

# Work within the workers' compensation industry sector

## Learner Guide

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## Workers' compensation authorities and organisations in Australia

Currently every state and territory in Australia has its own workers' compensation scheme.

### Workers' compensation across Australia

WorkCover Queensland is independent of any other workers' compensation authority. Together with other workers' compensation authorities, WorkCover strives to make workers' compensation easier for employers who operate in multiple states. Links to other workers' compensation authorities in Australia:

- **New South Wales** <http://www.workcover.nsw.gov.au/>
- **Northern Territory** <http://www.worksafe.nt.gov.au/home.aspx>
- **South Australia** <https://www.workcover.com/>
- **Tasmania** <http://www.workcover.tas.gov.au/>
- **Victoria** <http://www.worksafe.vic.gov.au/home>
- **Western Australia** <http://www.workcover.wa.gov.au/>
- **Comcare** (federal) <http://www.comcare.gov.au/>
- **Seacare** (federal seafarers) <http://www.seacare.gov.au/>
  - Heads of Worker's Compensation Authorities <http://www.hwca.org.au/>

**Safe Work Australia** <http://www.safeworkaustralia.gov.au/> is a federal government advisory body on workers' compensation in Australia. They coordinate work on national workers' compensation harmonisation initiatives as well as producing national workers' compensation information including:

- Comparison of Workers' Compensation Arrangements in Australia and New Zealand (2014) located at: <http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/comparison>
- Comparative Performance Monitoring Report (CPM) - provides trend analysis on the work health and safety and workers' compensation schemes operating in Australia and New Zealand located at <http://www.safeworkaustralia.gov.au/sites/swa/workers-compensation/comparisons/pages/jurisdictional-comparisons>



The following is a list of organisations and their functions in the various states.

## **Queensland**

### **WorkCover Queensland**

WorkCover Queensland is a statutory body which provides and manages workers' compensation insurance in Queensland. It is self-funding with income obtained from premiums paid by employers and returns on invested funds. WorkCover Queensland is governed by the *Workers' Compensation and Rehabilitation Act 2003* (the Act).

A WorkCover Queensland accident insurance policy covers injured workers for their lost wages and medical costs for a workplace accident, and covers employers against these costs and possible common law claims.

The *Workers' Compensation and Rehabilitation Act 2003* states that every Queensland employer, unless a licensed self-insurer, must have a workers' compensation policy with WorkCover Queensland. WorkCover manages approximately 88% of all workers' compensation claims, with self-insurers accounting for the remaining 12%.

Under the Act, employers, workers and insurers are obliged to participate in rehabilitation. These obligations include offering suitable duties and graduated return to work programs as appropriate. Treating medical practitioner approval is required for these programs and workers must be consulted in the development of their suitable duties programs. The key focus of workplace rehabilitation is on a prompt and effective return to work for injured workers achieved through working with the injured worker, the employer, and medical and allied health providers to help rehabilitate the injured worker so they can return to work quickly and safely.

### **Self-insured employers**

A number of large employers in Queensland are self-insured for workers' compensation. This means that they take on some of the functions and powers of WorkCover Queensland and are responsible for managing liability for claims for compensation by injured workers including common law or damages claims.

Self-insured employers undergo a rigorous assessment process before they are issued with a self-insurance licence. They must meet certain financial and corporate standards to gain a licence. Self-insured employers are subject to regular performance monitoring and re-assessment of their licence every four years. Workers employed by a self-insured employer should lodge a claim for compensation directly with their employer.

For a list of self-insured employers see the Worker's Compensation Regulator website at <https://www.worksafe.qld.gov.au/insurance/find-a-self-insurer>



## Regulation

The Queensland workers' compensation industry is independently regulated by the Worker's Compensation Regulator which is funded by contributions from insurers. The Worker's Compensation Regulator responsible for monitoring insurer performance and compliance across the industry, deciding self-insurance applications, reviewing insurer decisions, and administering medical assessment tribunals.

Unlike some other WorkCover authorities, WorkCover Queensland is not responsible for work health and safety regulation. In Queensland, Work Health and Safety oversees all work health and safety.

For more information visit the website at [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au)

## New South Wales

### WorkCover NSW

WorkCover NSW administers and enforces compliance with work health and safety (WHS), injury management, return to work and workers compensation legislation, and manages the workers compensation system.

WorkCover NSW's main statutory function is to administer the following legislation:

*Work Health and Safety Act 2011*

*Explosives Act 2003*

*The Workers Compensation Act 1987*

*The Workers Compensation Regulation 2010*

*Workplace Injury Management and Workers Compensation Act 1998*

*Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*

*Workers Compensation (Dust Diseases) Act 1942*

*Sporting Injuries Insurance Act 1978*

*Rural Workers Accommodation Act 1969*

For further information visit the website at: [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)



## **Australian Capital Territory**

### ACT WorkCover

General information about WorkCover. WorkCover administers, implements and enforces legislation covering work health and safety, workers' compensation, dangerous substances and labour regulation. WorkCover provides information and advice, and enforces the legislation they administer.

ACT WorkCover is also the government agency responsible for the administration of the Workers Compensation Act 1951 and the Workers Compensation Regulations 2002 and the *Work Health and Safety Act & Regulation 2011*. For further information visit the website at [www.worksafe.act.gov.au](http://www.worksafe.act.gov.au)

## **Tasmania**

### Worksafe Tasmania

WorkSafe Tasmania is the part of the Department of Justice that administers the following relevant legislation:

- Work Health and Safety Act 2012
- Work Health and Safety (Transitional and Consequential Provisions) Act 2012
- Workers' (Occupational Diseases) Relief Fund Act 1954
- Workers Rehabilitation and Compensation Act 1988

For further information visit the website at Workplace Standards Tasmania at <http://www.worksafe.tas.gov.au/>

## **Northern Territory**

### NT Worksafe

NT WorkSafe is the administrative and regulatory arm of the Northern Territory Work Health Authority. It is responsible for the Territory-wide regulation of work health and safety, dangerous goods, electrical safety, and rehabilitation and workers' compensation.

NT WorkSafe administers the following relevant legislation in the Northern Territory.

- Work Health and Safety (National Uniform Legislation) Act
- Work Health and Safety (National Uniform Legislation) Regulations
- Return to Work Act 2015 NT
- Return to Work Regulations 2015 NT

For more information visit the website at [www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)





## Victoria

Victorian WorkCover Authority, WorkSafe Victoria is the manager of Victoria's occupational health and safety system. Broadly, the responsibilities of WorkSafe are to:

- help avoid workplace injuries occurring
- enforce Victoria's occupational health and safety laws
- provide reasonably priced workplace injury insurance for employers
- help injured workers back into the workforce
- manage the workers' compensation scheme by ensuring the prompt delivery of appropriate services and adopting prudent financial practices.

Worksafe administers the following relevant legislation:

- Workers Compensation Act 1958
- Occupational Health and Safety Act 2004
- Occupational Health and Safety Regulations 2007
- Workplace Injury Rehabilitation and Compensation Act 2013
- Workplace Injury Rehabilitation and Compensation Regulations 2014
- Workplace Injury Rehabilitation and Compensation (Savings and Transitional) Regulations 2014

For more information visit the website at [www.workcover.vic.gov.au](http://www.workcover.vic.gov.au)

## South Australia

WorkCover SA

WorkCover SA is an employer-funded statutory authority (constituted under the *WorkCover Corporation Act 1994*) with a Board of Directors appointed by the Governor of South Australia. South Australia has a no-fault workers rehabilitation and compensation scheme established under the *Workers' Rehabilitation and Compensation Act 1986*.

The purpose of the scheme is to provide protection to workers and employers in the event of workplace injury. For more information visit the website at [www.workcover.com](http://www.workcover.com)

WorkCover administers and regulates the Workers Rehabilitation and Compensation Act 1986 and the South Australian Workers Rehabilitation and Compensation Scheme (the Scheme) established under that Act.

From 1 January 2013, South Australia's work health and safety legislation - which includes the *Work Health and Safety Act 2012* (SA) and the *Work Health and Safety Regulations 2012* (SA)



## Western Australia

### WorkCover WA

WorkCover WA is the statutory authority responsible for administering the *Workers' Compensation and Injury Management Act 1981* (the Act) on behalf of the state. WorkCover WA achieves this through the regulation and administration of the *Workers' Compensation and Injury Management Act 1981* (the Act), provision of policy advice to government and maintenance of stakeholder relationships.

WorkCover WA is funded through an annual levy on premiums paid by employers to insurers approved to underwrite workers' compensation insurance in Western Australia, and also by approved self-insurers.

WorkCover WA administers a number of related workers' compensation and injury management legislation and rules including:

- Workers' Compensation and Injury Management Act 1981
- Employers Indemnity Policies (Premium Rates) Act 1990
- Employers' Indemnity Supplementation Fund Act 1980
- Waterfront Workers (Compensation for Asbestos Related Diseases) Act 1986
- Workers' Compensation (Common Law Proceedings) Act 2004
- Workers' Compensation and Injury Management (Acts of Terrorism) Act 2001

Worksafe WA administers the relevant OH&S legislation including:

- Occupational Safety and Health Act 1984
- Occupational Safety and Health Regulations 1996

For more information visit the website at [www.workcover.wa.gov.au](http://www.workcover.wa.gov.au)



## ComCare

Comcare is a Commonwealth statutory authority established under:

- the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) and
- covered by the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

Comcare administers:

- the Commonwealth's workers' compensation scheme under the SRC Act; and
- the *Work Health and Safety Act 2011* (WHS Act) and Regulations 2011 (WHS Regulations).

Comcare also provides secretariat, policy and legislative support to the Seafarers' Safety, Rehabilitation and Compensation Authority in administering:

- the *Seafarers Rehabilitation and Compensation Act 1992*;
- the *Occupational Health and Safety (Maritime Industry) Act 1993*;
- the *Seafarers Rehabilitation and Compensation Levy Act 1992*; and
- the *Seafarers Rehabilitation and Compensation Levy Collection Act 1992*.

The rehabilitation and workers' compensation regulatory functions provide an integrated and cost effective approach to prevention, compensation and workplace rehabilitation across the jurisdiction.

The Comcare scheme covers employees of:

- Commonwealth Government agencies and statutory authorities (but excluding members of the Australian Defence Force)
- ACT Government and its agencies
- Corporations which have been granted a license to self-insure provided the injury occurred while the license was in force. ([View list of licensees.](#))

The rehabilitation and compensation components of the Comcare scheme are characterized by:

- a 'no fault' scheme, with limited access to common law
- an integrated and cost effective approach to injury prevention, occupational rehabilitation and workers' compensation
- employer responsibility for the occupational rehabilitation and return to work of injured employees
- Comcare approval of rehabilitation program providers
- a comprehensive benefit structure with an entitlement to compensation payments for 45 weeks at 100 per cent of normal weekly earnings, and 75 per cent thereafter
- coverage of allowable medical, rehabilitation and related costs associated with the treatment of work related injury and diseases
- lump sum payments for permanent impairment due to work related injury or disease
- entitlement to incapacity payments until age 65



## Seacare

Seacare is a national scheme of occupational health and safety (OHS), rehabilitation and workers' compensation arrangements which applies to defined seafaring employees and – in relation to OHS – defined third parties.

The scheme is overseen by the Seafarers Safety, Rehabilitation and Compensation Authority – otherwise known as the Seacare Authority – which comprises an independent Chairperson and Deputy Chairperson, the Chief Executive Officer of the Australian Maritime Safety Authority, two employer representatives and two employee representatives.

The Seacare Authority oversees the operation of the:

- *Seafarers Rehabilitation and Compensation Act 1992* (Seafarers Act) which establishes a workers' compensation and rehabilitation scheme for seafarers employed on certain ships engaged in trade or commerce within a Territory, interstate or overseas, and on other vessels declared by the Australian Maritime Safety Authority;
- *Seafarers Rehabilitation and Compensation (Transitional Provisions and Consequential Amendments) Act 1992* (Transitional Act) which establishes the transitional arrangements from the Seamen's Compensation Act 1911 to the Seafarers Act;
- *Seafarers Rehabilitation and Compensation Levy Act 1992* (Levy Act) which provides for a levy to be collected to support the Seafarers Safety Net Fund. The Safety Net Fund stands in the place of an employer where there is no employer against whom a seafarer can make a compensation claim;
- *Seafarers Rehabilitation and Compensation Levy Collection Act 1992* (Levy Collection Act) which establishes the levy collection procedures; and
- *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS (MI) Act) which provides an OHS regime for seafarers on vessels as above and offshore industry mobile units engaged in trade or commerce within a Territory, interstate or overseas.

The Authority also administers Regulations made under these Acts.



## **Operations and assistance available within the Queensland workers' compensation scheme**

### **Scheme structure in Queensland**

The Queensland workers' compensation system is a system of compulsory (statutory based) insurance. The scheme works to encourage early return to work and ensures that injured workers receive entitlements and incentives to return to work. It is funded by employer paid insurance premiums or self-insurance levies. The relevant workers' compensation authorities in Queensland are discussed below.

#### **1. Department of Justice and Attorney General**

In Queensland, workers' compensation policy and legislation is developed by the Department of Justice and Attorney General, the scheme is regulated by the Worker's Compensation Regulator and premium and claims are managed by WorkCover Queensland.

For further information phone the Department of Justice and Attorney General on 13 74 68 or visit their website at <http://www.justice.qld.gov.au/>

#### **2. Work Health and Safety**

Work Health and Safety Queensland is the body responsible for work health and safety in Queensland. For further information phone 1300 362 128 or visit <https://www.worksafe.qld.gov.au/>

#### **3. The Worker's Compensation Regulator**

The primary function of the Regulator is to regulate the Workers' Compensation Scheme. As the regulator, functions include the following:

- monitoring the compliance and performance of insurers under this Act
- deciding applications relating to self-insurance
- undertaking reviews of insurers' decisions and managing appeals
- supporting the efficient administration of medical assessment tribunals
- undertaking work rehabilitation accreditation and compliance activities
- providing rehabilitation advisory services
- providing a complaints service in relation to the Regulators' role and functions
- maintaining a scheme wide data base
- promoting education about the scheme.

For further information phone 1300 362 128 or visit <https://www.worksafe.qld.gov.au/>



#### **4. Self-insured employers**

Some Queensland workplaces are self-insured. Self-insured employers take on liability and responsibility for insuring their workers and managing claims for workplace injury. A list of self-insured employers can be found on the Worker's Compensation Regulator website at <https://www.worksafe.qld.gov.au/insurance/find-a-self-insurer/>

#### **5. WorkCover Queensland**

WorkCover Queensland is the major insurer and directly manages the largest proportion of claims within the Queensland workers' compensation scheme. WorkCover provides insurance to employers to cover them against claims by injured workers for compensation for work related injuries. They also provide insurance to employers in the event a worker lodges a common law or damages claim for negligence by the employer.

A worker will receive workers' compensation benefits when the insurer (WorkCover Queensland or a self-insured employer) accepts the worker's application for compensation. A worker can lodge an application by:

1. Sending an application for compensation form and a workers' compensation medical certificate (insurer copy) to WorkCover or their self-insured employer. A tax file number will be required if the worker has time off work.
2. Phone WorkCover on 1300 362 128 to lodge a claim by telephone.
3. Log on to <https://www.worksafe.qld.gov.au/> to lodge a claim online.
4. Lodge the application with their employer who forwards it to WorkCover or the self-insurance unit along with the employer report.



## The Structure of the Act

The activities in this section are designed to assist you to locate and interpret some of the information in the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014. Use these exercises to assist you with learning how to move around the Act and Regulation.

## The Act

The Act is comprised of four main Groupings: -

A Table of Contents

An Introduction **(Chapter 1 – Preliminary)**

The Body **(Chapters 2 to 25)**

Appendices **(Schedules)**

## Finding Your Way Around

The first step toward becoming familiar with our Workers' Compensation and Rehabilitation Act, will be to differentiate between the page number and the Section of the Act.

a) *Workers' Compensation and Rehabilitation Act 2003*

b) *Contents*

→ <b>Section</b>	<b>Page</b> ←
<i>Chapter 1 -Preliminary</i>	
<i>Part 1 - Introduction</i>	
<b>1</b> <i>Short title</i>	<b>29</b>
<b>2</b> <i>Commencement</i>	<b>29</b>
<b>3</b> <i>Act binds all persons</i>	<b>29</b>
<i>Part 2 – Objects</i>	
<b>4</b> <i>Objects of Act</i>	<b>30</b>



The information in the Act is divided to make it easier to locate. There are several ways in which the information is divided into smaller parts. This is similar to (for example) the way a TV guide is divided. To find a program, first you must be sure you are looking at the right week, then you look for the day, then on the day you want you look at the specific channel and finally you can look at the particular time. This is a way of helping you locate the information you need. The Act has similar ways to help you locate information.

The largest segments of the Act are **Chapters**.

<b>45</b>	Meaning of “accredited workplace”	<b>53</b>
→ <b>CHAPTER 2 – EMPLOYER’S OBLIGATIONS</b>		
<b>PART 1 – EMPLOYER’S LEGAL LIABILITY</b>		
<b>46</b>	Employer’s legal liability	<b>53</b>
<b>47</b>	WorkCover’s liability confined to compensation	<b>53</b>

## Activity

*Note the Chapter numbers that contain the following – (you will be required to provide these answers later)*

<b>Topic</b>	<b>Chapter No.</b>
Employer Obligations	
Enforcement	
Injury Management	
Reviews and Appeals	
Medical Assessment Tribunals	





**Chapters** are further divided into **Parts**

<b>45</b>	Meaning of “accredited workplace”	<b>53</b>
CHAPTER 2 – EMPLOYER’S OBLIGATIONS		
→	<b>PART 1 – EMPLOYER’S LEGAL LIABILITY</b>	
<b>46</b>	Employer’s legal liability	<b>54</b>
<b>47</b>	WorkCover’s liability confined to compensation	<b>54</b>

**Parts** are further divided into **Divisions** and some Divisions are divided into **Subdivisions**.

<b>160</b>	Total incapacity—reference about impairment to medical assessment tribunal	<b>133</b>
→	<b>Subdivision 1 Persons entitled to compensation other than eligible persons</b>	
→	<b>161</b> Application of sdiv 1	<b>134</b>
<b>162</b>	Definitions for sdiv 1	<b>134</b>

The fundamental component of the Act is the **section**.

The way in which you will locate most of the information in the Act is by looking up the section number. Within the Act you will find the section number written on the left hand side of the page in bold text. When you are referring to section numbers in writing you write the abbreviation for section as a **small s** followed by the number of the section e.g. s40.

→	<b>40</b> <b>Meaning of “rehabilitation”</b>	
	<b>(1)</b> <b>“Rehabilitation”, of a worker, is -</b>	
	ensure the worker’s earliest possible return to work	



***But it doesn't end there!***

**Sections** of the *Act* can be divided into **subsections**. **Subsections** are written in brackets with bold text on the left hand side of the page. When you are referring to the subsection in writing you write the section number as described above, followed by the subsection in brackets after the section number, for example s40 (1).

**40**      **Meaning of “rehabilitation”**

- **(1)**      “Rehabilitation”, of a worker, is -
- ensure the worker’s earliest possible return to work

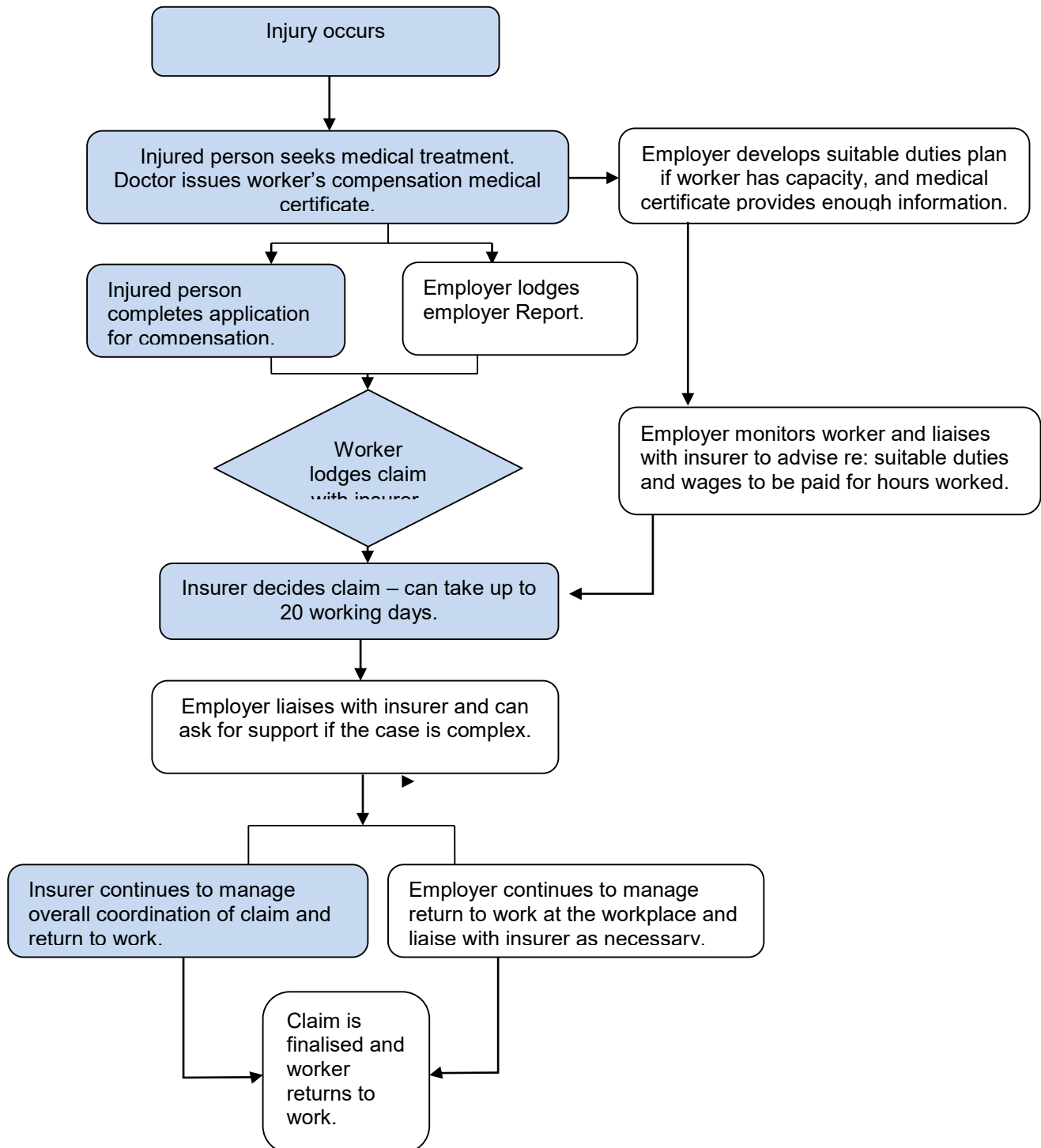
**Subsections** contain **clauses** as shown below and these further describe the content of a section.

**40**      **Meaning of “rehabilitation”**

- **(1)**      “Rehabilitation”, of a worker, is -
- a) necessary and reasonable –
- (i)      suitable duties programs; or
- (ii)      services provided by a registered person; or
- (iii)      services approved by an insurer.



## Claims process flow chart





The process for determining whether an application for compensation is to be accepted or declined under the Act is sometimes referred to as determination of liability. Questions the insurer must answer in order to determine liability include:

### **Liability determination**

- Is the person a *worker* as defined under the Act?
- Has the worker suffered an *injury* as defined under the Act?
- Did the injury arise out of or in the course of *employment* as defined under the Act?
- Is employment a significant contributing factor to the injury?
- Do any of the exclusion provisions under the Act apply?

*Note: injury can include an aggravation or exacerbation of a pre-existing condition.*

### **Does the worker have a capacity for work?**

Weekly benefit payments to injured workers are based on their capacity for work. Work capacity is decided by the worker's treating medical practitioner based on the worker's medical status and is documented on the medical certificate. Total incapacity for work means that due to the severity of their injury or disease, the worker is not only unable to work in the pre-injury job, but is unable to work in any incapacity. Partial incapacity for work means that the worker is able to participate in some work tasks that are appropriate to their functional state.

### **Stable and stationary**

In order to decide ongoing liability or to cease a claim, the insurer will first assess whether an injury is stable and stationary. A condition is referred to as stable and stationary when the condition is not likely to improve with further medical or surgical treatment over the next 12 months. This suggests that the condition has reached maximum medical improvement. Once this occurs, although the worker may be unable to return to their job, the claim may be ceased by the insurer. The decision to cease is therefore a medical and liability based decision rather than an employment related decision.

For further information contact WorkCover Qld on 1300 362 128 or visit their website at <https://www.worksafe.qld.gov.au/>



### **WorkCover Queensland can be contacted for information on:**

1. workers compensation insurance
2. common law or damages insurance
3. premium calculation and payment
4. whether a person is a 'worker'
5. lodging claims for workers' compensation
6. discussing issues an employer may have about claims lodged by a worker
7. advice on whether a claim has been accepted
8. progress reports
9. approval of treatment and services for injured workers
10. calculating wages to be paid to workers during the course of their claim
11. coordination of the overall return to work plan
12. developing suitable duties programs
13. engaging a rehabilitation service provider
14. employer claims history and statistics

### **Time limit on applying for compensation**

If a worker has been injured at work, they are entitled to lodge an application for compensation with WorkCover Queensland or with their employer if they are self-insured. Once a worker becomes aware that the injury they have suffered will result in time off work and/or a requirement for medical treatment and they wish to make a claim, they should do so as soon as possible as there is a six month time limit from when they see a doctor for that injury. The time limit may be waived by the insurer in certain circumstances.

### **Weekly compensation**

If the worker is required to work fewer hours or take time off work as a result of a work related injury, the doctor will include this information on the workers' compensation medical certificate and, if the claim is accepted, the worker may be entitled to weekly compensation for lost wages during the time they can't work.

WorkCover will calculate the amount of weekly compensation the worker receives based on the Act and pay directly into their bank account by Electronic Funds Transfer (EFT).

The level of compensation the worker receives depends on the:

- length of time they are certified as unfit for work
- injury date
- length of claim
- whether there is an industrial instrument in place, such as an award or workplace agreement.



To keep the worker on track and reduce the impact of your injury, WorkCover will pay in line with the employer where possible. The worker's wages will be paid in arrears and processed after the working period. Please contact the Customer Advisor if the worker or employer have any questions about the scheduling of the worker's payments.

### **Normal weekly earnings**

Normal weekly earnings (NWE) are the weekly earnings of a worker from employment during the 12 months prior to the injury, continuous or intermittent.

### **Queensland full time adult's ordinary time earnings (QOTE)**

QOTE is the seasonally adjusted amount of Queensland full-time adult's ordinary time earnings as declared by the Australian Statistician.

### **Deductions from weekly compensation**

Workcover only deducts tax from the worker's weekly compensation. WorkCover cannot make deductions on behalf of a worker such as superannuation. Some industrial instruments require the employer to continue paying superannuation while the worker is receiving workers' compensation benefits.

### **Compensation entitlements of workers**

Workers are entitled to weekly compensation if they cannot work to their full capacity as a result of a work-related injury and lose wages as a result. The worker may also claim for the reasonable cost of medical and like services directly related to the treatment of their injury. These include treating doctor's accounts, occupational rehabilitation, and medical and hospital costs.

From 1 January 2008 weekly benefits are the greater of 85% of a worker's normal weekly earnings (this will include overtime and other benefits if they are paid regularly) or 80% of QOTE (Queensland full time adults ordinary time earnings), whichever is the greater. After 26 weeks this drops to 75% of normal weekly earning or 70% of QOTE whichever is the greater. This rate continues to 104 weeks (2 years) post injury. From 104 weeks onwards to 5 years for workers with a work related impairment of greater than 15% will receive the greater of 65% of their normal weekly earnings or 60% of QOTE. These amounts may be different if there is an industrial agreement. As of 1 June 2015 QOTE was \$1422.



## **Employer excess**

If the claim is accepted and the worker receives weekly compensation, the employer will be required to pay an excess. The excess is very similar to the excess a person would pay on any other insurance policy. In the case of a WorkCover claim, it represents the first payment of weekly compensation, which is paid to the worker by their employer.

From 1 July 2014, the excess amount is calculated as the lesser of:

- 100% of Queensland full-time adult's ordinary time earnings (QOTE) (this amount is declared annually by the Australian Statistician) or
- the worker's weekly compensation (in most cases this is 100% of the award or 85% of normal weekly earnings, whichever is the greater).

QOTE is \$1,422.00 (this rate applies to all claims with a date of injury on or after 1 July 2014).

The amount payable for the excess is set out in the Act under sections 65 and 66. For claims with an injury date before 1 July 2014 or for more information on excess and how it is calculated, call us on 1300 362 128.

## **How long does the employer have to pay the excess?**

When a claim is accepted, the employer must pay the excess within 10 business days of WorkCover notifying them of the amount.

If an employer fails to pay the excess within this time, WorkCover will pay the worker on behalf of the employer. Workcover may then recover the excess from the employer, together with any penalty as outlined under section 66(6) of the *Workers' Compensation and Rehabilitation Act 2003*.

## **Partial incapacity**

If a worker is totally unfit for work they will receive total incapacity payments from the insurer as described above.

Often, workers have some capacity for work (partial capacity) as shown on their medical certificate. Employers have an obligation to provide suitable duties for the worker and pay the worker for hours worked on suitable duties. The insurer will compensate the worker for the hours they are unable to work and for the resulting lost earnings.



## **Other benefits**

### **Travel**

WorkCover will cover the cost of necessary and reasonable travel expenses including travel for:

- Medical treatment
- Medical Assessment Tribunal appointments
- Independent medical examination appointments.

Travel is reimbursed according to what is the most reasonable method, usually public transport. Some travel expenses are not covered, such as:

- trips less than 20km, one way
- if there is a closer treatment provider, but you choose to attend another further away.

### **Other allowances**

Workcover may reimburse other costs throughout the claim, including (as of June 2015):

- parking (for medical treatment, rehabilitation, Medical Assessment Tribunal or independent medical examinations)
- meals when required to travel a whole day or overnight:
- breakfast—\$22 (not payable on day of departure)
- lunch—\$22 on day of departure (must arrive at destination before 1.30pm, on return must arrive home after 1.30pm)
- dinner—\$38 on day of departure (must arrive at destination before 6.30pm, on return must arrive home after 6.30pm)
- reasonable itemised chemist expenses directly related to the work injury.

### **Medical and rehabilitation expenses**

Once the worker's claim has been accepted, WorkCover Queensland may pay reasonable medical and rehabilitation expenses relating to their claim.

Workcover has a list of set fees for most medical, hospital and rehabilitation treatments that may be needed while undergoing treatment for the injury. This is called either a Medical Table of Costs, or an Allied Health Table of Costs, and Workcover can only pay up to the amount for that service. If a worker attends a medical or allied health practitioner who charges above the table of costs, they'll be responsible for paying the 'gap' or the difference in the fee charged.





### **Expenses Workcover will pay for**

- medical treatment by a registered person, for example a doctor, dentist or physiotherapist
- surgical and hospital expenses and medicines essential to the worker's recovery, for example bandages or prescription drugs.
- rehabilitation treatment and equipment or services needed to help the worker recover, for example: wheelchairs, crutches, or return to work services.
- travelling expenses for the worker's medical treatment, rehabilitation or examination by a registered person.

### **Paying for services**

In most cases the medical or allied health practitioner will charge WorkCover directly for the services treated and will send Workcover the invoice for payment. However, sometimes they may want the worker to pay for these services at the time of treatment.

If the worker has to pay for services they should keep all original receipts, mark the receipts and invoices very clearly with the worker's name and claim number and either send to WorkCover by:

- online document upload
- fax to 1300 651 387
- mail to GPO Box 2459, Brisbane Qld 4001.

If the worker's claim has been accepted and the costs are directly associated with the injury, Workcover will reimburse the worker directly into their nominated bank account.

### **Hospital**

WorkCover may cover the hospital costs of a work-related injury for:

- non-elective hospitalisation up to four days
- non-elective hospitalisation for more than four days, only when agreed to between WorkCover and the worker, before the hospitalisation or any extension of the hospitalisation
- elective hospitalisation only when agreed to between WorkCover and the worker before the hospitalisation.

Non-elective hospitalisation is the treatment of life-threatening injuries or injuries that may result in the loss of or serious damage to a limb or organ.

Elective hospitalisation involves treatment or a procedure that the injured worker and their treating doctor decide is appropriate for the effective treatment of the injury.



## Expenses not covered

- treatment by a non-registered person including most alternative medicine treatments (for example massage and acupuncture unless provided by a registered practitioner such as a physiotherapist, doctor or Chinese Medicine practitioner registered for acupuncture)
- some travel expenses, such as trips less than 20km, one way or if there is a closer treatment provider, but the worker chooses to attend another further away
- unauthorised hospital costs

If WorkCover Queensland cannot fund the surgery, there may be other options available to enable the worker to access further treatment.

If the worker's claim **has not** been accepted, they'll be responsible for paying medical and rehabilitation costs.

For further information on support and benefits available, call WorkCover Queensland on 1300 362 128

## Lump sum payments

A work-related injury or disease may result in a temporary or permanent impairment resulting in:

- loss of efficient use of part of the body, or
- loss of part of the body.

A permanent impairment is one that remains stable and stationary after a period of time and is not likely to improve with further treatment. If a worker has a permanent impairment as a result of their work-related injury, they may be entitled to lump-sum compensation.

A worker may ask to be assessed for permanent impairment or WorkCover Queensland may decide to have the worker assessed. The percentage of permanent impairment is used to calculate offers of lump-sum compensation.

## Impairment benefits

Injured workers may be entitled to a lump sum for injuries that result in a permanent impairment. This is in addition to weekly benefits and medical and treatment expenses.

## Common law or damages

In certain circumstances where a worker has suffered a serious injury and employer negligence is proved, the worker may be entitled to a common law or damages payment.



## **Death benefits**

Dependents of workers who die as a result of a work related injury may be entitled to compensation. Maximum payment upon death of a worker as of 1 June 2015 was \$575,765. Maximum entitlement compensation payable to a worker (including weekly payments and lump sum) as of 1 June 2015 was \$307,385. For a detailed list of Worker's Compensation benefits see <https://www.worksafe.qld.gov.au/laws-and-compliance/workers-compensation-laws/workers-compensation-benefits-including-qote>

## **Ambulance and travel costs**

Workers may be entitled to certain travel costs and are entitled to emergency ambulance transportation.

## **When will weekly compensation payments stop?**

The entitlement to weekly compensation stops when the first of the following happens:

- the worker returns to work and are no longer injured
- the worker receives a lump-sum offer
- the worker has been receiving weekly payments for five years
- the total weekly compensation reaches the maximum amount payable.



## **Workers' compensation legislation**

### **Queensland workers' compensation scheme legislation**

The main provisions and intentions of the Queensland worker's compensation scheme are outlined in the:

- *Workers' Compensation and Rehabilitation Act 2003* and
- The Workers Compensation and Rehabilitation Regulation 2014 as amended.
- There are currently no codes of practice relating to the Queensland Workers' Compensation Scheme.

The *Workers' Compensation and Rehabilitation Act 2003* sets up a workers' compensation scheme for Queensland that pays benefits to workers who injure themselves at work. Benefits may also be payable to dependents of injured workers in the case of fatal claims.

The scheme encourages improved health and safety performance by employers. The intention of the scheme is to maintain a balance between fair and appropriate benefits for injured workers, or dependants and others, and ensuring reasonable costs for employers.

The objectives of the scheme are to ensure that:

1. Injured workers or dependents are treated fairly by insurers.
2. Employers' interests are protected in relation to claims for damages for workers' injuries.
3. Employers and injured workers participate in effective return to work programs.
4. Workers or prospective workers are not prejudiced in employment because of a workplace injury.
5. There is provision for flexible insurance arrangements suited to the particular needs of industry.



## Other relevant legislation

In carrying out the role of the rehabilitation and return to work coordinator you may need to consider other legislation as shown below.

### ***Work Health and Safety Act 2011***

The WHS Act provides a framework to protect the health, safety and welfare of all workers at work and of all other people who might be affected by the work. The WHS Act aims to:

- protect the health and safety of workers and other people by eliminating or reducing workplace risks
- ensure effective representation, consultation and cooperation to address health and safety issues in the workplace
- encourage unions and employers to take a constructive role in improving health and safety practices
- promote information, education and training on health and safety
- provide effective compliance and enforcement measures
- deliver continuous improvement and progressively higher standards of health and safety.
- throughout the WHS Act, the meaning of health includes psychological health as well as physical health.

### ***Disability Discrimination Act (1992)***

- The *Disability Discrimination Act (1992)*, or DDA, is Commonwealth legislation that makes discrimination on the grounds of disability unlawful in a wide range of situations. The DDA requires that people who have a disability be given equal opportunity to participate in the full range of economic, social, cultural and political activities that occur across society.

### ***Queensland Anti-discrimination Act 1991***

- Disability (or impairment) discrimination is simply treating someone unfairly or badly because of their impairment. The *Anti-Discrimination Act 1991* promotes fairness for everyone by protecting them against discrimination, sexual harassment and vilification in some parts of their lives.

### ***Queensland Industrial Relations Act 1999***

The *Industrial Relations Act 1999* covers rights and obligations regarding:

- rates of pay
- leave entitlements (including public holidays)
- termination and resignation from work
- discrimination
- taxation and superannuation



- employment records

Refer to the *Industrial Relations Act 1999*, *Industrial Relations Regulations 2011* and the *Industrial Relations (Tribunal) Rules 2011* for further information.

### ***Fair Work System***

Australia's national workplace relations system, the Fair Work system, started on 1 July 2009 and was created by the *Fair Work Act 2009*. It covers the majority of workplaces in Australia.

The main organisation that make up Australia's Fair Work system is The Fair Work Commission. The Fair Work Commission can:

- set the safety net of minimum wages and employment conditions
- ensure the enterprise bargaining process is fair
- deal with protected and unprotected industrial action
- help with resolving workplace disputes, and
- deal with termination of employment matters.

### ***Right to Information Act 2009***

The Queensland Government is committed to giving the community greater access to information. The Right to Information reforms strengthen the community's right to access government-held information, unless, on balance, releasing the information would be contrary to the public interest.

The *Right to Information Act 2009* (the RTI Act):

- gives you a right to apply for access to documents held by government agencies and Ministers
- requires each government agency to publish a publication scheme on its website which may include an online disclosure log of documents that have been released in response to Right to Information applications
- establishes the Information Commissioner and Right to Information Commissioner to oversee Right to Information in Queensland

The RTI Act applies to:

- Queensland Government departments
- Ministers and Parliamentary Secretaries
- local governments
- public authorities
- certain government-owned corporations

From 1 July 2009, the *Right to Information Act 2009* replaced the *Freedom of Information Act 1992* and is part of a broader "push" model of greater proactive and routine release of information.



### **Other Acts**

In addition to the above Acts, other legislation that may impact on workers' compensation and workplace rehabilitation includes the *Commonwealth Privacy Act 1988* and Commonwealth Information Privacy Principles. The privacy principles set out principles for access to, collection, use, storage, and handling of personal information.



## Extracts from workers' compensation legislation in Queensland

The relevant legislation for rehabilitation and return to work coordinators coordinating return to work for workers injured in Queensland is:

1. The *Workers' Compensation and Rehabilitation Act 2003* and,
2. The *Workers' Compensation and Rehabilitation Regulation 2014*.

Below are extracts from the legislation of sections relevant to rehabilitation and return to work coordinators.

### ***Workers' Compensation and Rehabilitation Act 2003***

#### **5 Workers' compensation scheme**

- (1) This Act establishes a workers' compensation scheme for Queensland—
- (a) providing benefits for workers who sustain injury in their employment, for dependants if a worker's injury results in the worker's death, for persons other than workers, and for other benefits; and
  - (b) encouraging improved health and safety performance by employers.
- (2) The main provisions of the scheme provide the following for injuries sustained by workers in their employment—
- (a) compensation;
  - (b) regulation of access to damages;
  - (c) employers' liability for compensation;
  - (d) employers' obligation to be covered against liability for compensation and damages either under a WorkCover insurance policy or under a licence as a self-insurer;
  - (e) management of compensation claims by insurers;
  - (f) injury management, emphasising rehabilitation of workers particularly for return to work;
  - (g) procedures for assessment of injuries by appropriately qualified persons or by independent medical assessment tribunals;
  - (h) rights of review of, and appeal against, decisions made under this Act.
- (3) There is some scope for the application of this Act to injuries sustained by persons other than workers, for example—
- (a) under arrangements for specified benefits for specified persons or treatment of specified persons in some respects as workers; and
  - (b) under procedures for assessment of injuries under other Acts by medical assessment tribunals established under this Act.
- (4) It is intended that the scheme should—
- (a) maintain a balance between—
    - (i) providing fair and appropriate benefits for injured workers or dependants and persons other than workers; and
    - (ii) ensuring reasonable cost levels for employers; and
  - (b) ensure that injured workers or dependants are treated fairly by insurers; and
  - (c) provide for the protection of employers' interests in relation to claims for damages for workers' injuries; and
  - (d) provide for employers and injured workers to participate in effective return to work programs; and





- (da) provide for workers or prospective workers not to be prejudiced in employment because they have sustained injury to which this Act or a former Act applies; and
- (e) provide for flexible insurance arrangements suited to the particular needs of industry.
- (5) Because it is in the State's interests that industry remain locally, nationally and internationally competitive, it is intended that compulsory insurance against injury in employment should not impose too heavy a burden on employers and the community.

### 31 Meaning of event

- (1) An event is anything that results in injury, including a latent onset injury, to a worker.
- (2) An event includes continuous or repeated exposure to substantially the same conditions that results in an injury to a worker.
- (3) A worker may sustain 1 or multiple injuries as a result of an event whether the injury happens or injuries happen immediately or over a period.
- (4) If multiple injuries result from an event, they are taken to have happened in 1 event.

### 32 Meaning of injury

- (1) An ***injury*** is personal injury arising out of, or in the course of, employment if—
  - (a) for an injury other than a psychiatric or psychological disorder—the employment is a significant contributing factor to the injury; or
  - (b) for a psychiatric or psychological disorder—the employment is the major significant contributing factor to the injury.
- (2) However, employment need not be a contributing factor to the injury if section 34(2) or 35(2) applies.
- (3) ***Injury*** includes the following—
  - (a) a disease contracted in the course of employment, whether at or away from the place of employment, if the employment is a significant contributing factor to the disease;
  - (b) an aggravation of the following, if the aggravation arises out of, or in the course of, employment and the employment is a significant contributing factor to the aggravation—
    - (i) a personal injury other than a psychiatric or psychological disorder;
    - (ii) a disease;
    - (iii) a medical condition other than a psychiatric or psychological disorder, if the condition becomes a personal injury or disease because of the aggravation;
  - (ba) an aggravation of a psychiatric or psychological disorder, if the aggravation arises out of, or in the course of, employment and the employment is the major significant contributing factor to the aggravation;
  - (c) loss of hearing resulting in industrial deafness if the employment is a significant contributing factor to causing the loss of hearing;
  - (d) death from injury arising out of, or in the course of, employment if the employment is a significant contributing factor to causing the injury;
  - (e) death from a disease mentioned in paragraph (a), if the employment is a significant contributing factor to the disease;
  - (f) death from an aggravation mentioned in paragraph (b), if the employment is a significant contributing factor to the aggravation.
- (4) For subsection (3)(b) and (ba), to remove any doubt, it is declared that an aggravation mentioned in the provision is an injury only to the extent of the effects of the aggravation.
- (5) Despite subsections (1) and (3), ***injury*** does not include a psychiatric or psychological disorder arising out of, or in the course of, any of the following circumstances—



- (a) reasonable management action taken in a reasonable way by the employer in connection with the worker's employment;
- (b) the worker's expectation or perception of reasonable management action being taken against the worker;
- (c) action by the Regulator or an insurer in connection with the worker's application for compensation.

*Examples of actions that may be reasonable management actions taken in a reasonable way—*

- *action taken to transfer, demote, discipline, redeploy, retrench or dismiss the worker*
- *a decision not to award or provide promotion, reclassification or transfer of, or leave of absence or benefit in connection with, the worker's employment*

#### **34 Injury while at or after worker attends place of employment**

(1) An injury to a worker is taken to arise out of, or in the course of, the worker's employment if the event happens on a day on which the worker has attended at the place of employment as required under the terms of the worker's employment—

- (a) while the worker is at the place of employment and is engaged in an activity for, or in connection with, the employer's trade or business; or
- (b) while the worker is away from the place of employment in the course of the worker's employment; or
- (c) while the worker is temporarily absent from the place of employment during an ordinary recess if the event is not due to the worker voluntarily subjecting themselves to an abnormal risk of injury during the recess.

(2) For subsection (1)(c), employment need not be a contributing factor to the injury.

#### **35 Other circumstances**

(1) An injury to a worker is also taken to arise out of, or in the course of, the worker's employment if the event happens while the worker—

- (a) is on a journey between the worker's home and place of employment; or
- (b) is on a journey between the worker's home or place of employment and a trade, technical or other training school—
  - (i) that the worker is required under the terms of the worker's employment to attend; or
  - (ii) that the employer expects the worker to attend; or
- (c) for an existing injury for which compensation is payable to the worker—is on a journey between the worker's home or place of employment and a place—
  - (i) to obtain medical or hospital advice, attention or treatment; or
  - (ii) to undertake rehabilitation; or
  - (iii) to submit to examination by a registered person under a provision of this Act or to a requirement under this Act; or
  - (iv) to receive payment of compensation; or
- (d) is on a journey between the worker's place of employment with 1 employer and the worker's place of employment with another employer; or
- (e) is attending a school mentioned in paragraph (b) or a place mentioned in paragraph (c).

(2) For subsection (1), employment need not be a contributing factor to the injury.

(3) For subsection (1), a journey from or to a worker's home starts or ends at the boundary of the land on which the home is situated.

(4) In this section—

**home**, of a worker, means the worker's usual place of residence, and includes a place where the worker—

- (a) temporarily resided before starting a journey mentioned in this section; or
- (b) intended to temporarily reside after ending a journey mentioned in this section.



### **36 Injury that happens during particular journeys**

(1) This section applies if a worker sustains an injury in an event that happens during a journey mentioned in section 35.

(2) The injury to the worker is not taken to arise out of, or in the course of, the worker's employment if the event happens—

(a) while the worker is in control of a vehicle and contravenes—

(i) the *Transport Operations (Road Use Management) Act 1995*, section 79, or a corresponding law, if the contravention is the major significant factor causing the event; or

(ii) the Criminal Code, section 328A or a corresponding law, if the contravention is the major significant factor causing the event; or

(b) during or after—

(i) a substantial delay before the worker starts the journey; or

(ii) a substantial interruption of, or deviation from, the journey.

(3) However, subsection (2)(b) does not apply if—

(a) the reason for the delay, interruption or deviation is connected with the workers' employment; or

(b) the delay, interruption or deviation arises because of circumstances beyond the worker's control.

(4) For subsection (2)(b)(i), in deciding whether there has been a substantial delay before the worker starts the journey, regard must be had to the following matters—

(a) the reason for the delay;

(b) the actual or estimated period of time for the journey in relation to the actual or estimated period of time for the delay.

(5) For subsection (2)(b)(ii), in deciding whether there has been a substantial interruption of, or deviation from the journey, regard must be had to the following matters—

(a) the reason for the interruption or deviation;

(b) the actual or estimated period of time for the journey in relation to the actual or estimated period of time for the interruption or deviation;

(c) for a deviation—the distance travelled for the journey in relation to the distance travelled for the deviation.

(6) In subsection (2)(a)(i) and (ii)—

**corresponding law** means a law of another State that is substantially equivalent—

(a) for subsection (2)(a)(i)—to the law mentioned in that provision; or

(b) for subsection (2)(a)(ii)—to the law mentioned in that provision.

### **37 Meaning of impairment**

An **impairment**, from injury, is a loss of, or loss of efficient use of, any part of a worker's body.

### **38 Meaning of permanent impairment**

A **permanent impairment**, from injury, is an impairment that is stable and stationary and not likely to improve with further medical or surgical treatment.



#### **40 Meaning of *rehabilitation***

- (1) **Rehabilitation**, of a worker, is a process designed to—
- (a) ensure the worker's earliest possible return to work; or
  - (b) maximise the worker's independent functioning.
- (2) **Rehabilitation** includes—
- (a) necessary and reasonable—
    - (i) suitable duties programs; or
    - (ii) services provided by a registered person; or
    - (iii) services approved by an insurer; or
  - (b) the provision of necessary and reasonable aids or equipment to the worker.
- (3) The purpose of **rehabilitation** is—
- (a) to return the worker to the worker's pre-injury duties; or
  - (b) if it is not feasible to return the worker to the worker's pre-injury duties—to return the worker, either temporarily or permanently, to other suitable duties with the worker's pre-injury employer; or
  - (c) if paragraph (b) is not feasible—to return the worker, either temporarily or permanently, to other suitable duties with another employer; or
  - (d) if paragraphs (a), (b) and (c) are not feasible—to maximise the worker's independent functioning.

#### **41 Meaning of *rehabilitation and return to work coordinator***

A **rehabilitation and return to work coordinator** is a person who—

- (a) is appropriately qualified to perform the functions of a rehabilitation and return to work coordinator under this Act; and
- (b) has the functions prescribed under a regulation.

#### **42 Meaning of *suitable duties***

**Suitable duties**, in relation to a worker, are work duties for which the worker is suited having regard to the following matters—

- (a) the nature of the worker's incapacity and pre-injury employment;
- (b) relevant medical information;
- (c) the rehabilitation and return to work plan for the worker;
- (d) the provisions of the employer's workplace rehabilitation policy and procedures;
- (e) the worker's age, education, skills and work experience;
- (f) if duties are available at a location (the **other location**) other than the location in which the worker was injured—whether it is reasonable to expect the worker to attend the other location;
- (g) any other relevant matters.

#### **43 Meaning of *workplace rehabilitation***

**Workplace rehabilitation** is a system of rehabilitation accredited by the Regulator that is initiated or managed by an employer.

#### **44 Meaning of *workplace rehabilitation policy and procedures***

**Workplace rehabilitation policy and procedures** are written policy and procedures for workplace rehabilitation that are accredited by the Regulator.

#### **45 Meaning of *accredited workplace***

An **accredited workplace** is a workplace that has workplace rehabilitation policy and procedures.



## Employer's Obligations

### Employer rights and responsibilities

Employers of Queensland workers, have both rights and responsibilities during the claims process with WorkCover.

#### Injuries at work

It is the employer's responsibility to notify Workcover immediately of any injury for which compensation may be payable. The Employer should contact Workcover as soon as they know the details of their worker's injury. It's then the worker's decision to claim for compensation.

#### During the claim

If the claim is accepted, the Employer should take every reasonable step to cooperate and participate with rehabilitation and suitable duties and keep Workcover informed about the worker's progress in returning to work. This assists Workcover to get the worker back to work as quickly and safely as possible.

The Employer will need to pay an excess on any accepted claim if their worker has taken time off from work due to their injury. This excess will be the lesser of:

- 100% of Queensland full-time adult's ordinary time earnings (QOTE), or
- the injured worker's weekly compensation rate.

The employer should also notify Workcover if the employer pays any claim expenses, so Workcover can reimburse the employer for them.

#### Rights

It's the employers right to raise any concerns with the claims representative or customer advisor throughout the duration of the claim. This may include disputing the claim, or any decisions Workcover make about the claim. If Workcover made a decision or taken action that the employer doesn't understand, please discuss these with Workcover so they can help the employer with their concerns.

If the employer feels their dispute, or any other issues the employer has raised with Workcover have not been resolved to the employer's satisfaction, the employer can make an official complaint. If the employer disagrees with a decision that Workcover have made, the employer can seek a review with the Workers' Compensation Regulator.

Call 1300 362 128, or speak to the WorkCover customer advisor directly if the employer has any questions about their rights and responsibilities in Queensland.



#### **48 Employer's obligation to insure**

- (1) Every employer must, for each worker employed by the employer, insure and remain insured, that is, be covered to the extent of accident insurance, against injury sustained by the worker for—
- (a) the employer's legal liability for compensation; and
  - (b) the employer's legal liability for damages.

#### **133 Employer's duty to report injury**

- (1) An employer, other than an employer who is a self-insurer, whose worker sustains an injury for which compensation may be payable must complete a report in the approved form and send it to the nearest office of WorkCover.
- (2) The employer must send the report immediately after the first of the following happens—
- (a) the employer knows the injury has been sustained;
  - (b) the worker reports the injury to the employer;
  - (c) the employer receives WorkCover's written request for a report.
- (3) If an employer fails to comply with subsection (1) within 8 business days after any of the circumstances mentioned in subsection (2), the employer commits an offence, unless the employer has a reasonable excuse.
- Maximum penalty—50 penalty units.

#### **133A Employer's duty to tell WorkCover if worker asks for, or employer makes, a payment**

- (1) An employer, other than a self-insurer, must give WorkCover written notice in the approved form if—
- (a) a worker asks the employer for compensation for an injury sustained by the worker; or
  - (b) the employer pays the worker an amount, either in compensation or instead of compensation, that is payable by the employer or WorkCover under the Act for an injury sustained by the worker.
- (2) If the employer fails to comply with subsection (1) within 8 business days after the request or payment is made, the employer commits an offence, unless the employer has a reasonable excuse.
- Maximum penalty—50 penalty units.

#### **144 When employer must pay worker for day of injury**

- (1) For the day the worker stops work because of the injury, the worker is entitled to compensation under this part for the injury.
- (1A) Subsection (1) applies despite anything in an industrial instrument or contract of employment applying to the worker.
- (2) Despite section 109, the employer must pay the compensation.
- (3) The amount of compensation under this part that is payable is in addition to any other compensation payable to the worker under this Act.
- (4) The day for which compensation under this part is payable is not to be included in the excess period under section 66.





## Employer's obligation for rehabilitation

### **226 Employer's obligation to appoint rehabilitation and return to work coordinator**

(1) An employer must appoint a rehabilitation and return to work coordinator if the employer meets criteria prescribed under a regulation.

(2) The rehabilitation and return to work coordinator must be in Queensland and be employed by the employer under a contract (regardless of whether the contract is a contract of service).

(3) The employer must, unless the employer has a reasonable excuse, appoint the rehabilitation and return to work coordinator—

(a) within 6 months after—

(i) establishing a workplace; or

(ii) starting to employ workers at a workplace; or

(b) within a later period approved by the Regulator.

Maximum penalty—50 penalty units.

(4) A rehabilitation and return to work coordinator, who is employed under a contract of service at the workplace, is not civilly liable for an act done, or an omission made, in giving effect to the workplace rehabilitation policy and procedures of an employer.

(5) If subsection (4) prevents a civil liability attaching to a rehabilitation and return to work coordinator, the liability attaches instead to the employer.

### **227 Employer's obligation to have workplace rehabilitation policy and procedures**

(1) This section applies if an employer must appoint a rehabilitation and return to work coordinator under section 226(1).

(2) The employer must have workplace rehabilitation policy and procedures.

Maximum penalty—50 penalty units.

(3) The employer must, unless the employer has a reasonable excuse, have workplace rehabilitation policy and procedures—

(a) within 6 months after—

(i) establishing a workplace; or

(ii) starting to employ workers at a workplace; or

(b) within a later period approved by the Regulator.

Maximum penalty—50 penalty units.

(4) The employer must review the employer's workplace rehabilitation policy and procedures at least every 3 years.

### **228 Employer's obligation to assist or provide rehabilitation**

(1) The employer of a worker who has sustained an injury must take all reasonable steps to assist or provide the worker with rehabilitation for the period for which the worker is entitled to compensation.

(2) The rehabilitation must be of a suitable standard as prescribed under a regulation.

(3) If an employer, other than a self-insurer, considers it is not practicable to provide the worker with suitable duties, the employer must give WorkCover written evidence that the suitable duties are not practicable.



### **229 Employer's failure in relation to rehabilitation**

- (1) This section applies if an employer, other than a self-insurer, fails to take reasonable steps to assist or provide a worker with rehabilitation.
- (2) WorkCover may require the employer to pay WorkCover an amount by way of penalty equal to the amount of compensation paid to the worker during the period of noncompliance by the employer.
- (3) WorkCover may recover the amount from the employer—
  - (a) as a debt; or
  - (b) as an addition to a premium payable by the employer.
- (4) The employer may apply to WorkCover in writing to waive or reduce the penalty because of extenuating circumstances.
- (5) The application must specify the extenuating circumstances and the reasons the penalty should be waived or reduced in the particular case.
- (6) WorkCover must consider the application and may—
  - (a) waive or reduce the penalty; or
  - (b) refuse to waive or reduce the penalty.
- (7) If the employer is dissatisfied with WorkCover's decision, the employer may have the decision reviewed under chapter 13.

### **572A Access to particular documents for employment purposes prohibited**

- (1) A person must not, for a purpose relating to the employment of a worker by the person or another person—
  - (a) obtain or attempt to obtain a workers' compensation document about the worker; or
  - (b) use or attempt to use a workers' compensation document about the worker.Maximum penalty—100 penalty units.
- (2) However, subsection (1) does not apply to a workers' compensation document relating to the worker's capacity to work if the document is necessary to secure the worker's rehabilitation or early return to work under chapter 4.
- (3) In this section—

**employment** means any process for selecting a person for employment or for deciding whether the employment of a person is to continue.

**worker** means a person who is or was a claimant or worker for any provision of this Act or a former Act.

**workers' compensation document**, about a worker, means any document relating to the worker's application for compensation or claim for damages under this Act or a former Act.





## **Injured worker obligations**

### **Workers' rights and responsibilities**

Workers in Queensland, have both rights and responsibilities during the claims process with WorkCover.

It's important when workers apply for compensation that they understand what is required during the application and rehabilitation process.

### **Making a claim**

Under the Act, workers are required to cooperate with WorkCover, their employer and their doctors. This helps Workcover make a decision on the claim and also helps workers receive appropriate medical treatment and rehabilitation as quickly as possible.

To make sure a claim is made efficient, workers must:

- complete and sign all necessary forms
- let WorkCover know if their condition or treatment changes
- make sure WorkCover has all current workers' compensation medical certificates.

Workers can only receive workers' compensation benefits if they have a copy of these.

### **During the claim**

Under the Act, workers must ensure that:

- all information provided to WorkCover is true and not misleading. For example workers must inform them if the worker is receiving Centrelink payments.
- they must participate in rehabilitation programs if required to.
- they tell WorkCover if they are returning to work of any kind. This includes self-employment or working for another person. This applies whether or not they are paid for performing the activity.

Penalties can apply if they don't comply with these requirements. Workcover can suspend a worker's compensation benefits or prosecute for an offence under the Act if these requirements are not fulfilled. Of course, penalties do not apply if workers satisfactorily participate in rehabilitation or provide a reasonable excuse for not participating.



### **If the claim is not accepted**

WorkCover carefully considers the facts presented when making decisions to either accept or reject an application for compensation. Workcover must consider if the worker is:

- a Queensland worker
- whether their application has been lodged in time
- whether a work-related event caused their injury.

Based on the facts presented, Workcover will determine if they will accept or reject the worker's claim. If the application is not accepted, the claims representative will speak to the worker and explain the decision that has been made. A letter will be sent to the worker explaining the information considered and the reason why the application was not accepted.

### **If the claim has ceased**

WorkCover carefully considers the facts presented when making a decision to stop payments for treatment or compensation. They consider if the necessary and reasonable treatment has been provided and whether the worker is able to work due to the accepted work related injury.

A claim may be ceased and payments stopped for different reasons. For example, if the worker has received all appropriate treatment for their work-related injury, however require additional treatment for a pre-existing or non work-related condition or injury, WorkCover Queensland will be unable to pay for the additional treatment. This will be determined on medical evidence.

### **Rights**

If the worker is unhappy about decisions made by WorkCover Queensland, these issues can be addressed through their internal complaints process or through the Workers' Compensation Regulator's review process.

Workers should call 1300 362 128, or speak to the WorkCover claims representative or customer advisor directly if they have any questions about their rights and responsibilities in Queensland.



### **132 Applying for compensation**

- (1) An application for compensation must be made in the approved form by the claimant.
- (2) The application must be lodged with the insurer.
- (3) The application must be accompanied by—
  - (a) a certificate in the approved form given by—
    - (i) a doctor who attended the claimant; or
    - (ii) if the application relates to a minor injury—a nurse practitioner who attended the claimant and who is acting in accordance with the workers' compensation certificate protocol; and
  - (b) any other evidence or particulars prescribed under a regulation.
- (4) A registered dentist may issue the certificate mentioned in subsection (3)(a) for an oral injury.
- (5) If the claimant can not complete an application because of a physical or mental incapacity, someone else may complete it on the claimant's behalf.

### **135 Examination by registered person**

- (1) An insurer may at any time require a claimant or a worker to submit to a personal examination by a registered person at a place reasonably convenient for the claimant or worker.
- (2) Subsection (3) applies if the claimant or worker—
  - (a) fails, without reasonable excuse, to attend for the examination at the time and place advised by the insurer; or
  - (b) having attended, refuses to be examined by the registered person; or
  - (c) obstructs, or attempts to obstruct, the examination.
- (3) Any entitlement the claimant or worker may have to compensation is suspended until the claimant or worker undergoes the examination.

### **136 Worker must notify return to work or engagement in a calling**

- (1) A worker receiving compensation for an injury must give notice within 10 business days of the worker's—
  - (a) return to work; or
  - (b) engagement in a calling.Maximum penalty—50 penalty units.
- (2) The notice must be given to the insurer.
- (3) The notice may be a certificate in the approved form of a doctor stating the worker's capacity for work.



## Part 5 Worker's mitigation and rehabilitation obligations

### 231 Worker must mitigate loss

- (1) The common law duty of mitigation of loss applies to the worker.
- (2) The worker's duty may be discharged by participating in rehabilitation.
- (3) Without limiting subsection (2), a worker must satisfactorily participate in any return to work program or suitable duties arranged by the insurer.
- (4) The worker's duty under this section is in addition to any duty the worker may have under section 267.

### 232 Worker must participate in rehabilitation

- (1) The worker must satisfactorily participate in rehabilitation—
  - (a) as soon as practicable after the injury is sustained; and
  - (b) for the period for which the worker is entitled to compensation.
- (2) If the worker fails or refuses to participate in rehabilitation without reasonable excuse, the insurer may, by written notice given to the worker, suspend the worker's entitlement to compensation until the worker satisfactorily participates in rehabilitation.
- (3) If the insurer suspends the worker's entitlement to compensation, the worker may have the decision reviewed under chapter 13.

## Protection for injured workers

### 232A Definitions for pt 6

In this part—

**dismiss** an injured worker includes a situation where—

- (a) an unreasonable employment condition that is designed to make the worker leave employment is imposed on the worker; and
- (b) the worker leaves the employment.

**former position** of an injured worker means, at the worker's option—

- (a) the position from which the injured worker was dismissed; or
- (b) if the worker was transferred to a less advantageous position before dismissal—the position held by the worker when the worker became unfit for employment.

**injured worker** means a worker who sustains an injury.

**injury** means an injury for which compensation is payable.

### 232B Dismissal of injured worker only after 12 months

- (1) Within 12 months after a worker sustains an injury, the employer must not dismiss the worker solely or mainly because the worker is not fit for employment in a position because of the injury. Maximum penalty—40 penalty units.
- (2) This section applies to a dismissal after the commencement of this section even if the worker became unfit before the commencement.

### 232C Replacement for injured worker

- (1) This section applies if the employer wants to employ a replacement worker while an injured worker is not fit for employment in a position because of the injury.
- (2) The employer must, before a replacement worker starts employment, give the replacement worker a written notice informing the replacement worker of—
  - (a) the temporary nature of the employment; and
  - (b) the injured worker's right to return to work.
- (3) In this section—



**replacement worker** means—

- (a) a person who is specifically employed because an injured worker is not fit for employment in a position because of the injury; or
- (b) a person replacing a worker who is temporarily promoted or transferred to replace the injured worker.

#### **232D Reinstatement of injured worker**

- (1) This section applies if an injured worker is dismissed because the worker is not fit for employment in a position because of the injury.
- (2) The worker may apply to the employer, within 12 months after the injury, for reinstatement to the worker's former position.
- (3) The worker must give the employer a doctor's certificate that certifies the worker is fit for employment in the former position.
- (4) This section applies to a dismissal after the commencement of this section even if the worker became unfit before the commencement.
- (5) In this section—  
**doctor's certificate** means a certificate signed by a person registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student.

#### **232G Preservation of worker's rights**

- (1) This part does not affect another right of a dismissed worker under an Act or law.
- (2) This part cannot be affected by a contract or agreement.

## **Access to documents and information**

#### **572A Access to particular documents for employment purposes prohibited**

- (1) A person must not, for a purpose relating to the employment of a worker by the person or another person—
  - (a) obtain or attempt to obtain a workers' compensation document about the worker; or
  - (b) use or attempt to use a workers' compensation document about the worker.Maximum penalty—100 penalty units.
- (2) However, subsection (1) does not apply to a workers' compensation document relating to the worker's capacity to work if the document is necessary to secure the worker's rehabilitation or early return to work under chapter 4.
- (3) In this section—  
**employment** means any process for selecting a person for employment or for deciding whether the employment of a person is to continue.  
**worker** means a person who is or was a claimant or worker for any provision of this Act or a former Act.  
**workers' compensation document**, about a worker, means any document relating to the worker's application for compensation or claim for damages under this Act or a former Act.



## Worker Prosecutions

Workcover prosecutions can be located on the Workcover website at:

<https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/prosecutions>

Workcover's guidelines for prosecutions can be located at: <https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/guidelines-prosecutions>

Two cases are highlighted below about WorkCover prosecutions and the court reasoning.

### Case 23:

Hearing date	Magistrates court	Outcome	Case
26/08/11	Brisbane	Conviction recorded 4 months imprisonment \$122,588 restitution	<u>23 - For providing fraudulent information, the worker was charged.</u>

The worker lodged an application for compensation in February 2006 for a major depressive disorder arising from her employment as a primary school teacher with Education Queensland. The application was accepted on 23 May 2006 and weekly compensation was paid from 19 October 2005 to 8 November 2005 and 7 April 2006 to 28 November 2008.

The worker returned to work twice during her compensation period with two separate employers and failed to advise WorkCover and was charged with fraud. The claim ran for almost three years of which almost two years was the offending period. On 15 July 2011 she pleaded guilty to two counts of fraud and three false and misleading charges.

The worker was sentenced on 26 August 2011 to 12 months imprisonment for each of the frauds and three months each for the false and misleading statements to be served concurrently.

The Court ordered that the worker was required to serve a period of four months term of imprisonment after which the sentence would be suspended for an operational period of 18 months. A conviction was recorded and she was ordered to pay restitution of \$122,588 and significant costs.



#### Case 45:

Hearing date	Magistrates court	Outcome	Case
28/01/14	Brisbane	Conviction recorded. Partial term of imprisonment (one month) and suspended sentence (five months)	<u>45 - For attempting to defraud WorkCover.</u>

On or about 24 November 2010, the worker lodged a claim for a cut knee and waist, and strained knee which he allegedly sustained on 23 November 2010 when he was hit by a car. The claim was accepted and compensation was paid for the period 24 November 2010 to 2 March 2011 totalling \$14,280.

CCTV footage was obtained from the shopping centre where the alleged injury occurred sometime later when the Customer Advisor became suspicious about the event. The footage showed the worker walking across a pedestrian crossing and almost getting hit by a car. He managed to swerve out of the way. The footage also showed the worker walking backwards and forwards across the pedestrian crossing and looking up at the CCTV cameras before entering the shopping centre where he lodged an incident report. At no time was the worker hit by a car. The worker intended to and did, by his false allegation, induce WorkCover to pay compensation when he was not entitled to same.

On or around December 2011 the worker was charged with defrauding WorkCover and he pleaded not guilty and the matter proceeded to trial on 29–30 April 2013. The Magistrate handed down her decision on 23 September 2013 however the worker ran from the court. A warrant was issued for his arrest and he was not taken into custody until 23 January 2014. The worker was sentenced on 28 January 2014 where he received a partial term of imprisonment (one month) and five months wholly suspended. He was ordered to pay restitution of \$14,280.14 and significant costs.





Queensland workers' compensation statutory appeals decisions can be searched online at the QWCDEC searchable online database at <https://www.worksafe.qld.gov.au/rehab-and-claims/reviews-and-appeals/qwcdec>. The following case outlines an appeal case by an injured worker regarding a journey claim that was dismissed:

#### **Sharen Johnston v Q-COMP**

Date of decision: 11 January 2012 Commissioner Thompson  
Counsel for the Appellant: Mr S. Sapsworth  
Counsel for the respondent: Mr S. Gray

**Key Words** – personal Injury – physical injury – journey claim – whether worker suffered personal injury which arose out of, or in the course of employment – section 35, section 36 – injury that happens during particular journeys.

#### **Head Note**

Sharen Johnson ('the Appellant') lodged an application for workers' compensation in relation to an injury allegedly arising out of her employment.

The application for compensation was rejected by WorkCover Queensland, and the rejection was subsequently confirmed on review by Q-COMP on 10 February 2011.

The Appellant lodged an appeal to the Queensland Industrial Relations Commission on 25 February 2011 against a decision of Q-COMP.

The following factors were accepted by the parties:

- a) The Appellant fell down the front stairs of her domestic premises (within the boundary of her home);
- b) As a result of the fall the Appellant suffered a fractured humerus;
- c) The Appellant was at the time of the injury, on her way to work and had returned home to retrieve her identification badge.
- d) The Appellant was a worker for the purposes of the Act.

The issue of contention in the matter was whether the Appellant, in the circumstances, fell within the ambit of the 'journey provisions' of the Act, namely sections 35 and 36. The contention of the Appellant was that she was, at the relevant time, on a journey between her home and place of employment as provided for by s.35 (1) (a) of the Act and that the 'interruption' of her journey (to return home to retrieve her identification badge) did not involve a substantial interruption or deviation from that journey, in the circumstances, where she had progressed only two minutes into the journey prior to returning home. The witnesses for the Appellant were herself and a former manager at the Appellant's place of employment. Whilst there were some questions over the credibility of the Appellant's evidence, the central issue for determination was whether the Appellant was on a journey or otherwise for the purposes of section 32.

The commissioner determined as follows:

*"I find that that when the Appellant left the boundary of the property upon which her residence was situated, at 6.15am on the morning of 29 October 2012, that for the purposes of the Act she had commenced her journey from home to her workplace. The fact that a short time thereafter she realised that her identification badge had been forgotten and she turned her motor vehicle around to return home is not, in the view of the Commission, an interruption or deviation of the kind that the provisions of s.36 of the Act are likely to apply. Upon crossing the boundary of her property on the return, the journey had effectively ceased and when the Appellant retrieved the identification badge and set about the process of departing her residence to travel to work that when she had passed the boundary line of her property, a "new journey" would have commenced. As it happened the Appellant unfortunately suffered an injury in falling at the front stairs of her residence and as she had not passed the boundary line of her property, hence she is excluded from claiming Workers Compensation in accordance with s.35 of the Act."*

Appeal dismissed.





## Schedule 6 Dictionary

Under the *Act* certain words and phrases have specific meanings. The definition of certain words and phrases under the *Act* is shown below.

**accredited workplace** see section 45.

**aggravation** includes acceleration

**calling** means any activity ordinarily giving rise to receipt of remuneration or reward including self-employment or the performance of an occupation, trade, profession, or carrying on of a business, whether or not the person performing the activity received remuneration.

**doctor** means a registered medical practitioner.

**employer** an employer is a person-

- (a) for whom an individual works under a contract of service; or
- (b) who enters into a contract with an individual mentioned in Schedule 2, part 1.

**medical treatment** means—

- (a) treatment by a doctor, dentist, physiotherapist, occupational therapist, psychologist, chiropractor, osteopath, podiatrist or speech pathologist; or
- (b) assessment for industrial deafness by an audiologist; or
- (c) the provision of diagnostic procedures or skiagrams; or
- (d) the provision of nursing, medicines, medical or surgical supplies, curative apparatus, crutches or other assistive devices.

**non-reviewable decision** a decision by an insurer under chapter 3 (compensation) or chapter 4 (injury management) that is not mentioned in section 548. (Matters of injury management are not usually a reviewable decision)

**normal weekly earnings** are the normal weekly earnings of a worker from employment (continuous or intermittent) had by the worker in the 12 months immediately before the day the worker sustained an injury.

**registered** means—

- (a) in relation to a person mentioned in the definition *medical treatment*, paragraph (a) who is held out as providing, or qualified to provide, medical treatment—registered under the law of the place where the medical treatment is provided as a person lawfully entitled to provide the medical treatment in that place; or
- (b) in relation to an audiologist—certified by the Audiological Society of Australia.

**registered person** means a registered person of a description mentioned in the definition *medical treatment*.

**rehabilitation and return to work plan** means a written plan outlining the rehabilitation objectives and the steps required to achieve the objectives. It is the responsibility of the insurer to develop and coordinate the overall rehabilitation and return to work plan

**workplace** means a place where work is, is to be, or is likely to be, performed by a worker or employer and is a place—

- (a) that is for the time being occupied by the employer or under the control or direction of the worker's employer; or
- (b) where the worker is under the control or direction of the worker's employer.

**workplace rehabilitation** see section 43.

**workplace rehabilitation policy and procedures** see section 44.



## Workers' Compensation and Rehabilitation Regulation 2014

The following are relevant extracts from the Regulation relating to workplace rehabilitation

### Compensation application and other procedures

#### **102 Application for compensation to include evidence or particulars—Act, s 132(3)(b)**

(1) For section 132(3)(b) of the Act, the following evidence or particulars are prescribed—

- (a) the injury and its cause;
- (b) the nature, extent and duration of incapacity resulting from the injury;
- (c) if the injury is, or results in, the death of a worker, proof of—
  - (i) the worker's death; and
  - (ii) the identity of the worker; and
  - (iii) the relationship to the worker, and dependency, of persons claiming to be the worker's dependants;
- (d) if the injury is a latent onset injury that is a terminal condition and the worker has dependants—proof of the relationship to the worker of persons claiming to be the worker's dependants.

(2) In this section—

**dependant**, of a worker, means a member of the worker's family who is completely or partly dependent on the worker's earnings.

**member of the family**, of a worker, means—

- (a) the worker's—
  - (i) spouse; or
  - (ii) parent, grandparent or step-parent; or
  - (iii) child, grandchild or stepchild; or
  - (iv) brother, sister, half-brother or half-sister; or
- (b) if the worker stands in the place of a parent to another person—the other person; or
- (c) if another person stands in the place of a parent to the worker—the other person.

#### **103 If dentist, doctor or nurse practitioner not available**

(1) This section applies if a claimant does not lodge a certificate in the approved form with an application for compensation because a person who is required to be given the certificate under section 132 of the Act was not available to attend the claimant.

(2) The claimant must complete and lodge with the insurer a declaration in the approved form.

(3) For a non-fatal injury, the declaration—

- (a) may be accepted by the insurer only once for injury to a claimant in any 1 event; and
- (b) is acceptable proof of incapacity of a claimant for up to 3 days.

(4) The declaration is taken to be a certificate in the approved form for section 132(3) of the Act.

#### **104 Certificate given by dentist, doctor or nurse practitioner**

(1) This section applies if a worker sustains an injury in another State or country and does not lodge a certificate in the approved form with an application for compensation.

(2) The insurer must accept a written certificate that is substantially to the effect of the approved form from the dentist, doctor or nurse practitioner who attended the worker.

(3) The certificate is taken to be a certificate in the approved form for sections 132(3)(a) and 132A(3)(c)(i) of the Act.

(4) Also, on the insurer's request, the dentist, doctor or nurse practitioner who attended the worker must give a detailed report on the worker's condition to the insurer within 10 days



after receiving the request.

(5) The fee payable to the dentist, doctor or nurse practitioner for the report is an amount that the insurer considers to be reasonable, having regard to the relevant table of costs.

## Division 1 Rehabilitation and return to work coordinators

### **114 Functions of rehabilitation and return to work coordinator—Act, s 41(b)**

For section 41(b) of the Act, the following functions are prescribed—

- (a) initiate early communication with an injured worker in order to clarify the nature and severity of the worker's injury;
- (b) provide overall coordination of the worker's return to work;
- (c) if a rehabilitation and return to work plan is required—
  - (i) consult with the worker and the worker's employer to develop the suitable duties program component of the plan; and
  - (ii) ensure the program is consistent with the current medical certificate or report for the worker's injury;
- (d) liaise with—
  - (i) any person engaged by the employer to help in the worker's rehabilitation and return to work; and
  - (ii) the insurer about the worker's progress and indicate, as early as possible, if there is a need for the insurer to assist or intervene.

### **115 Criteria for employer to appoint rehabilitation and return to work coordinator—Act, s 226(1)**

(1) For section 226(1) of the Act, the following criteria is prescribed—

(a) for an employer who employs workers at a workplace in a high risk industry—the wages of the employer in Queensland for the preceding financial year were more than 2600 times QOTE; or

(b) otherwise—the wages of the employer in Queensland for the preceding financial year were more than 5200 times QOTE.

(2) For the purpose of section 226(3)(a) of the Act, an employer is taken to have established a workplace, or started to employ workers at the workplace, when the employer first meets the criteria.

(3) An employer may appoint a person as the rehabilitation and return to work coordinator for more than 1 workplace if the person can reasonably perform the person's functions as a rehabilitation and return to work coordinator for each workplace.

(4) In this section—

**high risk industry** means an industry specified by the Regulator by gazette notice.



## **Standard for rehabilitation**

### **Rehabilitation**

Rehabilitation must focus on return to work, be goal directed with timely and appropriate services for:

- the worker's injury
- the rehabilitation and return to work plan objectives
- the worker's recovery rate.

During rehabilitation, the worker must be treated with appropriate respect and equity.

### **Early worker contact**

Early contact is one of the key principles of successful rehabilitation. An injured worker should be contacted as soon as possible after the injury occurs or is reported so rehabilitation needs can be assessed.

### **Rehabilitation and return to work plan**

The insurer should develop and maintain a rehabilitation and return to work plan with the injured worker, the employer and treating practitioner.

The plan and any changes must be consistent with the worker's needs and the current workers' compensation medical certificate or injury report.

### **Doctor's approval**

If the treating doctor does not give sufficient information in the workers' compensation medical certificate or injury report to base the plan, the treating doctor's approval must be obtained and documented for the rehabilitation and return to work plan.

### **Suitable duties program**

The employer must develop a suitable duties program for an injured worker returning to work. It's essential for the employer to discuss the program with the injured worker.

The worker's direct supervisor, co-workers and all other relevant parties should understand what duties and hours the worker can safely work each day.

The program and any changes must be consistent with the worker's needs and the current workers' compensation medical certificate or injury report.

The program must be monitored and reviewed at appropriate intervals consistent with the worker's recovery and the insurer must be provided with a copy.



### **Worker's file**

A file must be kept for each worker undertaking rehabilitation and must contain copies of all relevant documentation, correspondence and accounts.

### **Confidentiality**

All parties must treat information sensitively and confidentially. Authority must be obtained from the worker to obtain or release information about their rehabilitation.

### **Case notes**

Accurate and objective case notes containing a record of all communication and actions relevant to the worker's rehabilitation and return to work must be kept.



## Sources of further information relating to relevant Commonwealth, State and Territory Acts, regulations and codes of practice

Sources of information for Acts, regulations and codes of practice relating to the workers' compensation industry in Queensland are shown below:

1. *Workers' Compensation and Rehabilitation Act 2003* and Regulation 2014 (Queensland)  
[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)  
<https://www.worksafe.qld.gov.au/>
2. *Work Health and Safety Act 2011* (Queensland)  
<https://www.worksafe.qld.gov.au/>
3. *Disability Discrimination Act* (1992) (Commonwealth)  
[www.comlaw.gov.au](http://www.comlaw.gov.au)
4. *Anti-discrimination Act 1991* (Queensland)  
[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)
5. *Freedom of Information Act 1992* (the FOI Act) Queensland  
[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)
6. *Commonwealth Privacy Act 1988* and Commonwealth Information Privacy Principles  
[www.comlaw.gov.au](http://www.comlaw.gov.au)

If you would like more information about relevant workers' compensation you may find the following websites useful:

### Employer Associations

7. Employer Association - Chamber of Commerce and Industry Queensland  
[www.cciq.com.au](http://www.cciq.com.au)
8. Employer association - Australian Industry Group  
[www.aigroup.com.au](http://www.aigroup.com.au)



## **Workers' Compensation & Rehabilitation Research and Information**

9. *Comparative Performance Monitoring Report*  
Workplace Relations Ministers' Council  
Comparison of OHS and workers compensation schemes in Australia and New Zealand
10. *Australia and New Zealand Return to Work Monitor (RTW Monitor)*  
Heads of Workers' Compensation Authorities  
[www.hwca.org.au](http://www.hwca.org.au)
11. Rehabilitation Database Index  
American Occupational Therapy Foundation  
[www.aotf.org](http://www.aotf.org)  
"This is an index of major online databases related to rehabilitation and/or health care. It covers information on the source, availability, WWW address, description, type and coverage of a variety of databases. You can browse this index by database names or subjects".
12. National Rehabilitation Information Centre  
[www.naric.com](http://www.naric.com)  
NARIC provides full text access to the Original Research portion of their collection about rehabilitation. "These documents, the result of government funded research, are available electronically through the REHABDATA database. There are currently more than 1,300 electronic documents available through this service. As new documents are added, they will also be made available."
13. Institute for Work & Health  
[www.iwh.on.ca](http://www.iwh.on.ca)  
"The Institute for Work & Health is an independent, not-for-profit organization whose mission is to conduct and share research on workers' compensation and rehabilitation with workers, labour, employers, clinicians and policy-makers to promote, protect and improve the health of working people."
14. Resworks  
[www.resworks.org.au](http://www.resworks.org.au)  
"Resworks is focused on evidence based medicine. Our objective is to further knowledge, establish evidence based interventions and advocate cultural development that has practical benefits."





## Workers' compensation and other regulatory reporting requirements

### Employers

An employer, other than an employer who is a self-insurer, whose worker sustains an injury for which compensation may be payable must complete a report in the approved form and send it to the nearest office of WorkCover immediately the employer knows the injury has been sustained; the worker reports the injury to the employer or the employer receives WorkCover's written request for a report. If an employer fails to comply within 8 business days the employer commits an offence, unless the employer has a reasonable excuse. This report is separate to and distinct from the requirement to report incidents and accidents to the Work Health and Safety although there are provisions now to report both an incident and a claim at the Workcover website.

Every employer must within 5 business days of employing a worker or workers, apply to WorkCover for a workers compensation insurance policy. This will cover them against claims for compensation by injured workers and claims for negligence i.e. damages or common law claims.

An employer must advise WorkCover if the worker asks for compensation for an injury sustained by the worker. The employer must notify WorkCover if they pay the worker an amount, for compensation or instead of compensation, that is payable to the worker under the *Workers' Compensation and Rehabilitation Act 2003*.

An employer cannot ask a 'worker' to negotiate or trade off their workers' compensation rights and entitlements under a contract or enterprise bargaining agreement.

### Injured worker or other claimant

An application for compensation must be lodged by the injured worker or claimant within 6 months after the worker gets a workers' compensation medical certificate for the injury or illness from their doctor or dentist.

A worker should lodge an application for compensation with the insurer as soon as possible as the insurer is only liable to back pay compensation for a period of 20 business days before the day the application was lodged.

A worker receiving compensation for an injury must give the insurer written notice within 10 business days of the worker's return to work or engagement in a calling.

*(**Calling** means any activity ordinarily giving rise to receipt of remuneration or reward including self-employment or the performance of an occupation, trade, profession, or carrying on of a business, whether or not the person performing the activity received remuneration).*





## **Other regulatory reporting requirements**

The Worker's Compensation Regulator is the regulatory authority for workers' compensation in Queensland while Work Health and Safety are the regulatory authority for work health and safety. WorkCover Queensland have regulatory powers relating to premium evasion.

## **How and when to report an incident to the relevant workplace health and safety authority**

In Queensland, unlike most other Australian states, workers' compensation and work health and safety laws are regulated by two separate authorities.

The *Workers' Compensation and Rehabilitation Act 2003* has certain reporting requirements for employers and workers. These requirements are separate and distinct from the reporting requirements for reporting incidents and accidents under workplace health and safety reporting requirements.

Under the *Work Health & Safety Act 2011* (Qld) written notification is required within 24 hours of an incident. If the incident involves a death, immediate notification is required on [1300 362 128](tel:1300362128). A Work Health and Safety Queensland Inspector is on call 24 hours.

## **Further information**

For further information contact WorkCover on **1300 362 128** or visit their website at <https://www.worksafe.qld.gov.au/>



## **Dispute resolution processes within the workers' compensation industry sector**

Dispute resolution processes within the workers' compensation sector in Queensland may be workplace based or formal as provided by the Worker's Compensation Regulator Review Unit, the Medical Assessment Tribunals or an Appeal to the relevant court against a review decision made by the Worker's Compensation Regulator.

### **Workplace based dispute resolution**

Workplace based disputes should be referred to the rehabilitation and return to work coordinator in the first instance. Many disputes are based around misperceptions and miscommunication so you may need to check that all parties are clear about their roles and responsibilities. If the RRTWC is unable to resolve the issue they may choose to escalate the issue to their human resources advisor and/or WorkCover or the self-insurance unit if they are a self-insured employer. Disputes that may be able to be resolved in the workplace by liaising with other parties include:

1. Disputes over suitable duties – consult and discuss with:
  - a. the worker,
  - b. the treating doctor,
  - c. ask WorkCover or the self-insurance unit to assist,
  - d. ask the insurer if a rehabilitation provider can be engaged to help,
  - e. set up a case conference with all parties. (You will need insurer approval for payment if treatment providers are involved).
2. Worker fails to participate in rehabilitation – discuss with the worker to attempt to identify the reasons for their refusal:
  - a. They may be fearful of re-injury,
  - b. If being asked to work different rosters to their usual one they may have childcare or other responsibilities,
  - c. There may be issues with co-workers especially if the injured worker has a partial capacity for work and the team cannot meet production targets,
  - d. The worker may have issues with a supervisor or manager who does not want them back at work until they are "100% fit".
3. It is important to remain objective and impartial and attempt to identify the real reasons for the worker's non-participation.
4. If you are unable to resolve a dispute, contact the insurer for assistance.



## **Formal dispute resolution processes**

### **Review process**

The Worker's Compensation Regulator provides an independent review of certain decisions made by insurers (eg insurer decision to accept or reject a claim, cease a claim, suspend benefits, or vary entitlements). This service is provided free to a worker or an employer. However, if the review applicant chooses to engage a solicitor this will be at their own expense. The review process is a non-legal (administrative) one designed to provide an efficient, timely and cost-effective system for workers and employers. It is a non-adversarial and non-judicial process. The review process is not a re-investigation of the matter. The review applicant has a right of appearance before the review officer. (This can be made by telephone).

### **Applying for a review**

A worker or employer has 3 months from the time they receive a decision from the insurer in which to lodge an application for review. The 3 month period can be extended for special circumstances by applying to the Worker's Compensation Regulator. This can only be done within the initial 3 month period mentioned above.

If reasons for decision are not received with the notice of decision from the insurer, the worker or employer has 20 business days in which to ask the insurer for reasons. The reasons for the decision are an important part of the review process and will assist all parties in understanding the insurer's decision and formulating the basis of an application for review.

When completing the application for review, the worker or employer will be required to give reasons (grounds) as to why they disagree with the insurer's decision. While there is no requirement for extensive grounds, it is necessary to at least identify the area of dispute. The insurer's reasons should assist in this process.

### **Review decision**

The Worker's Compensation Regulator will consider all the information from the insurer's file along with any other relevant information that has been provided. This includes any personal representations made by the applicant. The review decision is required to be made within 25 business days. This period can be extended only if:

- The review applicant agrees to an extension of time to allow the Worker's Compensation Regulator to obtain additional information; or
- The review applicant applies to the Worker's Compensation Regulator for an extension to supply further information to support the application for review.

If the review decision is not made within 25 business days, the review applicant may appeal to the Industrial Magistrate or the Queensland Industrial Relations Commission in Brisbane. The review applicant will receive a written notice of the review decision and the reasons for the decision within



10 business days after it is made. A duplicate copy of this will also be given to the other party (e.g. to the employer if a worker has applied for a review).

An application for review form may be obtained by contacting the Review Unit at the Worker's Compensation Regulator.

### **Appeal process**

Workers, claimants and employers who are dissatisfied with the decision of the Worker's Compensation Regulator Review Unit can appeal to **either** the Industrial Magistrates Court or the Queensland Industrial Relations Commission. As this is a legal and judicial process both parties will incur legal costs to initiate or defend an appeal.

The appeal must be filed within 20 business days of receiving the Review Unit decision. The Appeals Unit of the Worker's Compensation Regulator is responsible for defending the Review Unit decision.

The parties to an appeal may be:

- the person who files the appeal, referred to as *the appellant*
- Worker's Compensation Regulator , referred to as *the respondent*

If a worker appeals against the decision of the Review Unit their employer may make an application to the Court or Commission seeking permission to be heard in the proceedings. This means that the employer may have the ability to make representations to the Court or Commission during the course of the appeal.

If the appellant engages a solicitor or a third party to assist in the appeal he/she will be responsible for payment of their costs.



## Medical Assessment Tribunals

Medical Assessment Tribunals consist of three independent medical specialists who are experts in their field. The Tribunals are conducted independently of WorkCover Queensland, self-insurers and the Worker's Compensation Regulator. Care is taken to ensure the Tribunals do not include any specialist who has treated or examined the worker previously.

The Medical Assessment Tribunals provide an independent medical assessment of injury or impairment for workers' compensation claims. Only workers who are referred by their workers' compensation insurer attend the Medical Assessment Tribunals.

The Tribunal makes a decision about a worker's injury based on the clinical examination, medical information available, information from the claim supplied by the insurer and submissions made by the worker or their representative. The worker may bring a support person, such as a friend or relative, with them to their Tribunal appointment. The worker may also have a representative acting on their behalf.

Medical Assessment Tribunals make decisions in the following situations:

- when there may be conflicting medical opinions about the cause and symptoms of the injury;
- where a claim has been accepted by the insurer and there is uncertainty about the workers ongoing incapacity; and
- to assess the degree of permanent impairment resulting from the injury.

During the Tribunal appointment, the members will discuss medical aspects of the worker's claim with the worker. The worker or their representative may make verbal submissions at the Tribunal.

The tribunal members will perform a clinical examination. If the worker has a physical injury, the clinical examination will also include a physical examination. The Tribunal will give the worker written advice of the outcome of the Tribunal as soon as possible. A Tribunal may defer its decision pending further medical examination or investigations.

To contact the Medical Assessment Tribunals phone 1300 738 197 or  
<https://www.worksafe.qld.gov.au/rehab-and-claims/medical-assessment-tribunals>



## **Relevant stakeholders within the workers' compensation industry in Queensland**

Worker's compensation schemes vary between the Australian states and territories. As a rehabilitation and return to work coordinator you need to be aware of the workers compensation environment in the state in which you operate. This will assist you in knowing who to communicate with and identify stakeholders or organisations most likely to interact with you.

### **Scheme structure in Queensland**

The Queensland workers' compensation scheme is a system of compulsory (statutory-based) insurance. The scheme works to encourage early return to work and ensures that injured workers receive treatment and compensation after a work related injury, and incentives to return to work. It is funded by employer-paid insurance premiums or self-insurance.

### **Work Health and Safety Queensland)**

In Queensland, matters of workers' compensation policy (including the writing of legislation) and scheme design are centralised in the Department of Employment and Industrial Relations.

### **The Worker's Compensation Regulator**

The body responsible for regulating the Queensland scheme is the Worker's Compensation Regulator. The Worker's Compensation Regulator's functions under the *Workers' Compensation and Rehabilitation Act 2003* include:

- monitoring compliance and performance of insurers
- deciding applications for self insurance
- reviewing insurer decisions and managing appeals
- supporting the administration of medical assessment tribunals
- accrediting workplaces and monitoring rehabilitation compliance
- providing rehabilitation advisory services
- maintaining a scheme-wide database
- promoting education about the scheme.

### **Insurers**

WorkCover Queensland is the major insurer and directly manages the largest proportion of claims within the Queensland workers' compensation scheme.



## **Self-insured employers**

Some Queensland workplaces are self-insured. Self-insured employers take on the liability and responsibility for insuring their workers and managing claims for workplace injury. To find out who are the self-insurers go to <https://www.worksafe.qld.gov.au/insurance/find-a-self-insurer>

## **Work Health and Safety**

Work Health and Safety Queensland is the body responsible for work health and safety in Queensland.

## **Employer rights and obligations regarding return to work**

Queensland employers have a number of rights and obligations for return to work. The rehabilitation and return to work coordinator will assist the employer in meeting these obligations. This section lists some of these obligations and when they must be met by the employer.

### **Obligations for managers and supervisors**

- must assist in identifying and providing suitable duties for injured workers
- must facilitate workplace rehabilitation.

### **Obligations for rehabilitation and return to work coordinators**

- must ensure rehabilitation is coordinated with and understood by managers, line management and co-workers
- initiate early communication with an injured worker following injury
- provide overall coordination in the workplace of the worker's return to work
- develop suitable duties programs where required in consultation with injured workers and the worker's employer
- ensure suitable duties programs are consistent with the current medical certificate or medical report
- liaise with all relevant parties.

### **Employer rights**

- To lodge an application for review if not satisfied with an insurer's decision
- To liaise with the insurer if an injured worker does not satisfactorily participate in workplace rehabilitation
- For an accepted claim, that the insurer will pay the cost of an initial consultation and report where it has been requested by the treating medical practitioner
- To ask the insurer to approve rehabilitation provider involvement in complex cases
- To discuss any issues or concerns about workplace rehabilitation with the insurer.





## Employer obligations for workplace rehabilitation in Queensland

Employers in Queensland must:

- insure and remain insured against liability for workplace illness and injury, and the employer's legal liability for damages or common law claims
- provide suitable duties and facilitate rehabilitation.

Section 228 (1) of the Act states that the employer of a worker who was injured at work must take all reasonable steps to help the worker with "rehabilitation" for the time that the worker is entitled to compensation.

This means all employers, regardless of size, must provide suitable duties to injured workers. An employer must not dismiss a worker within 12 months after a worker is injured, solely or mainly because the worker cannot work because of the injury (Section 232B (1) of the Act).

### Certain employers who meet conditions set out in a *Regulation* must:

- appoint a rehabilitation and return to work coordinator and,
- have a workplace rehabilitation policy and procedures and,
- review the employer's workplace rehabilitation policy and procedures at least every three years.

- **115 Criteria for employer to appoint rehabilitation and return to work coordinator—Act, s 226(1)**
- (1) For section 226(1) of the Act, the following criteria is prescribed—
- (a) for an employer who employs workers at a workplace in a high risk industry—the wages of the employer in Queensland for the preceding financial year were more than 2600 times QOTE; or
- (b) otherwise—the wages of the employer in Queensland for the preceding financial year were more than 5200 times QOTE.
- (2) For the purpose of section 226(3)(a) of the Act, an employer is taken to have established a workplace, or started to employ workers at the workplace, when the employer first meets the criteria.
- (3) An employer may appoint a person as the rehabilitation and return to work coordinator for more than 1 workplace if the person can reasonably perform the person's functions as a rehabilitation and return to work coordinator for each workplace.
- (4) In this section—
- **high risk industry** means an industry specified by the Regulator by gazette notice.

### How do I know if my industry is a high risk industry?

Certain industries in the workers' compensation system have been recognised as high risk industries. The best guide as to whether your industry is a high risk one is to compare the first two numbers of your WorkCover Industry Classification (WIC) code with the two digit codes listed below. High risk industries include those WICs where the first four digits of the WIC code are 9631, 9632, 9633 or 9634 (also listed below).





You can locate your WorkCover WIC code on your WorkCover Queensland premium notice or, alternatively, call WorkCover Queensland on 1300 362 128, quote your WorkCover insurance policy number to WorkCover's customer service officer and ask for your WIC code.

## **High Risk Industries**

### **Agriculture**

- 01 Agriculture
- 02 Services to agriculture; hunting and trapping
- 03 Forestry and logging
- 04 Commercial fishing

### **Mining**

- 11 Coal mining
- 12 Oil and gas extraction
- 13 Metal ore mining
- 14 Other mining
- 15 Services to mining

### **Manufacturing**

- 21 Food, beverage and tobacco manufacturing
- 22 Textile, clothing, footwear and leather manufacturing
- 23 Wood and paper product manufacturing
- 24 Printing, publishing and recorded media
- 25 Petroleum, coal, chemical and associated product manufacturing
- 26 Non-metallic mineral product manufacturing
- 27 Metal product manufacturing
- 28 Machinery and equipment manufacturing
- 29 Other manufacturing

### **Construction**

- 41 General construction
- 42 Construction trade services

### **Transport and storage**

- 61 Road transport
- 62 Rail transport
- 63 Water transport
- 64 Air and space transport
- 65 Other transport
- 66 Services to transport
- 67 Storage

### **Health and community services**

- 86 Health services
- 87 Community services

### **Personal and other services-public order and safety services**

- 9631 Police services
- 9632 Corrective centres
- 9633 Fire brigade services
- 9634 Waste disposal services



The *Workers' Compensation and Rehabilitation Act 2003* (Queensland) section 40 describes rehabilitation as:

- 1) **Rehabilitation** of a worker is a process designed to—
  - a) ensure the worker's earliest possible return to work; or
  - b) maximise the worker's independent functioning.
- 2) **Rehabilitation** includes—
  - a) necessary and reasonable—
    - i) suitable duties programs; or
    - ii) services provided by a registered person; or
    - iii) services approved by an insurer; or
  - b) the provision of necessary and reasonable aids or equipment to the worker.
- 3) The purpose of **rehabilitation** is—
  - a) to return the worker to the worker's pre-injury duties; or
  - b) if this is not feasible, to return the worker, temporarily or permanently, to other suitable duties with the worker's pre-injury employer; or
  - c) if paragraph (b) is not feasible—to return the worker, temporarily or permanently, to suitable duties with another employer; or
  - d) if paragraphs (a), (b) and (c) are not feasible—to maximise the worker's independent functioning.

Suitable duties are only one of a number of rehabilitation initiatives available to injured workers in Queensland.

Section 42 of the Act defines suitable duties as:

**Suitable duties**, for an injured worker, are duties for which the worker is suited after consideration of —

- a) the nature of the worker's injury and pre-injury employment;
- b) relevant medical information;
- c) the rehabilitation and return to work plan for the worker;
- d) the provisions of the employer's workplace rehabilitation policy and procedures;
- e) the worker's age, education, skills and work experience;
- f) whether duties are available at an other location and whether it is reasonable to expect the worker to attend that location;
- g) any other relevant matters.

### **Exception to requirement to provide suitable duties**

Section 228 (3) of the Act states that if an employer, other than a self-insurer, is not able to provide the worker with suitable duties, they must advise WorkCover that they are unable to do so. WorkCover may then attempt to locate suitable duties with a host employer.



## **Appointment of a rehabilitation and return to work coordinator**

In Queensland return to work coordinators are known as “rehabilitation and return to work coordinators” (RRTWC). The role of a rehabilitation and return to work coordinator as set out in the Workers’ Compensation and Rehabilitation Regulation 2014 section 114 “Functions of rehabilitation and return to work coordinator—Act, s41(b)” is to:

- (a) initiate early communication with an injured worker in order to clarify the nature and severity of the worker’s injury;
- (b) provide overall coordination of the worker’s return to work;
- (c) if a rehabilitation and return to work plan is required—
  - (i) consult with the worker and the worker’s employer to develop the suitable duties program component of the plan; and
  - (ii) ensure the program is consistent with the current medical certificate or report for the worker’s injury;
- (d) liaise with—
  - (i) any person engaged by the employer to help in the worker’s rehabilitation and return to work; and
  - (ii) the insurer about the worker’s progress and indicate, as early as possible, if there is a need for the insurer to assist or intervene.

## **Appointing a RRTWC**

Rehabilitation and return to work coordinators are trained to manage and monitor injury/return to work rehabilitation outcomes. In picking someone to be your RRTWC it is useful to think about the following points:

- the RRTWC has sufficient seniority, skills and rapport with co-workers to successfully take on the return to work/rehabilitation role
- if the RRTWC has multiple roles, develop a formal job description which includes the RRTWC role
- the RRTWC’s role is clear and shows areas within/outside the scope
- their role – ensure the role description covers all stages including post- injury, injury recovery, return to work planning and actual return to work
- A good rehabilitation and return to work coordinator is someone who:
  - both staff and managers respect
  - has a balanced and mature personality
  - has or can develop rapport with workers
  - can be sensitive and empathetic to workers’ needs
  - has the authority to make decisions related to workplace rehabilitation
  - can be trusted to keep information confidential
  - can be objective and balance both worker and business needs
  - is organised, thinks ahead and forward plans
  - is a good communicator and listener
  - can troubleshoot issues/difficulties when they occur



- offers advice which is typically well-received and considered
- is prepared to acquire new knowledge and skills
- is efficient and accurate in completing and storing paperwork
- is proactive rather than reactive in their work approach
- is prepared to take on extra work alongside their normal role
- (not applicable if the role is full-time)
- has some previous experience in managing workplace injury
- (not essential, but desirable)
- has adequate time and resources to carry out the functions effectively.



## Developing a workplace rehabilitation policy and procedures

All employers who are required to have a rehabilitation and return to work co-ordinator must also have Workplace Rehabilitation Policy and Procedures.

The workplace rehabilitation policy and procedures underpin the return to work process in Queensland. These inform the relevant parties of their obligations and commitments to return to work and facilitate the successful return to work of injured workers.

## Consultation between employer and workers

The rehabilitation policies and procedures should be developed in consultation with management and workers to encourage ownership and participation in workplace rehabilitation. Health and safety representatives and union delegates should also be consulted to ensure that all matters relevant to your workplace are covered. The policy and procedures must be in writing.

## Contents of rehabilitation policy and procedures

There are two parts of a workplace rehabilitation policy and procedures:

1. The **policy statement** is a brief (one page) statement developed in consultation with management and workers. It is a written commitment to move towards early, safe and sustainable return to work of any worker injured in the workplace. It should address:
  - early intervention
  - making suitable duties available to injured workers
  - ensuring workers are not disadvantaged by participating in rehabilitation
  - confidentiality of written and verbal information
  - consulting with injured workers in developing their suitable duties program
  - adopting a multidisciplinary approach where relevant
  - complying with legislative obligations for workplace rehabilitation
  - reviewing the policy and procedures at least every three years
  - naming of the rehabilitation and return to work coordinator
  - the signature of the CEO or Manager responsible for workplace rehabilitation
  - the date for review of policy statement and procedures.
2. The **procedures** are developed through consultation between management and workers and are a written statement from the employer on the steps to be taken to assist injured workers to stay at or return to work. They should include:
  - the aim of the policy and procedures
  - definitions including rehabilitation and suitable duties programs
  - rights and responsibilities of the injured worker, rehabilitation and return to work coordinator, line managers, supervisors and co-workers
  - how the worker will be paid following injury, before liability is accepted by the insurer and during the life of the claim
  - grievance procedures



- the respective roles and processes for the rehabilitation and return to work coordinator and the injured worker (flow charts can be useful)
- a template for an authority to liaise with the worker's treating practitioners
- a suitable duties program template.

### **Reviewing the rehabilitation policy and procedures**

As required by the *Workers' Compensation and Rehabilitation Act 2003*, all workplace rehabilitation policies need to be reviewed at least every three years.

### **The policy and procedures are made available to workers**

An employer's rehabilitation policy and procedures must be made available to every worker. A copy can be given to each worker, or the policy and procedures can be prominently displayed at each workplace.

### **Template for rehabilitation policy and procedures**

A template rehabilitation policy and procedures is available at <https://www.worksafe.qld.gov.au/>. There is also a checklist and notes to assist employers to tailor their policy document to the needs of their organisation.

### **Code of Practice**

There is currently no Code of Practice in relation to workers' compensation in Queensland.



## Injured worker rights and obligations

Injured workers must:

- be consulted about and participate in return to work planning
- lodge an application for compensation if they wish to make a claim for compensation
- reduce the impact of injury (mitigate their loss) by participating in rehabilitation
- attend medical examinations as directed by their insurer
- notify the insurer if they return to any form of paid or unpaid work or engage in a calling eg study, volunteer work, or other occupation.

## Entitlement to compensation

Workers are entitled to compensation if they can't work full time after suffering a work-related injury, and lose wages as a result. In some cases workers may be able to continue working but will need medical and other treatment.

Any worker in Queensland has the right to lodge a claim. A worker may be entitled to compensation if:

- they were employed by the employer at the time of this injury or illness
- they were classified as a worker under Section 11 of the *Workers' Compensation and Rehabilitation Act 2003*. Under the Act, the definition of worker is very broad and includes casual, part time, full time, and workers working for 'labour hire' companies. Some subcontractors and other 'contract' workers may also be deemed to be workers under the Act.
- the injury is a personal injury that is work related. An injury may include
  - an illness or disease contracted over a period of time
  - an aggravation of a personal injury, disease, medical condition, or
  - death
- an injury during a journey to or from work or during a recess.

*Note: Liability for claims is determined by WorkCover Queensland or the self-insured employer after taking into account all medical and legal matters necessary under the Act. The Queensland workers' compensation scheme is a 'no fault' scheme where any potential contributory negligence of the worker is not taken into account when determining liability. However, if a worker pursues a common law or damages claim any contributory negligence will be taken into account in any award for damages.*

## Claiming for compensation

If claiming for workers' compensation the injured worker must consult a doctor and obtain a workers' compensation medical certificate for the period of incapacity. Workers must lodge an application for workers' compensation with WorkCover Queensland or their employer if the employer is self-insured.



A valid application for compensation is lodged with the insurer and is accompanied with a workers' compensation medical certificate provided by a doctor who attended the claimant. Other evidence or particulars may be required as prescribed under a regulation.

### **Time for claiming for compensation**

An injured worker must lodge an application for compensation within six months after the entitlement to compensation arises. If a claim is accepted, the entitlement to compensation for an injury begins on the day the worker is assessed by a doctor or if the injury is an oral injury then the day a worker attends a dentist. If an application is lodged more than 20 business days after the entitlement to compensation begins, the insurer's liability is limited to a period no earlier than 20 business days before the day on which the valid application is lodged.

### **Requirement for worker to attend medical examination**

An insurer may at any time ask an injured worker (claimant) to attend a personal examination by a registered person (medical or allied health practitioner) at a place reasonably convenient for the worker.

If the worker (or claimant) fails without reasonable excuse to attend for the examination or refuses to be examined by the registered person or obstructs or attempts to obstruct the examination, their entitlement to compensation may be suspended until they undergo the examination.

Certain employers may engage doctors or allied health professionals who are familiar with their workplace to help in injury management and return to work. While this has benefits for the employer and the worker, the worker retains the right to choose their own treating doctor and allied health professional.

### **Worker duty to minimise loss due to injury**

The worker has a common law duty to minimise their loss due to their injury. This duty may be met by participating in rehabilitation. The worker must satisfactorily participate in rehabilitation as soon as practical after the injury happens. If the worker fails or refuses to participate in rehabilitation without reasonable excuse, the insurer may give the worker written notice of its intention to suspend the worker's entitlement to compensation until the worker satisfactorily participates in rehabilitation.

If the insurer suspends the worker's entitlement to compensation, the worker may apply for a review of the decision by the Worker's Compensation Regulator.





### **Worker to notify insurer if returning to work**

The worker must notify the insurer in writing within 10 days if they return to work or engage in a calling e.g. take on unpaid or voluntary work, commence or return to study.

### **Compensation payable to injured worker**

The compensation benefits WorkCover Queensland or a self-insured employer may pay include:

- weekly benefits for lost wages
- medical expenses
- hospital expenses
- travelling expenses
- rehabilitation expenses
- lump-sum for permanent impairment



### **Role of the insurer's rehabilitation customer advisor**

Upon accepting a claim for workers' compensation the insurer (WorkCover or Self Insurer) will allocate a customer advisor (also known as a case/claims manager) who may be involved in the workplace rehabilitation process. This will depend upon the circumstances of the workplace and of the injured worker. The case manager/customer advisor's role may include:

- coordinating injured workers' return to work (suitable duties program), for employers who do not have a rehabilitation and return to work coordinator
- developing the Rehabilitation and Return to Work Plan and monitoring the overall rehabilitation process
- monitoring the overall progress of the claim and the injured workers recovery
- determining if health professionals should be engaged (in consultation with the workplace)
- referring the worker for medical assessments to guide the claim (such as specialist assessments and Medical Assessment Tribunals)
- supporting rehabilitation and return to work coordinators as required (particularly if there is concern regarding the workers progress, confusion regarding paperwork, compensation payments or reimbursements to the injured worker)
- arranging host employment for injured workers if the worker is unable to access suitable duties at their pre-injury workplace.



## Registered persons

There are several places in the Act where you will find references to registered persons and medical treatment. For example;

In section 40 (1), under the title “Meaning of rehabilitation” you will find that rehabilitation of a worker includes **services provided by a registered person**.

In section 135 (1), under the title “Examination by a registered person”, you will find that an insurer may at any time require a claimant or a worker to submit to a personal examination by a **registered person** at a place reasonably convenient for the claimant or worker.

In section 211 (1) under the title “Extent of liability for medical treatment”, you will find that the insurer must pay for medical treatment by a **registered person** – the cost that the insurer accepts as reasonable, having regard to the relevant table of costs.

In section 223 (a) under the title “Extent of liability for rehabilitation fees and costs”, you will find that the insurer must pay for rehabilitation provided to a worker by a **registered person** – the fees or costs accepted by the insurer to be reasonable, having regard to the relevant table of costs.

**Schedule 6** of the Worker’s Compensation and Rehabilitation Act 2003 defines **medical treatment** as:

treatment by a doctor, dentist, physiotherapist, occupational therapist, psychologist, chiropractor, osteopath, podiatrist or speech pathologist; or assessment for industrial deafness by an audiologist; or the provision of diagnostic procedures or skiagrams; or the provision of nursing, medicines, medical or surgical supplies, curative apparatus, crutches or other assistive devices.

## Registered persons

**Schedule 6** of the *Worker’s Compensation and Rehabilitation Act 2003* defines **registered** as follows, in relation to a person mentioned in the definition “medical treatment”, paragraph (a) who is held out as providing, or qualified to provide medical treatment – registered under the law of the place where the medical treatment is provided as a person lawfully entitled to provide the medical treatment in that place; or in relation to an audiologist – certified by the Audiological Society of Australia.

**Registered person** means a registered person of a description mentioned in the definition medical treatment.

There are some services such as dietetics and exercise physiology (gymnasium programs) which are provided by persons who are not listed in the *Act*. Access to these services is at the discretion of the Customer advisor.



## **Treating doctor**

The treating doctor plays an extremely important role in the rehabilitation process. This is the doctor who assesses and monitors the injured worker throughout their rehabilitation. The treating doctor may be the worker's usual general practitioner or the "company doctor" for that particular workplace if the worker chooses to consult this doctor. The role of the treating doctor involves:

- diagnosing the injury
- issuing workers' compensation medical certificates
- providing ongoing treatment including referral to other health professionals as required
- referral of the injured worker for specialist treatment or opinion when necessary
- liaison with relevant parties to develop suitable duties programs
- review of rehabilitation/suitable duties plans and their amendments, and providing approval if required
- supplying medical reports as required
- communication with relevant parties to help manage barriers to the injured worker's return to work.

## **Company doctor/preferred practitioner**

Larger organisations may have a doctor to handle workplace medical matters. The appointment of a "company doctor" provides the advantage of having a doctor with knowledge of the organisation's rehabilitation policy and the job requirements of workers within the organisation. This is particularly useful when assessing the injured worker's capabilities for work.

Although it may be of benefit to the organisation to have a company/preferred doctor, injured workers have a right to attend a treating doctor of their own choice, irrespective of whether or not a company doctor has been appointed.

Workers' compensation medical certificates are most often completed by the worker's treating doctor and can only be obtained from registered medical (or dental) practitioners.

## **Medical specialists**

Consultant medical specialists may be consulted during the rehabilitation process, where a treating doctor or insurer requires a specialised opinion or investigation. There are a range of medical specialties. Those who are most often in contact with injured workers are orthopaedic surgeons, hand and upper limb specialists and neurologists. In the case of workers with psychological/psychiatric injuries, the medical specialist would be a psychiatrist.

The RRTWC should realise that the injured worker may be referred to a medical specialist for two reasons – one is for assessment and report purposes only. This occurs when the insurer requests an independent medical opinion about the status of the workers injury. In this case the referral is made by the insurer.



Alternatively an injured worker may see a specialist for more typical reasons such as treatment or consultation regarding whether surgery is required. A direct referral to the specialist from the injured worker's treating doctor is required for consultation and/or treatment. It is important that RRTWC's are able to explain to injured workers that not all specialists' appointments will be for "treatment" purposes. Specific questions should be directed to the insurer's Customer advisor. If the worker does not understand the purpose of a referral to a specialist it is a good idea to clarify this with the insurer.

Another medical specialist, who may be of assistance in the return to work process, is the Occupational Physician. This specialist can be useful during the rehabilitation process in identifying and assessing the effects of the working environment on the health of the worker. Occupational Physicians focus on the health effects of the relationship between workers and their work lives, at both an individual and an organisational level. They have a role in the prevention, treatment and rehabilitation of work related injuries.

### **Allied health professionals, rehabilitation service providers**

- provide medical treatment and management to injured workers
- submit reports to the insurer as requested
- liaise with relevant parties when requested to develop suitable duties programs
- communicate with relevant parties to help the injured worker return to work.

It is not expected that occupational rehabilitation providers will be required to assist in the rehabilitation process for all injured workers. Their involvement will depend on the severity and nature of the injury and the worker's likely period of absence. Often, rehabilitation can be sufficiently managed by the rehabilitation and return to work coordinator, injured worker, treating doctor and supervisor.

When RRTWC's interact with health providers (other than the treating doctor) regarding return to work it will usually be with those who provide services at the worksite i.e. occupational therapists, physiotherapists and psychologists whose role and services provided are discussed below.

The fees for allied health and medical providers are regulated by the Worker's Compensation Regulator. Most allied health services require prior insurer approval.



## **Occupational therapists**

The goal of an occupational therapist is to maximise the potential of the injured worker to allow them to return to work or if this is not possible to function as independently as possible in all aspects of their life. Occupational therapists work with clients with physical, psychological/psychiatric, cognitive (i.e. head injuries) and combined injuries.

The services offered by an occupational therapist for workplace rehabilitation include

1. Analysing jobs and tasks at work to determine appropriate duties for injured workers.
2. Comprehensively assessing the injured worker's potential for return to work by considering physical, cognitive and psychological demands.
3. Conducting components of pain management education programs.
4. Designing graduated rehabilitation/suitable duties programs for injured workers.
5. Recommending job modifications, adaptive equipment or assistive devices to meet the needs of the worker.
6. Educating workers in correct working postures and appropriate lifting and handling techniques.
7. Conducting driving assessment and rehabilitation programs.
8. Performing home visits for advice regarding activities of daily living and home modifications for workers with serious injuries.
9. Providing hand therapy.

## **Physiotherapists**

The physiotherapist's role is to assess, treat and monitor the injured worker in relation to their physical capacity for movement and activity. The physiotherapist can also develop exercise programs aimed at improving muscle strength, range of joint movements and the coordination of movement patterns. Services offered by physiotherapists include:

1. Assessment of the worker and workplace to determine the physical capabilities required for work.
2. Comprehensively assessing the injured worker's potential for return to work.
3. Designing graduated suitable duties programs for injured workers.
4. Designing physical work conditioning programs.
5. Providing hand therapy.
6. Assessing and treating the injured worker in relation to specific physical skills (e.g. balance).
7. Providing education and advice.
8. Pain management treatment and education.
9. Giving advice on work practices and work design.
10. Education, health promotion and preventing injury.



## **Psychologists**

Psychologists specialise in the study of behaviour and are typically involved in the assessment and treatment of emotional, social and interpersonal difficulties. The psychological effects of an injury may be equally, or more significant than the physical injury. The psychologist's role is primarily to assist the injured worker in adjusting to their disability or, in the case of solely psychological injuries to provide tailored therapy. The role of the psychologist in workplace rehabilitation may involve:

1. Diagnosing and treating psychological and emotional disorders.
2. Assisting workers to manage physical illness through counselling and therapy.
3. Providing critical incident debriefing.
4. Providing pain management interventions.
5. Providing adjustment to injury counselling.
6. Assisting with conflict management in the workplace (related to work injury).
7. Providing vocational assessments in the case of redeployment.
8. Creating return to work programs for clients with psychological/psychiatric injuries.
9. Providing specialist advice.

## **Responsibilities of rehabilitation service providers**

Rehabilitation service providers have a responsibility to:

- support the aims and principles of rehabilitation
- provide the requested assessment/treatment as soon as practicable
- provide feedback to the Rehabilitation and return to work coordinator about the worker's functioning in the workplace
- ensure the worker and Rehabilitation and return to work coordinator is informed of the purpose of the service, action to be taken, roles and responsibilities of involved parties, estimated completion date, method and date of review
- provide goal-oriented rehabilitation focussing on return to work
- provide advice to Customer advisors regarding employer failure to meet obligations or worker non-participation
- actively involve workers and employers in the development and implementation of rehabilitation services
- maintain confidentiality according to professional and legislative requirements.





## Communicating with health professionals

Communicating with health professionals can be a daunting experience for anybody. When you are unfamiliar with the terminology and jargon used, it is easy to feel intimidated. The RRTWC can increase their confidence when dealing with health professionals by preparing for communications (e.g. having a written list of questions), using all available means of contact (e.g. email, fax, phone and mail), developing relationships with 'preferred' providers, and liaising with the insurer's customer advisor/case manager.

The following suggestions may prove useful in your communications with health professionals:

- Ensure that a copy of the injured worker's authority to share information form has been given to the treating practitioner and that you hold a copy yourself.
- Be well prepared for the telephone call or appointment (knowing what you want to know and what you want to achieve), having first sent an introductory letter setting out the rehabilitation policy, introducing yourself and the role of a RRTWC, and the purpose of the visit.
- Take control of the interaction at the outset and explain briefly the rehabilitation program and your role in the process, referring to the letter of explanation already sent.
- Briefly outline the procedures (referring to your organisation's policy); you have in place and the method you intend to adopt to ensure confidentiality of case information.
- Let the health professional know that you can accommodate injured workers with suitable duties and expect an early return to work while at the same time, respecting the health professional's expertise in injury management.
- Check that the treating practitioner understands the process and the appropriate paper work.
- Be prepared to discuss the workplace environment and the possible suitable duties available. Offer to take the treating practitioner on site to gain a better understanding of the tasks and environment. (You may need to fund this unless the insurer gives approval for a worksite visit)
- Focus on the ability of the worker, rather than the injury related disability.
- If you are unsure of medical terminology used, ask for an explanation.

The treating doctor is more likely to support a plan if they understand pre-injury job requirements. It may be useful to have a folder with photos and descriptions of job tasks that can be used for suitable duties depending on the worker's injury. An occupational therapist can help you to compile such a resource.



## Engaging the services of a rehabilitation service provider/health professional

Engaging the services of a rehabilitation provider will depend on the needs and requirements of the injured worker and the workplace. The following points should be considered when engaging a rehabilitation provider:

- most services require prior approval from the insurer
- whether to utilise the same provider for all cases, or accept providers recommended by the insurer customer advisor/case manager
- the worker's right to express dissatisfaction with the services of a particular provider
- whether the provider can meet the objectives of the worker's suitable duties program
- developing a letter to specify the level of communication and documentation required from providers
- developing guidelines for evaluating the services of the provider.

A rehabilitation provider should not be consulted to undertake any work with the injured worker without the recommendation of the insurers' customer advisor or the knowledge of the treating doctor.

It will often be the case that the customer advisor at the WorkCover or self-insurance unit will recommend or refer to providers who they know have a good track record in the workplace rehabilitation field. This is why it is **very important** to inform the customer advisor as soon as possible if your organisation has a preferred provider relationship with a particular rehabilitation provider.

As a RRTWC you need to determine the needs of your organisation when engaging a rehabilitation service provider. You may wish to set out some criteria that you will use to compare potential rehabilitation providers. The criteria might include details about:

- the provider's previous industry experience
- professional memberships or affiliations
- geographical location
- their specific areas of clinical expertise.



### **Making the most of the external rehabilitation provider's visit**

Following are some useful tips for working with external rehabilitation providers:

1. When the provider calls to make the appointment always clarify who will be responsible for organising the injured worker's attendance.
2. Make sure that all parties (eg. yourself, injured worker, supervisor, team leader) who need to speak with the provider are aware of the time and place when/where they should be available.
3. Have the injured worker's written position description (available duties list) and those of possible suitable duties positions, ready at the time of the visit.
4. Ensure that access is available to the work area where the worker carries out their usual duties and that the provider is advised of clothing or safety-wear requirements.
5. Make an office or a meeting room available for use by the provider during the work site visit. Remember that as these providers are registered health professionals, they may often wish to speak to the injured worker alone to clarify medical information.
6. While the provider is on site, ensure that all stakeholders (eg. injured worker, manager, rehabilitation and return to work coordinator) provide input to the suitable duties program. Before the provider leaves your site, always ask what the next step in the process will be and when you can expect their report. Providers will usually require you to sign off on the suitable duties plan. You may also have to follow-up with the injured worker to ensure that they sign off on the plan.

Just because you have an external provider involved you should not adopt the attitude that you can simply "leave it all to them". It is still your responsibility to be aware of the workers' progress and to ensure that the injured worker is aware that the workplace is still interested in their recovery and monitoring the rehabilitation process. Obtain contact details from the provider so that you can easily contact them to discuss progress. The rehabilitation service provider becomes a part of the team working to ensure a safe and durable return to work for the injured worker.

### **Evaluating rehabilitation service providers**

The services of rehabilitation providers must be evaluated on a regular basis. The criteria for determining adequate performance will be closely tied to the expectations of the rehabilitation and return to work coordinator and the needs of the injured worker. An evaluation of the provider should consider:

- the response time between referral to the rehabilitation provider and contact with the worker
- whether the objectives of rehabilitation have been met
- whether the rehabilitation and return to work coordinator has been able to easily liaise with the rehabilitation provider, and whether this communication has been effective
- whether reports were provided when and as requested (as long as authority is provided)
- whether the rehabilitation and return to work coordinator has been able to understand the reports and recommendations that were made by the rehabilitation provider
- whether the injured worker was satisfied with the service from the rehabilitation provider
- whether signed copies of suitable duties programs are forwarded to the workplace to be kept on the workers' file.



## **Terms used to cover the different types of injuries suffered by workers**

### **Disability**

Disability is a normal part of the human experience, and some form of disability affects about one in five Australians and this number is increasing, partly as a result of an ageing population.

*Disability* is any restriction or lack of ability (resulting from an injury, illness, or conditions present at birth) to perform an activity in the manner or within the range considered normal for a human being.

A disabled individual is one who cannot make some movement that the majority of the population can make, or lacks some sensory capacity that the majority of the population has. As a result, an individual with a disability may need to use different means than non-disabled individuals use to accomplish certain goals. Disability can cause disadvantage, which can, if recognised, be reduced by modification of the environment in which the person lives.

Negative attitudes and assumptions, often based on misunderstanding or ignorance can shape the way we behave towards people with a disability. The nature of the disability experienced by the individual can be reduced when environments and practices are designed to take into account the needs of people with a disability eg wheelchair access, modifying a car to hand rather than foot controls, or voice activated software on computers.

### **Impairment**

An *impairment* is a physiological disorder or injury that results in any loss or abnormality of psychological, physiological, or anatomical structure or function. Any weakening, damage, or deterioration, especially as a result of injury or disease may be classed as an impairment. The impairment may be temporary or permanent.

Impairments are variously disabling depending on the extent to which they interfere with a person's ability to function at home or at work. The level of disability caused by an impairment also depends on how society and our organisations make provisions or adjustments to allow people with an impairment to participate or continue to participate in a normal range of social and economic activities. For example, a person who uses a wheelchair will have no difficulties negotiating a well-designed, accessible building, but is completely disabled in a poorly designed one eg one without lifts or elevators.

Many impairments are inconspicuous so rather than make assumptions about the impact of a person's condition, we should ask them what assistance or accommodations they need. Although there is little that the rehabilitation and return to work coordinator can do to change the facts of a worker's impairment, there is scope for altering work practices and the working environment so that they are less disabling.



## Handicap

A handicap is an inability that leaves a person at a comparative disadvantage. A *handicap* is an inability to accomplish something one might want to do, that most others around one are able to accomplish.

A disability such as paraplegia becomes a handicap only to the extent that the paraplegic person's environment isolates him from some need or goal. A wheelchair user has virtually no mobility handicap in a building with accessible doorways, elevators, and work areas. But he is greatly handicapped when his goals are located up or down a flight of stairs.

Although in some circumstances there is no way for a person with the disability to accomplish the task, in other circumstances, where the right tools and structures to support them are available, there are ways. Handicaps are created when the tools and infrastructure to support these alternative methods are not available.

## Terminology associated with injuries to muscular, skeletal and nervous systems

Strain or sprain injury claims account for over a third of all injuries for which a claim is lodged. Of these, the back is the major body location accounting for over one tenth of all claims registered. The next most common injury is disease of the musculoskeletal system. Although a small part of the claim population, psychiatric or psychological injuries are the most expensive claims.

Workplace injuries often involve the muscular, skeletal or nervous systems. When doctors write a medical certificate for an injured worker they will often describe the injuries using medical terminology. It is helpful for the RRTWC to have a broad understanding of these terms. The list of injuries below is not exhaustive, but contains some of the most commonly used terminology.



Type	Description
<b>Soft Tissue Injury</b>	Injury to muscles, tendons, or ligaments.
Strain	Overstretching of a muscle.
Sprain	Wrenching or twisting of a joint with partial rupture of joint structures (e.g. meniscus, membrane or bursa) or other attachments (e.g. ligaments).
Dislocation	Displacement of a joint (may be with tearing of the surrounding soft tissues).
<b>Fractures</b>	
Partial	A fracture in which the break across the bone is incomplete.
Complete	A fracture in which the break across the bone is complete, so that the bone is broken into separate pieces.
Compound (open)	A fracture in which the broken ends of the bone protrude through the skin.
Closed	A fracture in which the bone does not break through the skin.
<b>Contusion</b>	Another name for a bruise. A collection of blood in a confined area, usually resulting from trauma that has ruptured blood vessels, causing blood to escape.
<b>Disc Herniation</b>	This refers to the situation where the jelly-like centre of the intervertebral disc protrudes outside of the fibrous outer ring.



## **Stages of healing and recovery for physical injuries**

Bony and soft tissue injuries pass through three basic stages of healing; acute (trauma) stage, regeneration stage, and remodelling stage. At each stage, appropriate medical assessment and treatment combined with workplace initiatives, can promote the early return of the injured worker to the workforce.

### **The trauma stage**

This represents the body's initial reaction to injury. Depending on the type of injury this stage can last up to 48 hours

Early appropriate treatment at this stage can reduce the severity of swelling and pain. This is why, rehabilitation procedures at the workplace should commence from the time of injury. These procedures include actions like the administration of first aid and assistance for workers to seek timely medical treatment.

Early assessment and treatment by a doctor can determine whether the injured worker is capable of continuing work, requires suitable duties or referral for specialist medical and/or allied health treatment.

### **The repair and regeneration stage**

This is the healing phase of the injury. New tissue is formed to repair damaged tissue. This healing process often involves an increase in the circulation near the injured area, which can result in localised puffiness (swelling), and tenderness.

Continued participation in suitable work activities can assist recovery. Controlled early movement and appropriate, prescribed exercise can help to promote healing, while prolonged immobility and inactivity can result in a fear of movement and "guarding" of the injured body part by the injured worker. In addition prolonged withdrawal from usual activities can lead to general "deconditioning" (i.e. reduced strength and endurance) of the whole body.

Depending on the type of work activities required, the involvement of the injured body part in some suitable work activities, under the guidance of the treating medical/rehabilitation professional can promote repair and regeneration. This supports the early intervention focus of the *Workers' Compensation and Rehabilitation Act 2003*.

### **The remodelling stage**

The final stage in the healing process. Repaired tissue experiences ongoing remodelling for several months following injury.

Remodelling tissues/structures being placed under normal stress (i.e. the force generated through the tissue/structure), such as that generated through usual daily activities (including work), will





develop the strength needed to cope with these daily stresses. Tissues/structures undergoing too little stress during remodelling may be predisposed to re-injury as they may not become strong enough to cope with normal daily stresses.

Health professionals can guide the rehabilitation and return to work coordinator and worker through the gradual increase in stresses placed on the tissues as healing occurs.



## Psychological injury

In recent years there has been a gradual increase in the number of claims submitted for work-related psychological/psychiatric injuries. In the case of these injuries we use different descriptions to those used for physical injuries. Psychological/psychiatric injuries are often described in relation to their impact on workers' cognitive and emotional function; that is, the way that they think and feel. Changes to peoples' thoughts and emotions impact upon the way they act and interact. This in turn affects their ability to carry out usual daily activities in the same manner as they did prior to the injury occurring.

## Terminology associated with psychological/psychiatric injuries

Some of the terms that you may see on workers' compensation medical certificates relating to workers with psychological injuries include those listed below. Be aware that these are brief descriptions and the diagnostic criteria for these conditions are often pages long. The list below will assist you to become familiar with some of this terminology.

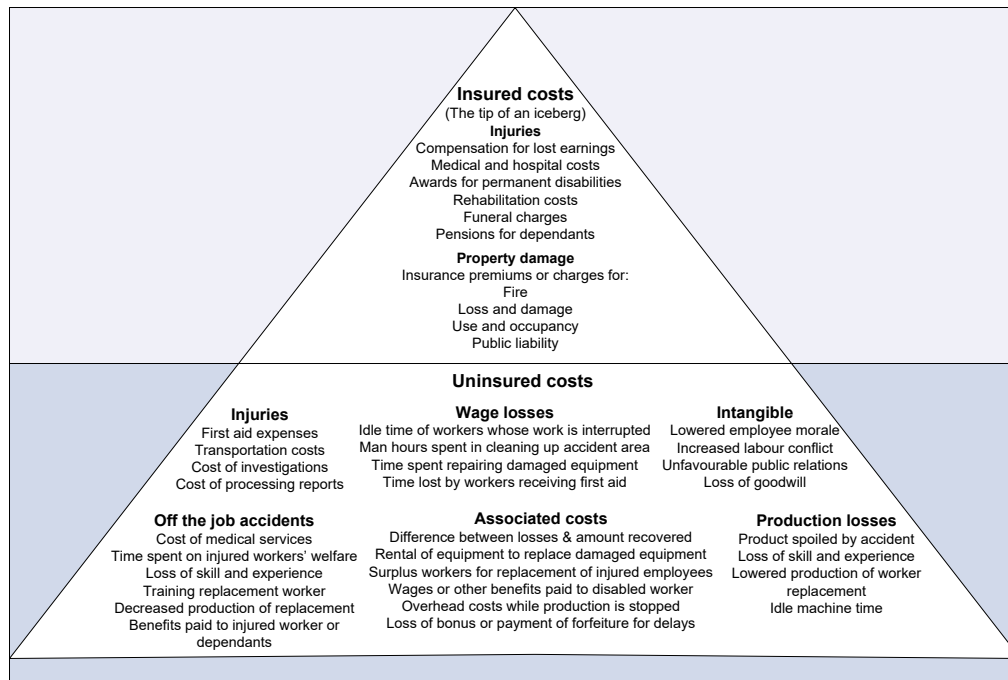
Type	Description
Major depression	This is a mood disorder and it may occur as a single episode or recurrent depression. It is characterised by: an abnormal depressed mood and loss of all interest and pleasure most of the day, nearly every day, for a specified period; appetite or weight disturbance either abnormal weight loss or gain; sleep and activity disturbance; abnormal fatigue and self-reproach; poor concentration or indecisiveness; abnormal morbid thoughts of death.
Adjustment Disorder	Is described as a maladaptive response to a normal psychosocial stressor that has occurred in a particular timeframe and is not caused by grief due to bereavement.
Anxiety Disorder	This disorder is described as excessive anxiety and worry (apprehensive expectation), occurring more days than not for a specified period of time, about a number of events or activities (such as work performance). The person finds it difficult to control the worry. The anxiety and worry are associated with three (or more) of the following six symptoms; restlessness or feeling keyed up or on edge, being easily fatigued, difficulty concentrating or mind going blank, irritability, muscle tension, sleep disturbance (difficulty falling or staying asleep, or restless unsatisfying sleep). Sometimes doctors will refer to anxiety disorders as "stress" on initial medical certificates, until they have determined an appropriate diagnosis.



## Impact of injury on injured workers and employers

Work related injuries result in direct and indirect costs for employers and employees. Direct costs are those for which compensation is paid and indirect costs are those for which there is no compensation or payment.

### The auditing of accident cost



For the employers, these costs may include:

- compensation for lost earnings and medical expenses leading to increase in workers' compensation premiums
- damage to property and equipment
- lost production time
- cost of accident investigation
- training new employees and
- reduced commitment and employee morale.

For the worker these costs may include:

- loss of physical health and fitness
- loss of social well being
- financial loss and
- impact on future employability.

The social and economic costs of work-related injury and illness provide the motivation for developing rehabilitation systems. Experience shows that early intervention for rehabilitation



reduces the severity of the effects of the injury. There is evidence that the longer the delay between an injury and commencement of rehabilitation, the less chance the injured worker has of returning to their usual work. Pain and inactivity may lead to loss of function, sometimes to a degree which is impossible to reverse. When started as soon as possible, rehabilitation can mean the difference between return to health or permanent incapacity.

Further evidence exists that the longer the absence from work, the less chance the worker has of re-entering the workforce. People become harder to re-employ the longer they are away from work.

Many of us rely on work for an identity. The involuntary removal of paid work from our lives removes the framework around which much of our lives are structured. The resulting aimlessness and loss of self esteem, together with the loss of social and financial status, may lead to severe depression and loss of motivation. If the absence is a long one, the person may lose both work and social skills so that even seeking work requires enormous adjustment and re-education.

Workplace rehabilitation avoids these complications by ensuring that the period of absence from the workplace is as short as necessary. Just because a worker has been injured doesn't mean that they can't work at all. Employers can help by providing suitable duties and working with all parties to help the worker back to work.

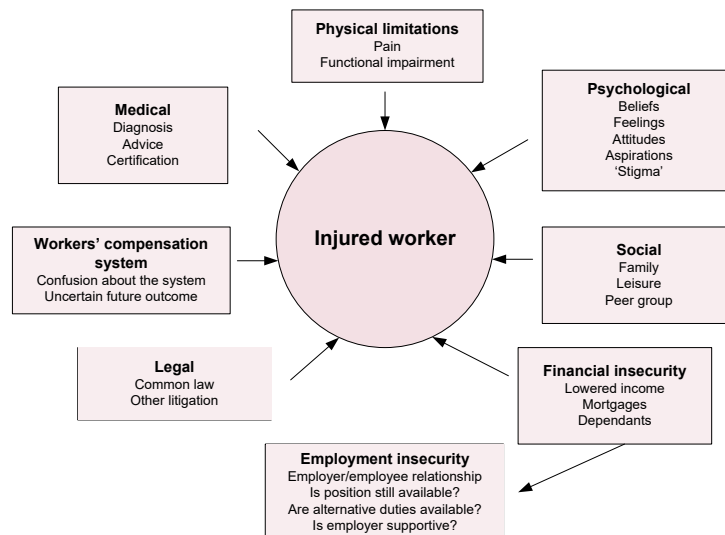
Workplace rehabilitation aims at early intervention, not only in the physical recovery period, but also in the psychological recovery period through an early return to the workplace and work of a suitable nature. This work should match the worker's current capacity and, where possible, provide a useful stage in the rehabilitation process but should not be in any way harmful to the worker's recovery.

Such work may consist of suitable tasks from the worker's former job, perhaps performed for a reduced period of hours or days, or it may be another set of duties with the same employer, selected to suit the worker's present capacity, from which a graduated return to former duties will be made. Suitable or selected alternative duties may also be located by deploying the worker to another section or even with another employer.

(Source: The above information is taken from: *The Australian Occupational Rehabilitation Guide*, Corporate Impacts Publications Pty Ltd, Edgecliffe; January 1990)



## Factors limiting recovery



## Individual factors that may impact on the worker's experience of injury

Whether an injury is of a physical or psychological nature, it is essential to remember that every person will experience injury differently. This is due to what we refer to as **individual factors**. Individual factors impact workers' recovery from injury. You should never assume that because you have coordinated the rehabilitation of one worker with a particular injury, that the next worker with the same injury will follow the same path of recovery.

Individual factors are one reason why communication is essential to the role of the RRTWC. It is not appropriate for the RRTWC to simply assume that a worker with a particular injury will recover in a particular timeframe, or be able to perform particular duties. Individual factors mean that communication and guidance from the treating medical and rehabilitation practitioners is a necessity.

Individual factors which may impact upon a worker's experience of their injury, and rate of recovery include:

- previous injury to the same area
- pre-injury physical capacity and strength
- age
- lifestyle factors (e.g. smoking, diet, sedentary versus active)
- pre-injury job satisfaction (e.g. willingness to return to a position which is not satisfying)
- gender
- roles outside of work (sports person, parent, student)
- means of transport to and from work
- experience of pain associated with the injury.



Other factors that may impact a worker following injury include:

- fear of re-injury
- fear of performing suitable duties that are significantly different to their normal role
- anxiety about job security
- financial pressure
- performance management and the need to maintain productivity levels.

It is important to adopt an individualised approach to the rehabilitation of each injured worker and consider their individual factors when developing a suitable duties program for return to work:

1. Look at the injured worker as a whole person and don't focus solely on injury or impairment.
2. Take a positive approach to rehabilitation: focus your thinking on what the injured worker can do rather than what they can't do.
3. Involve the injured worker in decision-making about the rehabilitation process as much as possible.
4. Encourage and help the worker to make gains a step at a time to build their confidence in their ability to recover and the rehabilitation process.
5. If the worker experiences a setback discuss this with them and their treating doctor. Analyse what went wrong and develop strategies to prevent a recurrence. Use the current workers compensation medical certificate to develop an amended suitable duties program. Ask the insurer to engage a rehabilitation provider.
6. Make sure the injured worker knows that their suitable duties will change as their condition improves, and that they are a temporary until they return to their pre-injury job.
7. Ensure that your workforce (workers and management) is aware of the rehabilitation process **before** an injury occurs (provide information at induction and through ongoing awareness raising activities).
8. Minimise risk by documenting any actions that are taken during rehabilitation e.g. case notes.
9. Let workers who cover the duties of an injured worker whilst they are on suitable duties know that this is a temporary arrangement.
10. Advise the HR/payroll section that the worker has lodged a claim for compensation and clarify arrangements for paying wages and/or hours worked on suitable duties.
11. Remember that every person experiences and responds to pain differently. Don't expect reports of pain to be the same from person to person.



## **The injury management process and the roles and responsibilities of stakeholders**

### **Why is return to work important?**

The *Workers' Compensation and Rehabilitation Act 2003* sets out a legal obligation for Queensland employers to take 'all reasonable steps' to assist or provide rehabilitation to injured workers on compensation. Better management of return to work after injury is linked with less time off work, resulting in lower costs to workers and employers and better return to work outcomes. Time off work has significant costs for employers because of higher workers' compensation insurance premiums, but also because of lost time, lost work productivity and lower job satisfaction.

Legislation sets out the minimum obligations for employers for workplace rehabilitation. Certain employers are required to have a Rehabilitation and Return to Work Co-ordinator and Policy and Procedures.

### **What is return to work all about?**

Return to work is not just about medical treatment or injury recovery. Return to work and injury rehabilitation outcomes often depend on how employers respond to and support injured workers in the workplace. From a worker perspective, employers are seen to have more impact on return to work than all other stakeholders including doctors, insurers, customer advisors, co-workers.

Achieving better practice in return to work is as much about good business strategy and high quality business processes as it is about high quality medical treatment.

### **Aim of workplace based rehabilitation**

Workplace rehabilitation has three main aims:

1. Physical and mental recovery from injury.
2. Early return to work.
3. Minimising the impact of injury.

It is important that workplace rehabilitation is seen as a system in which the person of primary importance is the injured worker and that every attempt is made to return the worker to their pre-injury state. This can be achieved through a system of workplace rehabilitation that is accepted by management, employees and unions.

Within a workers' compensation system, rehabilitation focuses on interventions aimed at maintaining injured employees at the workplace and returning them to appropriate employment quickly and efficiently.

Early intervention and a quick return to the workplace are recognised as being effective in reducing the economic and human costs of work-related injury and disease. Research and practical





experience have demonstrated employer's benefit from developing systems for early identification, treatment and management of work-related injury or disease. Workplace rehabilitation systems can significantly reduce the prospects of an injury or disease becoming a long-term workers' compensation claim.

To make this approach work, your workplace will need a system of early reporting of injury and a coordinated response involving all relevant parties. The responsibility for this role is usually located with the workplace rehabilitation and return to work coordinator or other work health and safety personnel within the organisation.

## **Benefits of workplace rehabilitation**

What are the benefits of workplace rehabilitation? Early and effective workplace-based rehabilitation is a powerful tool for keeping or returning injured workers to work, and minimising the costs of work-related injury and illness.

### **Benefits for employers**

- management of the rehabilitation process in your workplace
- reduced down time
- increased productivity
- better risk management
- reduced training costs
- reduced use of 'replacement' staff
- reduced insurance premiums
- improved workplace relations and morale
- reduced turnover costs
- prevention of future injuries
- maintenance of customer relationships
- increased competitive capability.

### **Benefits for workers**

- faster recovery and reduced suffering
- planned and managed recovery from injury
- improved and/or maintained physical fitness
- enhanced self esteem and confidence
- job and financial security
- income maintenance
- job satisfaction
- maintained workplace relationships and social networks
- maintained family and personal relationships
- maintenance of skills and competency
- reduced deconditioning.



### **Benefits for the community**

- less people referred for long term disability benefits
- social security support payments minimised as a result of early intervention
- skilled workers retained in the workforce
- value of work is acknowledged.

### **Summary**

Successful workplace rehabilitation benefits the employer, the worker, and the community because:

1. people recover sooner
2. they are helped to stay at work after an injury or get back to work as quickly as medically possible
3. employment provides them with social contact, income and self esteem
4. family and social disruption is minimised
5. claims costs are reduced.



## Setting up a workplace rehabilitation program

The road back to independence after a workplace injury can be long and difficult but each year thousands of injured workers have to make the journey.

Smart employers know that disabling injuries are costly – in both economic and social terms - not only for the worker but also the employer. The sooner an injured worker can get back their independence the faster everyone benefits – the worker, the employer and the wider community.

The psychological and emotional costs of workplace injury carried by the worker are a heavy burden. The indignity of being idle, the loss of self respect and financial worries are just a few of the pressures that injured workers and their families must put up with. It is now well known that for every dollar spent on rehabilitation today, four to seven times that much will be saved in the near future.

For these reasons, it is crucial that rehabilitation begins almost immediately an injury happens. The groundwork for good rehabilitation includes the development of a workplace rehabilitation team, a workplace rehabilitation policy and procedures, access to prompt medical care, and the appointment of a rehabilitation and return to work coordinator to coordinate return to work in the workplace.

Workplace rehabilitation is most effective when it is integrated into existing human resource management policy such as your workplace health and safety policy.

1. The first task in developing a workplace rehabilitation program is to develop a clear rehabilitation policy and procedures that provide clear guidelines for workplace rehabilitation following an injury. This task must be completed in consultation with the workforce.
2. Develop a plan to roll out the new policy and procedures at your workplace.
3. Provide education at induction and ongoing education for all existing and new employees. Consider a presentation to senior management to get their support and commitment. 'Sell' the benefits of workplace rehabilitation to senior management in their language eg impact on 'bottom line'.
4. Appoint a RRTWC. Appoint a person with the seniority and personal skills to carry out the role: they will need to be capable of negotiating with management and workers at all levels. Ensure the RRTWC has enough time to successfully perform in the role. The coordinator should be a mature balanced personality who can advocate for the injured worker and help make return to work happen. The RRTWC should not be thought of or expected to routinely act as the 'rehabilitation police'.
5. Facilitate workplace rehabilitation by laying the groundwork:
  - a. Ensure there is a system to ensure speedy and effective responses to workplace injury including first aid and quick access to medical treatment.
  - b. Have early reporting systems so the RRTWC is notified of accidents immediately and can respond promptly.



- c. Establish preferred provider relationships with doctors and physiotherapists in your area. While injured workers can choose their own providers, it is useful to have access to providers who understand your workplace and the demands of the various jobs.
  - d. Let doctors in your area know that your organisation is active in keeping or returning injured workers to work as soon as medically appropriate and that you can offer them suitable duties.
  - e. If your organisation is a large one, you may consider having medical and/or allied health providers on site.
  - f. Develop a workplace rehabilitation information kit for distribution to medical and allied health providers in your area to let them know about your rehabilitation program.
6. Develop a list of suitable duties for all jobs at your workplace. If you are not sure what they are, you could engage a workplace rehabilitation provider to identify and record them for you. Photos of workers demonstrating these duties are useful to help the treating doctor better understand the physical demands of these tasks in your workplace.
  7. Develop an early assessment protocol – you could have an initial assessment template to prompt you to ask the following questions:
    - a. Is the person fit for his or her regular job?
    - b. Does his or her job require some modification?
    - c. Is a more suitable job available?
    - d. Is there a need for retraining and/or induction?
    - e. Is it likely the worker could have a temporary or permanent disability and what modifications to the job or the work environment might be required?
  8. Be flexible and accommodate the employee's needs. It is good practice (and a legal requirement) to consult them on the details of their return to work.
  9. Evaluate progress during and after workplace rehabilitation. Set up a system of quarterly evaluations to measure the success of your program. Think about monitoring costs, durations, satisfaction of key parties, whether a worker was re-injured during suitable duties or developed secondary injuries eg psychological injury.
  10. Provide formal quarterly reports to senior management if the volume of cases warrants this – identify any long term trends eg decrease in costs, durations, staff turnover, and satisfaction levels of staff and management.



## Factors impacting workplace rehabilitation

There is increasing research evidence that suggests that people (workers) with injuries or illnesses for which they are compensated often have poorer health outcomes than people with similar conditions for which they are not compensated. What has become clear is that a range of influences and experiences (psychosocial, physical, home and work) have the potential to impact in a particular situation. Management and rehabilitation and return to work coordinators need to be aware of these factors and the range of strategies that can be used to manage and overcome them. In some cases health providers may be unaware of these issues or have not considered their impact and you will need to discuss this with them and work together to identify ways to manage them.

Listed below are factors that can impact workplace rehabilitation. This impact may be positive or negative. The lists provided below are **suggestions** as to ways in which each factor may impact workplace rehabilitation. These are by no means comprehensive.

### Management commitment

In order for workplace rehabilitation to be successful, all members of the organisation must demonstrate commitment; this is particularly the case at senior manager/employer level.

Positive	Negative
Managers demonstrate a knowledge of the rehabilitation process.	Managers display little evidence of knowledge regarding the organisation's rehabilitation process.
Managers encourage supervisors and other senior staff to support rehabilitation at meetings/team days etc.	Managers never discuss rehabilitation with their senior staff and are dismissive/too busy when the topic is raised.
Managers schedule regular meetings with rehabilitation and return to work coordinator/s to discuss processes and to resolve difficulties.	Managers do not show an interest in the activities of the rehabilitation and return to work coordinator.
Managers approve resource allocation (particularly time for adequate completion of duties) as required by the rehabilitation and return to work coordinator.	Despite requests Managers do not allow rehabilitation and return to work coordinators to have the time, space or other resources available to adequately perform their duties.



### Assistance from line supervisors/team leaders

The line supervisor is an extremely important member of the rehabilitation team. Experience has shown that supervisors can make or break a rehabilitation program. Supervisors should be consulted about the development of suitable duties programs and should have an understanding of the rehabilitation process for each injured worker on their team.

Some organisations who recognise the savings that can be gained from successful rehabilitation have begun using successful participation in the rehabilitation process as a key performance indicator for supervisors and team leaders. The line supervisor is well placed to provide evidence of the organisations' commitment to rehabilitation and to informally monitor the status of the worker as they carry out their duties.

Positive	Negative
Supervisor assists the rehabilitation coordinator to identify suitable duties even before an injury occurs.	Supervisor refuses to assist in the identification of suitable duties.
Supervisor takes an interest in those aspects of rehabilitation relevant to their management of the worker – e.g. if treatment appointments will be occurring in work time.	Supervisor avoids workers on rehabilitation programs.
Supervisor shows an interest in the worker's recovery by asking appropriate questions and not "pumping them" for information.	Supervisor asks the worker frequent and probing questions regarding the workers medical condition.



## Support from co-workers during suitable duties

Co-workers play a very important role in the rehabilitation process. The attitude of co-workers can have a significant impact on the success and rate of reintegration into usual work tasks. Co-workers should be encouraged to accept rehabilitation is the “norm” and that suitable duties programs are necessary and supported by legislation, rather than a “soft option” for injured workers.

Positive	Negative
Co-workers accept that an injured worker will be joining them in their work area to participate in suitable duties.	Co-workers make negative comments to and about workers who are assigned to their work area as part of a suitable duties program.
Co-workers recognise that regardless of their personal beliefs regarding the validity of an injured worker’s claims about their injury, it is not their role to make judgements about the cause or severity of the injury. In addition they are aware of the process by which a formal claim may be made to the RRTWC if they feel this is warranted, and that informal accusations regarding the injured worker will not be tolerated.	Co-workers speculate on the possibility that the injured worker is not truthful in relation to their claims regarding the cause or severity of their injury both in the work area and informally in the lunch room etc. They are unaware of formal avenues through which this type of information may be reported and recorded by the RRTWC.
Co-workers do not “fuss” or “make a big deal” of a co-worker on suitable duties and simply allow them to participate in tasks detailed on their plan.	Co-workers over-react to the injured worker and provide too much assistance, potentially reducing their opportunity to gain physical or psychological conditioning benefits from their suitable duties.





## Effective training for new tasks

In instances where the injured worker's training or experience is specific to their usual role, there may be some difficulty finding suitable duties they are able to perform without some training. It is essential that workers do not find suitable duties demeaning and that they are not embarrassed by being asked to perform tasks outside of their training or experience.

In the instance where suitable duties could be performed at the usual workplace with some re-training, it is recommended that training be undertaken. Training is necessary because the employer has an obligation to ensure that the work practices used are safe and further injury isn't caused by lack of knowledge on how to perform certain tasks. Training often has the added benefit of shifting the injured worker's focus from their injury to the new tasks to be learnt.

Positive	Negative
The requirement for training is identified at the time of the development of the suitable duties program and training is built into the suitable duties program.	The need for training is not identified and the worker is embarrassed by not knowing what they need to do, or injured due to performing the task in the wrong way.
The worker is provided with all safety equipment required to work in the new area where they will be undertaking suitable duties and trained in its use.	The worker is not supplied with safety equipment and trained in its use required to work in the new area.
Co-workers take the time to answer injured workers' questions if they are unsure of tasks assigned during suitable duties.	Co-workers ignore or patronise the injured worker when they ask questions to clarify their duties in a temporary suitable duties work area.



## Positive versus negative workplace culture

The culture of a workplace is often simply recognised as, “the way things are done around here”. Often the combined attitudes of management, line supervisors/team leaders and workers will create the culture within the workplace. Education and training may assist the workplace rehabilitation and return to work coordinator to overcome negative cultural attitudes regarding rehabilitation. It is also a good idea to work with formal and informal leaders in the workplace to build support for workplace rehabilitation.

Positive	Negative
The workplace is open to change and the implementation of new systems.	The workplace does not accept change or the implementation of new systems.
The workplace is consultative and participatory.	The workplace is hierarchical and new processes are imposed on workers without consultation or education.
There are formal processes and informal avenues through which to raise concerns or ask questions.	There is no system (formal or informal) by which workers are able to access or provide information to managers.

## Involvement in rehabilitation policy development

The rehabilitation policy and procedures will provide the framework for workplace rehabilitation within the organisation. It is good practice to involve employees and their representative in the development of the rehabilitation policy and procedures or at least provide them with an opportunity to provide feedback on a draft. This encourages ownership of the policy and helps to raise awareness of workplace rehabilitation.

An opportunity to participate in the development of workplace practices encourages a personal investment in the effective implementation of these practices. This differs from a policy that is seen as being “enforced” without consultation with employees or the opportunity for them to have input. If your workplace is highly unionised, you may be able to get support for your rehabilitation policy and procedures by encouraging the involvement of union members in their development.

Positive	Negative
Representatives from all levels of the organisation are given the opportunity to provide feedback on the policy and procedures	Policy and procedures are developed without any consultation with workplace representative.
The whole workforce is informed (e.g. via email or notification with their pay slips) that policy development is underway and open to their comment and input.	No one at the workplace is informed that the development process is taking place.

Some other barriers to workplace rehabilitation that the RRTWC may identify are listed below.



Barrier	Strategy
Worker has seen other workers seriously injured and not return to work.	Explain workplace rehabilitation process and reinforce expectations of full recovery.
Worker fear of job loss – avoids early reporting of symptoms.	Encourage early reporting of symptoms. Encourage workers to get treatment. Reassure worker that they can be provided with suitable duties.
Workplace culture – fear of being perceived as lazy or inadequate.	Encourage early reporting of symptoms, make it clear that early intervention and management of symptoms are a business priority.
Workplace morale – poor relationships with supervisors, peers, work overload, language barriers, feeling of powerlessness to affect decision making processes.	Identify the issue. Discuss with relevant party eg supervisor and explain the need for trust and partnership to help workplace rehabilitation strategies to succeed. Escalate to senior management if relevant.
Worker pre-occupied with personal issues such as health, financial problems or family issues.	Discuss referral to counselling service either funded by insurer or suggest an appropriate community service.
The worker may have been referred for multiple medical appointments and tests by his doctor and the insurer as part of the compensation process and this may cause confusion and anxiety.	Explain the claim process to the injured worker ie the insurer will be sending them for medical appointments and tests to help them determine liability – not for diagnosis and treatment as this is the treating doctor's role.
Loss of contact with workplace leading to poor communication and misunderstandings.	Make early contact and maintain as frequently as appropriate for a particular case.
Lack of understanding of the medical and insurance systems in workers' compensation.	Provide information and reassurance.
Unresolved emotional issues eg anger, guilt, low self esteem, change of role from provider to dependant.	Reassure the worker they are not being blamed for their injury. You may need to discuss referral to counselling services with the insurer or a community based service eg Lifeline, if the issues are complex.
Competing agendas – eg employee has received advice not to participate in rehabilitation.	Point out that it is in the worker's best interests to attempt to return to work in line with medical advice/restrictions. The Act also imposes obligations on workers to reduce or mitigate their loss due to the injury.
Medical examinations for assessment for legal and insurance purposes can confuse the worker.	Explain that these appointments are not for treatment but are examinations for legal purposes to determine liability and assess any permanent impairment.



## Overcoming the negatives

Many of the negative impacts detailed above can be overcome by providing a system of workplace rehabilitation and information and training at your workplace. First enlist the support of management, in particular senior management, and then develop a system for delivering ongoing information and training in your workplace about benefits and procedures for workplace rehabilitation.

## Workplace training and education concerning policies and procedures

Awareness raising amongst new and existing employees (and management) regarding rehabilitation is the responsibility of the rehabilitation and return to work coordinator. Once new policy and procedures for workplace rehabilitation have been developed (in consultation with the workforce where possible), it is important that some form of training is undertaken with all relevant stakeholders at the workplace.

Don't expect that employees or managers will be able to put this new information into practice immediately. It may require coaching at the time that an injury occurs with refresher sessions and other reminders at regular intervals. The aim of education and training is to get acceptance of the rehabilitation process as a usual part of workplace operations. This will ensure that in the event of an injury, workers expect that the rehabilitation process will follow.

It is essential that injured workers' understand the process they will be expected to participate in after a work injury. The importance of this cannot be stated too strongly. Many of the barriers that occur which result in lengthy, costly claims or pursuit of common law result from the worker's 'fears' or inaccurate beliefs about rehabilitation. The solution is to provide them with **timely** and **accurate** information.

If you think you are unable to answer worker's questions or address their concerns you should contact their insurer's customer advisor as a matter of urgency. Once you recognise that a worker is concerned or confused regarding an issue **do not** simply leave them to wonder. If the concern is not something you can address contact the insurer's customer advisor for advice and use the resources available, such as the treating doctor or allied health professionals to assist in addressing workers' concerns. Remember you need to get insurer approval to consult a health provider.



## Ways of communicating the rehabilitation message

There are many ways in which you can communicate with workers and managers regarding the rehabilitation process. The following suggestions may be adapted to suit your workplace, or you may develop additional strategies.

- At induction workers are advised of the location of the workplace rehabilitation policy and procedures, and handed a single sheet flow chart of what the organisations rehabilitation procedure entails. This should be accompanied by a verbal explanation of the flow chart procedure to reinforce the content (or to provide explanation for those workers who may have poor English literacy).
- Workers attend a twenty-minute briefing regarding the rehabilitation process.
- Managers attend a separate twenty-minute briefing regarding the rehabilitation process.
- All staff who move into supervisory positions are provided with education regarding their additional responsibilities in relation to rehabilitation.
- The rehabilitation and return to work coordinator calls on small groups in their offices or on the shop floor and works through handouts with staff (e.g. toolbox talks).
- A brief explanation of the rehabilitation process is developed into brochure or letter format and handed to workers along with their pay slips.
- Utilisation of the computer system to generate emails that staff must confirm they have read before entering into their usual activities.
- Posters promoting rehabilitation placed in high traffic areas.
- The RRTWC is given space for a column in the staff newsletter.
- The Rehabilitation Policy and Procedures are advertised on the internal intranet.
- Publishing a commitment to workplace rehabilitation on the organisations' externally accessible website. This may be particularly beneficial for large organisations participating in tender processes (focusing on relationship contracting).
- Inclusion of a rehabilitation status report at a regularly scheduled supervisors/managers meeting. This should include an update from the rehabilitation and return to work coordinator regarding issues not involving disclosure of confidential information. For example number of open claims, statistics for the previous month, and identification of successful practices.
- RRTWC spending time on the shop floor talking informally to workers who have been (or are) involved in rehabilitation and their co-workers and seeking feedback regarding the process in order to raise their profile in the workplace.



## **The injury management process**

Workplace health and safety, workers' compensation and workplace rehabilitation are interrelated. If a worker does sustain an injury at work it is crucial that immediate action is taken to minimise the severity of the injury and assist in the worker's recovery (dependent upon the organisation these initial steps may fall to the RRTWC, Workplace Health and safety Officer or First Aid Officer). What's more, it is essential that steps are taken to ensure that the same injury does not happen again. This prevention activity may fall to the Workplace Health and Safety Officer, or it may involve the RRTWC working with the Workplace Health and Safety Officer.

The rehabilitation and return to work coordinator, is responsible for assisting in the return to work of injured workers. It is important that workplace rehabilitation does not restrict the healing process, or contribute to re-injury.

## **Six key stages in return to work**

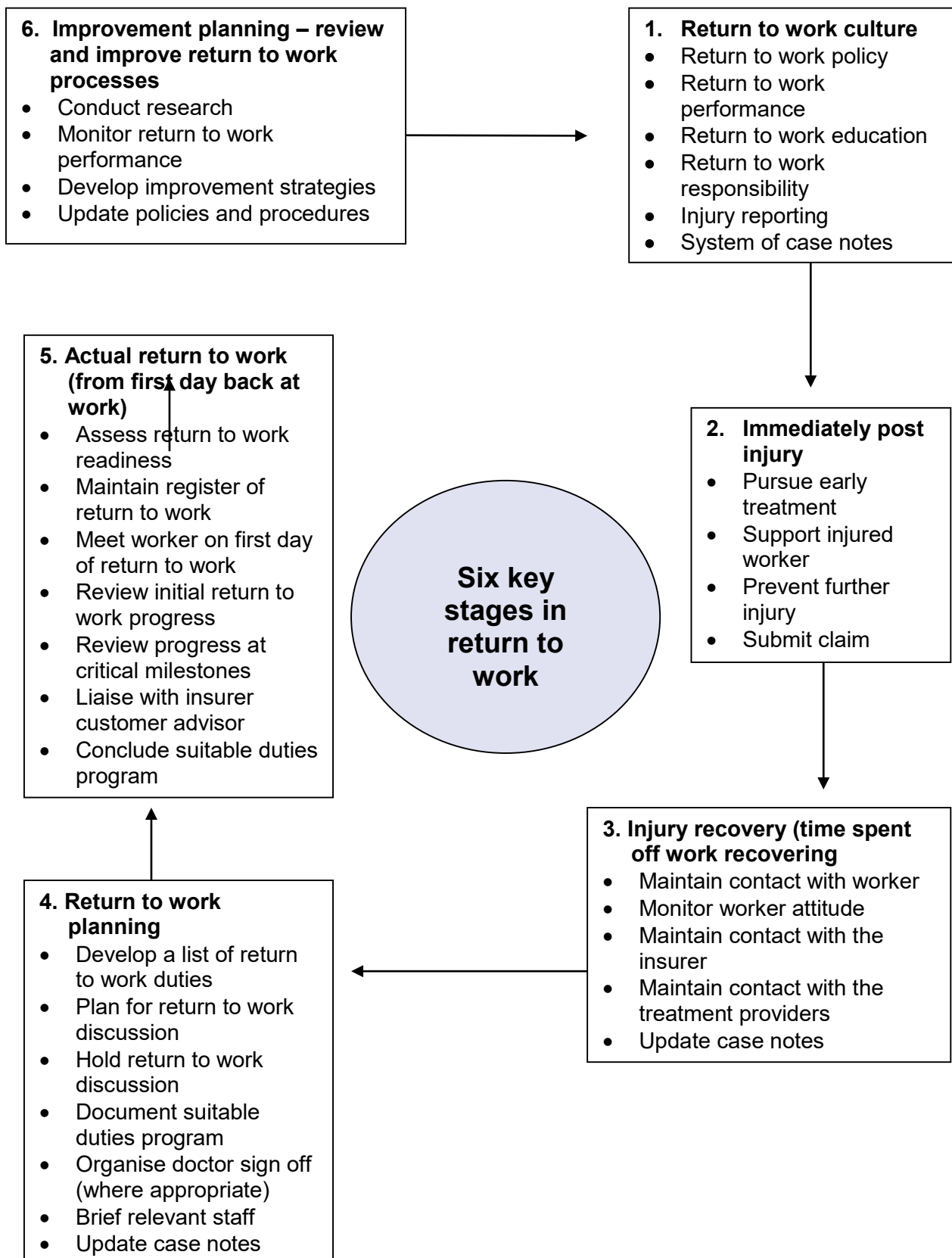
There are six key stages which can effect how safely and quickly workers return to work following workplace injury. Optimising business performance in each stage is typically associated with improved return to work and rehabilitation outcomes. Key stages to achieving better practice in return to work include:

1. Developing a return to work culture.
2. Immediately post injury.
3. Injury recovery.
4. Return to work planning.
5. Actual return to work.
6. Improvement planning.

The following figure summarises the key features of each stage along the path from workplace injury to return to work.



## Six key stages in return to work







## Stage 1 – Developing a return to work culture

Return to work culture is about developing quality business processes and practices to support the management of return to work in the workplace. This can include developing workplace rehabilitation policy and procedures, educating workers about early reporting of injuries and allocating responsibility for managing return to work.

The first important step to achieving better practice in return to work involves developing a business culture which supports the active management of workplace injury and rehabilitation and return to work. Building a return to work culture is as much about actively preventing poor quality return to work outcomes as it is about encouraging high quality return to work outcomes and experiences.

### Why is this important?

There are positive benefits of developing a return to work culture. In particular, it is important to:

- educate staff about the need to immediately report workplace injuries
- ensure that staff are comfortable reporting injuries to management
- prevent further injury or re-injury.

Preventing further injury, educating staff about injury reporting and having a return to work policy are associated with less time off work. From this perspective, all businesses, large or small, can benefit from developing a return to work friendly culture.

Building a return to work culture takes time and commitment. A structured program of improvements can lead to the development of a culture which supports successful return to work and rehabilitation of injured workers.

### Characteristics of better practice in developing a return to work culture include:

#### Return to work policy

- There is a clear and documented policy for managing return to work and injury rehabilitation - see <https://www.worksafe.qld.gov.au/> for a copy of *Workplace Rehabilitation Policy and Procedures* template.
- The return to work policy is accessible to staff – hang a copy on a noticeboard or place it on the intranet.
- CEO/managers support return to work policy – ask manager to formally sign-off on policy and promote endorsement to workers.
- Other business policies support early return to work – make sure rostering, human resources and other business policies support return to work (eg sick leave policy).
- There is a clear policy governing privacy in return to work and rehabilitation - ensure that your *Workplace Rehabilitation Policy and Procedures* explains how to keep injured worker details confidential.
- Return to work policy focuses on both early detection and effective injury management.



- Have a policy which encourages early detection of psychological stress at work and other less obvious injuries (eg carpal tunnel syndrome, occasional sore backs, allergic skin disorders, repetitive strain).
- Avoid developing a culture of blame.

### **Summary: Developing a return to work friendly culture**

A return to work friendly culture is about developing clear and easy to understand return to work processes and practices. It also includes making sure workers feel comfortable in reporting workplace injuries.

You can help to develop a return to work friendly culture by:

- providing regular and easy access to information on returning to work after a workplace injury
- encouraging workers to immediately report any injuries
- preventing further injury or re-injury.

*Key point: Encouraging a return to work friendly culture can reduce the impact and severity of workplace injury.*



## **Stage 2 - Immediately post injury**

Immediately post injury is the time to optimise the management of injured workers after a workplace injury. This means supporting workers following injury, preventing further injury and assisting workers with claim lodgement. If the injury has happened over a period of time then provide the same support when the worker reports the injury or lodges a claim.

Injuries at the workplace are often traumatic experiences for workers. In many cases, there are feelings of guilt about being injured, concerns about future work prospects and in cases of more serious injuries, concerns about health and long-term recovery. An important step in achieving better practice in return to work involves effectively managing the worker immediately following workplace injury.

### **Why is this important?**

Early support to workers immediately following injury is linked to less time off work on compensation. In particular, it is important to:

- Offer assistance when medical treatment is needed e.g. arrange transport to their doctor.
- Call injured workers immediately following a workplace injury.
- Visit the worker as soon as appropriate if they have been hospitalised.
- Signal to the worker your support for an early return to work.
- Advise the worker on how to make a workers' compensation claim and explain the process and timeframes.
- Avoid blaming the injured worker for the illness or injury.
- Encourage injury reporting to promote early intervention and reduce the severity of the injury's effect. When the employer encourages early reporting of difficulties such as soreness, it can prompt the use of the workplace rehabilitation and return to work procedures. In many cases, this means the worker can remain at work, rather than the injury becoming more severe and resulting in time off work or longer time off work.
- Avoid challenging the legitimacy of the worker's claim.
- Use the employer copy of the workers' compensation medical certificate to develop a suitable duties program. If the certificate is unclear or the injury is severe, liaise with the treating doctor and your insurer as soon as possible to develop a return to work strategy.

## **Summary**

Early support to workers following workplace illness or injury is linked to less time off work. Contact them as soon as possible to offer practical help and support. Avoid blaming injured workers for their injury and/or challenging the legitimacy of their claim and let them know they are valued and supported.



### **Stage 3 - Injury recovery**

Injury management in the recovery stage is about optimising the way injured workers are managed while they are off work. This includes ways to maintain contact with workers, how to better support injury recovery and communicating with doctors.

Following injury, many workers will spend some time off work recovering. This could range from a short period such as a few days or a couple of weeks to a longer recovery period of several months. For some, it may also involve a stay in hospital/rehabilitation. In most cases, separation of the worker from the work environment characterises the recovery. As a result, this can sometimes lead to workers feeling isolated and unwanted.

Recovery is often a time when rehabilitation and treatment are pursued. For this reason, recovery can be both physically and mentally challenging for injured workers. Many workers are concerned with their health, their job and future well-being. Accordingly, an important step to achieving better practice in return to work involves effectively managing the worker during injury recovery. It is important not to pressure the worker to return to work too soon after the injury. Regular feedback from the worker and their treating doctor is essential in guiding the return to work process.

### **Why is this important?**

Better support to workers during injury recovery is linked to less time off work on compensation. It is particularly important to:

- Make regular contact with injured workers while they are off work recovering.
- Provide access to early treatment and rehabilitation during injury recovery.
- Make contact with the treating doctor and the insurer particularly for more complex injuries.
- Offer support during injury recovery.
- Use treatment providers to assess potential for return to work.
- Identify barriers to return to work and discuss these with the injured worker.
- Encourage co-workers to keep in touch with the worker.

Early treatment and support during injury recovery benefits workers and employers. Regular contact during recovery also indicates support to workers and helps them avoid feelings of isolation.

### **Support injured worker**

- Contact the injured worker during recovery - telephone contact can often be just as effective as face-to-face contact although try to include at least one or two face-to-face visits for every month off.
- Assess ways to best support injured worker during recovery.



### **Monitor worker attitudes**

- Assess the worker's attitude to return to work and understand their return to work motivation. Determine whether the worker is optimistic about returning to work. If not, emphasise the benefits of working (eg pay, social contact, suitable duties).
- Ask the worker if they have any concerns about return to work and how you may help identify return to work barriers and develop strategies to overcome potential barriers.
- Tell the worker that a positive attitude can assist early return to work.
- Identify barriers which may interfere with return to work (eg low job satisfaction, conflicts with supervisor) and develop strategies to overcome barriers.
- Explore potential worker concerns about return to work/injury and address if possible.
- Assess need for injury adjustment or psychological counselling - if worker appears depressed, talk to them about counselling options. Encourage the worker to discuss with their doctor. If you have any concerns advise the worker's treating doctor.



## Stage 4 - Return to work planning

Return to work planning is about optimising the return to work planning process including ways to involve the injured worker, designing suitable duties and overcoming barriers in cases where return to work does not seem possible.

At some stage following injury, many workers will start to think about their eventual return to work. In some cases, employers also initiate return to work discussions. When a worker starts to discuss return to work with their employer, they enter what is termed the 'return to work planning' stage. Before an injured worker can return to work, adjustments often have to be made to duties and the work environment. In some cases, going back to fulltime duties initially is not an option and workers will only be able to perform suitable duties as indicated on their medical certificate or medical report.

Within this context, it is important for **employers** to initiate discussions about return to work with injured workers. During return to work planning, a number of issues must be addressed for the injured worker to be successfully re-integrated into the workplace. It is important that alternative duties do not exacerbate worker injuries and that accommodations are made to encourage and support a successful return to work. For this reason, employers should be proactive in initiating discussions about return to work with **workers**.

It may not always be appropriate for the injured worker to return to the same job with the same employer. For example, the worker may have sustained a psychological injury or there are human resource or industrial relations issues to consider. These issues need to be addressed in return to work planning and you may need to contact the **insurer** to discuss alternatives. With the worker's consent, you may also need to involve other parties such as a **rehabilitation provider** or **union representative** to assist in planning return to work.

### Why is this important?

Including workers in the return to work planning, and providing a clear understanding of suitable duties programs has been found to be linked to less time off on workers' compensation. From this perspective, taking leadership in return to work planning offers clear benefits to both workers and employers.

It is important to start discussions about return to work as soon as possible after injury. Do not wait for the injury to fully heal, but explore safe options for alternative duties at the workplace. In particular, it is important for employers to:

- Consider the return to work details stated in the current medical certificate or report.
- Liaise with the **treating doctor** if necessary to clarify restrictions or discuss return to work options (can be by phone, fax or email).
- If the **insurer** approves, a case conference with the treating doctor may be beneficial for workers with complex or serious injuries.
- Discuss return to work options and issues with **injured workers**.



- Initiate discussions about return to work rather than leaving the initiation to workers.
- Involve **senior managers** in discussions where possible.
- Don't just discuss return to work verbally but develop a written suitable duties program.
- Actively involve injured workers in return to work planning.
- Provide workers with a clear understanding of return to work duties.

*Key point: It's important to start return to work discussions as soon as possible. Don't wait for the worker to start asking. It's important that changes can be made to the worker's role to encourage a successful return to work without making the worker's injuries worse.*





## Stage 5 - Actual return to work

Actual return to work is about optimising the way injured workers are managed when they return to work. This includes strategies for monitoring adherence to suitable duties, monitoring progress in return to work and managing co-workers' reactions.

Actual return to work is the most important stage following a workplace injury. It is the injury rehabilitation goal. However, while many workers will attempt a return to work, they are not always successful. Indeed, research findings have shown that while many workers will go back to work for a short period, they often experience extended periods of absence following their return. This implies the need to support workers during their return to work and also to ensure that return to work is safe and not too early. In particular, it is important that workers adhere to suitable duties and are monitored and supported by employers on their return to work.

### Why is this important?

A successful return to work program:

- explores the use of a range of techniques to encourage return to work
- where possible, ensures injured workers return to their pre-injury job
- encourages workers to attempt return to work and provides necessary support
- develops strategies to prevent a non-return to work focus, particularly on injuries which have lower return to work rates such as psychological injury and sprains/strains/hernias/dislocations
- does not pressure workers to perform unsuitable duties
- avoids situations that are typically associated with an initial failure of the first attempt to return to work such as:
  - too much pain
  - poor employer support
  - re-injury at work
  - no suitable duties
  - poor psychological preparation of worker
  - poor support from co-workers
  - meaningless or uninteresting duties
  - poor family support.

Better employer and co-worker support on the first return to work attempt is statistically linked to a quicker return to work and less time on worker's compensation. Accordingly, providing good support early on offers benefits to both injured workers and employers.

*Key point: Better employer and co-worker support on the first return to work attempt is statistically linked to a quicker return to work and less time on workers' compensation.*



## Stage 6 – Improvement planning

Improvement planning is about further improving the ways return to work is managed at the workplace. This includes ways to measure return to work performance, gathering feedback from workers about their return to work experiences and developing strategies to improve return to work outcomes.

### Overview

Improvement planning is the final step towards achieving better practice in return to work. While not a compulsory stage, the improvement planning stage focuses on taking action to further improve injury management and return to work at your workplace.

By asking workers to give feedback on their return to work experiences, you as an employer will learn from their experiences and be able to implement improvements.

### Why is this important?

Improvement planning is important as it provides an opportunity to:

- Reflect on what went well and what did not go so well during the return to work.
- Ask the injured workers for their feedback on the way return to work was managed.
- Improve the way that suitable duties programs are structured.
- Monitor return to work performance overall and by injury type.
- Update business policies and procedures to incorporate improvements.

### Strategies for improvement planning

#### 1. Monitor return to work performance

- Calculate average day's compensation per injured worker.
- Develop a comparison table to monitor injured workers' return to work rates across time. This could include averages as stated above, plus moving averages, perhaps presented by type of injury.
- At six months, calculate percent of workers who have returned to work and percent who have attempted return to work.
- Record information for future monitoring.
- Assess durability of return to work after 12 months.

#### 2. Develop improvement strategies

- Develop improvement strategies to improve return to work processes.
- Make sure that strategies have appropriate resourcing allocated to them; otherwise, it is unlikely they will be effectively implemented.
- Review resourcing to implement improvements.
- Implement improvement strategies.



### **3. Update policies and procedures**

- Ensure improvement strategies are reflected in organisational policy (eg return to work policy, HR policy).
- Assess whether improvements may imply a need to change HR policy or other business processes (including return to work processes).
- Review usefulness of strategies in improving performance in achieving return to work.
- Try to reflect on whether strategies/ improvements have addressed identified problem areas.

*Key point: By asking the worker to give feedback on their return to work you will learn from their experiences and be able to identify future improvements.*



## Referral process for treatment and rehabilitation services

Work related injuries are no different to other injuries in that it is important to seek early treatment and actively manage the injury or illness. Employers and workers are encouraged to seek early treatment and intervention. (However psychological and psychiatric injury claims have a high rate of disputation and employers and workers should keep in mind that they will be responsible for payment for treatment and other services they have requested if the claim is rejected).

An insurer will pay for costs for which an insurer is liable for treatment at a public hospital. An insurer's liability for the cost of hospitalisation at a private hospital is limited to four days. Treatment in a private hospital must be approved by the insurer. An insurer may agree to extend private hospital stays in certain circumstances.

- All treatment and services provided to injured workers must be:
  - covered by an accepted claim for workers' compensation and
  - must be covered by a current medical certificate
  - most services require prior approval from an insurer
  - where a claim has been accepted the insurer does not require approval for initial consultations and a defined number of follow up treatments eg physiotherapy
- When a worker is injured at work and seeks medical treatment they must obtain a workers' compensation medical certificate from their doctor if they wish to lodge an application for compensation (make a claim).
- Most referrals for treatment and services to injured workers must have a referral from the treating medical practitioner.
- In some circumstances the insurer will refer a worker directly for services such as a worksite assessment.
- Once the worker has lodged a claim the insurer will pay for medical treatment by a general practitioner or hospital if the claim is accepted.
- Most doctors and hospitals will bill the insurer directly but some medical and allied health practitioners will ask a worker to pay 'up front'. They may also charge more than the fee that is paid by insurers and the worker will be required to fund the 'gap' in these cases.
- For accepted workers' compensation claims injured workers cannot self refer to services such as physiotherapy or chiropractic services. They must have a referral from their treating medical practitioner.
- Insurers will only pay for services outlined in the Medical and Allied Health Table of Costs as shown on the Workcover website.
- Some alternative medicine services such as massage therapy, remedial massage or homeopathy may not be paid for by an insurer. If in doubt ring WorkCover **1300 362 128** or your employer if they are a self insured employer.
- Where an employer wishes to engage an allied health or rehabilitation provider to provide workplace based services such as a workplace assessment or a functional capacity evaluation, they must obtain the approval of the insurer or they may be liable for the cost of the service.



Some employers have corporate health or early intervention programs and provide certain services to their workers to encourage the development and maintenance of a fit and healthy workforce. It is a matter for each employer to decide whether in the interests of early intervention they will provide certain services to an injured worker pending acceptance of their workers' compensation claim. Some relevant services include early assistance programs for workers coping with 'stress' at work or at home or gym or physiotherapy programs to help workers manage chronic conditions. There is usually a limit on these services and workers should be encouraged to lodge a claim for compensation if the condition is work related.

- At all times rehabilitation and return to work coordinators should refer to their organisational policy and procedures for referring workers to treatment services. They should also liaise with the worker's treating doctor to ensure they approve of the referral.
- Liaison with the treating doctor to obtain information related to the worker's medical treatment should only be with the injured worker's written authorisation.



## **Providing feedback to stakeholders**

### **Why is feedback important?**

It is important to provide accurate and timely feedback to all stakeholders during the rehabilitation and return to work process to avoid misunderstandings and the development of barriers to positive return to work outcomes.

Feedback can be used to clarify issues, prevent the development of barriers to return to work, help in developing suitable duties programs, monitoring rehabilitation and return to work and as an aid in improving your workplace rehabilitation programs.

### **When should feedback be given or asked for?**

RRTWC, supervisors and managers and other parties involved in rehabilitation and return to work should seek or give feedback at the following stages during return to work:

1. Immediately following an injury to find out the extent and severity of the worker's injury and to update their manager or supervisor on the worker's situation.
2. When the worker is away from work recovering it is a good idea to contact the worker each week to keep in contact, discuss progress and provide updates to their manager or supervisor.
3. If the medical certificate is not clear, the RRTWC should liaise with the treating doctor to obtain feedback about prognosis and recovery and suitable duties. At this time the RRTWC can also let the doctor know that the workplace provides suitable duties and that the worker can be accommodated with duties suited to their current condition.
4. A suitable duties plan must be developed in consultation with the injured worker so it is important to seek feedback from them about what duties they think they can identify and undertake.
5. The insurer should be given feedback about suitable duties – the Regulation states that the employer must give the insurer a copy of the suitable duties program.
6. Once the worker is back at work on suitable duties, the RRTWC needs to obtain feedback from the worker after the first day and update their supervisor and manager. It is important to maintain regular monitoring and feedback to the worker and their manager or supervisor during the period of suitable duties. The worker needs to be reassured that they are valued and being productive. The worker and their manager or supervisor should be alerting you to any problems such as an increase in symptoms.
7. If the worker has a setback during suitable duties you need to seek feedback from the worker, their manager or supervisor and the treating doctor to ensure the worker can proceed safely on a revised suitable duties program. You should also provide feedback to the insurer and request assistance if required.
8. At the end of a worker's rehabilitation and return to work program, injured workers should be surveyed to give feedback about their experiences during rehabilitation. Every effort should be made to follow up with all workers – RRTWC could consider using email, telephone and face to face interviews to get the information.



9. Managers and senior management should be given regular feedback about the number of workers on rehabilitation, the number who return to work and in what capacity they return, the satisfaction levels of injured workers and other parties with the rehabilitation process. Over time statistics can be kept showing costs, durations and outcomes for workers' compensation claims. Trends in types of injury can also be monitored and included in feedback to management.

### **Case notes**

The way that the RRTWC can record communications associated with return to work (including communications with people other than the injured worker e.g. doctor, supervisor) is to keep case notes.

## **Communication with stakeholders**

Good communication between individuals is essential for the successful operation of any organisation. Where communication fails or is poorly understood, strained relations, poor morale and low productivity will result. Rehabilitation and return to work coordinators communicate with people at all levels in an organisation so it is important that they have good communication skills.

### **Barriers to effective communication**

It is important for rehabilitation and return to work coordinators to recognise and manage barriers to good communications. Some of the common barriers are discussed below.

#### **Physical**

Good communication can be affected by the following physical barriers:

- heat, cold, noise and drafts
- time constraints resulting in poor attention to detail
- documents that are poorly written and organised
- complex content
- body language signals a different message to the content that is being communicated.

#### **Cultural**

Cross cultural communication can be affected by factors such as

- parties have different languages
- different customs, traditions and values
- motivation – individuals are motivated by different factors
- class, status or power differences
- physical gestures – may be acceptable in one context but cause offence in another.



## **Experience**

There may be confusion when introducing an audience to issues beyond its experience. New material should be related to the audience's current experience if possible.

Co-ordination and liaison are important parts of coordinating rehabilitation and return to work. All parties involved in the recovery of an injured worker, need to be aware of the plans for that worker's return to work. A rehabilitation and return to work coordinator is the vital link between the injured worker, management, treating doctors, unions, rehabilitation service providers, allied health providers, and the insurer.

## **Perceptions**

When receiving communication, people will filter the message and keep what interests them and fits in with their experience. People may have set ideas that will affect how they interpret communications. As a result, they may draw conclusions that were not intended.

## **Motivational barriers**

Some of the reasons why an audience may not want to respond to a communication include:

- the message is inappropriate
- lethargy, fatigue and disinterest
- antagonism, lack of trust
- negative non-verbal (body language) signals from the speaker.

## **Emotional barriers**

- message is inappropriate or offensive
- personal antagonism, anxiety or fear provoked by the communicator
- individual characteristics of the communicator eg introverted, extroverted, level of self-esteem
- attitudes and prejudices of the audience or communicator.

## **Organisational barriers**

Communication, even when well constructed can fail when it does not meet the expectations of its receivers. Problems arise when:

- style and content differ from usual patterns
- not enough time is allowed for response
- the message is complex
- influence of the grapevine
- management style.





## **Language barriers**

- vocabulary of speaker and audience may differ (avoid jargon)
- language not clear and simple.

## **Competition for attention**

- telephones ringing
- other speakers
- environmental distractions eg heat, cold, noise
- work loads or time constraints.

As a rehabilitation and return to work coordinator you can overcome many of these barriers by thinking about your intended audience and how to frame or 'pitch' the message. Avoid jargon, and consider the style, culture, timing, environment and expectations of your audience. Understand how things are done in your workplace, and use empathy to help you develop a message in a format appropriate to your audience. In other words, put yourself in the place of your audience and frame the message to take account of their needs. This is particularly important when you want to motivate staff to participate and cooperate in workplace rehabilitation.

Regular communication with injured workers about their participation in return to work activities following injury is essential. Injured workers should recognise the rehabilitation and return to work coordinator as someone they can contact about their progress. When speaking with injured workers and other relevant parties think about:

## **Verbal skills**

- your tone of voice – does it match what you are saying?
- conveying honesty and confidence
- being flexible
- being clear and concise
- keeping an open mind
- taking advantage of opportunities in the conversation to explore issues.

## **Listening skills**

Good listeners are rare. People are often distracted by other stimuli. As concentration is needed to understand the meaning of messages the following techniques may be useful:

- maintain appropriate eye contact
- be alert but relaxed
- keep an open mind, avoid being judgemental
- listen for themes in the conversation
- pause and think before responding to avoid disrupting the speaker's message.



## **Interview skills**

On many occasions, the rehabilitation and return to work coordinator will use an interview as an efficient way to obtain important information. Some useful techniques are:

- Build rapport: explain the purpose of the interview, create a relaxed, friendly atmosphere.
- Maintain the self esteem of the worker by making them feel at ease and ensuring they are not threatened in any way. Following an injury a worker's self esteem may be low and it is important to encourage confidence and trust.
- Use positive opening and closing remarks, reinforce any gains made to date, don't force admission of any limitations or weaknesses.

## **Observing and listening**

These skills include not only watching and hearing but interpreting as well. Important listening techniques include:

- avoid jumping to conclusions
- don't become emotional
- don't take it personally
- don't over react
- be flexible
- don't make judgements
- take short, concise notes.

## **Pace the interview**

Agree on a start and finish time for the interview. Agree on an agenda and stick to the topics. Confirm the discussion and agree on any actions required and who will be responsible.

## **Questions**

Use open ended questions to get more information. Use questions to find out what, when, where, how, why.

## **Meeting skills**

RRTWC's may be asked to participate in or arrange meetings with relevant parties such as injured workers, supervisors, rehabilitation providers, and treating doctors to develop return to work strategies such as suitable duties programs. They may also be asked to participate in case conferences with the treating doctor, insurer, supervisor and injured worker when there are a number of complex issues to be resolved.



### **Tips for successful meetings**

- be familiar with the agenda and topics
- speak up early – this adds to your influence by establishing your presence and position
- listen to and respect the points of others
- reinforce points and ideas – do not base arguments on disagreeing with others' ideas and opinions, instead make your own case clear
- maintain good eye contact at all times
- offer sincere compliments when deserved (don't overdo it! It sounds false!)
- provide concise meeting minutes of all decisions made.

### **Hints for leading meetings**

- provide early notice to all participants
- if possible provide an agenda
- introduce participants if necessary
- clearly define the purpose of the meeting
- nominate the proposed start and finish time
- encourage a relaxed atmosphere
- keep discussions relevant
- maintain control without being a dictator or manipulating others
- summarise and check understanding and agreements regularly.



## Recording communications

All communications related to an injured worker's rehabilitation should be documented. This means storing all relevant emails, accounts, correspondence and reports on the worker's file. RRTWC's can record communications associated with return to work (including communications with people other than the injured worker e.g. doctor, supervisor) by a system of case notes.

Case notes aid the rehabilitation of injured workers by providing a record of communications, actions and decisions and reasons for these. Case notes can also be useful if an injured worker decides to pursue common law action at a later date. The case notes can be a source of information regarding how the Employer (through the actions of the RRTWC) met their obligation regarding rehabilitation. Case notes can also provide details of how the worker did or did not participate in rehabilitation in order to mitigate their loss.

The most basic information to be included in case notes is who, when, where, what, how and why.

- Who:** List the parties involved in the communication or action (including author sign off)?
- When:** Date and/or time this communication or action occurred?
- Where:** Where did the communication or action take place? (not always required)
- What:** What was communicated and/or what actions/decisions were taken and next step to be taken?
- How:** How was information communicated or action undertaken?
- Why:** Why was this communication made or action taken?

This may all seem a bit complicated, but if you examine the examples below you will see how this information can be captured quite simply.



### Injured worker – Mary Smith

Date	Case notes and signature
17.08.03	Mary has appointment with Dr Briggs this afternoon for update of medical certificate. Faxed rehab. introduction letter and authority form signed by Mary to Dr Briggs ready for appointment. (Fax and authority now on file). -----Reg Dixon
17.08.03 (When)	Phone call received <b>(How)</b> from Dr Briggs secretary <b>(Who)</b> to confirm duties available in the office for Mary's suitable duties <b>(Why)</b> . I told her that there was seated work answering the phones and some standing and walking work to file the invoices and there was enough of this work for about six hours a day. Secretary said she would let Dr Briggs know for his certificate. I told her I would fax Dr Briggs the suitable duties program for his records once I had seen the new certificate. <b>(What)</b> -----Reg Dixon <b>(Who)</b>
18.08.03	Mary handed in a new certificate this morning. The suitable duties program was updated with input from Mary and Jim (supervisor). Mary, Jim and I signed the program and it was faxed to Dr Briggs for his records. -----Reg Dixon

Rehabilitation and return to work coordinators with computer access may decide to keep electronic case notes in a secure computer file, which are printed off at regular intervals, and kept on the worker's rehabilitation file.

### Relevant versus irrelevant information

It is important to exclude irrelevant information from case notes. Look at the following samples to help you understand what is or isn't subjective information.

#### Example one – Irrelevant detail included

15.06.02      *Jessica came up to me today to hand over her new Medical Certificate. She told me that the doctor had been very nice to her and that he was happy with her progress. The certificate details that Jessica can work four days per week and that she is restricted to a 5kg lifting limit and unable to walk distances of greater than 200 metres. She said that her son had his birthday on Saturday and this was a long day, but lots of fun.*  
Ricky Martin

#### Example two – Irrelevant information removed

15.06.02      *Jessica provided updated medical certificate (see Employer Copy on file). She reported her GP is happy with her progress.*  
Ricky Martin



### **Example three – Irrelevant information included**

15.06.02      *Jessica came to my office to talk about her rehabilitation and return to work plan she was angry and fed up and said that she thought that her manager was trying to push her back to her job when she wasn't ready. She was very upset and feeling quite concerned. I told her that I would make a time later today to sit down with her and her manager to talk about the situation.*  
*Ricky Martin*

### **Example four – Irrelevant information re-written to create relevant information**

15.06.02      *Jessica came to my office to talk about her Suitable Duties Plan. She expressed concern that her manager is trying to push her back to her job when she isn't ready. I told her that I would make a time later today to sit down with her and her manager to talk about the situation.*  
*Ricky Martin*

### **Other documents to help you communicate with all parties**

- Use telephone, fax, email and case conferencing as a quick and effective means of communicating with insurers. (Case conferences involving medical or other practitioners require prior approval from the insurer).
- The Workers' Compensation Medical Certificate is a key communication tool between doctors, workers, insurers and employers. It provides advice on the diagnosis, period of incapacity, injured worker restrictions for rehabilitation, capacity for suitable duties. The certificate helps you to tailor the suitable duties program to the worker's needs.
- The certificate has been designed to allow the treating doctor to indicate whether they wish to be involved in the worker's rehabilitation and whether they wish to approve the suitable duties plan. The workers' compensation medical certificate is a legal document and can only be completed by a registered medical practitioner or a dentist. The insurer, worker, and employer should each keep their own copy for future reference if required.



## **Communicating with treating doctors**

The workers' compensation medical certificate will in most cases provide sufficient information to help the RRTWC develop a suitable duties program. However, where the RRTWC wishes to clarify information with the treating doctor they will find this easier if they observe the following hints:

1. Obtain the injured worker's authority to obtain or release information gathered during workplace rehabilitation.
2. Ask the medical practice or allied health practice receptionist to arrange a time to meet or telephone the treating doctor/therapist. Explain the reason for your request and suggest that the doctor have the worker's clinical notes handy.
3. You may be able to email your questions prior to the phone call to give the doctor time to respond effectively.
4. Have a list of questions that you wish to ask.
5. Clarify rehabilitation options/restrictions for suitable duties.
6. Clarify any action to be taken by either party.
7. Case note your discussions.



## The consultation and negotiation process

Successful workplace rehabilitation requires all parties to take a consultative approach to negotiating about key activities. Key activities that require such an approach include:

1. Negotiating return to work and suitable duties programs with the treating doctor when he has certified the worker as totally incapacitated.
2. Consulting the injured worker to develop a suitable duties program.
3. Negotiating with a worker who is not participating in workplace rehabilitation.
4. Negotiating with a worker who is not observing the restrictions on his medical certificate.
5. Negotiating with the insurer to get a rehabilitation provider to help you develop a suitable duties program.
6. Negotiating with the insurer to get other rehabilitation services approved.
7. Negotiating with a manager or supervisor who is reluctant to provide suitable duties for a worker with partial capacity.
8. Negotiating with a manager who is asking the worker to do work not allowed under his medical certificate restrictions.
9. Consulting and negotiating with an injured worker's co-workers:
  - where the injured worker is part of a team that is paid bonuses for meeting productivity targets
  - where the injured worker is part of a production team that rotates through a range of tasks to prevent repetitive trauma injuries.

The rehabilitation and return to work coordinator is a key person in the rehabilitation process and the link between the injured worker, the employer, the union(s) if involved, the insurer, the rehabilitation service provider, the treating doctor and other relevant parties.

These interactions may not always go smoothly and disagreements can cause delays during the rehabilitation and return to work process. The rehabilitation and return to work coordinator will benefit from using some basic principles of negotiation to help any disagreeing parties.

A cooperative negotiation approach helps preserve important workplace relationships. When using this approach, one or both parties must enter the discussions willing to give something in order to obtain what they want. How much, and what they compromise, are the issues to be decided. For this approach to succeed, the parties need to show an ability to collaborate, demonstrate give and take and respect others' needs. This requires a willingness to:

- make realistic demands
- be flexible and rational
- be sharing and open
- seek mutual goals
- seek win/win situations.





**Five steps can be identified:**

1. research and preparation
2. commence negotiations and trade off secondary issues
3. develop firm offers and counter offers
4. explore concessions
5. confirm agreement.

**Some simple tactics include:**

- keep the solutions simple
- postpone difficult items until later if possible
- use a mediator if appropriate
- refer to a higher authority if necessary
- examine and confirm any concessions or agreements made to date
- agree on any actions to be made.

**Keep in mind the following points**

- be enthusiastic about return to work and supporting the injured worker
- be totally committed to the success of the return to work process
- help to break down barriers
- commit to freeing up time to support rehabilitation and return to work
- keep in mind the needs of the injured worker and the workplace.



## Appendix 1 Abbreviations used in Queensland

Abbreviations used in Queensland	Terms in full
The Act	The <i>Workers' Compensation and Rehabilitation Act 2003</i>
The Regulation	The Workers' Compensation and Rehabilitation Regulation 2014
JAG	Department of Justice and Attorney General (workplace health and safety and workers' compensation policy making)
MAT	Medical assessment Tribunals
PI	Partial incapacity
WORKER'S COMPENSATION REGULATOR	Worker's Compensation Regulator
RRTWC	Rehabilitation and return to work coordinator (known as the return to work coordinator in other states)
RRTWP	Rehabilitation and return to work plan (overall injury management plan developed by the insurer)
RTW	Return to work
SDP	Suitable duties program (developed by the employer)
TI	Total incapacity
TMP	Treating doctor
WCQ	WorkCover Queensland
WIC code	WorkCover Qld industry classification code - used in premium and risk assessment



## Appendix 2 Glossary of terms used in Queensland

Term/abbreviation	Explanation
Accredited workplace	An <b>accredited workplace</b> is a workplace that has workplace rehabilitation policy and procedures.
Alternate/alternative duties/light duties	See suitable duties
Claim form	Also known as an <i>application for compensation</i> . Must be completed by the injured worker following a workplace injury and is required as part of their application for compensation.
Common law/damages claim	A common law claim occurs when an injured worker takes common law legal action through the courts system against their employer for negligence. This is often called “suing” the employer. If an employer is found to be negligent, the court may award common law damages to the worker.
Customer Advisor (WorkCover Queensland)	Also known as case managers, claims managers. Insurer (WorkCover Qld or self-insured employer) staff appointed to oversee the workers’ compensation claim. They are often responsible for approving payments, monitoring rehabilitation progress and facilitating discussions about return to work.
Doctor	A registered doctor
Employer’s report	A form which must be completed by the employer within eight business days following a workplace injury. Required as part of the application for workers’ compensation.
Host employment	Temporary employment/suitable duties organised by an insurer at another employer in cases where RTW is not possible at the injured worker’s original employer. Host employment options can be discussed with workers’ compensation insurers.
Injury adjustment counselling	Counselling and/or psychological support to assist workers to come to terms with their injury. Often used in the case of severe, disabling or traumatic injuries.
IME	Independent medical examination
IMS	Independent medical specialist
Lump sum PI	Lump sum paid for permanent impairment
Medical assessment tribunal (MAT)	Provides an independent, expert review of medical and liability issues
Medical treatment	<ul style="list-style-type: none"> <li>• treatment by a doctor, dentist, physiotherapist, occupational therapist, psychologist, chiropractor, osteopath, podiatrist or speech pathologist</li> <li>• assessment for industrial deafness by an audiologist</li> <li>• the provision of diagnostic procedures or skiagrams</li> <li>• the provision of nursing, medicines, medical or surgical supplies, curative apparatus, crutches or other assistive devices.</li> </ul>



Term/abbreviation	Explanation
Permanent impairment	An impairment is a loss of part of the body or loss of efficient use of any part of a worker's body. A permanent impairment is an impairment that is stable and stationary and not likely to improve with further medical or surgical treatment.
WORKER'S COMPENSATION REGULATOR	The Worker's Compensation Regulatory Authority of Queensland
Registered person	A registered person of a description mentioned in the definition medical treatment as set out in definitions provided in Schedule 6 of the Act.
Rehabilitation	<p>Rehabilitation of a worker is a process designed to:</p> <ul style="list-style-type: none"> <li>• ensure the worker's earliest possible return to work; or</li> <li>• maximise the worker's independent functioning</li> </ul> <p>Rehabilitation includes:</p> <ul style="list-style-type: none"> <li>• necessary and reasonable- <ul style="list-style-type: none"> <li>○ suitable duties programs or</li> <li>○ services provided by a registered person or</li> <li>○ services approved by an insurer; or</li> </ul> </li> <li>• the provision of necessary and reasonable aids or equipment to the worker.</li> </ul>
Rehabilitation and return to work coordinator (RRTWC)	In Queensland a rehabilitation and return to work coordinator (RRTWC) is a person who has met the criteria for becoming a RRTWC prescribed under a regulation and has the functions prescribed under a regulation. A person meets the criteria for becoming a RRTWC in Queensland by satisfactorily completing a workplace rehabilitation course accredited under the <i>Vocational Education, Training and employment Act 2000</i> and registering as a rehabilitation and return to work coordinator with WORKER'S COMPENSATION REGULATOR .
Rehabilitation and Return to Work Plan	A comprehensive written plan outlining the overall rehabilitation objectives and the steps required to achieve the objectives. The insurer is responsible for coordinating the development and maintenance of a rehabilitation and return to work plan and any amendments to the plan. The Suitable Duties Program is a subset of this plan.
Review/Application for Review	The Review Unit in WORKER'S COMPENSATION REGULATOR provides an independent, administrative review of insurer decisions.
RRTWC	See rehabilitation and return to work coordinator



Term/abbreviation	Explanation
RTW	Return to work
Specialist	A person registered as a specialist registrant under the <i>Doctors Registration Act 2001</i> .
Suitable duties	Suitable duties, for a worker, are work duties for which the worker is suited having regard to the nature of the worker's incapacity, their pre-injury employment, relevant medical information, age education, skills and work experience.
Suitable Duties Program	A Suitable Duties Program is designed to help an injured worker return to work safely and gradually through a supervised process at their workplace. It also helps the worker gain confidence while they recover from an injury. The program matches the worker's abilities with appropriate work tasks and work hours while they recover. The worker's treating doctor must be consulted in the development of the suitable duties program before a worker starts the program if the medical certificate is unclear about the worker's capacity. Suitable duties programs are usually carried out at the worker's current place of employment. However, if this is not possible, the program may be undertaken with another employer. This type of suitable duties program is called a host suitable duties program. The Suitable Duties Program is a subset of the Rehabilitation and Return to Work Plan.
Table of Costs	The table of costs is the fee schedule and accompanying conditions for service provision for the relevant ambulance transportation, medical treatment or rehabilitation for the time being as decided by the Worker's Compensation Regulator to be acceptable for the Act.
WHSO	Workplace Health and Safety Officer (formerly statutory requirement in Qld Workplaces prior to 2011)
Workplace	Workplace means a place where work is, is to be, or is likely to be, performed by a worker or employer and is a place— a) that is for the time being occupied by the employer or under the control or direction of the worker's employer; or b) where the worker is under the control or direction of the worker's employer.
Workplace rehabilitation	<b>Workplace rehabilitation</b> is a system of rehabilitation accredited by the Regulator that is initiated or managed by an employer.
Workplace Rehabilitation Policy and Procedures	Workplace rehabilitation policy and procedures are written policy and procedures for workplace rehabilitation.
WHS Act	<i>Work Health and Safety Act 2011</i> (Queensland)