

NOPSEMA investigations: information for witnesses

A plain-language guide for people who
may be asked to provide information
during a NOPSEMA investigation





Why NOPSEMA may ask you for information.

During an investigation, NOPSEMA may ask people for information if we believe they may know something relevant. These people are usually called witnesses.

Being asked to provide information does not mean you have done anything wrong. In most cases, it simply means you may be able to help NOPSEMA understand what happened.

How NOPSEMA may ask for information

- **Voluntarily** – you choose whether to provide a written statement or take part in an interview.
- **Using legal powers** – in some cases, a NOPSEMA inspector may require you to provide information, documents or answers to questions.

If you provide information voluntarily

- **NOPSEMA may ask you** to provide a written statement.
- **A statement explains what you know** that may be relevant to the investigation.
- **You do not have to** provide a voluntary statement.
- **You can ask** to provide your statement in private.
- **You can ask** to have a support person with you. This person must not be involved in the investigation.
- **NOPSEMA may use the information** in your statement when making decisions about the investigation.

If NOPSEMA requires you to provide information

- **A NOPSEMA inspector may require you** to provide information, documents or answers to questions.
- **If you are required to provide information**, you must do so. If you do not comply, you may commit an offence.
- **If you are required to answer questions**, this will usually happen in a formal interview.
- **You have protections against self-incrimination.** This means the information, documents or answers you provide generally cannot be used against you in criminal or civil proceedings in Australia, unless you deliberately lie or provide false information.
- **NOPSEMA may use the information you provide** when making decisions about the investigation.

You are protected from being treated unfairly

The law provides protection from discriminatory conduct for people who assist NOPSEMA or raise health and safety concerns.

Discriminatory conduct can include things like:

- **dismissing an employee**
- **harming their employment**
- **changing their position** to their disadvantage
- **refusing to employ** someone
- **treating a prospective employee less favourably** than another prospective employee.

This means an employer must not threaten or take certain action against a person for a prohibited reason.

This includes action taken because a person has:

- **raised, or plans to raise, a health, safety or welfare concern**
- **assisted, or plans to assist, a** NOPSEMA inspection or investigation
- **acted, or plans to act, as a health and safety representative,** or used HSR powers.

It is also an offence for a person to help someone else engage in discriminatory conduct for a prohibited reason.

NOPSEMA may take enforcement action if these protections are breached. This may include referring the matter to the Commonwealth Director of Public Prosecutions.

These protections are intended to help people provide information to NOPSEMA without fear of reprisal.

Support available when providing information to NOPSEMA

If you are providing information to NOPSEMA, you can ask to have a support person with you.

Your support person can be someone you choose, as long as they are not involved in the investigation. This could include a trusted friend, health and safety representative, union representative or legal representative.

You may also choose to seek advice before providing information to NOPSEMA, including from a union or legal representative.

Frequently asked questions

Does NOPSEMA normally ask people for information during an investigation?

Yes. It is normal for NOPSEMA to ask people for information if we believe they may know something that can help an investigation.

Have I done something wrong if NOPSEMA asks me for information?

Not usually. Most people NOPSEMA speaks to are contacted because they may have relevant information and may be a witness. If NOPSEMA suspects you may have breached a legal requirement, we will tell you when we first contact you.

Do I have to take part in a voluntary interview or provide a voluntary statement?

No. If the request is voluntary, you can choose whether to take part and what questions to answer.

What happens if I do not provide information voluntarily?

NOPSEMA may decide to use its legal powers to require you to provide information.

If I am required to provide information, how will that happen?

NOPSEMA may give you a written notice requiring you to attend a formal interview at a specified time and place.

A NOPSEMA inspector may also ask you questions during an inspection or investigation at certain premises, such as a regulated business premises or facility. If the inspector is using a legal power to require answers, they will tell you.

Can I bring someone with me?

Yes. You can ask to have a support person with you, such as a legal adviser, union representative or another

person you choose, as long as they are not involved in the investigation.

Can my employer or their legal representative attend the interview?

NOPSEMA does not require your employer or their legal representative to attend. If they are present, you will be asked to confirm that you agree to this before the interview starts.

Can what I say be used against me?

It depends on how the information is provided.

A voluntary statement may be used as evidence, including against you.

If you are legally required to provide information, your answers or documents generally cannot be used against you in criminal or civil proceedings in Australia. However, they may be used as evidence against someone else. They may also be used if you deliberately provide false or misleading information.

Can my employer take action against me for cooperating with NOPSEMA?

The law provides protection from discriminatory conduct for people who assist NOPSEMA or comply with the OPGGS Act. This means an employer must not take certain action against you for a prohibited reason, including because you are helping NOPSEMA.

Should I get legal advice?

You may wish to seek independent legal advice before providing information. If you are a union member, your union may be able to help you access legal advice.



For more information about NOPSEMA's investigation process and powers, or your role as a possible witness, visit NOPSEMA's website.