

Supervisor handout

From Michael Bertrand presentation at STC/STR Meeting held Feb 25, 2018

Section 117 (General duties of supervisors) of the *Act* states:

(1) **Every supervisor must**

- (a) ensure the health and safety of all workers under the direct supervision of the supervisor,
- (b) be knowledgeable about this Part and those regulations applicable to the work being supervised, and
- (c) comply with this Part, the regulations and any applicable orders.

(2) Without limiting subsection (1), a supervisor must

- (a) ensure that the workers under his or her direct supervision
 - (i) are made aware of all known or reasonably foreseeable health or safety hazards in the area where they work, and
 - (ii) comply with this Part, the regulations and any applicable orders,
- (b) consult and cooperate with the joint committee or worker health and safety representative for the workplace, and
- (c) cooperate with the Board, officers of the Board and any other person carrying out a duty under this Part or the regulations.

Purpose of guideline

The purpose of this guideline is to explain the factors that will be considered in determining whether or not to issue orders to workers (OtWs).

Background

Under the broad enforcement power in section 187 of the *Act*, WorkSafeBC prevention officers may issue orders to various workplace parties pursuant to provisions of the *Act* and the *OHS Regulation* ("*Regulation*"). The general duty sections of [Part 3, Division 3](#) of the *Act* assign responsibilities for health and safety in the workplace to employers, workers, supervisors, prime contractors, and suppliers, as well as directors and officers of corporations.

Prevention policy provides that all parties with duties under the *Act* may be able to affect the health and safety of persons at or near a workplace. While the employer has the primary responsibility for health and safety at their workplace, any and all of the parties may be cited for violations of their statutory duties as more than one party may be responsible. Each party must fulfill the obligations imposed on him or her and where those obligations have not been fulfilled, prevention officers may issue orders to all the parties.

In issuing orders, the main consideration is not which party is most responsible for a workplace violation. Rather, prevention officers consider issuing orders on those persons who are not in compliance with their responsibilities under the Act and Regulation. Whether orders are issued on an employer or not, the prevention officer will consider if orders on the supervisors and workers are required. OtWs may also be issued against an employer, if they are acting in the capacity of a worker.

Responsibilities

Worker

Workers must work safely, and should encourage their co-workers to do the same. An important component of a worker's responsibility for his or her own safety is to ask for training if he or she is unsure about the hazards of their job or how to safely perform a work task.

Responsibilities of workers set out under section 116 of the *Act* include

- Taking reasonable care to protect his or her health and safety and the health and safety of others
- Following safe work procedures
- Using appropriate personal protective equipment (PPE)
- Not engaging in horseplay or other hazardous conduct
- Ensuring that their ability to work is not impaired by alcohol, drugs, or other causes
- Reporting to his or her supervisor or employer unsafe conditions and contraventions of the *Act* or *Regulation*
- Co-operating with prevention officers

Workers may not be disciplined for refusing to perform a task that they have reasonable cause to believe is dangerous. A supervisor or worker has the right to refuse unsafe work and the employer should advise them of that right.

Supervisor

Under section 117 of the *Act*, supervisors have specific responsibilities that are additional to their duties as workers under section 116. The supervisor's responsibilities include

- **Providing training and orientation to new and young workers**
- **Instructing workers in safe work procedures**
- **Training workers in their assigned tasks, and checking that their work is being done safely**
- **Ensuring that only authorized and properly trained workers operate tools and machinery, use hazardous chemicals, and enter confined spaces**
- **Ensuring that equipment and materials are properly handled, stored, and maintained**
- **Correcting and investigating unsafe acts and conditions that they observe or that are reported to them**

Supervisors have the right and responsibility to refuse to direct workers to perform work the supervisor considers unsafe.

Issuing orders

In determining whether or not an OtW is appropriate against a supervisor or worker, a prevention officer needs to consider three elements and determine the role that each element contributed.

Knowledge

First, did the supervisor or worker have knowledge of the hazard, the risk of injury, or the requirements applicable to the work involved? Evidence of sufficient knowledge may be demonstrated by considering what training and orientation they received on the job. For example, the supervisor or worker may have obtained general knowledge of the hazard through previous education, from training received through a formal trade qualification, experience at the task, or in the industry.

Control

Second, did the supervisor or worker have control over the hazard? Were adequate controls readily available at the worksite and were the controls properly used? Examples of controls include personal protective equipment, local exhaust ventilation, or an exposure control plan. An order should only be issued if the supervisor or worker had some means within their authority to control or reduce the hazard.

Reasonable steps to be taken

Third, did the supervisor or worker take reasonable steps within their authority to control the hazard? Taking reasonable steps may include wearing personal protective equipment or using appropriate safety procedures.

Situations where an OtW may be appropriate include

- Worker fails to use PPE in accordance with requirements ([section 8.9](#) of the *Regulation*)
- Supervisor does not ensure appropriate PPE is available, properly worn, and maintained ([section 8.8](#) of the *Regulation*)
- Blaster fails to follow safe blasting procedures ([section 21.66](#) of the *Regulation*)
- Worker fails to comply with lockout procedures ([section 10.7](#) of the *Regulation*)
- Worker engages in improper activity or behaviour at the workplace ([section 4.25](#) of the *Regulation*)
- Crane operator does not follow proper procedures ([section 14.38\(2\)](#) of the *Regulation*)
- Worker remains at workplace while being impaired ([section 4.20\(1\)](#) of the *Regulation*)
- While spraying isocyanate-containing paint, the worker does not wear the airline respirator that was properly selected and provided for the worker's use by the employer. The worker was aware of the lung sensitization hazard associated with exposure to isocyanate.
- Worker enters a live sewer well (confined space) without conducting pre-entry atmospheric testing and without ventilating the space. The worker was aware that the well was a confined space that could contain a hazardous atmosphere. Worker was also provided with adequate instruction and training regarding pre-entry requirements and other safe work procedures for confined space entry work.

Examples

1. A WorkSafeBC prevention officer observes three workers on a roof without proper fall arrest equipment at a height of 20 feet from ground. The prevention officer determines through discussion that one of them is the assigned supervisor and the other two are workers that are working on this job after hours from their regular employment.

The prevention officer finds that the employer has supplied all three workers with fall arrest equipment, but the equipment has been left in the truck. The supervisor is unable to produce training logs to demonstrate that the workers have been instructed in fall protection, and neither of the workers is able to properly don their harnesses when asked to do so by the prevention officer. The prevention officer determines that the supervisor had knowledge of the hazards of falling from the roof, and sufficient ability to control the hazard but failed to take reasonable steps to do so.

The supervisor would be issued an OtW for failing to fulfill his obligations under the *Act* and the *Regulation*. The workers in this example were neither properly trained nor instructed by the supervisor to wear the fall arrest equipment. This lack of training meant the workers did not know how to use the equipment, and they did not understand the risks of failing to wear it. In addition to issuing an OtW to the supervisor, the prevention officer could consider if orders would be warranted against the employer for failing to ensure that proper training and orientation were done.

2. In another example, a prevention officer finds a similar situation but the supervisor is able to produce a training log that shows the workers were trained in fall protection, and the workers can demonstrate that they understand the purpose of, and how to use, the fall arrest equipment at the worksite.

In this case, the prevention officer would issue an OtW against each of the workers. These workers had knowledge of the hazard, and were supplied with the proper equipment and training to control the hazard. Through their own actions they failed to take reasonable steps to control the hazard. The prevention officer could also consider if an OtW is warranted against the supervisor for failing to fulfill his obligations as a supervisor under the *Act* and *Regulation* to ensure the workers wore the equipment.

Collaborative approach

While orders are often regarded by employers and others as punitive in nature, they are not meant to punish. Orders are meant to provide direction to the workplace parties to ensure compliance with general duties and other requirements that address specific hazards at the workplace, thereby ensuring the health and safety of all. This is true of worker orders as well as orders to other parties.

In many cases, the OtW can be used as a learning tool for a supervisor or worker and should not be regarded as a punitive measure. However, the OtW can be used appropriately to serve as the foundation for progressive discipline by an employer or further compliance activity by a prevention officer.

The OtW also supports engaging the supervisor or worker in health and safety at work through

- Educating the supervisor or worker about their responsibilities
- Ensuring the safety of supervisor or worker (and others) at the workplace
- Persuading the supervisor or worker to take responsibility for their own safety
- Having the supervisor or worker understand the effect of their actions on the health and safety of others at the workplace

When issuing an OtW, these goals can often best be achieved by including the employer and using a collaborative approach between the employer and worker. The prevention officer can also ask the employer to agree to follow-up with the supervisor or worker to ensure their understanding of, and compliance with, the OtW.

Orders to workers against employers, suppliers, directors, or officers

Orders to workers may be issued against any workplace party who meets the definition of a worker, even where they also meet the definition of an employer, supplier, director, or officer. Where these workplace parties are also workers, they must comply with the duties of a worker.