



# REHABILITATION & RETURN TO WORK CO-ORDINATOR | RRTWC

## PRE-COURSE GUIDE

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## Course Introduction:

This document contains information to assist you in answering the pre-course theory component of the OHSA Occupational Health and Safety Rehabilitation and Return to Work Coordinator course. In addition to this document, you will be required to research other material via links provided in the question.

*You are not required to bring this document to the course—you will be provided with another larger study guide during the face-to-face course.*

## Course Requirements:

- Completion of the pre-course assessment
- Attendance at our face-to-face course (or ZOOM)
- Completion of the course assessments
- Participation in class scenarios.

## i. Return to work requirements introduction.

### 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:

- Australian Capital Territory: [WorkSafe ACT](#)
- New South Wales: [State Insurance Regulatory Authority \(NSW\)](#)
- Northern Territory: [NT WorkSafe](#)
- Norfolk Island: [Norfolk Island Workers Compensation Agency](#)
- Queensland: [WorkCover Queensland](#)
- South Australia: [ReturnToWork SA](#)
- Tasmania: [WorkCover Tasmania](#)
- Victoria: [WorkSafe Victoria](#)
- Western Australia: [WorkCover WA](#)
- [Comcare](#)

**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 produce national workers' compensation information , including:

- Comparison of Workers' Compensation across Australian States and Territories and New Zealand. located at: <https://www.safeworkaustralia.gov.au/collection/comparison-workers-compensation-arrangements-australia-and-new-zealand>

This is a great document for those working across a number of jurisdictions.

## NON-STATE-BASED SCHEMES

### 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.

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 percent of normal weekly earnings and 75 percent 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 that 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.

## Scheme structure in Queensland.

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

### 1. Workers Compensation Regulatory Services within the Office of Industrial Relations.

In Queensland, workers' compensation policy and legislation are developed by Workers Compensation Regulatory Services within the Office of Industrial Relations. The scheme is regulated by the Worker's Compensation Regulator, and premiums and claims are managed by WorkCover Queensland and the self-insured employers.

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 Regulator's primary function 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 database
- Promoting education about the scheme.

For further information, phone 1300 362 128 or visit <https://www.worksafe.qld.gov.au/>  
WCRS supports the use of the following free services awarded to the agencies through grants.  
Employers:

- [Workers' Compensation Information Advisory Service – Employers](#)

Workers:

- [Workers' Compensation Information Advisory Service - Workers](#)
- [Workers' Psychological Support Service](#)

#### 4. Self-insured employers

Some Queensland workplaces are self-insured. Self-insured employers take on liability and responsibility for ensuring their workers and managing claims for workplace injuries. 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 largest insurer in Queensland 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 Acts – helping to guide you through using legislation.

The activities in this section are designed to assist you in locating and interpreting 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*

▼	Section	Page ▲
	<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, and 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**.

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

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

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

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

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

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.

- ▼
- 40      Meaning of “rehabilitation”**
- (1)**      **“Rehabilitation”,** of a worker, is -
- 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.

## 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***

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***

- The *Disability Discrimination Act* is Commonwealth legislation that makes discrimination on the grounds of disability unlawful in a wide range of situations. The Act 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***

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

***Queensland Industrial Relations Act***

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

- Rates of pay
- Leave entitlements (including public holidays)
- Termination and resignation from work
- Discrimination
- Taxation and superannuation
- Employment records

***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*. It covers the majority of workplaces in Australia.

The main organisation that makes 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 (Qld)***

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* (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 the 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

The *Right to Information Act* replaced the *Freedom of Information Act* and is part of a broader “push” model of the greater proactive and routine release of information.

### **Queensland Information Privacy Act (IP)**

The IP Act recognises the importance of protecting individuals' personal information. It contains a set of rules or 'privacy principles' that govern how Queensland Government agencies collect, store, use, and disclose personal information.

### **What is the difference between the Right to Information and Information Privacy Acts?**

The key difference is that a person may only apply to access documents containing their own personal information under the IP Act. If you wish to obtain access to documents that do not contain your personal information, you will need to apply under the RTI Act.

If you are insured under a self-insurance scheme, the Commonwealth versions of these Acts apply.

### **Other Acts**

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

## WORKERS' COMPENSATION LEGISLATIVE REQUIREMENTS

### 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 key provisions from the legislation of sections relevant to rehabilitation and return to work coordinators.

*The following includes the relevant section number shown as an 's'.*

***A copy of the extracts and wording can be found at the end of this document under Appendix, Qld Legislation Extracts.***

#### **Workers' Compensation and Rehabilitation Act 2003(Qld)**

<b>s5 Workers' compensation scheme</b>
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<b>s31 Meaning of <i>event</i></b>
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<b>s32 Meaning of <i>injury</i></b>
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<b>s34 Injury while at or after worker attends place of employment</b>
--

<b>s35 Other circumstances</b>
--------------------------------

<b>s36 Injury that happens during particular journeys</b>
---

<b>s37 Meaning of <i>impairment</i></b>
---

<b>s38 Meaning of <i>permanent impairment</i></b>
---

<b>s40 Meaning of <i>rehabilitation</i></b>
---

<b>s41 Meaning of <i>rehabilitation and return to work coordinator</i></b>
--

<b>s42 Meaning of <i>suitable duties</i></b>
--

<b>s43 Meaning of <i>workplace rehabilitation</i></b>
---

<b>s44 Meaning of <i>workplace rehabilitation policy and procedures</i>.</b>
--

## Employer's requirements under the Act

The following pages will outline the relevant sections of legislation as relevant to Employers. Specific employer rights and obligations will be discussed further in the workbook.

**s48 Employer's obligation to insure**

**s133 Employer's duty to report injury**

**s133A Employer's duty to tell WorkCover if worker asks for, or employer makes, a payment**

**s144 When employer must pay worker for day of injury**

## Employer's obligation for rehabilitation

The following identifies key aspects of legislation that relate to obligations for employers. The obligations are discussed in dot form further on in the document.

**s226 Employer's obligation to appoint rehabilitation and return to work coordinator**

**s227 Employer's obligation to have workplace rehabilitation policy and procedures**

**s228 Employer's obligation to assist or provide rehabilitation**

**s229 Employer's failure in relation to rehabilitation**

**s572A Access to particular documents for employment purposes prohibited**

## Injured worker obligations

The injured worker obligations as per legislation is outlined below. Additional information on the workers' rights and responsibilities will be discussed later in the manual.

**s132 Applying for compensation**

**s135 Examination by registered person**

**s136 Worker must notify return to work or engagement in a calling**

## Part 5 Worker's mitigation and rehabilitation obligations

**s231 Worker must mitigate loss**



**s232 Worker must participate in rehabilitation**

### **1.2.1 Protection for Injured Workers**

**s232A Definitions for pt 6**

**s232B Dismissal of injured worker only after 12 months**

**s232C Replacement for injured worker**

**s232D Reinstatement of injured worker**

**s232G Preservation of worker's rights**

### **Access to documents and information**

**s572A Access to particular documents for employment purposes prohibited**

### **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)**

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

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

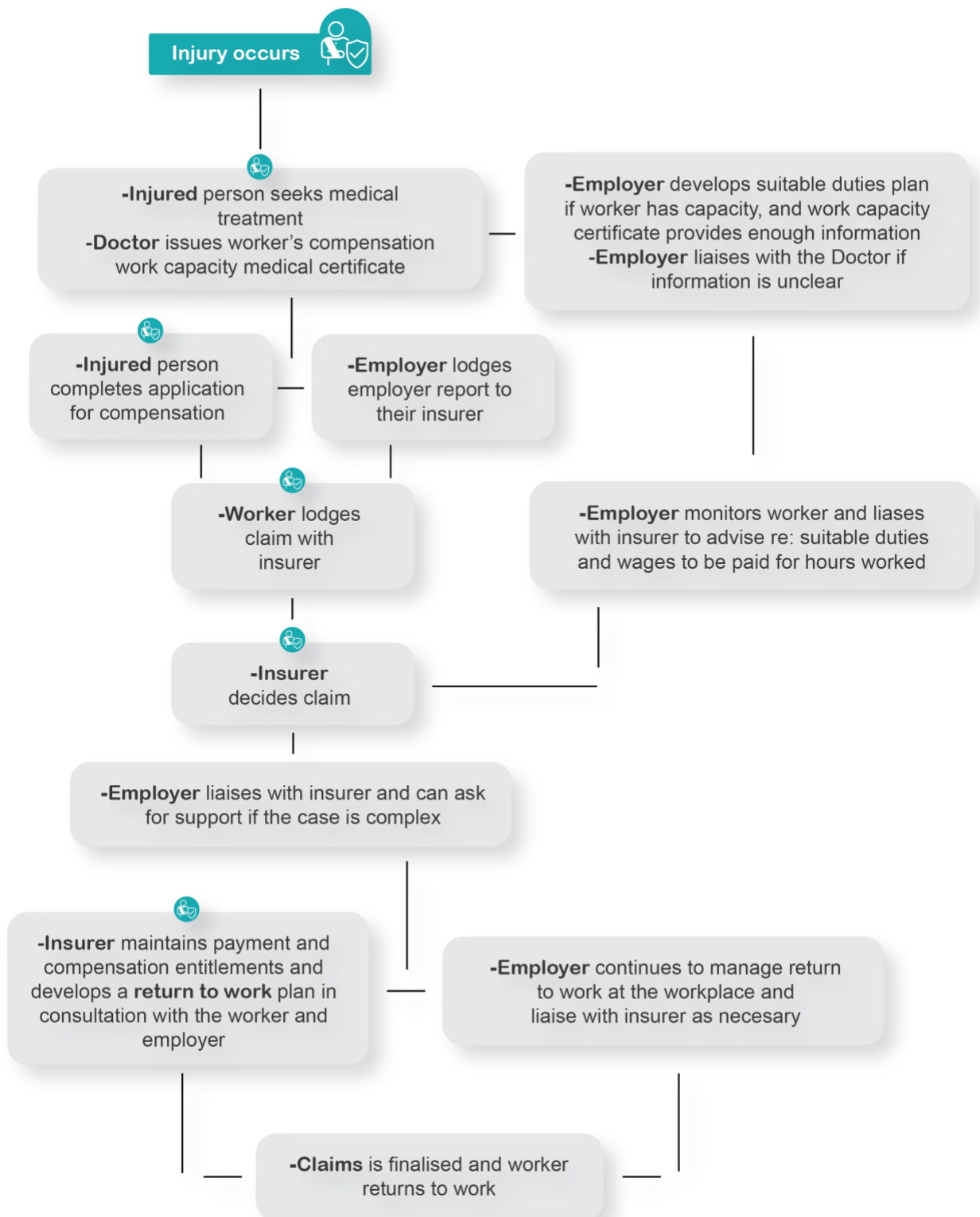
#### **Division 1 Rehabilitation and return to work coordinators.**

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

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

## 1.1 CLAIMS PROCESS

Claims process flow chart for both the injured worker and employer



The process for determining whether an application for compensation is to be accepted or declined under the Act is sometimes referred to as the 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 insurer may waive the time limit 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 adults' ordinary time earnings as declared by the Australian Statistician.

**QOTE** can be found via the following link and increases annually.

<https://www.worksafe.qld.gov.au/laws-and-compliance/workers-compensation-laws/workers-compensation-benefits-including-qote/what-is-qote>

**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 level of compensation a worker receives depends on:

- The length of time certified as unfit for work.
- The injury date.
- The length of the claim.
- Whether there is an industrial instrument in place, such as an award or workplace agreement.
- Normal weekly earnings (NWE).
- Queensland full-time adults' ordinary time earnings (QOTE).

Wage payments are a worker's weekly earnings from continuous or intermittent employment during the 12 months prior to an injury. If the worker hasn't been with an employer for 12 months, WorkCover can look at the remuneration of a person who has been employed by the same employer under the same industrial agreement for at least 12 months. In addition, if a worker had more than one employer during those 12 months, all earnings will be taken into account.

It's important to understand wage payments are not necessarily the same as average weekly earnings. Average weekly earnings are the average of all amounts paid to a worker. Wage payments take into account only regular payments made, which would have continued if not for the injury, including:

- Salary or wages
- Overtime

- Higher duties
- Penalty rates
- Allowances (except those listed below).

Wage payments do not include:

- Allowances payable in relation to travelling, car, relocation, meal, education, living in the country or away from home, entertainment, clothing, tools and vehicle expenses
- Employer contributions to a scheme for superannuation benefits (other than contributions made from money payable to a worker)
- Lump-sum payments on termination of a worker's services for superannuation, accrued holidays, long service leave or any other purposes
- An amount payable to a worker as an employer excess payment for an injury.

### **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.

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

### **Total and 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 may 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;

- Parking (for medical treatment, rehabilitation, Medical Assessment Tribunal or independent medical examinations)
- Meals when required to travel a whole day or overnight:
- Reasonable itemised chemist expenses directly related to the work injury.

For a full list of allowances, please visit <https://www.worksafe.qld.gov.au/rehab-and-claims/support-and-benefits/other-benefits>

### **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 are 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 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 them 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 will 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 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. For full up to date figures on benefits

<https://www.worksafe.qld.gov.au/laws-and-compliance/workers-compensation-laws/workers-compensation-benefits-including-qote>

**Maximum Statutory Compensation as per Section 140 Act.**

Maximum entitlement compensation is payable to a worker (including weekly payments and lump sum). 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>

**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 is 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 as per s140.

## 1.2 Worker Prosecutions - Examples

Workers who deliberately attempt to fraud the insurer are increasingly being prosecuted. The below outlines just a few.

The Workers' Compensation Regulator is responsible for investigating and commencing proceedings for alleged offences.

Workers' compensation prosecutions can be located on the [worksafe.qld.gov.au](https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/prosecutions) website at: <https://www.worksafe.qld.gov.au/laws-and-compliance/prosecutions/prosecutions>

Hearing date	Magistrates court	Outcome	Case
19/12/2016	Brisbane	<ul style="list-style-type: none"> <li>Conviction recorded</li> <li><b>Penalty:</b> The worker was sentenced to 15 months imprisonment, wholly suspended after servicing 2 months in custody and 3 months each wholly suspended for the false and misleading charges, to be served concurrently.</li> <li><b>Restitution:</b> \$223, 006.26</li> </ul>	<p>Summary: On 17 July 2012 the worker lodged an application for compensation with the insurer for a stress-related injury which he allegedly sustained on 16 July 2012. The claim was accepted on 17 August 2012 and compensation was paid from 17 July 2012 until 18 May 2015, with benefits totalling \$241,608.00. The worker was diagnosed with a major depressive disorder and was certified totally unfit for any work during the entire claim.</p> <p>It became apparent that during the claim the worker was working for other employers and failed to disclose this work to the insurer.</p>
22/10/2019	Townsville	<ul style="list-style-type: none"> <li>Conviction recorded</li> <li><b>Penalty:</b> The worker was sentenced to 18 months imprisonment, wholly suspended for an operational period of two years on the fraud charge and six months imprisonment, wholly suspended for an operational period of two years on each of the other charges. Terms to be served concurrently</li> <li><b>Restitution:</b> \$53,382.33</li> </ul>	The worker was charged with defrauding the insurer by failing to disclose relevant pre-existing injuries and for providing false and misleading information to medical practitioners and insurer staff. The worker further attempted to defraud the insurer in failing to disclose same in his Notice of Claim for common law damages and making false and misleading statements to doctors assessing his permanent impairment.
18/10/2019	Brisbane	<ul style="list-style-type: none"> <li>Conviction recorded</li> <li><b>Penalty:</b> The worker was sentenced to 18 months imprisonment wholly suspended for two and a half years for the fraud and nine months imprisonment (to be served concurrently) for each of the attempted fraud and false or misleading charges, also wholly</li> </ul>	The worker claimed workers' compensation for a right shoulder dislocation that they alleged occurred while moving a toolbox into a workshop. During the claim, the worker denied having sustained any previous similar injuries to the insurer and to various medical practitioners who treated and assessed them.

Hearing date	Magistrates court	Outcome	Case
		suspended for two and a half years. <ul style="list-style-type: none"> <li>Restitution: \$48,635.60</li> </ul>	
02/08/2019	Brisbane	<ul style="list-style-type: none"> <li>Conviction recorded</li> <li>Penalty: The worker was sentenced to 4 months imprisonment, wholly suspended for an operational period of 18 months.</li> </ul>	The worker was charged with attempting to defraud the insurer by exaggerating their injuries in a Notice of Claim for Damages and making false representations to the doctors assessing their permanent impairment.

### 1.2.1 Appeals:

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.

## 1.3 Standard for rehabilitation

### Rehabilitation

Rehabilitation must focus on return to work and 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 the 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. As the information contained in a worker's compensation claim cannot be used for employment-related matters, this file should not be part of their human resources or personnel file.

**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.

**Review progress**

Review progress at critical milestones against the RRTW procedure. It may be appropriate for informal reviews to be conducted after the first day and then more formal reviews at key points throughout the suitable duty plan/return to work program.

**Dispute resolution process**

An employer should inform a worker of the appropriate dispute resolution procedure should the worker not agree with elements of a proposed workplace rehabilitation and return to work plan or suitable duties program. This resolution process should attempt to address concerns raised by the injured worker or their representative in an effective and efficient manner. An employer may request assistance from an insurer to assist in resolving disputes. Some workplace agreements and awards may contain dispute resolution procedures that would apply. The employer could also advise the worker to obtain advice from a union or a government agency

**Formal dispute resolution processes****Review process (Part 2 of the WCRA 2003)**

The Worker's Compensation Regulator provides an independent review of certain decisions made by insurers (e.g., 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 to appear 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 the 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 (Part 3 of the WCRA 2003)**

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.

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

Other best practice documentation includes.

National Return to Work Strategy 2020 – 2030

<https://www.safeworkaustralia.gov.au/doc/national-return-work-strategy-2020-2030>

Super Friend Taking Action – Best Practice Framework for the Management of Psychological Claims

<https://www.superfriend.com.au/app/uploads/2016/10/TAKING-ACTION-Best-Practice-Framework-for-the-Management-of-Psychological-Claims.pdf>

Heads of Workers' Compensation Authorities (HWCA) Principles of Practice for Workplace Rehabilitation Providers

<http://www.hwca.org.au/nationally-consistent-approval-framework-workplace-rehabilitation-providers/>

Monash University: Clinical guideline for the diagnosis and management of work-related mental health conditions in general practice

<https://research.monash.edu/en/publications/clinical-guideline-for-the-diagnosis-and-management-of-work-relat>

*Comparative Performance Monitoring Report*

Workplace Relations Ministers' Council

Comparison of OHS and workers' compensation schemes in Australia and New Zealand

*Australia and New Zealand Return to Work Monitor (RTW Monitor)*

Heads of Workers' Compensation Authorities

[www.hwca.org.au](http://www.hwca.org.au)

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".

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.”

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.”

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.”