevant legislation.

Ask someone to volunteer wording for an investigation report.

Desired answer:

The three questions/issues to answer in this report are:

1. What caused the fire at the employer's factory on 23 March 2014 that killed two

of the employer's workers?

2. Whether the cause of the fire was the result wholly or partly because the employer did not meet its obligations under the Act?

3. If the employer did not meet its obligations under the Act what steps should be taken if any against the employer?

For complex investigations there are likely to be further questions under each of the main questions.

If time the expert OSH facilitator will explain the background story and the framed primary issues from a complex OSH investigation he has completed.

5. **What are the relevant facts?** You must determine which facts you accept as true and as relevant to the issues.

    1. You need to have adequate evidence to support findings of fact (and indeed your conclusion).

    2. If appropriate to your jurisdiction apply the proper evidential standard. If it is the **balance of probabilities** this means what is most likely to be the truth; if it is **beyond reasonable doubt** this means that you must be sure. As a default position you should aim to be sure.

    3. Weigh up the facts – some facts will be more relevant to the issues than others. Common sense and experience will assist. Bias or personal opinions will not.

6. **What is the relevant law and policy?**

    Have I explained the law and its application accurately? If I am not sure or if this is an untested case have I obtained advice from experienced peers or legal services? Do I need to attach or provide links to access copies of legislation sections, regulation clauses or fact sheets to help my audience to understand?

7. **What is my conclusion?**

    To reach a conclusion, analyse and apply the law to the facts and then consider the merits of the case.

If my finding is that breaches/infringement/an offence has occurred have I outlined the employer's position and the flaws in that position by applying the law to the facts? This helps to show the employer's position has been heard but also explains the clear legal ground why it is not justified.

For example: "The employer wrote in an email to the Inspectorate dated 15 June 2014 that he knows he must pay the minimum wage rate to his workers but he says they work too slowly and do not deserve to receive the full wage.

However the employer must pay the minimum wage rate under section x of the Act and needs to address performance issues separately."

8. Have I met the key principles of being a Labour/OSH Inspector?

- Consistency – is my decision consistent with similar cases and proportionate in terms of the enforcement approach to the level of non-compliance?
- Transparency - Have the basic requirements of 'natural justice' been satisfied throughout your process. Has the employer or the person that is adversely affected by your decision had a chance to have their say?
- Accuracy – Is my conclusion rational, logical and based on a consistent and accurate application of the facts and law?
- Impartiality – have I arrived at my decision without letting any personal opinion, personal connection to the parties, or bias influence me?

Introducing example reports and templates

Go through the **South Wools Limited** (fictional name) report as an example of a report after an inspection.

Report writing exercise

Explain: There are several templates for reporting that we are introducing in the course and this session is an exercise in using them.

Display: slide to show the following and briefly explain each and explain these are also in Folder.

- Occupational Safety and Health Inspection Report
- Labour Standards Inspection Report
- Occupational Safety and Health Investigation Report
- Labour Standards Investigation Report

Handout Day Four Reading Chapter on Reporting.

Writing a Report: Exercise Instruction:

You have 40 minutes to write a report based on the visit you observed yesterday or a visit you have recently completed back in your jurisdiction.

The workbook has blank templates but you may find it easier to just use the heading on blank paper.

The aim is for you to practice the style we have taught today using the template headings. You should also refer to the Handout Chapter on Reporting just given to you.

At the end of 40 minutes you should turn to your neighbour and share your work for 10 minutes even if you have not quite finished.

The facilitators will move around helping you to choose the right template and anything else you need help with. At the end of the session there will be more time to ask questions and comment on how you have found the templates and the style of report writing.

Session 26: Preparation for practical: workplace visits

This session will be either:

- To prepare for the visits to workplaces in Auckland with WorkSafe New Zealand

Or

- To prepare in groups to 'perform' mock visits to workplaces in front of the whole group and be critiqued.

The following sets out the two alternative facilitation guides for the above.

Option A: Preparation – Visits with Work Safe NZ 90 minutes

Explain the workplace to be visited (Name, size, type of industry etc.).

Explain the logistics of the visit and that it will be to a large construction site.

Lead a whole group discussion by asking each person in turn:

1. If you were visiting a construction site in your country what preparation would you undertake?

   Record a 'list' on a flip chart paper as the answers build up around the room and are discussed.

2. What hazards and risks are you looking for in your country on a construction site?

Record a list on a flip chart by jurisdiction as the answers build up around the room and are discussed.

3. What hazards and risks do you expect to see on a construction site in New Zealand?

Record a list on a flip chart by jurisdiction as the answers build up around the room and are discussed.

4. Of the hazards and risks that have been listed use post- it stickers to give a 1, 2 and 3 for the top three serious hazards and risks. **Examples** that may likely come out: falling from height, injuries from power tools, harm from construction materials (adhesives, coatings, fillers etc.), environmental (UV radiation, humidity etc.) The priorities should match things that kill, maim and harm.

Explain that we will spend time today debriefing after the visit to discuss whether the 'expectations' were met according to these 'lists'.

If time a run through of company office checks on the large screen will be demonstrated by the facilitator.

Option B: Preparation - Mock workplace 'visits' 2 hours

Explain that the scenario instructions for this session are in the **Folder** which are duplicated below.

Display the four groups that will work together on the white board and allocate their scenarios.

Explain that this session is about planning a visit to a particular workplace that will occur today. The visits will be role played later today in front of the whole group. Each member of the group should play an active role. The key idea of this exercise is for each group to demonstrate their learning on this course and to practice it in a safe environment.

Explain that each group needs to come up with a credible realistic workplace, type of industry, employer and employees. They can be creative with the personalities involved. Humour is allowed but must not overshadow the learnings.

BUT **Explain** that one group (non-inspectors – ILO people) will be asked to do a session in comedic way with most things done wrong. There will be prizes for whoever can come up with the wrong things observed.

The serious groups should select appropriate people to play the roles required. In every performance there should be a display of:

- A clear introduction and identification by inspectors
- Management of difficult people

- Ethical inspector behaviour
- Good techniques to get the employer to comply
- Clear instructions about what steps an employer should follow
- Good observation and interview techniques

Where a group is required to prepare or explain documentation handouts will be given to use.

Explain that after the mock visits the whole group and the facilitators will give feedback and discuss

Reassure the group that it is okay to make mistakes in this exercise because it will enable the whole group to learn.

Explain that when watching trainees are expected to fully engage so that they can later provide helpful suggestions of what could be done differently or what was well done and why.

Exercise Instructions: Mock Workplace 'Visits'

Workplace 1 - Routine Inspection visit that includes the following:

- An obviously very dangerous piece of machinery or equipment that the employer tries to tell the inspector is no longer used
- An interview with the employer that 'manages the conversation' when the employer is inconsistent with responses
- The employer tries to give the Inspector money or gifts to try and get the Inspector to not notice the problem with the dangerous machine
- The employer is issued an improvement notice.

Workplace 2 - Investigation into a fatal accident that includes the following:

- The Inspector arriving first at the accident scene and being confronted by angry family members of the deceased worker
- Chemicals and broken glass lying around the body
- An interview with an injured co-worker of the deceased
- Steps to confirm authority to inspect, deal with emergency services and secure the accident scene

Workplace 3 - Routine Inspection visit that includes the following:

- Unsafe use and storage of chemicals
- Interviewing an employee about use and storage of chemicals
- Dealing with an angry employer who arrives in the middle of the inspector interviewing the employee
- Explaining the use of the GHS, safety data sheets and issuing a hazard alert and explaining all of

this to the employer

Workplace 4 - A very poorly conducted (comedic) inspection that includes 20 things that are inconsistent with the things taught so far on the course. The whole course will be required to pick out these 20 things at the end of the performance.

Make sure you think about how you should deal with any likely 'personal' challenges and if it helps your confidence have some 'words' to use that might help.

You will find the materials from *all* previous sessions useful. The facilitators will be actively helping with your preparation to make sure your cover off all the things you need to prepare.

The following headings are provided to guide your planning but do not feel restricted by them. Some headings may not be relevant to your scenario and you may have other things you want to note or prepare.

Finding the workplace……………

Logistics of getting to and from the visit………………

Intel about the employer………………

Introduction and procedures……………

Exercise of Powers……………

Technical knowledge …………

Opportunity for education…………

Potential ethical challenges…………

Likely aggressive behaviour…………

Dealing with victims…………

Dealing with emergency services…………

Dealing with the Union………

Dealing with fearful employees…………

Administrative materials………

Stationery materials………

Technical materials and equipment……………

Legislative, regulatory, code of practice, SDS materials............

Personal health and safety equipment, clothing and procedures............

Potential contacts while at the workplace............

Interviews- who to interview and how and where and for what reason..........

If I find non-compliance what educative materials and approaches can I use to convince the employer to enter into a pathway to compliance? ....

Closure and estimated time for visit..............

Other issues..............

Close this session by:

- **Allowing** 15 minutes at the end of the session for questions.
- Reconfirm the order and time of the 'visits' whether real or mock.

Session 27: Visits to Auckland Workplaces or Mock Visits 2 hours

Option A: Visits to Auckland Workplaces - Work Safe New Zealand

Option B: Performed Mock Visits

Explain that:

- Reconfirm the order and times for performed visits as noted on the whiteboard.
- 35 minutes is allocated for each visit and 5+ minutes for observer feedback.
- The scenarios are designed to capture some key elements of a visit rather than a whole visit that would usually take longer than 35 minutes.
- If a visit has not fully finished in 35 minutes the facilitators may call time so that all visits can be completed.
-

Explain that:

- At any time participants can call 'Time Out' (indicated by two index fingers making a capital T) to consult with their group or regain their composure.
- **This exercise is not a 'test' but rather a practical exercise to learn from.**

- Facilitators will try not to call 'Time Out' but may do so if they feel something is going off track or there is a particular learning that needs to be pointed out at the time.
- Before each visit the 'watchers' will be asked to use the following headings found in the Folder but if they see other things they should raise these in their feedback.

Headings to guide observation notes about Inspectors in role played visits Use the following heading to guide your observations and use CRC feedback.

Introductions at the visit ....
Use of powers ....
Procedure ....
Legislation, regulation accuracy ....
Management of people and situations in the workplace ....
Management of ethical dilemmas in the workplace ....
Hazards identified ....
Breaches or offences identified ....
Possible alerts for other jurisdictions ....
How persuasive were the educative messages ....?
Interviewing
Were open questions used to obtain facts? Did the interviewee get to vent their story? Did the Inspector follow relevant topics and clarify what the interviewee said?
Did the inspector have to use conversation management for an un-cooperative person?
Team work ....
Closing the visit ....
Other ....

Debrief after each visit.

Close the session by thanking all involved.

Session 28: Field Visit Feedback/ sharing of experience — 1 hour

Session 29: Day in review, Day ahead — 15 minutes

- Put up slide showing the agenda for Day Five
- Explain that the first session will be a presentation on the virtual reality pilot followed by a full debrief of the visits.
- Check if there are any questions.
- Ask an appropriate participant to formally close the day.

Day Five Sessions

Refer the participants to the detailed **Day Five Agenda** and **Timetable** in Folder

Approximate Time	Section	Day Five Sessions
90 minutes	Virtual Reality training Pilot	**30: Turin team presentation** • A run through of the virtual reality pilot
45 minutes	Part Five: Developing Practice	**31: Strategic Planning** • Why observe, share, analyse and record trends? • Ideas for engaging with useful stakeholders • Ideas for planning strategic work programmes
30 minutes		**32: Ongoing learning and development for Inspectors** • Creating a reflective practice model • Maintaining a record of learning
45 minutes	Round up	**33: Action Planning** • Country level implementation
15 minutes	Recap	**34: Review 'park up' board and revisit expectations** • Address any remaining 'parked' issues • Revisit expectations from day one
15 minutes	Evaluation	**35: Training Evaluation** • Complete forms
45 minutes	Closure	**36: Closure** • Certificates awarded • Contact details of the facilitators • Farewell and final words

Session 30: Virtual Reality Training Pilot

90 minutes

Led by ILO Turin team

Session 29: Strategic Planning

20 minutes

Why observe, share, analyse and record trends?

Explain that:

As we come to the end of the course we going to have a discussion ideas on why it is important to think about putting a regulatory focus on areas where there is likely to be the most harm. Invite ILO representatives to join the facilitators for this discussion based session.

Start a group discussion by asking:

Why observe, share, analyse and record trends? Ask for actual examples.

Desired answers:

- So that we know whether we are improving the conditions in work places.
- So we know if we are not improving conditions in workplaces.
- We can plan where to focus on areas of most harm or highest non-compliance.
- We have another way to independently check compliance other than just going to those who may not be open in telling the full story.

What reporting about trends is done and how could this be developed in the team?

Where do we look for non-compliance?

Desired points to bring out:

Display slide showing Ayers & Braithwaite type triangle and explain this is one way to decide what the serious issues of compliance are. The measure is based on the employer's attitude. Those who deliberately try to avoid their obligations and exploit workers will be in the maximum sanction area.

Display slide showing the David Weil based quadrant of where according to his research on traditional 'Reactive' Inspectorates can often miss these very serious harm issues because there are no complaints.

Reactive Inspection Model	**Serious deliberate**	**Not serious**
High Inspector time	Many Complaints	**Many Complaints**
Low Inspect or time	No complaints	**No complaints**

Based on table by David Weil Boston University.

Explain that: The 'no complaints and serious issues' quadrant is often anti-competitive employers cutting costs at the expense of their labour force. This is where the 'informal economy' can flourish and where the worst exploitation of human labour occurs. There are no complaints from this quadrant because workers are often scared to come forward. David Weil focused on traditional complaint-driven Inspecting but a similar criticism can be made of the traditional inspectorate approach of inspecting 'numbers' of workplaces in geographical areas instead of inspecting sectors or types of businesses based on the most likely areas of serious harm.

A revised table combining the Braithwaite and Weil ideas might look something like this. Display slide showing the following slide:

Proactive Strategic model

Serious deliberate ***High Inspector Time***	**Not serious accidental** ***Low Inspector time***
Many Complaints ***Prioritised + creative solutions***	**Many Complaints** ***Information Provision + Self-Audits***
No complaints ***Intel led interagency inspections and actions***	**No complaints**

Creating a local 'quadrant' of focus areas

Display slide that poses four questions:

- What would a local quadrant look like?
- Where are the no complaints serious issues in your jurisdiction?

OR

- How can you find out if you don't know?
- How do we engage with the employers and workers in at the top of the triangle?

Spend 15 minutes on each question using a large blank quadrant draw on the whiteboard for the first question and then recording the ideas for the second question on flip chart.

Session 30: Ongoing learning and development 20 minutes

Creating a reflective practice model

Explain: this final session is about looking beyond the course and thinking about how you can continue to develop the skills and maintain the learnings.

Exercise: Ask for volunteers to share their pre course prepared 'most challenging thing I have had to do as an Inspector.' Ask the group to ask some reflective questions to identify practice topics. For example one topic may be about dealing with an angry person. The discussion can be facilitated to working through the issue behind challenge for the inspector. Depending on time discuss as many of the 'challenging' stories as are volunteered. The rule is the same as for the facilitator demonstration. No delving into the technical details!

Debrief: five minutes before the end of the session by asking:

How could this be implemented in team meetings? Quickly brainstorm 6 things that need to practically happen to start up a reflective practice group as a series of peer group meetings. Have someone 'volunteer' to lead the coordination beyond the course.

A Record of Learning

Explain: That to continue to develop it is important to keep a record of individual learning for yourself and for your manager.

Refer to the example template record of learning in the Template Section of the Folder. Ask for comments about what participants think of this as a tool to maintain their development and how it could happen?

Session 31: Action Planning 45 minutes

Led by ILO

Session 32: 'Park up' board and revisit expectations 15 minutes

- Revisit the 'park up' board and deal with any remaining issues
- Go around the room to each participant and remind them what their initial expectations of the training at the beginning of the first introductory session was. Ask them to reflect on these now at the end of the course and say whether these expectations were met.

Session 33: Training Evaluation 15 minutes

Led by ILO

Session 34: Closure 45 minutes

Explain:

- Hand out contact details of facilitators
- Award Certificates, thanks and farewells.

Day One Reading: Foundation Skills

What is Labour Inspection? International Standards

Contents

International Labour Organisation (ILO) Standards

The general term 'labour inspection' is used internationally to include both OSH and Labour Standards inspection. Some jurisdictions have separate roles for OSH and Labour Standards regulation but many combine the two into one inspector appointment. A key organisation that links 'labour inspection' globally is the International Labour Organisation (ILO).

The ILO was established in 1919 and is the United Nations (UN) specialised agency that deals with the 'world of work' and promotes 'decent work' for all. The Decent Work Agenda recognises that work is a source of personal dignity, family stability, peace and economic growth that expands opportunities for productive jobs and enterprise development.

> *Decent Work 'reflects priorities on the social, economic and political agenda of countries and the international system. In a relatively short time this concept has forged an international consensus among governments, employers, workers and civil society that productive employment and Decent Work are key elements to*

achieving a fair globalization, reducing poverty and achieving equitable, inclusive, and sustainable development'.[1]

Labour inspection principles derive from international labour standards developed by the ILO. Labour inspection has been among the ILO's key priorities since it was established almost 100 years ago. The founding document of the ILO, the Treaty of Versailles refers to the importance of labour inspection, and since then, standards and principles relating to labour inspection have grown and developed through the adoption of Conventions and Recommendations.

ILO Conventions are international treaties that are legally binding when ratified by an ILO member State. Countries 'sign up' as member States to the ILO in the same way they join the UN.

Even if a member State has not ratified a particular Convention, the Convention can still provide an important benchmark and guidance for Governments, employers and workers on matters relating to national labour policy. The ILO also develops 'Recommendations' that are often, but not always, attached to a Convention. Recommendations provide guidance on national policy and practice. Recommendations are not open to ratification and are not legally binding, however States may decide to give effect to the principles set out within them.

My country and the ILO

My country has been a member since: and as an ILO Member has ...

Ratified the following eight Fundamental ILO Conventions: Y N

The eight Fundamental ILO Conventions are:

- Freedom of Association & Protection of the Right to Organise, 1948 (No.87)
- Right to Organise and Collective Bargaining Convention, 1949 (No.98)
- Equal Remuneration Convention, 1951 (No. 100)

[1] ILO Declaration on Social Justice for a Fair Globalization. http://www.ilo.org/global/about-the-ilo/mission-and-objectives/WCMS_099766/lang--en/index.htm

- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182).

And has ratified the following additional conventions:

Labour Inspection Conventions

A number of Conventions of the ILO refer to labour inspection. Three important ones for Inspectors are:

- Labour Inspection Convention, 1947 (No. 81)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)[2]

Known as two of the four 'Priority Conventions'

- Occupational Safety and Health Convention, 1981 (No. 155)

Labour Inspection Convention, 1947 (No. 81)

[2] 2 The Labour Inspection (Agriculture) Convention, 1969 (No. 129) contains similar principles but extends to farmers, apprentice farm labourers and those who may work more informally. The Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81) extends the application of the Convention to non-commercial workplaces and public service workplaces.

The Labour Inspection Convention, 1947 (No. 81) is one of the most widely ratified ILO Conventions in the world. In 2015, of the 185 ILO member States, 144 had ratified this Convention. This priority Convention requires ratifying states to maintain a system of labour inspection for workplaces. The central focus is the enforcement of laws relating to all conditions of work including safety and health, terms and conditions of hours and wages, and protections for young persons and children in workplaces.

The standards set out in this Convention can be seen in labour laws applied in many countries all over the world including PNG.

Article 3(1) of this Convention sets out the functions of labour inspection and the way that a country should organise labour inspection. The key points of Article 3(1) are that labour inspection in a member State must:

Have a system of inspection where:

- Inspectors enforce working conditions in ALL workplaces relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters
- Inspectors supply technical information and advice to employers and workers concerning the most effective means of complying with labour laws
- Inspectors alert their governments about defects or abuses not specifically covered by existing labour laws
- Workplaces must be inspected as often and as thoroughly as necessary to ensure compliance with labour laws
- There are adequate penalties for non-compliance with labour laws including ones for obstructing a labour inspector in their duties
- Labour inspectorates publish annual reports about their activities.

Inspectors are to be:

- Employed as public officials
- Employed based only on their qualifications and skills to do the job
- Sufficient in number according to the number, size and location of the country's workplaces, the number of workers and the number and complexity of the labour laws
- Trained and resourced (for example, transport and offices)
- Empowered and equipped
- Under the supervision and guidance of the Government and not privately operated.

Occupational Safety and Health Convention, 1981 (No. 155)

The Occupational Safety and Health Convention, 1981 (No. 155) is is a main Convention dealing with Safety and Health in the workplace.

This Convention applies to workers in all branches of economic activity, except where particular difficulties arise in its application, a State may, after consultation with organisations of employers and workers, exclude particular branches of economic activity or limited categories of workers from its application.

Article 4 of this Convention requires member States to consult with employers, workers and relevant organisations to 'formulate, implement and periodically review ... a coherent national policy on occupational safety, occupational health and the working environment.'

The policies must focus on prevention by minimising the causes of hazards inherent in the working environment.

Key points

- Labour Inspection is a key priority for the ILO to improve the world of work
- PNG is a member State of the ILO

Further reading

To learn more about OSH and Labour standards, information can be found on the ILO's website in the 'Labour Standards' section:

- Occupational Health Services Convention, 1985 (No. 161)
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981
- Labour Inspection Recommendation, 1947 (No. 81)
- Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
- Labour Administration Convention, 1978 (No. 150).

Labour Inspection defined through legislation

Contents

Labour inspection and OSH inspection is part of PNG's system of labour administration. Labour administration refers to the public administration of activities in the field of national labour policy. Many labour administration functions are under the leadership of DLIR.

How are inspectors appointed?

Inspectors are appointed by my Government as follows:

OSH Inspectors	Act and Section:
Labour Inspectors	Act and Section:

What does an Inspector do?

The role of an Inspector is to do most or all of the following depending on your jurisdiction:

- Enforce labour, health and safety standards and sometimes other social security laws through a system of labour inspection.
- Provide advice and education to employers and workers on fair labour practices and maintaining healthy and safety workplaces.
- Maintain standards relating to working time, wages, occupational safety and health, child or forced labour and the living and accommodation conditions of workers housed by their employer.
- Bring to the notice of national authorities any defects in national law.
- Ensure that labour law is applied consistently to all employers and workers who are subject to the law.
- Where legislation allows bring formal actions against an employer for contraventions of employment standards or OSH legislation.
- Support Industry and Government policy and codes of practice and the collection of national data for analysis.

A Summary of Key Inspector Powers

The following is a summary of the key powers of Inspectors. *This list is only a summary overview.* All Inspectors must consult the legislation as a first reference and be familiar with the detailed areas of their inspection duties.

Powers of Entry

Remove, take and copy records and samples

Interviewing

Power to preserve a scene and prevent hazards

Powers to inspect

Power to collect and remove evidence including samples

Powers to Issue Notices and Certificates

Power to bring Proceedings

Key Points

- Inspectors often have wide powers under legislation to enter workplaces, inspect and require employers to comply.
- Inspectors must familiarise themselves with the legislation in relation to their powers especially if they are working in a specialty area.

Further Reading

Your local legislation

How Inspectors must behave: Ethics

Contents

Code of Ethics for Inspectors

It is important that Inspectors always act in ways that do not bring the Inspectorate into disrepute. If Inspectors do not behave ethically it makes it difficult to get employers to respect any actions taken. This affects the Inspectorate's ability to effectively improve and maintain fair, safe and healthy workplaces.

Behaving ethically is a standard for government employees around the world. There are ethical standards for Labour and OSH Inspectors and they are of primary importance. If Inspectors allow themselves to be influenced to make decisions based on anything other than consistent, fair transparent, and just principles then they will not be contributing positively to the world of decent work.

It is sometimes very difficult to behave ethically when you are afraid of someone or you are put under pressure from family, friends or people who may seem to be of a higher status to you. You should practice how to deal with these situations with trusted peers. Use the words given as 'Tips for Ethical Challenges' at the end of this chapter.

The following is an example of a Code of Ethics. Even if your jurisdiction does not have a code these are principles common to Inspectorates around the world.

An example of a Code of Ethics

CODE OF ETHICS FOR HEALTH & SAFETY AND LABOUR INSPECTORS

1. Introduction

a. This Code recognises that Health, Safety and Labour Inspection is an important part of the process of ensuring that employers and workers understand their respective rights and obligations under the health, safety and labour laws.

b. This Code sets out how Inspectors are to behave so that they:

   i. are fair, honest and transparent in their day to day duties

   ii. work to the best of their ability to improve and ensure decent, safe and healthy working standards and labour relations

   iii. know how to behave in situations susceptible to ethical dilemmas.

2. Definitions

For the purpose of this document:

a. 'Labour dispute' means a dispute between an employer and workers either directly or through their respective organisations where the issues in dispute do not relate to one side or the other imposing or promoting conditions that would breach Health, Safety, Welfare and Labour laws or would be contrary to ILO Conventions on Forced Labour and Child Labour.

b. A 'benefit' means any money, gift, food or drink offering, promised advantage or favour given to the Inspector or to a relative or friend of the Inspector.

c. 'Formal action' means any action created by legislation including the issue of notices and penalties as well as prosecution.

d. 'Investigation' means the process carried out by an Inspector to find the cause of an incident, accident or alleged breach of employment or welfare standards as they apply to that Inspector's jurisdiction.

e. 'Inspection' means the process carried out by an Inspector to assess whether an employer has met their obligations under that Inspector's jurisdiction.

f. 'Inspector' means:

   i. Any person appointed as a labour or OSH Inspector by their Government.

   ii. Any person employed and in training to be a Health and Safety Inspector or Industrial Safety Officer as defined above

   iii. Any person appointed as a Labour Inspector or OSH Inspector whether they carry out inspections and investigations or manage and supervise those who do.

3. The Code

All Inspectors must uphold the following standards during the course of their duties:

Knowledge and competency

An Inspector must continually strive to improve his or her professional knowledge, skills and practice.

An Inspector must display official identification at all times.

An inspection or investigation must be carried out by a qualified Inspector having regard to the relevant law under which the Inspector is appointed and gazetted. Where an Inspector is in training or has yet to be gazetted they must at all times during the investigation or inspection be supervised by a qualified and appointed Inspector.

An Inspector when providing information, opinions or forming conclusions must show a clear basis for these conclusions that is grounded in knowledge, expertise and a fair transparent process including the right of an employer to comment on any preliminary findings.

Honesty and integrity

An Inspector must not accept or appear to accept any benefit from any person in exchange for not carrying out their duties in anything other than a professional, honest and ethical manner.

A 'benefit' for the purpose of this code means any money, gift, food or drink offering, promised advantage or favour given to the Inspector or to a relative or friend of the Inspector.

An Inspector must use Inspectorate resources carefully, efficiently and only for their intended purpose.

Courtesy and respect

An Inspector must always be courteous and polite to all persons irrespective of their tribe, ethnicity, religion, status or possible wrong doing.

An Inspector must at all times act in a manner which will avoid any conflict, argument or violence.

An Inspector must not use any physical force, violence or any threats of physical force or violence.

Objectivity, neutrality and fairness

An Inspector must always be impartial or be seen to be impartial and even-handed. An Inspector must, as soon as they become aware of it, report and withdraw from any real or perceived conflict of interest.

An Inspector must be objective in their recording and reporting and not knowingly overstate or understate the significance of reported conditions or findings.

An Inspector is and must be independent of and be seen to be independent of workers, workers' organisations, employers and employer organisations and any other private interest groups or persons.

An Inspector must not use inspection or investigation as a means of harassing employers or workers.

An Inspector must not use inspection or investigation as a tool to support either workers or employers against each other in a labour dispute.

An Inspector must not use inspection or investigation as a tool in support of any political party or for the pursuit of personal political purposes.

Commitment and Responsiveness

An Inspector must carry out all duties with diligence, efficiency and timeliness according to the seriousness of the activity, the relevant legislation, codes and official DLIR policies.

An Inspector must take all reasonable steps to clearly explain to the employer or the employer's representative the reason for any visit to a workplace.

An Inspector must work to the best of his or her skills, knowledge and abilities to educate, influence and persuade employers to comply with applicable laws before taking formal action.

An Inspector must carry out all duties until objectives are achieved or are no longer reasonably attainable.

Consistency between personal and professional behaviour

An Inspector must respect the law and not do anything that would jeopardise the effectiveness or credibility of the Inspectorate.

An Inspector must not intentionally transmit or use confidential information obtained in their professional work for personal gain.

An Inspector must not engage in any activity or relationship that creates or gives the appearance of a conflict with their official responsibilities.

Tips for Ethical Challenges

Do Reflect technical knowledge and understanding

Don't Collude, offer personal opinions or say "Off the record"

Think of your role as a 'hat' that you wear when performing your duties

"I am working today in my role as a Labour Inspector not as someone you know from the village we grew up in. When I work in my Labour Inspector role it is like I have a specific hat on. While the hat is on there are ways I must act and things I must not do."

Show empathy but firmness

"While I understand from you that your business has problems I have been entrusted to do this role and I have no choice but to… "

Manage offers of 'gifts' or advantages

"Thank you for the offer but as an Inspector the rule of my job is that I am unable to accept any gifts when I carry out my duties.

If I do it may look as if I am favouring you over others or treating you differently because you have given me something."

Stand Firm

"If I walk away from your business without doing anything to get you to correct these things I will be doing something I must not do in my role as a warranted labour inspector."

Manage the 'excuses'

"You have told me that you are unable to comply for these reasons … but in my Inspector role I am not able to walk away from making sure you get these things corrected. We can negotiate some of the ways that you can correct these things [time frames and method] but we cannot negotiate for you not to correct them."

Key Points

- A Code of Ethics is a useful way to maintain the integrity of the Inspectorate which in turn enables it to achieve results.
- A Code of Ethics sets out the standards of behaviour for all Labour and OSH Inspectors.
- A Code of Ethics should be followed by all Labour and OSH Inspectors whether still in training or managing others.
- It important to practice and maintain the skills needed to stand firm against the unethical behaviour of offers.

Further reading

- IALI International Association of Labour Inspection, 'The global code of integrity for labour inspection' https://www.iali-aiit.org/resources/code-of-integrity.pdf

Day Two Reading: Foundation Skills

Planning for Inspections

Contents

Introduction

Why is planning important?

Planning is essential to ensure that:

- The objectives of the investigation or inspection are clear from the start
- Sources of evidence are not overlooked
- Evidence is gathered before it can be altered, destroyed or influenced
- Resources are used efficiently
- Time lines can be estimated and worked to
- Risks are identified

Planning also has the benefit of:

- Less scope for getting bogged down in an investigation or inspection
- Managers can understand what is happening and decisions can be made faster

Two important beginning questions

What is the objective?

The main objective is *always* to achieve compliance.

You may also have a list of objectives that sit under that such as whether there is a particular breach of the legislation. Some interviews will have their own specific objectives such as presenting some evidence to an employer to reconfirm a previous inconsistent statement that he or she made to you.

If you think about and write down your objective(s) before you start this helps you to keep your activity on track and enables you to later learn from and improve on things that could have gone better.

Most importantly if you can show in your report that you reached your planned objectives this shows the DLIR and others that your activities have made a difference and improved workplace compliance (rather than just showing how many visits you have done).

What will I do if there is non-compliance?

An Inspector must always think about what they will do if they find non-compliance.

Previous history with the employer is important to consider. It is important to check with other Inspectors whether they have dealt with this employer before and what the outcome or follow up was. Firm enforcement action is necessary with an employer that has a continued history of non-compliance and has obviously not responded to previous education actions by the Inspectorate.

Planning workplace inspections and investigations

Inspection Planning Questions

Where am I going?	Find out as much as possible about: the location, access, opening hours, the name of contact person, nature of the business and its final products and services, any likely materials, equipment and hazards on site, likely number of workers and whether there may be foreign workers or underage children working there. Find out if there are trade union members in the workplace that you need to deal with.
Has the inspectorate dealt with this workplace before?	Check with other Inspectors whether there is a file relating to the workplace already. If so, review the file and check whether any issues have arisen in the past.
Who am I likely to deal with?	This might include a check of the relevant Companies Office, off shore Companies Offices, State Compensation records for previous accidents, accident records for the local hospital, internal government data, local knowledge, names and identities of individuals and companies who own or operate nearby workplaces, the likely legal identity of the employer (that is whether it is a sole trader or a registered limited liability company).

	This also enables an inspector to check if there is any likely conflict of interest, for example, having a close personal or business relationship with the employer.
What do I need to find out and how?	Develop a check list of people to be interviewed and topics to be discussed. More information about interviewing can be found later in this manual.
What materials do I need?	Check that you have: Inspection checklists Your notebook Relevant laws and regulations Official identification card Inspectorate information pamphlets Templates for Warnings or Notices Copies of templates for Notices that might be served on the employer.
What equipment do I need?	Check whether you need any additional equipment such as testing equipment, measuring equipment, calculator, digital camera or video, or signs.
What do I need to consider to ensure I am safe during the site visit?	Find out about the environment you will be visiting including the likelihood of hazardous substances, risks and how to deal with them for your safety and all others. Make sure you have personal protective equipment including for example, high visibility clothes, safety shoes, hat, gloves and a mask.

	Ensure someone knows where you are going and your estimated time of return.
How will I get to the workplace?	Make sure that transport to the workplace is arranged.
How will I communicate back to the office?	Have a mobile phone or other communication device to enable you to make contact with your office especially when travelling to remote areas.
Do I need an interpreter?	If the inspection relates to migrant workers or the employer is a migrant, it is useful to consider whether an interpreter is needed. Migrant workers may also be fearful of speaking up and it is important to be able to speak with them when the opportunity arises. An independent interpreter can assist with this process. Make sure the interpreter is independent and does not have a conflict of interest such as a close relationship with the employer. Brief the interpreter to only say and interpret what is said and not to put their own advice or suggestions into the message.
Do I need a plan for liaising with the media?	If the inspection relates to a serious matter, it is useful to have a plan in place for dealing with the media. Speak to your supervisor about whether the inspectorate will communicate with the media and who will speak to the media. If approached by the

	media, and you are ever in any doubt, refer the media to a senior official in the inspectorate.
What other agencies might be involved in this matter?	This may be liaising with police in the event of a workplace accident or other agencies. It is important to be knowledgeable beforehand about protocols and the extent of the other agency's role in relation to the inspection or investigation. If you know there is a high risk of violence due to workplace tensions consider involving the police to support you.

The above list covers the basics. There may be specialised things that some Inspectors need to include in their preparation kit. New Inspectors should check with their experienced peers to check if there are any other useful things to prepare and take into the field.

Key Points

- Always clarify the objective(s) of the inspection or investigation at the beginning.
- Think ahead about what action to take if the employer is found to be non-compliant.
- New Inspectors should check their preparation with experienced peers.

Further Reading

Checklists for Inspections and Investigations in the Templates section of your Folder.

Conducting Inspections

Contents

Introduction

An inspection is a process of visiting a workplace to check whether the employer is complying with the legislation in relation to health, safety, employment and welfare conditions. When Inspectors find that employers are not compliant they must take a level of action that matches the seriousness of the compliance.
This will often involve education and advice for employers who genuinely do not understand their obligations.

In some cases it is necessary to also take formal steps to prevent further harm in a workplace such as issuing improvement notices or notices to prevent the use of unsafe machinery or to ensure that personal protective equipment is worn.

When employers refuse to comply the Inspector must use stronger methods of enforcement such as infringement notices resulting in a penalty or bring formal action in a court or tribunal to prevent the same things happening again.

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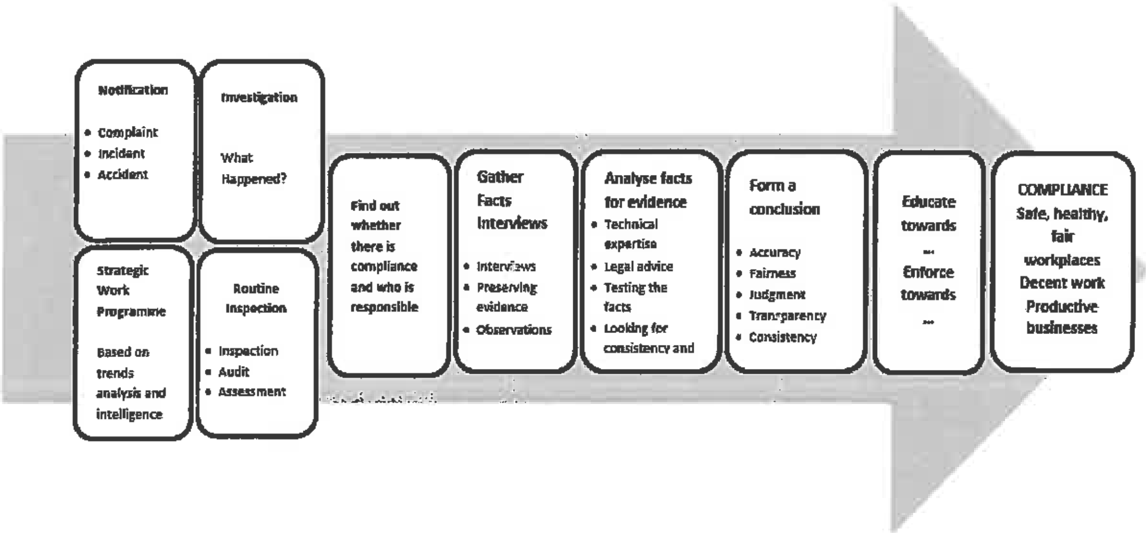
Different types of Inspectorate Interventions

This chapter is about inspections. This is the term used when a workplace is checked or reviewed as a matter of routine rather than as a reaction to an incident or accident. The next chapter covers the 'reactive' intervention which is an investigation into something that has happened like a workplace accident. The following chart shows the different types of interventions, how they start, how they are the same in many ways but both have the final goal of COMPLIANCE.



Jurisdiction

Inspectors have the power to inspect a wide range of conditions and standards in workplaces. This sometimes includes being able to give written notice to other government agencies responsible for different standards and conditions.

Inspectors must ensure that they are familiar with the details in their relevant legislation including any Regulations that contain specific things they can inspect in workplaces.

[Fill in the sections of your legislation relating to ***what*** you can inspect.

Section and Act:

Text:

Visit to the workplace

Notifying the employer about the inspection

It is usual practice to inform the employer before carrying out an inspection. This enables the employer to make time to talk with the Inspector and have records available. However if the Inspector is inspecting a workplace where the employer or others have previously tried to hide non-compliance before the Inspector arrives the Inspector should consider inspecting without notification. Legislation can vary on this point so check!

Entry and identification

An Inspector must know their powers of entry and the obligation to identify and confirm his or he authority to inspect. Have copies of relevant powers available as well as the official identification card. In joint inspections with other government agencies everyone must enter under their own powers and conduct inspection processes according to their own powers. Not doing this can lead to complaints about abuse of power and will impact on the Inspectorate's integrity.

The powers of entry and identification in my jurisdiction are:

Section and Act:

Text:

Identify the person in charge

It is important to find out who the supervisor of the workplace is at the commencement of an inspection. This person will help you to find your way around the premises and hopefully access records and answer your questions. If the person is not the actual employer get them to describe their role and get the name of the employer with his or her contact details.

Gathering inspection information

The Inspector must ensure that all relevant information is gathered so that he or she can make a decision about the level of compliance based on good evidence.

It is good to have a 'suspended belief' approach when shown things by an employer such as work area or documents. Interviews with workers at visits are an important way to verify information contained in documents or observed.

Inspectors should use good opening questions and build rapport when verifying information with people. Be alert to an employee appearing fearful and nervous.

Some tips for effective information gathering for Inspectors are:

- Single, 'credible sounding' assertions or one source of documentary evidence should not be accepted just on face value.
- Know your legislation and know the legislative standards and conditions you are inspecting.
- Use the model of interviewing summarised below in this manual.
- Be prepared to spend time to gather as much relevant information as possible even if an employer or others try to make you feel uncomfortable or try to take things off track.

Look and observe widely

Inspectors should look beyond just the traditional places to verify what is being claimed about things such as daily work hours or the process for using a machine. This may involve asking questions of others like bus drivers about times that workers travel to and from work each day, or customers who visit the factory and see the machinery in use regularly.

The Inspector should also be alert to a wide range of things at a workplace. These things can be 'warning signs' of things not present or able to be observed on the day. These things may lead the Inspector to ask the right questions of the right people and uncover the root causes of unsafe or unfair practices. For example an Inspector should be concerned about the safety culture of a workplace when he or she finds (from observation and talking to a number of people) that a workplace has old unreliable machinery that keeps breaking down, a sudden increase in production and many young new employees hired who work very long continuous hours and often fight with each other.

A list of key things to 'watch out for' and what they might indicate are:

Observation/ something mentioned	**Potential indication**	**Inspection tasks**
A history of accidents or near misses.	There is a machine or practice that has the continued potential to cause serious harm.	Inspect key areas of harm in the workplace and carefully inspect not just the actual machine or practice but check the use, and the training of workers. Educate the employer about the importance of reporting accidents and the advantage to his or her business of having a safe and healthy workplace.
Disputes in the workplace.	Employees are not focussed on the job and could have accidents. Worker may be prevented from their right to organise.	Persuade the employer to see the benefit to the business in having workers who are focused on their tasks and not distracted by disputes. Question the cause of disputes and encourage the employer to take positive action to resolve. Educate the employer about the workers' right to organise and negotiate conditions

		if this seems to be a root cause of the disputes.
Ageing or poorly maintained equipment.	May malfunction and cause harm, or workers will adapt it to meet production pressure making the machine even more unsafe.	Get expert advice if necessary and educate the employer about the risk and his or her obligation. Issue a Notice to prevent use until safety improvements are made and checked.
A significant change of equipment or processes.	Training may not have followed this change and could cause harm.	Check safety procedures by asking workers about their understanding. Observe workers and then educate the employer as necessary to implement training and or increased supervision.
A large and sudden increase in productivity	If sudden then new workers may have been recruited 'in a hurry' or on a temporary basis and may not be trained in safety and health procedures. Workers may be forced to work long hours causing tiredness and possible underpayments.	Do the same as immediately above and also check pay and daily time records for workers and compare to the obvious hours of increased production to verify whether the records are accurate. Consider a penalty or prosecution if records have clearly been altered to make it look like workers are working less hours than they actually do.
Children in the workplace who appear to be too	Children may be exploited as child labour.	Check ages of children and the jobs they are doing against legislation. If under age

young to be working, look fearful or maltreated and are doing dangerous or unhealthy work.		or doing work they should not be doing make inquiries and enlist the help of appropriate welfare agencies or government authorities. Consider penalty action if it is within your legislation.
Tired employees or employees asleep on the job	May indicate long hours without breaks. Workers may also be willing to work long hours because their hourly pay is so low and potentially under the minimum rate.	Check pay records for workers and compare to the obvious labour hours needed to keep production going. Check your information against the minimum wage rate and any other relevant legislation.
Fearful workers or workers who run off when they see the Inspector	Workers may be illegally working or forced to work.	Carefully question the employer about how the workers are recruited and what they are paid. Ask other workers about these workers. Question the workers directly and check their work permit records. Consider the liability of the employer who 'should have known' and may be exploiting the workers even if they are illegal. Check information about those who may be recruiting the workers and feeding the source.
Records show significant regular deductions from workers' pay.	Workers may be indebted to the employer for reasons that are not legal such as money paid to get	Carefully question the employer and workers to check there is genuine written consent for the deductions and that the deductions are allowed under the

	the job or an employer forcing workers to buy the employers' own products.	legislation and or are not a greater amount than allowed for each pay cycle. Educate the employer about deductions that are legal and illegal.
Records show that men's wages are significantly higher than women's wages even though observation shows men and women doing the same work.	May be a breach of legislation not to discriminate against women and to pay them the same as men for the same type of work.	It is important to 'build a careful case' Become familiar with the tasks that all workers do and identify the common jobs. Carefully question of individual workers, get their statements, and then check these against their pay and time records. Put the evidence to the employer and then educate or enforce towards compliance. If it cannot be easily proven educate the employer about obligations.
Environmental conditions such as high noise levels, poor lighting, dusty air, undrinkable water, unhygienic eating areas and hygienic toilet facilities.	Unhealthy conditions that can lead to immediate or latent harm to workers.	Carry out testing and get expert assistance as necessary to identify harm. Persuade the employer of the benefits to the business of healthy workers and educate through to compliance.

Groups of workers with rashes or open sores on their skin or a high percentage of workers with bandages or obvious injuries.	May indicate a high level of potentially unreported accidents or unhealthy and unsafe events and use of equipment and hazardous substances.	Question workers about their injuries or conditions. Inspect key areas of harm in the workplace and carefully inspect not just the actual machine or practice but check the use, and the training of workers. Carry out testing and get expert assistance as necessary to identify harm. Persuade employer of the benefits to the business of healthy workers and educate through to compliance.

Who to interview?

The Inspector should consider people to interview in an inspection under the following headings:

- The employer: the legal owner in person or the director of the company that is the employer
- Supervisors: people who direct, supervise and train the workers
- Other people: those who can verify documentation especially if the Inspector is not satisfied it is complete or correct. These may be people who see the workers and visit the workplace on a regular basis like people delivering goods or drivers taking workers to and from work.

Interview process – a summary checklist

An inspection interview is the same as an investigation interview but the person's account will not necessarily be about a sequence of events leading to an accident or incident. Their account will depend on the Inspector's wide first opening question(s) such as "Tell me about how you operate this machine?" or "Describe to me what a usual working day is for you?"

There is a separate chapter below on interviewing but here is a brief interview process outline for an inspection:

- Show your official Inspector identification.
- Explain the reason for the interview.
- Explain that notes will be taken during the interview to record what is said.
- Put the person at ease but remain polite and formal.
- Ask the person to tell you their own account and only interrupt if it is absolutely necessary to clarify something.
- Listen carefully at all times.
- Use silence to prompt the person to talk more rather than filling in the silence with 'chatter'.
- When the person has finished giving their account ask if there is anything else.
- Ask questions about things the person has explained when giving their account. These are TOPICS that are relevant to the inspection and that the Inspector needs answers to. For this stage the Inspector uses open questions to draw out information. Open questions do not have yes or no for an answer. Open questions are TEDS questions: 'Tell me, Explain to me, Describe to me, Show me' and PROBING questions: 'who, what, where, when and how?'
- Check with the person whether your written record of what they have said is accurate and have them sign or mark the record to confirm this. If the witness cannot read the Inspector must read the information to them.
- Give the person an opportunity to ask final questions.
- Explain to the person what the information will be used for and how.
- Encourage the person to make contact if they think of anything else.
- Politely thank the person for their time.

Analyse information gathered

When analysing the gathered inspection information Inspectors should be asking themselves:

- What does the documentation tell me?
- Am I satisfied that the documentation is a *genuine* reflection of what actually happens or has happened in the workplace?

The Inspector needs to ask more questions or inspect the workplace further if the answers to these questions tell the Inspector he or she does not have a complete picture about whether the employer is compliant.

Investigation outcome

Decide the next steps

Once all the relevant information has been gathered and analysed a report must be completed for the employer. The report must explain the next steps to reach compliance. The employer should not be surprised by the report. Do not to give an employer the impression that they are good performers during the visit only to follow up with a report which is highly critical of their practices.

Think about what level in the organisation an inspection report should be sent. It you conducted the inspection with an operational manager the report could be sent to a manager further up in the organisational structure or to the actual employer. This means that the people who are ultimately responsible to fix the non-compliance have the full information about their liability. This also avoids more junior managers hiding the report from their superiors.

Key Points

- An Inspection is a proactive check on an employer's compliance with the legislation.
- Preparation and a fair process is important
- Always verify what you are shown
- Be alert to wider serious issues in the workplace like forced child labour or exploitation

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Conducting Investigations

Contents

Introduction

An investigation is a process of finding out whether something has occurred or why something has occurred.

Inspectors are responsible for investigating the cause of work place accidents, the cause of workplace incidents that may have caused serious harm, or investigating complaints about breaches of employment standards.

When Inspectors find that employers are at fault Inspectors must also educate and sometimes take formal action to prevent the same thing happening again.

Jurisdiction

Investigating a matter outside the scope of an inspector's powers can lead to a complaint about abuse of process and will harm the integrity of the inspectorate. Ask yourself:

- Is it an OSH matter covered by OSH legislation?
- Is it an employment matter covered by Labour standards legislation?
- Are there elements that relate to both?
- Is it covered by other legislation as well?
- Should other government agencies be involved and how?

The following sets out the key stages of an accident investigation but is also of relevance for general labour inspection and complaints about labour standards.

Beginning an Investigation

When an Inspector first finds out about an accident he or she must obtain some vital information and make critical decisions. This ensures that a sound foundation for an investigation is established. If important details of information are overlooked, this can lead to incorrect facts being gathered, incorrect evidence being relied upon and incorrect conclusions being reached.

Why Investigate?

Is this a matter that should be investigated? The answer to this will depend on the way an inspectorate decides to diagnose and triage its complaints and notifications.

There are TWO general rules to consider whether to investigate:

'Near misses' and seriousness	Inspectors should not just investigate accidents where there has been a serious injury or death. If an Inspector discovers that a workplace has a clear pattern of 'near misses' he or she may be able to prevent a serious harm

	accident by investigating those incidents and educating and enforcing towards compliance. For example if you are notified that 5 metre high warehouse shelving has collapsed for the second time in six weeks just missing workers you should consider conducting an investigation.
Trusting a large company's own investigation	An Inspector must always consider whether to investigate an accident independently of the fact that an employer may have completed its own investigation. For example it may be tempting to trust a large well-resourced foreign based company's investigation because it 'looks' professional.

Receiving the first information: 'Notification'

When first obtaining information about an accident or incident and before visiting the workplace ensure that basic facts are identified and do not rely on opinions or assumptions. The basic facts to obtain immediately when an accident notification is received are:

- What happened?
- Who is involved?
- Where did this happen? Specific location where the incident happened.
- When did this happen? Date and time.

If the matter is a serious accident where there are victims the Inspector MUST also ask:

- Are people being cared for? Check that emergency services are on the scene.
- Are other people out of the way of any immediate danger? Check that someone is in charge to do this.

Visit to the scene/ workplace

Powers and obligations

An Inspector must know their obligations and their powers and how to use them appropriately. This includes the powers to require people to provide information and powers of entry. Have copies of powers available as well as the warrant or identification card. In joint investigations with other government agencies everyone must enter under their own powers and conduct investigative processes according to their own powers. Not doing this can lead to complaints about abuse of power and will impact on the Inspectorate's integrity.

Refer to the Chapter on Inspector Powers for more detailed information.

Arriving at the scene

There are FOUR things an Inspector must deal with when they first arrive at an accident scene.

- Deal with the people at the scene
- Identify the person in charge
- Confirm your authority to investigate
- Secure the scene

Deal with the people at the scene

An accident is likely to be an emotional situation. An Inspector must be prepared to either actively help to calm and reassure people present, seek emergency help as appropriate or stand back if more immediate services are doing their job. An Inspector should support emergency services by keeping those not involved in providing emergency aid out of the scene. This also helps to preserve the scene for the investigation.

Identify the person in charge

It is important to find out who the supervisor of the workplace is at the commencement of an investigation. This identifies the key person who can help to identify people to interview and arrange their availability. This person may also be a witness.

Confirm your authority to investigate

The Inspector must carry and show his or her identification and as necessary quote and show the relevant copies of legislation to confirm the authority to investigate and take preventative steps at the scene.

Secure the scene

The Inspector must ensure that the accident scene remains undisturbed until all the facts are collected. This should begin while emergency services are still doing their work by ensuring only those providing immediate assistance are admitted to the scene. Then as soon as emergency services have completed their work secure the scene and the evidence. One method is to rope off the area and notify management that the scene and any equipment or machinery are non-accessible. An Inspector should know the legislation that allows him or her to secure the scene and should use formal powers to suspend the use of any equipment or machinery as appropriate.

Gathering and recording information

Gather physical evidence first

Record physical evidence first because it can be transient or deteriorate. For example atmospheric conditions (strong odours and noise), stains, spills, skid marks, weather conditions or the location of broken or fallen objects. Taking digital photos of evidence is a useful way to record such evidence because it is not easily altered and the device will record the exact place, time and date.

Through observation and questioning collect, test, photograph, measure and/or sketch and write information about:

- The layout of the scene.
- Nature of the injuries to the victim(s) detailing parts of body and severity.
- The accident according to any conscious victims but only if this can be done without getting in the way of their need for medical or emergency assistance.
- Location of any injured or deceased workers at the time of the accident.
- Environmental factors such as smells, noise levels, lighting and weather.
- Stains and spills at the scene.
- Skid, scorch or other marks at the scene.
- Machinery or equipment used at the time of the accident.
- Damage to that machinery or equipment.
- Age and condition of that machinery or equipment.
- Substances used before or at the time of the accident.
- The general level of order and tidiness of the work areas and the scene.
- The position of any vehicle or machinery involved and the position of its controls at the time of the accident.
- The position of safety devices, controls and guards.
  (For the last two points interview witnesses to confirm if these were altered after the time of the accident).

Chain of custody for evidence removed from the scene by the Inspector

Any items of evidence that needs to be removed from the scene to be examined by experts must be recorded through a careful 'chain of custody'. This is important to do because it helps to prevent accusations that evidence has been tampered with after being removed. An office notebook or shared electronic system should be used to record the date that any physical evidence is obtained by the Inspector.

Refer to the Chapter on Confidentiality of Information for details about recording the chain of custody for any items removed.

There is an **Evidence Chain of Custody Tracking Form** your templates section of your folder.

Sequencing the events

Use a timeline

It is important to gather information according a time line of events using the 24 hour clock. A timeline for an accident investigation should start from at least the time a person gets to work that day through to after the accident. An investigation must never start from the point of the accident. It can be very relevant to find out the state of both the work environment and the worker from the beginning of the day and sometimes before the working day started to help the Inspector to determine the causes of an accident or what may have contributed to it. The time line will help an inspector to develop headings and lists of tasks to be completed in a logical sequential process.

The timeline becomes something an Inspector keeps coming back to keep the investigation focused and on track. Amend the timeline as necessary if new information comes forward.

There is a **Timeline template** in the **Workplace Accident Form** in the Templates section of your Folder.

Interviews

Who to interview?

The Inspector should consider people to interview under the following headings:

- Eyewitnesses - people who saw what happened or were directly involved.
- Those who came on the scene immediately after the accident
- Those who saw the events leading up to the accident
- Those who have information about work tasks, processes, safety devices, training and orientation of workers including the person injured. These people are often supervisors or shift leaders.

As the Inspector starts to build on and review the timeline it will become clear if there are other people who need to be interviewed.

Interview process – a summary checklist

There is a separate chapter on Interviewing in this manual but here is a brief interview process outline for an investigation:

- Show your official Inspector identification.
- Explain the reason for the interview.
- Explain that notes will be taken during the interview to record what is said.
- Put the person at ease but remain polite and formal.
- Ask the person to tell you their own account and only interrupt if it is absolutely necessary to clarify something.
- Listen carefully at all times.
- Use silence to prompt the person to talk more rather than filling in the silence with 'chatter'.
- When the person has finished giving their account ask if there is anything else.
- Ask questions about things the person has explained when giving their account. These are TOPICS that are relevant to the investigation and that the Inspector needs answers to. For this stage the Inspector uses open questions to draw out information. Open questions do not have yes or no for an answer. Open questions are TEDS questions: 'Tell me, Explain to me, Describe to me, Show me' and PROBING questions: 'who, what, where, when and how?'
- Ask the person if they can think of anything that may have prevented the accident. Ask more open questions about their suggestions to get more details as necessary.
- Check with the person whether your written record of what they have said is accurate and have them sign or mark the record to confirm this. If the witness cannot read you must read the information to them.
- Give the person an opportunity to ask final questions.
- Explain to the person what the information will be used for and how.
- If appropriate warn them that they may be called in a court as a witness.
- Encourage the person to make contact if they think of anything else.
- Politely thank the person for their time.

Analysing evidence to reach a conclusion

Understanding the direct cause and the root cause

By this stage the Inspector should know what the DIRECT CAUSE of the accident or incident was. For example, if the worker fell four metres onto a concrete slab this is the direct cause of injuries. The Inspector now needs to find the ROOT CAUSE (sometimes called the 'indirect cause') which is found by asking *why* the worker fell. There may be one reason or many reasons. The root cause will help the Inspector to identify who is responsible and where the liability lies.

To find the root cause the information obtained to this point must be examined and analysed thoroughly. The physical evidence should to be compared and 'weighed' with what the interviewed people have said and what the Inspector has observed.

The Inspector should keep an open mind to all possible causes. He or she should review the timeline and check for gaps. This may cause the Inspector to re-interview some people or look more closely at some items of evidence. If the timeline gaps cannot be filled in this way the Inspector may need to seek peer assistance or expert opinion. In the end the Inspector needs to come to a conclusion that is based on a scenario based on the best evidence gathered during the investigation.

Questions to help analyse the evidence

The Inspector can use the following questions to analyse evidence to form a conclusion about the root cause of an accident. The questions are not suitable to ask of a witness because the witness may become intimidated or defensive.

Task	How was the worker doing the job at the time of the accident? Was this the usual procedure? Was it safe? Had conditions or instructions changed to make the normal procedure unsafe? Were the appropriate tools and materials available?

	Were they used? And where they used correctly?
	Was all of the necessary personal protective equipment (PPE) available?
	Was the PPE used correctly and did it fit properly?
	Were safety devices, alarms or other systems available and working?
	Were all back up safety devices or systems in place and working?
Equipment	Was there an equipment malfunction or failure?
	What caused it to fail?
	Was the material or equipment substandard in some way (for example, aged or damaged)?
	Was PPE used? Should it have been?
	Were tools, machinery and equipment being used correctly and according to the manufacturer's instructions?
	Were workers trained to use the equipment and was the training kept up to date?
	Were tools, machinery or equipment modified in anyway?
Substances	Were hazardous substances involved?
	If so, were there Safety Data Sheets (SDS) according to the Globally Harmonised System (GHS) setting out the identification, labelling, use, handling, transporting and disposal of those substances?
	Were the SDS kept up to date and followed?
	Was PPE used when handling the substances? Was it used correctly? Did it fit?
	Were workers trained to use the substances and was this training kept up to date?
Worker	Were workers trained to carry out the task?

	Were workers trained to use the equipment?
	What training had the worker in this accident received and when?
	What experience did the worker have doing this task?
	Was the worker physically capable?
	Was the worker's health, mental state or general ability impaired in anyway (this may include extreme tiredness, stress, grief, hunger or drug taking)?
Management	Were the hazards that led to this accident known to supervisors, managers, and owners?
	Were standards, practices and procedures developed and implemented to overcome these hazards?
	Were supervisors aware of the standards, practices and procedures that were put in place?
	Were there regular updates checking that workers complied with health and safety rules?
	Was adequate supervision given where needed?
	Was regular maintenance of equipment carried out?
	Was a reporting system in place to report hazards and were there reports investigated and acted on?
Environment	What were the weather conditions?
	Was it too hot or too cold either inside (depending on the scene of the accident?)
	Was there a noise problem?
	Was there adequate light?

Were there toxic gases, dusts or fumes present?

Was the workplace well organised and tidy or disorganised and untidy?

Was there any arguments or tensions in the workplace at the time of the accident?

Investigation outcome

Decide the next steps

Once all the relevant information has been gathered and analysed a report must be made for the employer. The report must explain the next steps to reach compliance. The employer should not be surprised by the report. Do not to give an employer the impression that they are good performers during the visit only to follow up with a report which is highly critical of their practices.

The report should be sent to the employer. If the employer is a company send the report to the registered office as well as personally to the director(s) of the company.

In the Template Section of your Folder you will find:

A **Workplace Investigation Form** for use during an accident investigation.

A template for an **OSH Investigation - Accident/Incident Report**

A template for a **Labour Standards Investigation Report.**

Key Points

- An Investigation is a reactive process to find out what happened.
- Always verify what you see or are told.
- Use a timeline to analyse the information about an accident.
- Always preserve the scene of an accident and collect physical evidence first.
- Handle all evidence with care and record a chain of custody.

- Think widely about how to find the root cause of an accident.
- Use the forms provided in the Templates section of your Folder.

Hazardous Substances

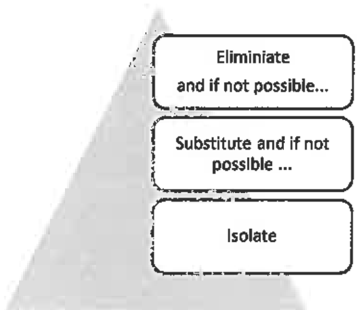
Contents

Introduction

There are three key elements relating to managing hazardous substances in workplaces:

- **Identification** and labelling of the hazard that is accurate, understood and clearly visible.
- **Defining the hazard** for example, whether it is a corrosive or an explosive.
- **Defining the potential effect** that exposure to the hazard could have on people in the workplace. For example, breathing harmful fumes, gases and vapours; contact with harmful substances causing skin or eye damage; and swallowing hazardous substances directly, or indirectly through unwashed hands.

The hierarchy of control for managing hazards once identified is:



The ways to control the effect of hazardous substances include engineering controls, person protective equipment and administrative controls.

An employer must protect people in workplaces from hazards arising from hazardous substances by:

- Correct labelling with appropriate information
- Providing information and training for those who could be exposed to hazardous substances in the workplace and allowing employee representatives access to the same information and training
- Assessing risk of and control of exposure of hazardous substances in the workplace
- Ensuring emergency services have access to information on hazardous substances in the workplace
- Ensuring all relevant information is available to employees.

The employer must monitor hazards that are assessed as needing monitoring and must monitor the health of employees.

Using the Globally Harmonised System (GHS)

A crucial part of hazardous substance management is the identification, labelling, use, storage, handling, transporting and disposal of the substances.

There is an internationally recognised system called the Globally Harmonised System (GHS). The GHS was designed to provide clear information to workers and others on the hazards of substances. The GHS 'harmonises' *criteria* for health, environmental and physical hazards and harmonises the means of communicating hazards including labelling and Safety Data Sheets (SDS). SDS contain hazard information, and briefer information in the way of pictograms on labels for containers.

The GHS is concerned with hazard, not risk. This is because the term 'hazard' has a relatively consistent international meaning. Assessing risk however can be very subjective, and depends on many variables. This means that an Inspector must check if unsure whether a substance comes under the regulations for hazardous substance management in their jurisdiction.

Safety Data Sheets (SDS)

The GHS involves the use of standardised information sheets called Safety Data Sheets (SDS). A **Template SDS** is included in the Templates Section of your Folder.

Inspectors have a role to educate and support employers to establish and monitor accurate SDS for their hazardous substances.

SDS contains hazard information that sets out clear information about use, storage, handling, transporting and disposal of substances. A sheet is in place for each substance. SDS includes internationally standard pictograms for use on labels for containers. For example these are GHS pictograms:

Flame

Explosive

The target groups for SDS are workers, consumers and emergency responders. The GHS sets out the format for SDS, in 16 sections, as follows:

1. Substance identification
2. Hazard identification
3. Composition
4. First aid measures
5. Fire fighting
6. Accidental release measures
7. Handling and storage
8. Exposure control and PPE
9. Physical & chemical properties
10. Stability and reactivity
11. Toxicological information
12. Ecological information
13. Disposal information
14. Transport information
15. Regulatory information
16. Other information

Key Points

- There is an internationally recognised system called the Globally Harmonised System (GHS) to 'harmonise' global communication about hazardous substances.
- Safety Data Sheets (SDS) are part of the GHS and contain information about the hazardous substance as well as internationally recognised pictograms for labelling containers.
- Three key things in Hazardous substance management are:
  - **Identification**
  - **Defining the hazard**

- **Defining the potential effect**

- The hierarchy of control for hazardous substances is
  - **Eliminate** the hazard and if this is not possible
  - **Substitute** or if this is not possible
  - **Isolate**

Further reading

- Information about the Globally Harmonised System (GHS) can be found at www.unece.org

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Day Three Reading: Foundation Skills

Investigative Interviewing

Contents

Introduction

Most of the information and evidence obtained by an Inspector during the course of his or her duties is obtained through interviews.

There are TWO purposes for Inspector interviews:

- Getting as much reliable information from the interviewee as possible, and /or
- Challenging the interviewee about what they have to say for the purpose of securing the best evidence

An Inspector should always remember that an interview is *a conversation with a purpose.*

Interview Basics

Before looking at a model for interviewing here are some basic techniques about questions and listening.

Question Types

Inspectors must get people to provide reliable information. This is done by asking open questions to get the person freely talking. Closed questions are asked to obtain introductory facts like name and address and to clarify and check what has been heard, usually at the end of an interview. Both types of questions are used in interviews but it is important to limit the use of closed questions if you want a person to freely recall a series of events or a set of things that they know.

A good interview is one where the person who is interviewed does most of the talking.

Open Questions	TEDS questions: T Tell me E Explain to me D Describe to me S Show me	PROBING questions How, why, when, who, what and where?

When the Inspector uses open questions he or she is actively listening and NOT talking. This means not doing any of the following:

- Finishing sentences
- Thinking about the next question instead of listening
- Looking disinterested
- Agreeing with everything said
- Making jokes
- Reacting to things that may seem shocking

Closed Questions	Closed questions usually get a single word answer like 'yes' or 'no'. They are mostly used at the end of an interview or topic to check facts

and confirm information obtained. For example: "You have said x and y, is that correct?"

The P.E.A.C.E interviewing process

The P.E.A.C.E Model of investigative interviewing was developed for police in the late 1990s in England and Wales. This model takes a conversational, non-confrontational approach to getting information from an investigation interview subject. It was designed to reduce the number of false confessions that were being recorded due to overly aggressive interviewing tactics.

This model is now used in many countries and by many different investigating professionals including Labour Inspectorates.

Here is a brief overview of the P.E.A.C.E. model of interviewing. The letters help Inspectors to remember each stage of the process.

P Planning and Preparation

The Inspector must prepare for an interview. The amount of preparation will depend on the situation.

In all interviews the Inspector will have a series of things he or she wants to find out about. These things can be prepared as prompts or headings before the interview.

E Engage and Explain - Starting the Interview

This is the opening phase of the interview to explain:

The purpose	• Presentation of ID • Explanation of reason for visit • Any applicable powers/legislation • Expectations of interviewee • Approximate time the interview will take

Establish rapport	Inspectors do not need to become friends with the person but they need to build a cooperative relationship. This is important to the success of the interview. This stage also lets the Inspector assess the interviewee's communication abilities and modify his or her language and consider special circumstances. Effort should be made to treat the person with courtesy, respect and professionalism. This can help start even the most challenging conversations with people who are hostile, unwilling to give information and evasive.
Set ground rules	The Inspector should explain to the person how the interview will be conducted. For example, "I will ask you some questions, it is important you answer truthfully, if you don't understand my question please ask for clarification and at the end I will stop and check if you have any questions for me about the process. I will be writing down what we talk about and you will be able to see what I have written at the end of the conversation to confirm that it is a correct record of what you have said."

A Account – getting the person to freely talk about what they know

The Inspector uses a good opening 'open' question to get the person to freely tell what they know. For example an Inspector is concerned about the long hours worked at a factory. A good opening question to the employer is, "Your business looks very busy. How do you manage to keep production going to meet demand?" This opening question has the potential to let the employer talk about what he or she knows best and may draw out important information about the hours of operation and the volume of production." This can be checked against the number of workers needed to meet this demand. If 30 workers are needed then the records of hours worked should be consistent with this.

Listen carefully and wait until the person has finished before using open questions about each topic. Closed questions are used *only* to summarise or clarify what a person has said. For example, "Let me check I understand what you have told me. The switch was on 'off' when you came to work today and you know this because it was in the vertical rather than the horizontal position. Is that correct?"

At the end of the account phase the Inspector should ask if the person can think of anything else. In an accident investigation ask the person for suggestions to prevent the accident happening again.

Conversation Management is a stage within the Account phase when an Inspector may plan to challenge the person being interviewed about something they have said previously or evidence the Inspector has which is inconsistent with what the person has said. This is only likely to happen in a more formal interview or in a situation that has been well prepared. However sometimes it is very clear a person has been inconsistent with their answers during their recount of their 'story' and a challenge at the end of their recount might be something like this:

Inspector:	You have been telling me that 5 truck deliveries arrive every day for unpacking of clothing bales? Is that correct?	**Employer:**	Yes, oh yes we are very successful and busy at my business.
Inspector:	And you say that each truck always has at least 20 large 200 kilo bales?	**Employer:**	Yes
Inspector:	So the bales are very heavy?	**Employer:**	Yes, they are very heavy.
Inspector:	And you have told me that the hoist in the loading bay is no longer used because it is broken (and I have pointed out to you, unsafe)?	**Employer:**	Well, yes. Too unsafe to use that's right, Inspector! I

			don't do things wrong here.
Inspector:	So can you please tell me how the bales are removed from the trucks 5 times a day without using that hoist?	***Explanation:** Here the employer is in a position where he has to admit that he makes his workers unsafely manually unpack the trucks or that in reality the broken unsafe hoist is used. This then 'firms up' the Inspector's evidence of what is actually happening in the workplace by challenging the employer's lie. Even if the employer does not admit anything this inconsistency is also part of an Inspector's evidence and report.*	

C Closure

- Close the interview by asking the person to sign or mark that the written record of the interview is correct. If the person refuses this should be noted along with their reasons.
- Give the person an opportunity to ask final questions.
- Explain to the person what the information will be used for and how.
- Encourage the person to make contact if they think of anything else.
- Politely thank the person for their time.

E Evaluation

An Inspector should try to evaluate his or her performance against the above process after an interview to identify ways to improve.

A sample of part of a 'recall' interview

Here is an example of a segment of an interview that is related to a complaint about child labour and unreported injuries in a workplace using TEDS, Probing questions and closed questions is as follows:

Question type	Inspector	Employer
TEDS	Tell me about your business?	It is a 7 day 24 hour operation that manufactures accessories for the road transport industry.
TEDS	Please **Explain** what you mean by 'accessories'?	When trucks have large containers on their trailers we make covers and strapping and fastenings so the loads don't fall off. I also make a waterproof breathable plastic lining for containers that hold perishables. We make those to order with specifically designed machinery.
TEDS	**Describe** to me the demand for that sort of product.	We are the only manufacturers here and they are clamoring for the product. I started 18 months ago and now have 15 large regular contracts and 70 loyal customers. There is strong competition in Australia but they get all their gear made in China and I sell on the basis that this stuff is genuine Pacific made, guaranteed to be safe and strong because I know exactly how it is made right under my nose.
PROBING	**What** are the busy times and quiet times?	We are busy all the time but harvest season is very busy when wheat is harvested and needs to be taken in loose bulk to refineries. I get informal labour from local churches during harvest.
TEDS	**Explain** what you mean by 'informal'.	I invite families to help me out in exchange for some food and second hand clothes. Some of them owe me money and are paying off their debts, so they are just

		volunteers.
PROBING	**How** many are paying debts?	All of them of course!
	How many workers do you have on site most days?	About 40.
TEDS	**Explain** to me how the 7 day, 24 hour operation is manned?	We have gangs of 5 employees in three shifts with each shift working 8 hours.
TEDS	**Describe** the type of skills the employees in each gang has.	The men do the skilled work, the rest of the family lift, sort clean and pack.
PROBING	You mentioned 'families' **explain** to me what you mean?	Are these questions really necessary? A family is mum, dad and the kids of course!
PROBING	**What** are the ages of the children working here?	All ages. The little ones aren't much use. Get in the way but I can't get the parents and older kids without the little ones too.
PROBING	**Describe** what happens when the children get 'in the way'.	I don't know... look are these questions really necessary I have a business to run.
	Use silence here	They just get in the way. You know they run around and they trip workers up. Things get dropped and broken. Etc.

Key Points

- A good interview is one where the person who is interviewed does most of the talking.
- Prepare good opening questions
- Open questions are 'TEDS' and PROBING questions and are used to draw out information.
- Closed questions are only used to clarify or summarise or challenge inconsistencies.

Further Reading

The P.E.A.C.E model material is freely available in the public domain. There is a lot of information about it on the internet. Here is one link: http://i-sight.com/resources/investigative-interviewing-techniques-the-peace-model

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Addressing Conflict Behaviour

Contents

Dealing effectively with conflict

The skills to deal effectively with conflict are important tools for OSH and Labour Inspectors. Modelling good behavior to employers and employees when conflict arises can also help avert potentially dangerous situations when behavior gets out of hand. The table below sets out some strategies for managing conflict that may arise when carrying out inspection activities.

Keep yourself safe	If you feel threatened by a person's behaviour and you think you are unable to respond professionally on your own, immediately remove yourself from the situation.
Get help from others	If you are confronted with someone who is threatening you there may be others nearby who can assist you. Debrief with a peer or your supervisor if you have experienced a situation where you needed to remove yourself from a confrontation. Always record in writing what happened as soon as possible after the incident.
Don't respond with anger	It is natural to want to fight back if someone attacks you. But, it is important to try to remain calm.
Distance yourself from the anger	It is important to separate yourself from a person's anger. Even if your presence as an inspector sparks an angry outburst this is

	anger directed at your role and not you personally even if it may seem that way. Separating your own emotions can help you to deal more calmly and impartially with the situation.
Predicting hot spots	During your preparation before a workplace visit, check whether you can predict if you may be confronted by angry people. For example you may know about the particular workplace concerned and whether there are any existing problems and tension.
Walk in the other person's shoes	When you prepare to engage with someone think for a moment about the perspective they may come from. For example before visiting a workplace for a routine safety check you may want to imagine you are the employer and what existing pressures they might face. Remember how you wanted to be treated when you last felt angry.
Find out why the person is angry	You may not always be able to prepare for an angry outburst as they can come suddenly and unexpectedly. You need to try to understand why the person is angry so you can move to a solution. Encourage the person to talk freely and only interrupt to ask open clarifying questions. Sometimes this is called *allowing the person to "vent" or "let off steam"*. Reflect back to show that you understand the cause of their anger. When you reflect back, try and keep calm and use an even tone of voice. Ensure you don't use any threatening gestures. A

	person will often calm down if you are calm. They often instinctively mirror what they see, hear and feel. Remember to reflect your understanding about the cause of their anger- you do not have to agree with them. Try not to use patronising statements, such as, "I understand how you feel," or, "That sounds really frustrating." Instead, use specific, clear statements that rephrase what the other person has said (don't overdo this, or do it in a thoughtless, formulaic way). For example, "So when you heard the Inspector was coming you felt this was going to take up more time of your already busy day and this made you angry?"
Avoid judging the person's behaviour	Don't focus on the person's behaviour by saying things like, "You carried on like this last time and I thought you got over this way of behaving when things upset you." This shows a lack of respect and will likely inflame the situation.
Demonstrate an interest in resolving the situation	Try to focus on a solution. This comes once you understand what the anger is about. If you have done something to cause the anger don't try to defend yourself. Simply apologise and ask what you can do to resolve the situation or offer to discuss things you both want and work backwards to come up with ideas to achieve this. That might involve you doing something to make things right and it might mean the other person will accept they will do things.
Take care when apologising for your employer or blaming your employer	Apologising is a powerful diffuser if it is genuine and you have the authority to do so. As a public official you must take care not to bring your Ministry into disrepute by saying things like, "This

	would not have happened if we had more resources or if we were trained better. I am sorry the Ministry has got that wrong."
Being a good role model and coach	Sometimes you can help an employer **see** the benefit of good communication – particularly in a workplace where the employer has repeated disputes. Communicating in anger leads to disputes which cost money, affect productivity and increase staff turnover. Suggest good tips or refer them to places on the internet or library where they could get materials.

The offence of obstruction

Sometimes a person may refuse to cooperate and the Inspector may need to consider referring to the Offence of Obstruction if it exists in his or her legislation. This usually involves warning the person that they could face a criminal conviction.

Note here what your legislation says about obstruction:

Text:	*Section and Act:*

Words to say when warning a person they are obstructing the Inspector process

If a person refuses to answer an Inspector's questions, the Inspector should use the following wording:

"I need to clarify to you that I am a Labour Inspector/ OSH Inspector appointed under section __ of the ___ [Act]. Here is my official identification.

In asking you for this information I am exercising my powers to question you under [section, Act].

You have indicated that you are not prepared to cooperate by not [producing records requested, not answering questions etc....] and I have written that down for my record.

If you continue to be uncooperative you risk facing a prosecution under section x of the x Act for obstructing me as an Inspector in the course of my duties. If you are found guilty you will face a fine not exceeding X and under the Act if you further ignore that fine a court could imprison you".

The Inspector must try to continue within the limits of the obstruction if possible and report the event to his or her supervisor.

Key Points

- There are many good techniques for dealing with angry people and Inspectors should learn and practice these.
- When a person is seriously hindering and obstructing the Inspector must warn the person this is an Offence (if available in the jurisdiction) and report the matter.

Recording – The use of Notebooks

Contents

Introduction

It is important that Inspectors keep a chronological record of all activities undertaken especially when away from the office. Notebooks are an important internationally standard method of recording all work that is done. The information can be referred to at a later date as good evidence of what was said and done, what information was provided and what observations an Inspector made including sketches. The use of a notebook system supports the need for the Inspector to be transparent and open to scrutiny at all times.

How to use a Notebook

- Use a hard backed A4 minute book with page numbers and lines and without perforated tear out pages. This avoids having loose pieces of paper or questions later about which page a note was written on. If you make an error, it can be crossed out.

- Head each entry with the following:

Date	Place	Time	Persons present

- Get full details of people involved in any conversations. For example, occupation, phone numbers, date of birth, address, immigration status and passport details.

- Record all questions and answers verbatim ensuring exact words or jargon are noted. If someone uses an expletive then record this in full.

- Record negative results as well as positive. It is better to record too much than too little.

- Notes must be complete and clearly explain what was seen, heard and done.

- Notes must not include personal opinions or comments. Avoid statements that are generalised, have no evidential basis or are beyond your specialty expertise. For example it is inappropriate to put in a record, "the employer showed his volatile abusive character."

- Notes must be made at the same time as the event, or if not practical as soon possible after the event at a time that the event can be considered to be fresh in the Inspector's memory.

- Record conversations as, I said "..."; She said "...". For more than two people use initials and a key, for example Mary Brown becomes MB, John Smith becomes JS. MB said "...", JS said "...".

- Collaborate with other inspectors working alongside you about correct names and contacts.

- Where applicable, record any times when conversations stopped for breaks.

- If an entry refers to a conversation with a potential witness, ask them to sign the notebook as a true and correct record and initial each page if more than one.

- Rule off each entry in the notebook and keep in a safe place.

- Use a blue or black pen and be neat, methodical and accurate.
- When you have filled your notebook, keep it. You may need it at a later time.
- Notebooks belong to the DLIR and should not be taken when the Inspector leaves the job.

Special notes in a Notebook

There are other things that should be recorded in your notebook as set out below. Some of this material may be stored separately, but a record should be included in your notebook.

Sketches	• Draw in the notebook with pen. • Show dimensions of machinery, equipment or scene in general • Show a plan, i.e. birds-eye view of scene or sketch map • Show location of victim, witnesses of complainant • Show distances from where photos were taken
Photos	Record in your notebook the date and time of photo, location, orientation of camera, and a description of what the photo shows.
Video or audio recording	List where to find any digital records taken with video, cell phone, tablet, record of skype conversation or audio/visual interviews of witnesses.

What not to do with your notebook

There should be "NO ELBOWS" in Notebooks

N	o doodling, personal notes, shopping lists, personal phone numbers
O	nly the same coloured type of ball point or fountain pen
E	rasures- use single strike out if necessary so the mistake is visible

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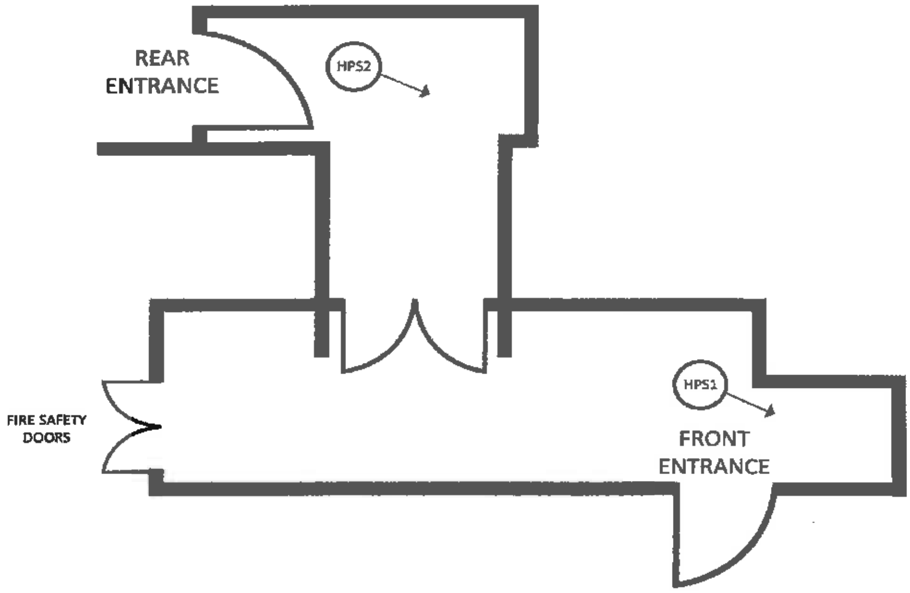
L	eaves (pages) torn out
B	lank lines and black pages
O	ver writing
W	riting between the lines
S	eperate sheets or scraps of paper added

A Specimen notebook entry

	Friday 8 July 2016
DLIR file 34/16	***Highprice Grocery Store, 67 High Street, Anytown***
0930	*As a result of an anonymous complaint I visited Highprice Grocery Store on the 8th July 2016 at 0945.*
0945	*As I entered the store at the front entrance I was met almost immediately by a person who introduced himself as the store manager.*
	I introduced myself, my role and showed my identification card.
	I asked the following questions to establish the store manager's identity.
Q	*What is your full name?*
A	*JOHN MATHIAS SMITH*
Q	*What is your date of birth?*
A	*26 September 1961*
Q	*What is your address?*
A	*Apartment 34, 357 Main Road, Anytown*
Q	*What is your position at this workplace?*
A	*I am the store manager*
Q	*Who is your employer?*
A	*Highprice Grocery Store Limited*

Q	*Who is the director of the company?*
A	*MICHAEL MOON, he might have a surname but I don't know it.*
Q	*What is Michael Moon's address and contact details?*
A	*He lives upstairs, above the store. His cell phone number is 027 456 789.*
Q	*Is Mr Moon on the premises in the store or his home upstairs today?*
A	*No he is visiting relatives in Big Island. He is not back until next Friday.*
0950	*I observed a power board behind the main checkout counter just inside the front entrance. There were four sockets and 13 plugs inserted. The power board was hanging free about 20 centimetres from the ground from a main power source about 1 metre above. Some of the plugs had black melted plastic edges. There was water pooling underneath where the power board hung. I took a photo of this. The photo is recorded as HPS1.*
	I asked JOHN MATHIAS SMITH questions to find out more about this serious electrical hazard.
Q	*Can you explain why you have all these plugs in this power board?*
A	*We've just installed more tills and haven't got the electrician to come to put in more power points yet.*
	I advised JOHN MATHIAS SMITH that the power board was a safety hazard and it was breaching section x of the x Act. On request he took me around the rest of the store and I identified another similar electrical hazard in front of the rear entrance. It appeared to be powering lights for the rear of the building and a ham slicer. I took a photo of this. The photo is recorded as HPS2.
Q	*I issued a notice to immediately correct the two electrical hazards observed and said I would return in one hour to check that this has been done. I gave JOHN MATHIAS SMITH a copy of the Code of Electrical Safety Made Easy for Workplaces and pointed out the pages that covered safe practices for power chords.*

1010	*I drew a sketch of the store and marked where I took the two photos of the electrical hazards.* 
1025	*I left the store and returned to the DLIR office.*

Key Points

- Notebooks are a standard international tool for Inspectors.
- Notebooks keep an ongoing record and can be a good record to rely on later if they are used according to the notebook rules.
- Notebooks remain the property of the Inspectorate and are not for personal use.

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Confidentiality of information

Contents

Introduction

Inspectors use information from a wide variety of sources and they must understand what parts of that information they should keep, how to store it and whether or not they should or can disclose it. This will ensure that any information an Inspector uses to make decisions is accurate and complete.

This information may include:

Written information and documents	• Complaints about alleged breaches, accident notifications, records, contracts and any other information submitted by employees, employers or others. • Inspector notes and notebooks, inspection checklists, written records of interviews, discussions, phone calls and observations. • Test results, draft reports and final reports. • Government documents such as internal memos, directives and policy documents.
Audio visual information	Photos of accident sites, equipment and workplaces,

electronic recordings of interviews.

Inspector obligations

All information that an Inspector deals with (verbally or written) is official information, even material recorded in notebooks. Names and contacts details of people can also be private information.

Legislation

Legislation often has rules about the obligations of Inspectors in relation to information they obtain and hold during the course of their duties. Record your legislation here:

Text:	*Section and Act*

Confidentiality

As a general rule Inspectors must keep all information safe and cannot disclose it unless they need to disclose it for the purposes of carrying out their duties. This will usually be a disclosure to an employee. For example the time and wage records for an employee must be disclosed to the employee to verify if the document is consistent with the employee's actual work time and pay. If the employee has an authorised representative then such a record would also be disclosed to that person so they can advise the employee.

Gathering information

Inspectors should gather information that is RELEVANT and OFFICIAL and be aware of information that is SENSITIVE.

Relevant information	Information that is only what is relevant to the Inspector's official purpose. People will voluntarily tell an Inspector many things, sometimes to try to 'colour' the Inspector's view. The Inspector should politely but firmly tell people when the information they are given is irrelevant to their purpose.
Official information	Mostly all information gathered by Inspectors is official information. There should be no 'off the record' conversations where Inspectors collect information that is 'secret' to only them and the other person. This practice will bring the Inspectorate into disrepute and make the Inspector vulnerable to bribes.
Sensitive Information	As a general rule the identity of a person who submits a complaint to an Inspector in good faith must remain confidential unless the person genuinely gives consent to disclose and the Inspector has taken reasonable steps to ensure the complainant will not be in danger if their identity is disclosed. The identity of witnesses and records of witness related interviews are only disclosed when they are relevant to the conclusion in any investigation or inspection report. An Inspector must not disclose commercially sensitive information about an employer unless it is relevant to his or her duties. An example of commercially sensitive information that is not likely to be relevant to an Inspector is the price a store keeper pays to obtain wholesale goods. An example of commercially sensitive information that is likely to be relevant is whether the turnover was

high during a month that the employer says he or she has not employed labour.

Protecting and storing information

- Every office must have a facility for Inspectors to securely store files, notebooks and evidence as well as a system for recording and retrieving this information.
- Files and documents must not be left openly visible on desks or computer screens when the office is unattended or when people who do not work for the Inspectorate visit the office.
- Inspectors must always protect any information they carry with them into the field. If it is not possible to keep such information with the Inspector at all times the information should be in a locked bag and or in a secure container or folder inside a locked Inspectorate vehicle.
- If an Inspector must take any information to their home they must not disclose this information to their family, friends or neighbours either intentionally or by accident. The Inspector must keep the information secure at all times.
- An office notebook or office shared electronic system should be used to record the date that any physical information (such as employer record books or exhibits from accidents) is obtained by the Inspector. The office should have a secure locked place for keeping such evidence. The record must also show the Inspector who first took custody of the information or evidence, when the information and evidence was obtained, who gave the information or evidence to the Inspector and the 'chain' of its handling from when it was first obtained.

There is an **Evidence Chain of Custody Tracking Form** in the Templates Section of the Folder.

Sharing information with other agencies

It may be necessary to share some information with other Government Agencies for the purpose of the health, welfare and safety of individuals or the public. For example, an Inspector may alert the appropriate welfare agency if he or she obtains information that an employer is exploiting children.

Key Points

- Inspectors must only gather information that is relevant and official.
- Inspectors must understand and manage sensitive information.
- Information must not be disclosed unless it is for the purpose of Inspectorate duties.
- Protection and storage of all inspectorate information is very important.
- Information may for a good reason be shared with other agencies.

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Day Four Reading: Foundation Skills

Assisting employers to achieve compliance

Contents

How an Inspector achieves compliance

When an Inspector identifies the cause of an accident or inspects a workplace to check employment, safety and welfare conditions his or her report is not the end result. The Inspector's final goal must always be to obtain compliance. An Inspector usually achieves compliance through educating the employer. This will be an employer who is willing to improve and who genuinely does not understand their obligations.

An Inspector can also take formal steps such as issuing improvement, infringement or penalty notices or by commencing legal action on behalf of the employee in a civil claim or bringing a prosecution for offences committed against health and safety and employment laws.

There are two different types of intervention to achieve compliance:

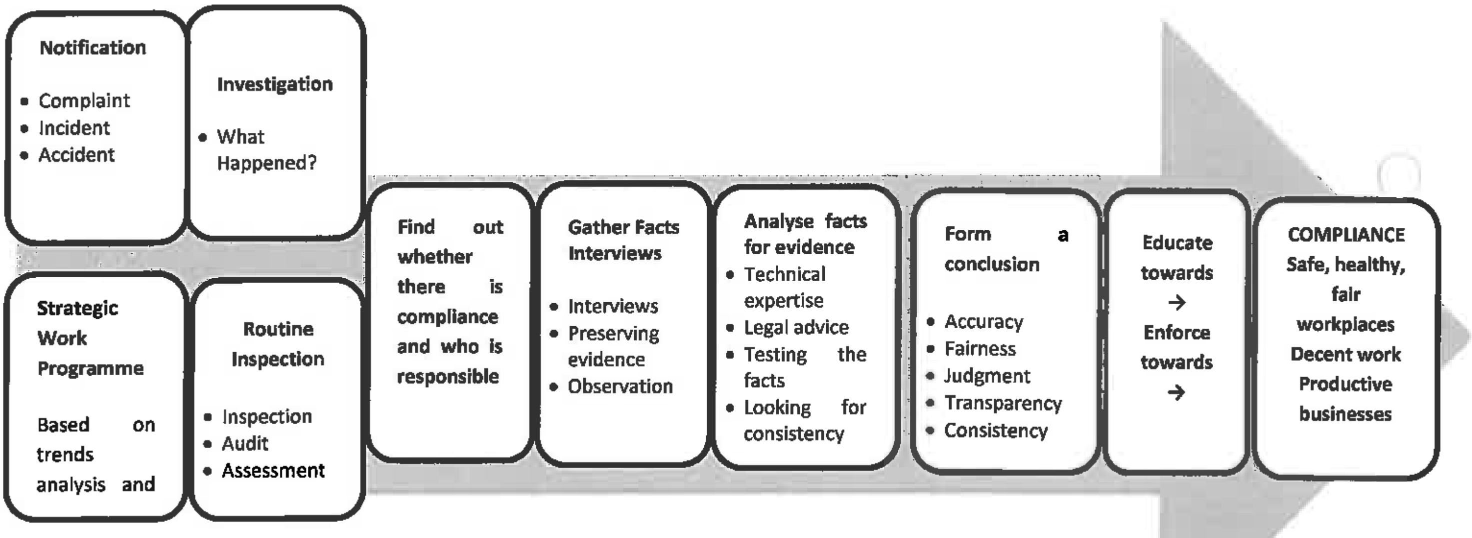
- An Inspector *reacts* to a complaint or notification or Intel about something that has happened and then investigates OR
- An Inspector *proactively* conducts routine Inspections of standards in workplaces.

Compliance leads to healthy, safe and fair workplaces.

Compliance leads to productive businesses.

Compliance leads to decent work.

Educating towards compliance



Educating towards compliance

An important element of an inspector's functions is assist employers and employees to understand and comply with legislation. Workplace education can be delivered through a variety of means including for example, providing material during routine inspections of workplaces or delivering seminars to a wider groups. For any of these activities, inspectors should always represent the position of the inspectorate as public officials and should not offer personal opinions.

Tips for delivering education to employers

- Use standardised presentation material with clear DLIR logos and an agreed format and font
- Talk to the audience or individual but also allow for questions and interaction to check they have learnt something.
- When explaining rules of legislation provide access to the actual legislation as a reference but then explain its effect in simple terms in FOUR points: what the law means, the purpose of the law, how the law is applied and the consequence of not complying.

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Enforcing towards compliance

When and employer is not willing to comply with the law to ensure that his workplace is safe healthy and fair an Inspector must consider enforcement action. If this step is taken the Inspector must be well prepared with a good evidential basis to back up the action. The Inspector must also have the support and in some cases (as required by the legislation) approval of the DLIR to see the process through to completion.

The most serious form of enforcement action (bringing court proceedings against an employer for offences against the law) may not result in the individual employer being compliant because the employer may end up out of business due to bad publicity and sanctions as a result of the proceedings. This is the severest end result of enforcement but compliance is still reached because others will be deterred from breaching the law in a similar way.

Choosing the right level of intervention to achieve compliance

The following chart shows how an Inspector can determine the level of seriousness and possible action to take to get the employer to reach compliance.

Serious	**Scenario**	**Possible Action**
	Employer "A" deliberately or repeatedly puts employees at serious risk or seriously exploits employees.	Full use of available enforcement tools or prosecution (which may also be used as a wider deterrent effect).
	Employer "B" has a number of issues to correct and is mostly cooperative but needs to be monitored to ensure compliance.	Education and lower level enforcement tools such as notices, warnings and follow up checks. A few may become employer "A".
Less serious	Employer "C" has a minor breach of the legislation, and is co-operative and wants to quickly address the issue and learn.	Individual education with a return visit to check compliance. Group education like a seminar for similar employers may also follow.

Key Points

- Compliance is always the main objective of Inspector investigations and inspections
- The action taken to achieve compliance needs to match the seriousness of the failures

Reporting

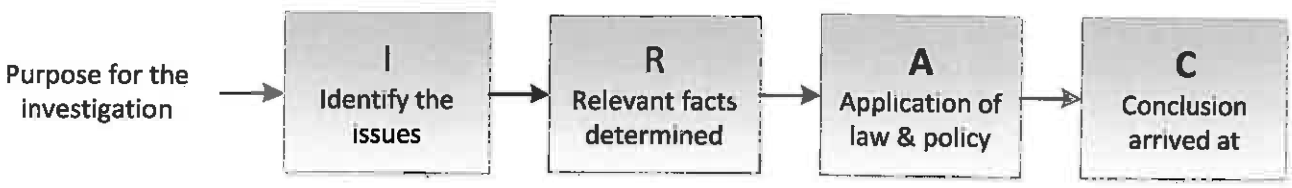
Contents

Introduction

A good quality inspection report should:

- Address the audience it is intended for.
- Answer the issues with relevant, logical facts and an accurate application of the law.
- Be based on principles of 'natural justice': the person who is adversely affected by the report's decision has had a chance to have their say.
- Have a conclusion that explains next steps of enforcement or education.
- Not be influenced by any personal opinion or connection to the parties, or any form of bias.

A report should always follow a logical sequence:



Which report template do I use?

The table below sets out different types of reporting, purposes and potential audiences. Templates are found in the Annexures section of this manual.

Report	Purpose	Audience
OSH Investigation – Accident / Incident Report Based on information in the **Accident Investigation Form**	To report on findings of fact and evidence from an **investigation into a workplace accident or incident** and to explain the cause and who is responsible. It contains a report on steps taken and or recommended next steps.	• Employer • Victims • Employees • Representatives • Inspectorate management • Court or Tribunal
Employment Standards Investigation Report	To report on findings of fact and evidence from an **investigation** into a workplace complaint alleging breach of **employment standards** and to identify who may be responsible. It contains recommended next steps.	• Employer • Employees • Representatives • Inspectorate management • Court or Tribunal
Inspection Report	To report on the results and next steps of an OSH or Labour Inspection.	• Employer • Employees • Representatives

		• Inspectorate Management • Court or Tribunal

Preparing a good report

The fundamentals

Reports are a fundamental and a very publically visible part of the work Inspectors carry out.

There are SEVEN questions that are useful to guide inspectors to produce good reports:

1. Why do I need to report this?
2. Who is my audience?
3. What is (are) the question(s) my report has to answer?
4. What are the relevant facts?
5. What is the relevant law and policy?
6. What is my conclusion?
7. Have I met the principles of being a labour/OSH Inspector?

Why do I need to report this?

There are usually several reasons and one report may satisfy more than one reason. Being clear of the purpose helps to keep the report within scope.

Who is my audience?

By asking this question it helps you to craft the report for the right audience and answer the questions relevant to this audience. Generally a reader needs simple, plain information with enough relevant detail to help them to understand.

Keep your report language simple and direct:

- Use the active rather than passive voice.

- Use short sentences
- Use words that are familiar to the audience, necessary and relevant.

Here is an example of how to reduce words down to get a simple message across:

× If a fire starts when a worker is on duty, the worker should press the alarm button to alert other people to cause them to exit the building. **(28 words)**

× If a fire starts when a worker is on duty, the worker should press the alarm button and leave the building. **(21 words)**

√ If a fire starts, press the alarm and exit the building! **(11 words)**

What are the questions my report must answer?

This is referred to as the 'issue' to be answered. It usually starts with whether, who, when, or how. There may be a single issue, but often there are several issues that need to be answered. A failure to isolate the correct issue(s) could result in the Inspector proceeding on an incorrect basis and reaching the wrong conclusion.

What are the relevant facts?

An Inspector must determine which facts he or she accepts as true and relevant to the issues. To do this he or she must:

- Have adequate evidence to support findings of fact (and indeed the conclusion).
- Apply the proper evidential standard as appropriate. If it is the **balance of probabilities** this means what is most likely to be the truth. If it is **beyond reasonable doubt** (usually for criminal offences) then it is a higher threshold and the Inspector needs to be sure that the evidence can prove the facts.
- Weigh up the facts and keep in mind that some facts will be more relevant to the issues than others and in some cases, legal advice may be necessary.

What is the relevant law and policy?

Explain the law and its application accurately. If you are not sure or if it is an untested case, obtain advice from experienced peers or legal services. Attach or provide links to legislation sections, regulation clauses or fact sheets to help the audience understand the relevant law. Be careful if you decide to paraphrase (summarise) legislation to ensure it is accurately stated as the true meaning intended by the law making body of the jurisdiction.

Make sure you refer all legislation correctly by referring to the section, sub section, paragraph and sub paragraph. When quoting a statute's name for the first time in a report, you may state the full name with a short form in brackets. This enables you to use a shorter form in later references in your report. For example a correct first reference is *"section 4(1)(a)(ii) of Employment Act 1978* ("the EA78"). Later references can refer to *"section 4(1)(a)(ii) of the EA78.* However always consider the audience and if this practice is likely to confuse use the full title of the legislation each time it is referred to in the report.

What is my conclusion?

To reach a conclusion, you need analyse and apply the law to the facts and then consider the merits of the case.

Your conclusion should clearly show that you have applied the principles of natural justice. This means you must outline the facts very clearly and describe the position or response from the person responsible for the breach and how you have taken this into account when applying the law. It is important you're your conclusion clearly shows that the point of view of the person responsible for the breach has been heard and considered.

Have I met the key principles of being a Labour/OSH Inspector?

An Inspector can self or peer check these principles as a review of the final draft of the report.

Consistency	Is my decision consistent with similar cases and proportionate in terms of the enforcement approach to the level of non-compliance?

Transparency	Have the basic requirements of 'natural justice' been satisfied throughout your process. Has the employer or the person that is adversely affected by your decision had a chance to have their say?
Accuracy	Is my conclusion rational, logical and based on a consistent and accurate application of the facts and law?
Impartiality	Have I arrived at my decision without letting any personal opinion, personal connection to the parties, or any form of bias influence me?

Key Points

- Check reports for consistency, transparency, accuracy, and impartiality
- A report must address the actual and potential 'audience', answer the issue(s), apply accurate facts, law and policy, and then to come to a conclusion with recommendations for compliance action.

Further reading

A short but good review of tips for good report writing:
http://dailyenglish24.blogspot.co.nz/2013/11/tips-to-write-good-inspection-reports.html

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Day Five Reading: Foundation Skills

Strategic Planning for Labour Inspectors

Contents

Why observe, share, analyse and record trends?

It is important to think about putting a regulatory focus on areas where there is likely to be the most harm. The reason Inspectorates observe, share, analyse and record trends is to:

- Know whether the conditions in work places are improving
- Know whether conditions in workplaces are not improving.
- Enable the inspectorate to plan where to focus: that is, the areas of most harm or where there is the highest and most serious non-compliance.
- Have another way to check compliance other than just going to those who may not be telling the full story.

How do we measure 'seriousness' and respond to it?

The following triangle helps to explain a way to decide what the serious issues of compliance are. The measure is based on the employer's attitude. Those who deliberately try to avoid their obligations and exploit workers are in the maximum sanction area.

The problems with 'Reactive' Inspecting

The following quadrant shows how traditional 'Reactive' Inspectorates can often miss very serious harm issues because there are no complaints from those areas.

Reactive Inspection Model	**Serious deliberate**	**Not serious**
High Inspector time	Many Complaints	**Many Complaints**
Low Inspector time	No complaints	**No complaints**

Based on table by David Weil Boston University.

The 'no complaints and serious issues' quadrant is often anti-competitive employers cutting costs at the expense of their labour force. This is where the 'informal economy' can flourish and where the worst exploitation of human labour often occurs. There are usually no complaints from this quadrant because workers are often scared to come forward. David Weil focused on traditional complaint-driven Inspecting but a similar criticism can be made of the traditional inspectorate approach of inspecting 'numbers' of workplaces in geographical areas instead of inspecting sectors or types of businesses based on the most likely areas of serious harm.

A revised table combining the above ideas might look something like this:

Proactive Strategic model	**Serious deliberate** ***High Inspector Time***	**Not serious accidental** ***Low Inspector time***
	Many Complaints ***Prioritised + creative solutions***	**Many Complaints** ***Information Provision + Self-Audits***
	No complaints ***Intel led interagency inspections and actions***	**No complaints**

Key Points

- Only inspecting workplaces based on complaints or geographical areas may not always result in finding the most serious harm
- Workers who are the most exploited are often too afraid to complain
- Observing and analysing trends is key to strategically focusing inspectorate work on noncompliance that is the most serious