



# Fact Sheet – Powers of the Federal Safety Officers

## The role of Federal Safety Officers

The role of Federal Safety Officers (FSOs) is to act as third party auditors, conducting on-site auditing of companies seeking accreditation or currently accredited under the Work Health and Safety Accreditation Scheme.

FSOs may carry out audits at the pre-accreditation stage, as well as undertaking performance monitoring during the life of projects to evaluate an accredited company's ongoing capacity to meet the requirements of the Scheme.

Under Section 68 of the *Building and Construction Industry (Improving Productivity) Act 2016 (the Act)*, the Federal Safety Commissioner may appoint the following people as FSOs:

- Australian Government employees;
- state or territory government employees;
- consultants engaged on behalf of the Commonwealth.

FSOs measure compliance in a number of key areas, including:

- implementation of WHS management systems;
- implementation of the Scheme's WHS criteria;
- the ability to identify and manage scheduled risks and hazards;
- monitoring the implementation of any performance improvements identified during the auditing process.

## Entry to premises

### Do I have to allow an FSO entry to the premises?

Yes. Generally, you will be provided advance notice of an FSO visit. If you do not allow an FSO to enter the premises, you may be committing an offence, which carries serious penalties.

An FSO cannot use force to gain entry to premises, and will generally only enter during normal working hours.

### When can an FSO enter the premises?

Under Section 63 of the Act, an FSO may enter premises for the purposes of:

- ascertaining whether an applicant for accreditation under the Scheme meets the accreditation requirements; or
- ascertaining whether an accredited company has complied, or is complying with the conditions of accreditation.

However, before entering the premises an FSO must announce themselves and present their identity card for inspection by the occupier, or a person representing the occupier.

### What sort of premises can an FSO enter?

An FSO may enter any premises other than a residence, where the FSO has reasonable cause to believe that:

- building work is being, or has been, carried out by an applicant or company accredited under the Scheme; and
- there are documents relevant to compliance purposes.

An FSO may enter business premises if the FSO has good reason to believe that there is a person on the premises who has information relevant to the Federal Safety Commissioner's compliance activities.

### What can an FSO do while on the premises?

An FSO may:

- inspect any work, material, machinery, appliance, article or facility; take samples of goods or substances;
- interview any person;
- review, take, or copy documents. See 'Production of documents'.

### **Do I have to allow an FSO to conduct interviews?**

Yes. If you do not, you may be committing an offence, which carries serious penalties.

## **Production of documents**

### **Do I have to produce documents if they are requested by an FSO?**

Yes, if you are a person who has those documents or has access to them.

If a person fails to produce a requested document, an FSO may serve a written notice that requires the person to produce the document at a specified place and time (not being less than 14 days).

### **What can an FSO do with the documents?**

An FSO can:

- inspect and make copies of any documents on the premises or accessible by a computer that are believed to be relevant to compliance; or
- retain originals of documents upon presentation of a receipt to the person who produced the documents.

### **What happens if I don't do what an FSO requires?**

You may be committing one of the following offences, which carry serious penalties under the Criminal Code:

- refusing or unduly delaying entry to the premises by an FSO;
- obstructing, hindering, intimidating or resisting an FSO;
- knowingly misleading an FSO or providing false information, including false or misleading documents.

## **Powers of the Federal Safety Commissioner**

For the purposes of the FWBI Act, the Federal Safety Commissioner also holds all the powers of an FSO. However, he/she has additional powers to appoint and revoke FSOs, along with powers necessary to administer the Scheme.

The Federal Safety Commissioner has issued the General Directions to Federal Safety Officers 2005, which guide the conduct of FSOs, and which FSOs must comply with when exercising their powers.

Should you have an issue with the conduct of an FSO undertaking an audit, please contact the FSC Assist Line on 1800 652 500.

**Other fact sheets in this series can be found at [www.fsc.gov.au](http://www.fsc.gov.au):**

- Auditing and the OHS Accreditation Scheme
- Corrective actions and the auditing process
- Federal Safety Officers
- Federal Safety Officer Code of Conduct

### **Also Available:**

- OFSC Audit Criteria
- Audit Criteria Evidence Guide

### **For further information:**

- Visit the FSC website at [www.fsc.gov.au](http://www.fsc.gov.au)
- Contact the FSC Assist Line on **1800 652 500**
- Contact the OFSC via email at [ofsc@jobs.gov.au](mailto:ofsc@jobs.gov.au)

This fact sheet was last updated 16 January 2020. The Office of the Federal Safety Commissioner (OFSC) has prepared this fact sheet for general information only, and it does not replace professional advice. This fact sheet is derived from a variety of sources and has been prepared without taking into account your individual objectives, situations or needs. You should consider your personal circumstances, and if appropriate, seek independent legal, financial or other professional advice before acting. The OFSC has endeavoured to ensure the currency and completeness of the information in this fact sheet at the time of publication; however, this information may change over time. The OFSC expressly disclaims any liability caused, whether directly or indirectly, to any person in respect of any action taken on the basis of the content of this fact sheet.