



# Managing workplace incidents and investigations

## Key Points

- The site of a serious incident in a workplace must not be disturbed.
- An incident investigation report by an employer's solicitors will be covered by legal professional privilege.
- Incidents resulting in loss of life must be reported to the local WorkCover authority immediately.

**What action an organisation takes following a serious accident or incident in the workplace can make a substantial difference to both its corporate standing and its treatment by the courts in the case of a subsequent prosecution. Good workplace practice after an incident can also have a major impact on workplace morale and productivity.**

For these reasons, a systematic approach is vital when conducting an investigation, reporting and recording what took place, implementing post-incident procedures and dealing with inspectors from OHS agencies.

## Immediate steps to be taken after an incident

First aid and other medical attention to injured parties should have top priority after an incident. This can have a vital impact in reducing the critical time between injury and treatment. To ensure this happens, an organisation should check that its arrangements for provision of first aid comply with legislative requirements and are suitable for the contingencies that might arise. Particular attention should be paid to activities out of normal working hours, such as maintenance or cleaning.

Being able to provide transport for injured people and keeping emergency contact numbers can be just as important as training first aid personnel and providing equipment, facilities and supplies.

## Non-disturbance requirements

While legislative provisions vary across the jurisdictions, in general, an incident site must not be disturbed after a serious incident. Any plant or equipment, substance or thing at the site should not be used, moved or interfered with after it has been involved in a serious incident, and the surrounding area at the incident site must not be disturbed.

A serious incident in this context means one involving a fatality or other serious consequences such as the amputation of a limb; entrapment of a person in a confined space or in machinery; collapse of an excavation; the placing of a person on a life support system; the loss of consciousness of a person caused by impact of physical force, exposure to hazardous substances, electric shock or lack of oxygen; or serious burns.

Other incidents which may also be subject to non-disturbance requirements include those resulting in major damage to any plant, equipment, building or structure; an uncontrolled explosion or fire; an uncontrolled escape of gas, dangerous goods or steam; or presenting an immediate threat to life or an imminent risk of explosion, fire, escape of gas, dangerous goods or steam; or a spill or incident resulting in exposure or potential exposure of a person to a notifiable or prohibited carcinogenic substance.

These non-disturbance provisions should not prevent any action aiming to help or remove a trapped or injured person or to remove a body. Nor should they prevent anything being

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done to avoid injury to a person or damage to property, or taking any essential action to make the scene safe or preventing a further occurrence of an incident.

## Conducting an incident investigation

Good incident investigations will yield information that helps identify the direct and indirect causes of an incident. They should also identify any underlying deficiencies in the production and management systems that permitted the incident to occur. They will also suggest specific corrective measures for management to take, to reduce the likelihood of such incidents in the future.

An investigation must be impartial and objective rather than trying to allocate blame for the incident.

In the case of major incidents, it may also be advisable to seek legal advice with regard to the investigation.

### Action plan

When an incident occurs, the investigators must be ready to act immediately. This means they need advance training and preparation. A written plan for incident investigation should be adopted.

### Building the chain of events

A good investigation needs to establish:

- the events and circumstances leading up to the incident;
- the facts of the incident itself; and
- any relevant facts relating to the time immediately after the incident.

Identifying the full range of factors that caused an incident may be a

complicated process, and specialist advice may be needed for more serious incidents. The incident investigation may reveal several coincidental causes making up a chain of causal factors, none of which would have resulted in the incident by itself. These factors generally include elements relating to the design of systems or equipment; the environment; the behaviour of workers or others; and deficiencies in management systems.

Underlying causes that should not be neglected in the investigation include factors such as poor maintenance or housekeeping; inefficient management systems; and poor production planning. Psychosocial factors may also need to be considered.

## The investigating team

The size and make-up of an investigation team should be dictated by the incident's seriousness or complexity. For any serious incident, a senior manager must lead the team, overseeing all incident investigations and preferably signing the report. External experts may also need to be engaged.

A successful investigation will depend on the team's skills, preparation and approach to the various tasks; the questioning of witnesses; interview techniques used; the report and any necessary follow-up; and liaison with inspectors from OHS agencies.

## Professional privilege

An inspector may require the production of the incident investigation report. Those documents are produced for the prosecutor and may effectively give the steps by which a successful prosecution can be mounted.

However, having an incident investigation report commissioned by the employer's solicitors will cover it with legal professional privilege. An inspector cannot require the production of a document covered by such privilege.

An employer may wish to consider having the investigation conducted by a solicitor on behalf of the company, in order to obtain legal professional privilege.

## Incident reporting and recording

There are legislative requirements at the federal, state and territory levels in relation to incident reporting or "notification". These arrangements oblige employers to report the details of certain incidents to their local OHS authority. The types of incidents that must be reported are usually:

- incidents resulting in loss of life (which must be reported immediately);
- incidents resulting in a worker taking a number of days off work due to injury;
- incidents involving damage or potential damage to dangerous items of plant (eg boilers); and
- in some states (eg NSW and WA), incidents involving HIV/AIDS, hepatitis and other occupational diseases.

Specific forms are produced by the various OHS authorities, which must be filled out in the event of an incident. The exact details of the reporting (or "notification") requirements vary among the OHS authorities.

As part of an effective OHS management system, all

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organisations should establish a system for recording workplace injuries, incidents, near misses and diseases. Information from such a system may be used as part of statutory notification requirements and workers compensation claims. Its primary function, however, should be to trigger preventive action and to make sure such incidents do not happen again.

The Australian Standard, AS 1885.1 — *Workplace injury and disease recording standard*, provides an easy-to-use method of recording comparable data-covering incidents, near misses and diseases at the workplace.

## Post-incident procedures

Following up on a workplace incident can have a major impact on everyone involved and, indirectly, on the entire organisation, its customers and stakeholders. Future employees may also benefit if a successful incident investigation results in a significant improvement in safety. In the shorter term, debriefing and counselling may be advisable for some of the personnel involved in a serious incident.

## More information

**A systematic approach to managing incidents and investigations is crucial to an organisation being prepared in the event of a dangerous occurrence in the workplace. For professional advice on development of a workplace incident management plan, as a part of an OHS Management System please contact:**

**Email: [info@deltahealth.net.au](mailto:info@deltahealth.net.au)**

**Phone: (02) 9929 6221**

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