



Victorian WorkCover
Authority



Helping injured workers get back to work



THE RETURN TO WORK GUIDE

FOR VICTORIAN EMPLOYERS



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Introduction

This guide will help you manage return to work at your workplace, by informing you of your legal obligations and providing you with practical advice.

You will benefit from meeting these obligations. Good health and safety practices and good injury management and return to work policies will help to keep your WorkCover premium down. Your productivity can be maintained and other business costs controlled if you invest this way in your workforce.

Your workers also benefit: Long absences from work are costly to them because workers' compensation payments do not cover the full amount of lost wages. As well, workplace injuries mean workers can lose job skills and promotion opportunities, their family life can be affected and they lose social contact with workmates.

The obligations to provide safe and healthy workplaces are primarily set out in the *Occupational Health and Safety Act 1985*, its associated regulations and Codes of Practice, and in the *Dangerous Goods Act 1985* and its regulations.

(For more information, see WorkSafe Victoria's Guide to the Occupational Health and Safety Act 1985, and the Getting Started With Occupational Health and Safety *series*.)

Who is this guide for?

This guide will help you, as an employer, to return your injured workers¹ to work and prevent a recurrence of their injury. Your workers, including supervisors and managers, will also find this guide helpful in understanding your legal obligations, and how they can assist you in developing policies that will assist their workmates to return to work.

WHICH LAWS DOES THIS GUIDE REFER TO?

- ◆ Part VI of the *Accident Compensation Act 1985*.
- ◆ Guidelines for the preparation and revision of return to work plans (Part VI of the Act) (The Guidelines) - *A copy of the Guidelines is provided in Section 4.*
- ◆ Additional matters to be specified in occupational rehabilitation programs (Part VI of the Act) (The Additional Matters) - *A copy of the Additional Matters is provided in Section 4.*

¹ For the purposes of this guide, the term 'injured worker' means workers who have incurred an injury or disease at work and have entitlement to compensation under the Accident Compensation Act 1985. All references to injury in this guide mean work related injury

What does the law require me to do?

You **MUST** have:

- ◆ an occupational rehabilitation program;
- ◆ an individual return to work plan for injured workers; and
- ◆ a risk management program.

The law sets out your minimum obligations, but additional components such as policies, procedures, commitments or agreed actions specific to your workplace can make your programs and return to work plans more effective.

This guide provides practical examples of how you can meet all your obligations under the law and build upon these to incorporate good workplace practices.

WHEN DOES THE LAW APPLY TO ME?

When the law applies to you is linked to whether you are a large employer or a small employer, whether you have any workplace injuries, and the date the injury occurred. Determining whether you are a large or small employer is based on your annual payroll² for all your workplaces for a financial year.

For injuries before 1 March 2004 the following obligations apply:

Large employers:

If your payroll is more than \$1 million you **MUST**:

- ◆ establish, then maintain, both a risk management program and an occupational rehabilitation program at all times; and
- ◆ prepare a return to work plan for an injured worker who has no current work capacity for 20 or more calendar days.

Small employers:

If your payroll is \$1 million or less you **MUST**:

- ◆ establish, then maintain a risk management program and an occupational rehabilitation program, when there is a work related injury at your workplace and your injured worker has no current work capacity for 20 or more calendar days.

When this situation occurs, you **MUST**:

- ◆ prepare an individual return to work plan for your injured worker; and
- ◆ nominate a return to work coordinator for your workplace.

You **MUST** do this within 10 days of the 20th day of no current work capacity and you **MUST** prepare your occupational rehabilitation program and risk management program within three months of the 20th day of no current work capacity.

² See Attachment 2 – Explanation of terms for details.

For injuries on or after 1 March 2004 the following obligations apply:

Large employers:

If your payroll is more than \$1 million you **MUST**:

- ◆ establish, then maintain, both a risk management program and an occupational rehabilitation program at all times; and
- ◆ prepare a return to work plan for an injured worker and nominate a return to work co-ordinator as soon as is practicable but no later than 10 days after the relevant day³.

Small employers:

If your payroll is \$1 million or less you **MUST**, if your worker has an incapacity for work⁴:

- ◆ establish, and then maintain a risk management program and an occupational rehabilitation program. These programs must be prepared within 3 months after the relevant day; and
- ◆ prepare an individual return to work plan for your injured worker; and
- ◆ nominate a return to work coordinator for your workplace, as soon as practicable but no later than 10 days after the relevant day.

NOTE: If you are currently a small employer and your payroll for all your workplaces in a financial year increases to exceed \$1 million you will become a large employer and you must within three months, establish and maintain, both a risk management program and an occupational rehabilitation program at all times.

HOW DO I DEVELOP MY OWN PROGRAMS?

Workplace policies and procedures are often informal, 'word of mouth' arrangements. For smaller employers particularly, it may simply be a matter of talking with your workers, and writing down the informal practices of your workplace.

Communication, consultation and working together in the spirit of **no blame** are essential components of successful return to work activities. Consultation between everyone likely to be involved in the return to work process during program development, and on an ongoing basis, will help gain commitment.

The support of your workers and their representatives (this may be their union) is also critical to the success of your programs. Addressing any concerns right from the start can prevent problems during the program's implementation and administration.

³ The "relevant day" is the later of the following events:

- The day when a claim for weekly payments is accepted; a Conciliation Officer gives a direction or makes a recommendation that weekly payments are to be paid and the recommendation is accepted by the employer, the Authority or the self-insurer (as the case may be); or the claim is determined by a court in favour of the worker (whichever happens earliest); or
- The day when the employer becomes aware, or ought reasonably have been aware, that the worker's period of incapacity is likely to exceed 20 days.

The term "relevant day" has the same meaning when used throughout the Return to Work Guide.

⁴ In relation to an injured worker, an "incapacity for work" means the injured worker has either:

- "No current work capacity" – such that they are not able to return to pre-injury employment or suitable employment; or
- "Current work capacity" – such that they are not able to return to pre-injury employment but are able to return to suitable employment.

Developing your programs and return to work plans with your workers demonstrates your commitment to their return to work following injury and, in return, their commitment to maintaining the productivity of your workplace. When programs are established and all workers are aware of the assistance available, there is an increased likelihood that injured workers will remain at work or return quickly, and that further injuries will be prevented.

Are there any exemptions from the law?

Some employers are exempt from the requirement to establish and maintain a risk management program and an occupational rehabilitation program and these are outlined in Attachment 1.

HOW TO USE THIS GUIDE

This guide is divided into four sections. Each section outlines what the law says you must do, and gives you advice and examples, supported by case studies, on how to do it. The example programs and formats build upon the minimum requirements of the law to promote good workplace practices. After reading this guide, if you have any further questions regarding return to work, you should contact your Authorised Agent.

To use this guide effectively you should:

- ◆ determine if you are a large or small employer and what your obligations are;
- ◆ familiarise yourself with the parts of the guide that apply to you;
- ◆ use the checklists at the end of Sections 1 and 2 to review your current workplace practices, policies and procedures;
- ◆ implement any required changes to ensure you meet your obligations; and
- ◆ use the guide in conjunction with the *Accident Compensation Act 1985* and its associated *Guidelines and Additional Matters*.

Section 1

PREPARING YOU WORKPLACE

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YOUR OBLIGATIONS: RISK MANAGEMENT AND OCCUPATIONAL REHABILITATION PROGRAMS

You **MUST**:

- ◆ establish and maintain a risk management program; and
- ◆ establish and maintain an occupational rehabilitation program.

Your risk management obligations are outlined in Section 3.

The components of an occupational rehabilitation program and an example of a risk management and occupational rehabilitation program are provided in the following section.

Your Risk Management and Occupational Rehabilitation Program Obligations

When you **MUST** establish an occupational rehabilitation program and a risk management program is determined by whether you are a large or small employer, whether you have an injured worker with an incapacity for work and when their injury occurred.

LARGE EMPLOYERS (more than \$1 million payroll).

You must establish and then maintain an occupational rehabilitation program and a risk management program at all times.

SMALL EMPLOYERS (\$1 million or less payroll).

When you must establish your programs depends upon whether you have had an injured worker with an incapacity for work and when their injury occurred.

For injuries before 1 March 2004:

You must establish and then maintain your programs when there is a work related injury at your workplace and your injured worker has no current work capacity for 20 or more calendar days. You must establish your programs within three months of the 20th day of your injured worker having no current work capacity.

For injuries on or after 1 March 2004:

You must establish and then maintain your programs when there is a work related injury at your workplace and your injured worker has an incapacity for work. These programs must be established within three months after the relevant day.

- ① Your risk management program must provide for the steps to be taken after an injury has occurred in your workplace to, as far as is practicable, reduce the risk of subsequent injury of that kind.
- ② Your occupational rehabilitation program must be:
 - ◆ developed in consultation with your workers;
 - ◆ in writing; and
 - ◆ made available to all your workers.

YOUR COMPANY LETTERHEAD

RISK MANAGEMENT AND OCCUPATIONAL REHABILITATION PROGRAM

... Insert company details)... is committed to providing a safe and healthy workplace for all workers. In the event of a work related injury we will take all necessary steps to ensure the injury does not happen again. Should one of our workers incur a work related injury that means they are unable to continue their normal work we will provide the necessary assistance for them to remain at work, or return to work as soon as it is safely possible. We will do this through risk management and occupational rehabilitation and our commitments are as follows:

RISK MANAGEMENT PROGRAM

We will:

- ①
 - Take all practicable steps to identify, assess and control any known or potential risks to workers and visitors.
 - Encourage the early reporting of any symptoms of an injury or disease related to the work we undertake.
 - Investigate all incidents, accidents, injuries or near misses to identify their cause(s) and prevent them happening again.
 - Comply with all our legal obligations, including notification of incidents to Worksafe Victoria when required.

OCCUPATIONAL REHABILITATION PROGRAM

② **We will:**

- Assist our injured workers to remain at work or return to work at the earliest opportunity.

Specifically our RETURN TO WORK POLICY is that:

- ③
 - Return to work planning will commence as soon as possible after an injury, consistent with medical advice.
 - Remaining at or early return to work following injury is a normal expectation of this workplace.
 - Treatment, return to work activities and any reasonably necessary occupational rehabilitation services will begin as soon as they are necessary.
 - An injured worker requiring an occupational rehabilitation service may be provided with a choice of the provider of occupational rehabilitation services from a list of (not less than three - where available) approved occupational rehabilitation providers having regard to the criteria as outlined on the next page.
 - Suitable employment, including modified or alternate duties, consistent with medical opinion, will be made available to all injured workers at the earliest opportunity.
 - An individual return to work plan will be established with any worker who is unable to work for 20 calendar days or more. This plan will be developed at the earliest opportunity, in consultation with our injured worker and their treating practitioner.
 - Consultation and communication with all workers and / or representative worker(s) in the development and review of our occupational rehabilitation program and individual return to work plans will occur.
 - Confidentiality of worker's information obtained during their return to work or while undertaking occupational rehabilitation services will be maintained.
 - Participation in a return to work plan will not, of itself, prejudice any injured worker.

All forms available at www.workcover.vic.gov.au

Note: The above example is applicable for injuries that occur before 1 March 2004. Where an injury occurs on or after 1 March 2004 the obligation to prepare a return to work plan will arise as soon as practicable but no later than 10 days after the relevant day.

RETURN TO WORK CO-ORDINATOR:

Our return to work coordinator is: _____

4

Telephone: _____

Our return to work coordinator will attend the following training:

5

Following any workplace injury our return to work coordinator will:

- Contact our injured worker and their treating practitioner to implement the commitments outlined in the risk management program and our return to work policy.
- Determine the need for any occupation rehabilitation assistance in consultation with our injured worker, their treating practitioner and our Authorised WorkCover Agent.

APPROVED OCCUPATIONAL REHABILITATION PROVIDER

6

Our nominated approved occupational rehabilitation provider is:

Telephone: _____

Where appropriate, having first had regard to the following criteria (as far as is possible):

- The worker's injury type
- The type of occupational rehabilitation service(s) required
- Where the worker lives
- Where the approved occupational rehabilitation provider is requested to provide the occupational rehabilitation service(s)

(and if consistent with the above criteria), the name of our nominated approved occupational rehabilitation provider will be included on a list to be provided to an injured worker for the purposes of providing a choice of approved occupational rehabilitation providers when an occupational rehabilitation service is necessary.

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CONSULTATION

Return to work plans

- Our injured workers and their treating practitioners will be involved in all aspects of their return to work and return to work plans will be developed and reviewed in consultation with them.

Occupational rehabilitation program

- This program was developed in consultation with our workforce through the site safety committee. Following discussion and consultation with our workplace, the program was endorsed by the safety committee and senior management on.....

8

COMMITMENT

This program represents our commitment to workplace occupational rehabilitation and return to work following work related injury. As representative of its development and our mutual commitment, this program is endorsed by:

Representative Worker(s):(Name, position and signature)

Management Representative:(Name, position and signature)

This Program will be reviewed on: _____

9

Your occupational rehabilitation program **MUST** include:

- ③ A statement of your return to work policy.
- ④ The name of the return to work coordinator you have nominated.
- ⑤ Details of the resources and any training you will provide to the return to work coordinator.
- ⑥ The name of at least one approved provider of occupational rehabilitation services who will be available to provide services, where reasonably necessary, for the return to work and maintenance at work of an injured worker.⁵
- ⑦ All matters agreed by you and your workers in the course of the consultation that takes place in the development of the program.
- ⑧ Provision for a statement, which can be signed by the workers or by representative worker(s), certifying that the program has been developed in consultation with workers.
- ⑨ Provision for sign-off by you - in person, or where the employer is a corporation, a person with sufficient authority to commit the employer to the occupational rehabilitation program.

⁵ For all entitlements to receive occupational rehabilitation services on or after 1 July 2005 a worker may choose an approved occupational rehabilitation provider from a list of the names of not less than three approved occupational rehabilitation providers (where available) nominated by the Authority, employer or self insurer. (See this section for detailed information)

Occupational Rehabilitation Programs

WHAT IS AN OCCUPATIONAL REHABILITATION PROGRAM?

It is your written outline of the way injuries are managed at your workplace, setting out the assistance available to help injured workers to remain at or return to work.

HOW DO I ESTABLISH MY OCCUPATIONAL REHABILITATION PROGRAM?

It depends on what is best for your workplace. If you already have a program at your workplace, use the checklist at the end of this section to ensure it complies with the law. If you haven't developed a program before, the following steps may help you get started.

1. Gain commitment from senior management for the development of your program.
2. Identify a liaison person (this could be your future return to work coordinator) or appoint a working party to be responsible for developing your program. Consultation with your workers and/or representative worker(s) should also start now.
3. Develop a draft program in consultation with the relevant people from your workplace. (You can use the example occupational rehabilitation program to get started.)
4. Circulate the draft to interested parties at your workplace, i.e. your health & safety committee, other managers, your workers, and/or representative worker(s) for comment within a set time.
5. Negotiate any changes with your workers as required.
6. Submit the final draft for management and worker agreement.
7. Establish a process for regular review, that includes talking with your workers, and set a review date.
8. Give your program to your workforce - display it prominently and/or give each worker a copy.
9. Promote your program. Inform your workforce through regular education and training about the assistance available if they are injured. Ensure all new workers become aware of your program during their induction.

DEVELOPING THE COMPONENTS OF YOUR OCCUPATIONAL REHABILITATION PROGRAM

RETURN TO WORK POLICY

What is a return to work policy?

Your return to work policy details the agreed commitments of your workplace, and the actions that you will take to assist injured workers to stay at or return to work.

How do I develop a return to work policy?

Your policy is developed as a part of your occupational rehabilitation program. This can be an 'umbrella' policy specific to your organisation, covering all of your workplaces, or specific to each workplace. The details of how you will deal with work related injury is a matter for you to decide in conjunction with your workers.

What are the key commitments of a return to work policy?

Proven workplace commitments that promote return to work include early, appropriate intervention following a report of a workplace injury; and management commitment to keeping injured workers at work, with agreed actions that support this. The following commitments are examples you may wish to consider for your policy - they build on your minimum legal obligations to promote good workplace practices.

- ◆ The return to work process will commence as soon as possible after an injury, consistent with medical advice.
- ◆ Remaining at or early return to work following injury is a normal expectation of your workplace.
- ◆ Treatment, return to work activities and any reasonably necessary occupational rehabilitation services will begin immediately or, if not required immediately, then as soon as it is necessary, to ensure the earliest possible return to pre-injury employment.

(The prospect for return to work is the greatest when the process is commenced as soon as possible following injury.)

- ◆ An injured worker requiring an occupational rehabilitation service may be provided with a choice of approved occupational rehabilitation provider from a list of (not less than three - where available) approved occupational rehabilitation providers nominated by our RTW Co-ordinator or our Authorised Agent. The list will be compiled having regard to the criteria set out in the law, and if consistent with this criteria may include the approved occupational rehabilitation provider(s) nominated in this Occupational Rehabilitation Program.
- ◆ Suitable employment, including modified or alternative duties, consistent with medical opinion, is made available to assist the injured worker to remain at work or return to work at the earliest opportunity.

(Providing suitable duties/employment for your injured workers is a key part of keeping them at work or getting them back on the job. Individual assessment of their duties is required, addressing the work, the work systems and processes, the workstation, medical advice and their physical capacity.)

- ◆ For injuries before 1 March 2004: An individual return to work plan is established with any worker who has no current work capacity for 20 calendar days or more. The plan is developed as soon as it is indicated that an absence of 20 calendar days or more is likely. The plan is reviewed as required, consistent with the activities of the plan.
- ◆ For injuries on or after 1 March 2004: An individual return to work plan is established with any worker who has an incapacity for work. The plan is developed as soon as practicable but no later than 10 days after the relevant day. The plan is reviewed as required, consistent with the activities of the plan.

(Although the law requires return to work plans for your workers under the above circumstances, you should consider an individual return to work plan for all workers who are unable to undertake their normal duties as a result of workplace injury.)

- ◆ Consultation and communication with all workers and/or representative worker(s), in the development and review of the occupational rehabilitation program and its return to work policy and the injured worker regarding individual return to work plans, will occur where appropriate. The consultation process is outlined in the occupational rehabilitation program.

- ◆ Confidentiality of information obtained about the worker during their return to work or while undertaking occupational rehabilitation services will be maintained.
- ◆ Participation in a return to work plan will not, of itself, prejudice an injured worker.

RETURN TO WORK CO-ORDINATOR

How important is the return to work coordinator?

Your return to work coordinator is a key person in the return to work process, acting as the link to everyone involved. It is your return to work coordinator who sets return to work in motion after an injury and acts to ensure your occupational rehabilitation program and return to work policy are implemented.

What does my return to work coordinator have to do?

By law your return to work coordinator **MUST**:

- ◆ Assist your injured workers, where prudent and practicable, to remain at or return to work as soon as possible after injury;
- ◆ Liaise with any parties involved in the occupational rehabilitation of, or provision of medical or hospital services, to your injured worker;
- ◆ Monitor the progress of your injured worker's capacity to work;
- ◆ Ensure that, where reasonably necessary, your injured worker is given access to occupational rehabilitation services;
- ◆ Take steps to as far as is practicable prevent recurrence or aggravation of the relevant injury upon your injured worker's return to work; and
- ◆ Assist in meeting the legal requirements regarding risk management, occupational rehabilitation and return to work.

Your return to work coordinator needs to take quick action after an injury, and know when to become involved. Treatment beyond first aid will not always be required, particularly when minor injuries are involved and there is no time lost, however it is important that your return to work coordinator takes steps to ensure they are notified of all injuries as soon as possible after they occur, and that appropriate action is taken to prevent any further injury.

How do I choose a return to work coordinator?

Ideally the coordinator would be already employed at your workplace and familiar with the jobs undertaken and your workplace culture. They may have other responsibilities, or you could appoint someone specifically to the position. You should choose someone with the ability to carry out the functions required by the law, outlined above. The return to work coordinator will need the delegated authority and status in your workplace necessary to identify suitable employment opportunities and offer them to your injured worker. If you operate more than one workplace you may want to appoint a coordinator at each workplace. You should ensure that your occupational rehabilitation program always gives the name and contact details for your return to work coordinator.

Do I need to nominate a support person for my return to work coordinator?

Having a support person for your return to work coordinator can help them implement your occupational rehabilitation program and facilitate return to work plans. It also means there is an identified person(s) from whom they can seek advice, and who can assist your injured workers when your return to work coordinator is unavailable. The law does not require this, however, if you do, you should name them in your occupational rehabilitation program.

When should my return to work coordinator get involved?

Your coordinator should review the circumstances of every workplace injury and decide whether their assistance is required, as soon as possible. After this, your coordinator should review the need to initiate their involvement when:

- ◆ A worker has been injured or hospitalised causing their absence from the workplace;
- ◆ There is an initial WorkCover certificate with no current work capacity or partial work capacity and no set return to work date; or
- ◆ The worker is not immediately able to return to their pre-injury duties.

What training and resources will my return to work coordinator need?

Your coordinator will need an understanding of WorkCover law, particularly regarding risk management, occupational rehabilitation, and return to work. Opportunities for training in WorkCover related matters might be offered by your Authorised Agent and employer association, these organisations are also good resources for your coordinator. TAFE colleges also run broad Occupational Health & Safety courses that may include references to workplace injury management, and return to work co-ordination.

Can I outsource my return to work co-ordinator role?

Ideally your return to work co-ordinator will be someone already employed at your workplace however you may elect to provide 'in-house' services for your workers such as workplace assessment and return to work plan development and monitoring through an outsourced return to work co-ordinator.

Return to work co-ordination is not an occupational rehabilitation service and therefore cannot be claimed against your injured worker's WorkCover claim. By law, you are responsible for ensuring that the functions of a return to work co-ordinator are carried out even if you outsource your return to work co-ordinator role.

APPROVED PROVIDERS OF OCCUPATIONAL REHABILITATION SERVICES

Nominating an approved provider of occupational rehabilitation services

Approved occupational rehabilitation providers can work with you, your injured worker and their treatment providers (when required), to assist with return to work through the delivery of occupational rehabilitation services. Approved occupational rehabilitation providers are skilled professionals, approved by the Victorian WorkCover Authority because of their workplace-based occupational rehabilitation expertise.

What are occupational rehabilitation services?

These services are approved by the Victorian WorkCover Authority under the law and can only be provided by approved occupational rehabilitation providers. These services, when required to help achieve your return to work goal, are delivered as part of your injured worker's return to work plan. When developing the plan, review the need for additional assistance with your worker, their treating practitioner, and your Authorised Agent and consider whether any of the occupational rehabilitation services would be reasonably required. *(A full list of the occupational rehabilitation services currently approved, together with an indication as to when they may be useful, is provided in Attachment 3).*

How do I choose an approved occupational rehabilitation provider for my workplace?

While developing your occupational rehabilitation program, you should also consult with your workers and your Authorised Agent about the approved occupational rehabilitation provider to be nominated for your workplace. Their contact details should be included in your occupational rehabilitation program. *(A list of the currently approved occupational rehabilitation providers, is available from the Occupational Rehabilitation Service Provider page of the VWA's Website - www.workcover.vic.gov.au)*

Occupational rehabilitation providers are approved by WorkCover to deliver occupational rehabilitation services. Some offer the full range of occupational rehabilitation services, while others specialise in particular services. Occupational rehabilitation services are usually delivered at your workplace, or when this is not appropriate, at the approved occupational rehabilitation provider's offices.

Can the approved occupational rehabilitation provider nominated in my workplace Occupational Rehabilitation Program also provide 'in house' services or undertake the return to work co-ordinator role?

No, this would represent a conflict of interest. Approved occupational rehabilitation providers are required to provide occupational rehabilitation services in accordance with the Victorian WorkCover Authority's Occupational Rehabilitation Service Standards (the Standards). The Standards form part of the approved occupational rehabilitation provider's mandatory approval conditions (Occupational Rehabilitation Agreement) with the WorkCover Authority.

The Standards make it clear that occupational rehabilitation services are to be independent and avoid all conflict of interest (Standard 1a). Consistent with the Occupational Rehabilitation Standards, where you use an approved occupational rehabilitation provider to provide 'in house' services or to perform the functions of the return to work co-ordinator it would not be appropriate for the same approved occupational rehabilitation provider to also provide approved occupational rehabilitation services for an injured worker at your workplace.

A copy of the Standards (and an example of an Occupational Rehabilitation Agreement) are available on the Occupational Rehabilitation page of the VWA's Website - www.workcover.vic.gov.au

What should I consider when nominating my approved occupational rehabilitation provider?

- ◆ Are they currently approved by WorkCover to provide the occupational rehabilitation services you may require?
- ◆ Are they able to provide occupational rehabilitation services to your workers in accordance with the Occupational Rehabilitation Service Standards?
- ◆ Can they demonstrate an understanding of your industry, its common injuries and the issues involved in returning injured workers to work?
- ◆ Are they able to provide services to all your workplace locations in Victoria?
- ◆ Do they have a proven record of assisting employers and injured workers to achieve successful return to work outcomes?
- ◆ Are they recommended by other employers in your industry?

Note:

You can search the Occupational Rehabilitation page of the VWA website www.workcover.vic.gov.au to locate an approved occupational rehabilitation provider with offices near your workplace(s) and to identify the occupational rehabilitation services they are approved to provide.

When should I use an approved occupational rehabilitation provider?

The Guidelines for the Preparation and Revision of Return to Work Plans provide that you MUST contact your Authorised Agent and respond to any enquiries (if any) your Authorised Agent may have as to the necessity for an occupational rehabilitation service or the engagement of an approved occupational rehabilitation provider when you are developing or revising a return to work plan for an injured worker. (A copy of the Guidelines is provided in Section 4 of this Guide)

Some indications that an occupational rehabilitation service may be appropriate to consider are:

- ◆ The nature of your worker's injury means it may be difficult for them to remain at or return to their pre-injury duties without assistance.
- ◆ The worker's injury is serious and return to work will be complex.
- ◆ Unresolvable communication difficulties or disagreement with your worker and/or their treating practitioner about the return to work plan.
- ◆ Your worker continues to report pain or discomfort while doing certain tasks and you cannot identify the cause.
- ◆ You are uncertain if you can offer suitable employment or you are concerned about the safety of work practices given the nature of your worker's injury.
- ◆ Your injured worker requires re-education or assistance to return to work with a new employer.
- ◆ Your worker is on restricted duties or hours, and not making progress.
- ◆ Communication or relationship difficulties within the workplace are affecting the return to work.
- ◆ Recurring injury or aggravation.
- ◆ The treating practitioner indicates that assistance may be required.
- ◆ There are circumstances known to your organisation that will limit opportunities at your workplace for early return to work.
- ◆ Your injured worker requires assistance to stay at work, such as modifications to hours, duties, workstations.

How do I arrange to have occupational rehabilitation services provided to an injured worker?

Following approval of costs by your Authorised Agent you can make the referral directly to the approved occupational rehabilitation provider, or your Authorised Agent can on your behalf.

Does my worker have a choice in the provider of occupational rehabilitation services?

Yes, for all occupational rehabilitation services provided on or after 1 July 2005 the law has changed to provide your workers with some choice in the provider of occupational rehabilitation services.

What does the law say about a worker's choice of approved occupational rehabilitation provider?

The law says that your injured worker is entitled to receive occupational rehabilitation services from an approved occupational rehabilitation provider chosen by your worker from a list of approved occupational rehabilitation providers nominated by you (or your Authorised Agent on behalf of the Authority).

The law also says that if you (or your Authorised Agent) do not nominate such a list, your worker can choose an approved occupational rehabilitation provider of their choice.

What is a list of approved occupational rehabilitation providers?

The law says that a list of approved occupational rehabilitation providers (for the purposes of providing choice to your worker) **MUST** consist of the names of 'not less than three' approved occupational rehabilitation providers (where three are available) and that you **MUST** compile a list having regard to the following (as far as is possible):

- Your worker's injury type
- The type of occupational rehabilitation service(s) your worker requires
- Where your worker lives
- Where you (or your Authorised Agent) request the occupational rehabilitation provider to provide the occupational rehabilitation service(s).

In addition, the law says that:

- If your worker does not choose an approved occupational rehabilitation provider from a list of approved occupational rehabilitation providers, within 14 days of the offer of occupational rehabilitation services, you (or your Authorised Agent) may nominate the approved occupational rehabilitation provider .

How do I provide a list of approved occupational rehabilitation providers for my worker?

Before you nominate a list of approved occupational rehabilitation providers for your worker speak with your Authorised Agent to:

- agree that an occupational rehabilitation service is necessary and the cost of the service is reasonable; and,
- decide whether you or your Authorised Agent will nominate a list of approved occupational rehabilitation providers from which your worker may make a choice.

Do this before you make any referral to an approved occupational rehabilitation provider.

If you agree that your Authorised Agent will provide a list of approved occupational rehabilitation providers for your worker on your behalf, ensure your Authorised Agent is aware of the name(s) of the approved occupational rehabilitation provider(s) nominated in your workplace Occupational Rehabilitation Program as the providers may be relevant for inclusion on the list.

How do I provide a list of approved occupational rehabilitation providers for my worker?

If you elect to nominate a list of approved occupational rehabilitation providers for your worker:

- ensure your Authorised Agent is aware you will do this; and
- compile the list with regard to the criteria outlined in the law

To do this the following steps are recommended.

STEPS TO PROVIDING A LIST OF APPROVED OCCUPATIONAL REHABILITATION PROVIDERS TO YOUR WORKER

Step 1 Identify a list of approved occupational rehabilitation providers to provide to a worker

- 1.1 Consider the criteria outlined in the law
 - The worker's injury type
 - The type of occupational rehabilitation services required
 - Where the worker resides
 - Where the occupational rehabilitation provider is requested to provide the occupational rehabilitation services.
- 1.2 Consider other matters (if appropriate) having regard to the criteria outlined in the law
 - The approved occupational rehabilitation provider nominated in your Occupational Rehabilitation Program.
 - Previous occupational rehabilitation service delivery
- 1.3 Search the Occupational Rehabilitation Provider page of the VWA Website www.workcover.vic.gov.au for approved occupational rehabilitation providers considering the criteria relevant to your worker's circumstances.
- 1.4 Document a list of approved occupational rehabilitation providers nominated for the worker to choose from and the criteria you considered (Recommended Checklist to follow).

Step 2 Provide a list of approved occupational rehabilitation providers to your worker

- 2.1 Provide a list of approved occupational rehabilitation providers verbally where appropriate
 - Where your worker does not choose an approved occupational rehabilitation provider, provide a list in writing (see 2.2 below)
 - Where your worker chooses an approved occupational rehabilitation provider from a list provided verbally, confirm the list of nominated approved occupational rehabilitation providers given to your worker and their choice in writing (see 3.1 below)
- 2.2 Provide a list of approved occupational rehabilitation providers in writing
 - Use the example letter to follow
 - Follow up with your worker within 7 days
 - Your worker has 14 days to choose an approved occupational rehabilitation provider from a list

Step 3 Confirm your worker's choice of approved occupational rehabilitation provider in writing

- 3.1 Where your **worker chooses** an approved occupational rehabilitation provider from a list you provided verbally (in a meeting or over the telephone), confirm their choice in writing – use the example checklist or letter to follow.

Where your worker advises you of their choice from a list you posted to them in writing, confirm their choice using the example letter to follow.
- 3.2 Where a **worker does not choose** an approved occupational rehabilitation provider within 14 days, nominate an approved occupational rehabilitation provider on behalf of your worker and advise your worker in writing. Use the example letter to follow.

STEP 1 COMPILER A LIST OF APPROVED OCCUPATIONAL REHABILITATION PROVIDERS FOR YOUR WORKER

1.1 Consider the criteria in the law:

You **MUST** compile a list of approved occupational rehabilitation providers for your worker having regard to the criteria outlined in the law (as far as is possible), these include:

➤ **Your worker's injury type:**

Speak with your Authorised Agent about injury-specific occupational rehabilitation service needs that may be relevant considerations. In addition, discuss this with your worker and their treating practitioner.

➤ **The type of occupational rehabilitation service your worker requires:**

Speak with your worker, their treating practitioner and your Authorised Agent about your injured worker's circumstances and seek their advice about which occupational rehabilitation service(s) may be appropriate for your worker.

The type of occupational rehabilitation service required will depend upon your worker's current work capacity, employment circumstances and the return to work focus.

When you identify the type of occupational rehabilitation service your worker requires use the VWA's Website to search for an approved occupational rehabilitation provider by the name of the occupational rehabilitation service. Your Authorised Agent can advise you about which approved occupational rehabilitation providers may be appropriate for your industry. *(A full list of the occupational rehabilitation services currently approved to assist you to return an injured worker to work at your workplace is provided in Attachment 3).*

➤ **Where your worker lives:**

If the occupational rehabilitation services will be delivered at the approved occupational rehabilitation provider's office rather than your workplace consider an approved occupational rehabilitation provider with offices near where your worker lives.

For example:

- Returning your worker to work with a new employer may require a Vocational Assessment which would be delivered at the approved occupational rehabilitation provider's office (search by your worker's postcode / suburb / region - to minimise their travel).

➤ **Where you request the approved occupational rehabilitation provider to provide the occupational rehabilitation service(s)**

The type of occupational rehabilitation service your worker requires will influence where the occupational rehabilitation service is to be provided. A primary consideration is whether the occupational rehabilitation service is necessary to assist your worker to return to work with you or a new employer.

For example:

- Returning your worker to work at your workplace may require a Workplace Assessment which would be delivered at the workplace where you have suitable employment available (search by the workplace postcode / suburb / region).

1.2 Consider other matters if appropriate

To the extent that the following matters are consistent with the criteria in the law (outlined above), which should be applied in the first instance, you should also consider:

- **The approved occupational rehabilitation provider(s) nominated in your Occupational Rehabilitation Program**

Where the approved occupational rehabilitation provider(s) nominated in your workplace Occupational Rehabilitation Program is (are) suitable, having regard to the criteria outlined in the law and avoiding all conflict of interest, you can include their name(s) in a list you provide to your worker.

- **Previous occupational rehabilitation service delivery**

Where your worker has received an occupational rehabilitation service previously, and continuity of approved occupational rehabilitation provider would deliver service efficiency and cost effectiveness, the previous approved occupational rehabilitation provider should be considered (having regard to the criteria outlined in the law) in compiling a list for your worker. Speak to your Authorised Agent about this.

1.3 Search the service provider's directory of the VWA website.

Once you have considered all the relevant criteria (as set out previously), search the VWA website to identify the three (where three are available) approved occupational rehabilitation providers to nominate for your worker to choose from. In the first instance search by occupational rehabilitation service type, then by postcode or suburb depending on where the service will be delivered.

For example:

- If your worker has a current work capacity and requires assistance to remain at or return to their pre-injury job you may require an occupational rehabilitation service such as a Workplace Assessment.

In this circumstance, in compiling a list of approved occupational rehabilitation providers you should consider the approved occupational rehabilitation provider nominated in your workplace Occupational Rehabilitation Program (where available), and in addition, at least two other approved occupational rehabilitation providers. In compiling the list to be provided to your worker consider those approved occupational rehabilitation providers located nearest your workplace. This will minimise travel costs.

- If your worker requires assistance to return to work with a new employer Job Seeking Assistance services (JSA) may be required.

In this circumstance, in compiling a list of approved occupational rehabilitation providers you should consider whether the location of the approved occupational rehabilitation provider is close to where your worker lives. This will minimise your worker's travel time.

Where an initial search by postcode or suburb identifies a limited number of approved occupational rehabilitation providers (less than three) in specific suburbs or rural towns, you should broaden your search to the geographic region relevant to where the occupational rehabilitation services are required to be provided.

What if I cannot identify three approved occupational rehabilitation providers?

If, after considering the relevant criteria, you are unable to identify three approved occupational rehabilitation providers for a list to provide to your worker, your list can be less than three and you should advise your worker accordingly.

However, if you do have difficulty, or are unable to identify three approved occupational rehabilitation providers that meet the criteria in the law, seek assistance from your Authorised Agent.

1.4 Document a list of approved occupational rehabilitation providers for your worker to choose from.

Document the details of the approved occupational rehabilitation providers you have identified and provide this list to your worker (See step 2 to follow).

STEP 2 PROVIDE A LIST OF APPROVED OCCUPATIONAL REHABILITATION PROVIDERS TO YOUR WORKER

2.1 Provide a list of approved occupational rehabilitation providers verbally in the first instance (where appropriate)

In the first instance, to encourage timely access to an occupational rehabilitation service, meet with your worker (or where this is not possible telephone your worker) and provide a list of approved occupational rehabilitation providers to your worker in person.

Speak to your worker about the purpose of the occupational rehabilitation service, and the criteria you considered in identifying the approved occupational rehabilitation providers you have nominated for them to make a choice.

Confirm your worker's choice following a meeting:

If your worker chooses an approved occupational rehabilitation provider from a verbal list you provide in a meeting confirm both the list of approved occupational rehabilitation providers and the name of the approved occupational rehabilitation provider your worker has chosen in writing to your worker at that time.

A example checklist you can use to document (as a record for yourself and your worker) a list of approved occupational rehabilitation providers you compiled for your worker to choose from, the criteria you considered and your worker's choice is provided at the end of this section. Invite your worker to sign this checklist to verify receipt of this list and their choice as discussed.

Forward a copy of this to your Authorised Agent and your worker's treating practitioner (where relevant) so they can monitor service provision and your Authorised Agent can authorise payments to the approved occupational rehabilitation provider.

Confirm your worker's choice following a telephone discussion:

If your worker chooses an approved occupational rehabilitation provider from a verbal list you provide in a telephone call confirm both the list of approved occupational rehabilitation providers and the name of the approved occupational rehabilitation provider your worker has chosen in writing to your worker on the same day. **An example of a letter you can use is provided at the end of this section.**

If your worker does not choose an approved occupational rehabilitation provider from the list you provided verbally (either in a meeting or a telephone call):

- provide the list of approved occupational rehabilitation providers to your worker in writing – see 2.2 to follow.
- advise your worker that they have up to 14 days to choose an approved occupational rehabilitation provider from the list you provided, otherwise you will nominate an approved occupational rehabilitation provider from the list you provided to them on their behalf

2.2 Provide a list of approved occupational rehabilitation providers to your worker in writing

There may be circumstances where your worker is unable to choose an approved occupational rehabilitation provider from a list you provide verbally (either in a meeting or by telephone). There may also be circumstances where you are unable to speak with your worker or the nature of their injury suggests that a meeting or telephone call may not be appropriate. One example of this might be a worker with a stress claim.

In these circumstances write to your worker and provide a list of approved occupational rehabilitation providers in writing.

An example of a letter you can use to provide a list of the names of the approved occupational rehabilitation providers for your worker to choose from, which includes the type of information you should include, is provided at the end of this section.

Forward a copy of the letter you send to your worker to your Authorised Agent and your worker's treating practitioner (where relevant) at the same time.

Follow up with your worker within 7 days

Make a note in your diary to telephone or meet with your worker (if appropriate) within 7 days of providing a list of approved occupational rehabilitation providers in writing, to remind your worker to confirm their choice of approved occupational rehabilitation provider within 14 days and answer any queries they may have.

What if my worker requests additional information about an occupational rehabilitation service or an approved occupational rehabilitation provider?

If your worker requests additional information, or is experiencing difficulty choosing an approved occupational rehabilitation provider from a list you provided, you can:

- provide the additional information to the extent practicable (a FACT SHEET containing information about occupational rehabilitation services can be obtained from the Occupational Rehabilitation Service Provider page of the VWA website www.workcover.vic.gov.au)
- advise your worker to speak with their treating practitioner
- advise your worker they can speak with your Authorised Agent
- advise your worker to contact the approved occupational rehabilitation providers directly to make further enquiries about their services.

Note:

Requests for additional information do not extend the time in which your worker has to confirm their choice from a list you provided (14 days). You should make every reasonable effort to assist your worker to make their choice.

STEP 3: CONFIRM YOUR WORKER'S CHOICE OF APPROVED OCCUPATIONAL REHABILITATION PROVIDER IN WRITING

Always provide a written list of nominated approved occupational rehabilitation providers to your worker and confirm your worker's choice in writing.

3.1 Confirm your workers choice in writing following provision of a verbal list

If you provide a list of approved occupational rehabilitation providers verbally to your worker, either in person or by telephone, confirm the list of approved occupational rehabilitation providers, and any choice made by your worker in writing at that time on that same day (see Step 2 above).

3.2 Confirm your worker's choice following provision of a written list

If you provide a written list of approved occupational rehabilitation providers to your worker by forwarding a letter to your worker (such as the example provided at the end of this section) and your worker notifies you of their choice within 14 days of having received the letter, confirm your worker's choice in writing to them. Forward a copy to your Authorised Agent at the same time.

An example letter you can use is provided at the end of this section.

What if my worker does not choose an approved occupational rehabilitation provider from a list provided within 14 days?

If your worker does not choose an approved occupational rehabilitation provider from a written list you provided, within 14 days of the written list having been provided, you should nominate an approved

occupational rehabilitation provider (from the list you provided to your worker) on your worker's behalf and advise your worker accordingly .

An example letter you can use to advise your worker of the name of the approved occupational rehabilitation provider you have chosen on your worker's behalf is provided at the end of this section.

When does the 14 day period commence?

Where a written list is provided either initially, or subsequent to a verbal communication, the 14 day period will commence from the date it is received by the worker. The 14 day period refers to 14 consecutive days (including business days and weekends).

14 days where a written list is posted to a worker:

If you post a written list of approved occupational rehabilitation providers to your worker, the 14 day period will commence two days after the date of posting, (allowing 2 days for the worker to receive the letter).

14 days where a written list is provided to a worker in person:

If you provide a list of approved occupational rehabilitation providers to your worker in person the 14 day period will commence from that day.

How often do I provide a worker with a choice in the provider of occupational rehabilitation services?

You MUST consider your worker's individual circumstances each time the need for an occupational rehabilitation service period arises. This is because the need for an occupational rehabilitation service and the type of occupational rehabilitation service required may vary throughout your worker's recovery and return to work.

Accordingly, your worker MUST be provided with a choice of approved occupational rehabilitation provider for each distinct occupational rehabilitation service period.

For example, occupational rehabilitation services can be:

- Provided as individual, one-off assessment services, such as Workplace Assessment. In this circumstance, the occupational rehabilitation service would cease at the time the Workplace Assessment report was accepted by your Authorised Agent.
- Delivered in a continuum of approved occupational rehabilitation services as part of an occupational rehabilitation service period, based on your worker's assessed needs and an identified return to work goal. In this circumstance, the occupational rehabilitation services would cease at the completion of the authorised occupational rehabilitation service period.
- Provided as part of a group of occupational rehabilitation services, such as Job Seeking Assistance (JSA) which are provided for a specific time period to assist a worker to return to work with a new employer. In this circumstance, the occupational rehabilitation services would cease at the completion of the JSA service period.

Speak to your Authorised Agent for assistance in determining authorised occupational rehabilitation service periods and when a further choice of approved occupational rehabilitation provider applies in your worker's circumstances.

Who pays for occupational rehabilitation services?

If the services are provided as part of your worker's WorkCover claim, your Authorised Agent must approve the costs before the services are delivered. The cost of the services will be included in the injured worker's claims costs, which are used to calculate your WorkCover premium. If you organise services directly with the approved occupational rehabilitation provider, they must seek your Authorised Agent's written authority before they provide any services.

Can I provide occupational rehabilitation services for a worker before the liability for their WorkCover claim is determined?

Payment can be made for the reasonable cost(s) of necessary occupational rehabilitation service(s) provided to your worker before liability for their claim is determined where you agree to pay and your Authorised Agent agrees that the service is necessary and the cost is reasonable. Your worker must also be offered a choice of approved occupational rehabilitation provider for occupational rehabilitation services provided before claim liability is determined as previously outlined.

Speak with your Authorised Agent for more information about entitlement to occupational rehabilitation services in these circumstances.

What if I do not offer occupational rehabilitation services or provide a list of approved occupational rehabilitation providers for a worker to choose from?

If you or your Authorised Agent do not provide for the delivery of an occupational rehabilitation service that is necessary to assist your injured worker to remain at or return to work, or you (or your Authorised Agent) do not provide a list of the names of approved occupational rehabilitation providers for a worker to choose from your worker may refer themselves to an approved occupational rehabilitation provider of their choice to deliver the specified service.

If your worker referred themselves to an approved occupational rehabilitation provider your Authorised Agent will be required to approve the occupational rehabilitation service before the service can commence.

As with all occupational rehabilitation service delivery, payment of the cost of the service is subject to certain criteria including:

- ◆ the proposed occupational rehabilitation service must be reasonably necessary to assist your worker to remain at or return to work;
- ◆ the costs of the services must be reasonable for the service actually provided;
- ◆ the service is one of the approved occupational rehabilitation services (*Services to assist an injured worker to return to work with their employer are listed in Attachment 3. Services to assist an injured worker to return to work with a new employer are detailed at www.workcover.vic.gov.au*); and
- ◆ the service must be provided by an approved provider of occupational rehabilitation services, approved by the Victorian WorkCover Authority to provide that service.

The cost of this service will be included in claims costs, which may affect your Premium.

CHECKLIST FOR LARGE EMPLOYERS

If your annual payroll is more than \$1 million use this checklist to assess whether you are meeting your obligations.

Risk Management Program Checklist

Your Obligation: Establish and maintain a risk management program at all times

- Do you have a risk management program?
- Does your program outline the steps you will take to target the cause of an injury?
- Does your program outline the steps you will take to, as far as is practicable, eliminate or reduce the risk of such an injury happening again?
- Is your program applied to every workplace injury?

Occupational Rehabilitation Program Checklist

Your Obligation: Establish and maintain an occupational rehabilitation program at all times

- Was your program developed in consultation with your workers?
- Is your program in writing?
- Is your program made available to all your workers?

Does your program include:

- A statement of your return to work policy?
- The name of your return to work coordinator?
- The name of your nominated approved provider of occupational rehabilitation services?
- Details of the resources and any training you will provide to the return to work coordinator?
- All matters agreed by you and your workers, or representative worker(s) in the development of your program?
- Provision for a statement, which can be signed by the workers or by representative worker(s), certifying the program has been developed in consultation with workers?
- Provision for sign-off by you, in person, or where the employer is a corporation, by a person with sufficient authority to commit the employer to the occupational rehabilitation program?
- Is your program regularly reviewed?
- Is your program reviewed in consultation with your workers?

Have you ticked all the boxes? If not, to ensure your programs comply fully, refer to Sections 1 and 3 of this guide.

CHECKLIST FOR SMALL EMPLOYERS

(Injuries before 1 March 2004)

If your annual payroll is \$1 million or less use this checklist to assess whether you are meeting your obligations.

Risk Management and Occupational Rehabilitation Program Checklist

Your Obligation: Establish and maintain a risk management program and an occupational rehabilitation program when a worker is injured and has no current work capacity, for 20 calendar days or more.

Have you had an injury at your workplace where the injured worker has been off work, with no current work capacity, for a total of 20 calendar days or more?

if so:

Have you nominated a return to work coordinator for your workplace?

Did you nominate a return to work coordinator within 10 days after the 20th day of the total incapacity?

After the injury occurred did you:

Establish your risk management program? (See previous checklist)

Did you establish your risk management program within three months of the 20th day of your worker having no current work capacity?

Have you put in place the other components of your occupational rehabilitation program? (See previous checklist)

Does your occupational rehabilitation program include:

A written statement of your return to work policy?

The name of your return to work coordinator?

The name of your nominated approved provider of occupational rehabilitation services

Did you establish your occupational rehabilitation program within three months of the 20th day of your worker having no current work capacity?

Have you ticked all the boxes? If not, to ensure your programs comply fully, refer to Sections 1 and 3 of this guide.

CHECKLIST FOR SMALL EMPLOYERS

(Injuries on or after 1 March 2004)

If your annual payroll is \$1 million or less use this checklist to assess whether you are meeting your obligations.

Risk Management and Occupational Rehabilitation Program Checklist

Your Obligation: Establish and maintain a risk management program and an occupational rehabilitation program if a worker has an incapacity for work.

Have you had an injury at your workplace where the injured worker has had an incapacity for work?

if so:

Have you nominated a return to work coordinator for your workplace?

Did you nominate a return to work coordinator as soon as was practicable but no later than 10 days after the relevant day?

After the injury occurred did you:

Establish your risk management program? (See previous checklist)

Did you establish your risk management program within three months after the relevant day?

Have you put in place the other components of your occupational rehabilitation program?
(See previous checklist)

Does your occupational rehabilitation program include:

A written statement of your return to work policy?

The name of your return to work coordinator?

The name of your nominated approved provider of occupational rehabilitation services

Did you establish your occupational rehabilitation program within three months after the relevant day?

Have you ticked all the boxes? If not, to ensure your programs comply fully, refer to Sections 1 and 3 of this guide.

Example Checklist: (Place this checklist on your letterhead stationary)

Use this checklist to document the list of approved occupational rehabilitation providers you provided to your worker in person and to confirm their choice at that time.

This list of approved occupational rehabilitation providers was provided to (insert worker's name), on (insert date) for the purpose of providing a choice of approved occupational rehabilitation provider for the provision of an occupational rehabilitation service.

Employers representative: (Insert name)

Criteria considered by law in compiling this list of approved occupational rehabilitation providers:	Indicate criteria considered with a tick (✓) & provide comment as necessary
<ul style="list-style-type: none"> The worker's injury type 	
<ul style="list-style-type: none"> The type of occupational rehabilitation services required (List) 	
<ul style="list-style-type: none"> Where the worker lives 	
<ul style="list-style-type: none"> Where the approved occupational rehabilitation provider is requested to provide the occupational rehabilitation services (detail) 	
Other matters considered in identifying this list of approved occupational rehabilitation providers:	Indicate other matters considered with a tick (✓) & provide comment as necessary
<ul style="list-style-type: none"> The approved occupational rehabilitation provider(s) nominated in the workplace Occupational Rehabilitation Program - list name(s) 	
<ul style="list-style-type: none"> Previous occupational rehabilitation service delivery (detail if relevant) 	
Name of approved occupational rehabilitation providers provided:	
1.	3.
2.	Other
I have received this list and I have chosen the following approved occupational rehabilitation provider:	
Signed by: (Invite your worker to sign here to verify their choice from this list)	

Keep a copy of this checklist on your file and provide a copy to your worker, your Authorised Agent and your workers treating practitioner (where relevant).

Example Letter: (Place this letter on your letterhead stationary)

You can use this letter to provide a list of approved occupational rehabilitation providers to your worker in writing in the first instance, or to provide a written list to a worker who was unable to choose an approved occupational rehabilitation provider following a meeting or telephone discussion.

Date

Worker name

Address Line 1

Address Line 2

Address Line 3 (State) (Postcode)

Dear (*Worker Name*)

(Insert as required - As discussed) Recent information regarding your work injury suggests that *(you have current work capacity and)* an occupational rehabilitation service may be able to assist you to *(remain at / return to work)* at this time.

Attached is a fact sheet which explains what occupational rehabilitation is and how it can assist you. *(You can obtain the Fact Sheet to include with the letter from the VWA website - www.workcover.vic.gov.au)*

We believe that *(insert name of occupational rehabilitation service(s))* would assist you to *(remain at / return to work)* at this time.

There are a number of approved occupational rehabilitation providers who provide this service and you may choose one from the list below.

Name of Approved Occupational Rehabilitation provider	Contact Person	Address, phone number & website address (when available)
<i>(Insert approved occupational rehabilitation provider's name)</i>		
<i>(Insert approved occupational rehabilitation provider's name)</i>		
<i>(Insert approved occupational rehabilitation provider's name)</i>		

In compiling this list we have considered:

- The type of injury you have suffered
- The type of occupational rehabilitation service(s) you require
- Where you live
- Where the provider is requested to provide the occupational rehabilitation service(s)

Should you require any additional information regarding the above occupational rehabilitation service(s), or your obligations under the law please contact *(Insert Name)*.

If you are unsure which approved occupational rehabilitation provider to choose from the list above, you may wish to contact your treating practitioner to discuss the list. You can also speak with our authorised WorkCover agent *(insert name and contact details)*. You could also contact the approved occupational rehabilitation provider(s) directly.

Please nominate your choice from the list provided, and advise *(insert name)* by phoning on *(Insert telephone contact number)* by *(Insert date – not more than 16 days from the date the letter is posted – 14 days plus allow 2 days for delivery to worker)*, or by signing and returning the attached nomination slip *(optional - in the reply paid envelope)* by this date.

If you do not choose an approved occupational rehabilitation provider from the list provided by *(Insert date)*, we will nominate one for you and notify you accordingly.

Yours sincerely,

(Insert name)

(Title)

cc: Worker's Treating Practitioner (include name)
Authorised WorkCover Agent (include name)

Notification of Choice of Approved Occupational Rehabilitation Provider

Please indicate your choice of approved occupational rehabilitation provider by completing this form and returning it to *(Insert name) (optional - in the reply paid envelope)* by *(Insert return by date)*.

Name of Approved Occupational Rehabilitation Provider	(✓) choose <u>one</u> Approved Occupational Rehabilitation Provider from this list
<i>(Insert approved occupational rehabilitation provider's name)</i>	
<i>(Insert approved occupational rehabilitation provider's name)</i>	
<i>(Insert approved occupational rehabilitation provider's name)</i>	

Worker name:

Signature:

Date: / /

Example Letter: (Place this letter on your letterhead stationary)

Use this letter to confirm:

Option 1: Your worker's verbal advice (within 14 days) of their choice of approved occupational rehabilitation provider from a written list - where you wrote to your worker to provide the list.

Option 2: Your nomination of an approved occupational rehabilitation provider on your worker's behalf where your worker has not chosen an approved occupational rehabilitation provider from a list you provided to them within 14 days of a list being provided.

Date

Worker name
Address Line 1
Address Line 2
Address Line 3 (State) (Postcode)

Dear (*Worker name*)

We recently (*choose one -met with you / telephoned you / wrote to you*) regarding an occupational rehabilitation service(s) we believed would assist you to (*remain at / return to work*). We also provided you with a fact sheet which explained what occupational rehabilitation is and how it can assist you.

We also advised you there are a number of approved occupational rehabilitation providers who provide this service and requested that you chose one from the list below and notify us by (*insert date*).

Name of Approved Occupational Rehabilitation provider	Contact person	Address, phone number & website address (when available)
<i>(Insert approved occupational rehabilitation provider's name)</i>		
<i>(Insert approved occupational rehabilitation provider's name)</i>		
<i>(Insert approved occupational rehabilitation provider's name)</i>		

We further advised that in compiling this list we considered:

- The type of injury you have suffered
- The type of occupational rehabilitation service(s) you require
- Where you live
- Where the provider is requested to provide the occupational rehabilitation service(s)

We also advised you that if you did not choose an approved occupational rehabilitation provider from the above list by *(Insert date)* we would nominate an approved occupational rehabilitation provider on your behalf.

Option 1: (Delete if not applicable)

Following our letter you have advised us that you have chosen to receive the occupational rehabilitation services from the following approved occupational rehabilitation provider.

(Insert name of approved occupational rehabilitation provider your worker has nominated)

Option 2: (Delete if not applicable)

As you have not advised us of the name of the approved occupational rehabilitation provider you have chosen we have nominated the following approved occupational rehabilitation provider on your behalf.

(Insert name of approved occupational rehabilitation provider you have nominated on your worker's behalf)

We will now arrange for you to be referred to this approved occupational rehabilitation provider.

Yours sincerely,

(Insert Name)
(Title)

cc: Worker's Treating Practitioner (Insert name)
Authorised Agent (insert name)

Section 2

RETURNING INJURED WORKERS TO WORK

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YOUR OBLIGATIONS: RETURN TO WORK PLANS

For injuries before 1 March 2004

You **MUST** prepare a return to work plan for any worker who has a work related injury who has been off work with no current work capacity for 20 calendar days or more. You **MUST** do this as soon as practicable, but no later than 10 days after the 20th day of no current work capacity.

For injuries on or after 1 March 2004

You **MUST** prepare a return to work plan for any worker who has a work related injury who has an incapacity for work. You **MUST** do this as soon as practicable, but no later than 10 days after the relevant day.

An example of a return to work plan and the steps to prepare a return to work plan are provided in the following section.

Your Return to Work Plan Obligations

To prepare your return to work plan and comply with the law you **MUST** take the following actions:

- ① Ensure the required actions to prepare the return to work plan are carried out. Record the name and contact details of your return to work co-ordinator on the plan.
- ② Contact your injured worker (unless it is not practicable to do so) and their treating practitioner, in order to obtain information about their capacity to work, and prepare the plan in accordance with medical advice.
- ③ Prepare the plan in consultation with your injured worker, their treating practitioner, and where one is involved the approved occupational rehabilitation provider.
- ④ Ensure the contents of the plan are consistent with the medical information, if any, obtained from the injured worker's treating practitioner, and are developed with the view to your worker ultimately returning to their pre-injury employment.
- ⑤ Endeavour to arrive at a consensus in relation to the plan. Sign the plan and invite your injured worker to endorse the plan.
- ⑥ Specify any occupational rehabilitation services that are reasonably necessary for the return to work and the maintenance at work of your injured worker.

YOUR COMPANY LETTERHEAD

RETURN TO WORK PLAN

Employer details

Plan number 7 Date 8
Position Contact number

Return to work (RTW) plan prepared by

1

Worker details

Given name

Surname 9

2 Place of residence

Telephone Date of birth

Occupation/pre-injury duties:
(Attach job description if available)

Date of injury Claim number

Interpreter required? Language
Yes No

Treating medical practitioner details

3 Name

Other treating practitioners (physiotherapist etc.)

Name

Address

Address

Telephone Fax

Telephone Fax

Nature of injury

Current treatment: (include how often attends)

Return to work process

Medical restrictions affecting the capacity to work
4

Suitable employment offer attached? 10
Yes No If no, date this will be reviewed

Will you be able to offer duties?
Yes No Unknown

Will assistance for RTW or other occupational rehabilitation services be required for this worker?
Yes No

Estimated date of return to work 11 Unknown

Approved occupational rehabilitation provider (if applicable)
5

Employer's signature 12 Date

Telephone

Worker's endorsement Date

6 Occupational Rehabilitation Services

Date plan to be reviewed 12

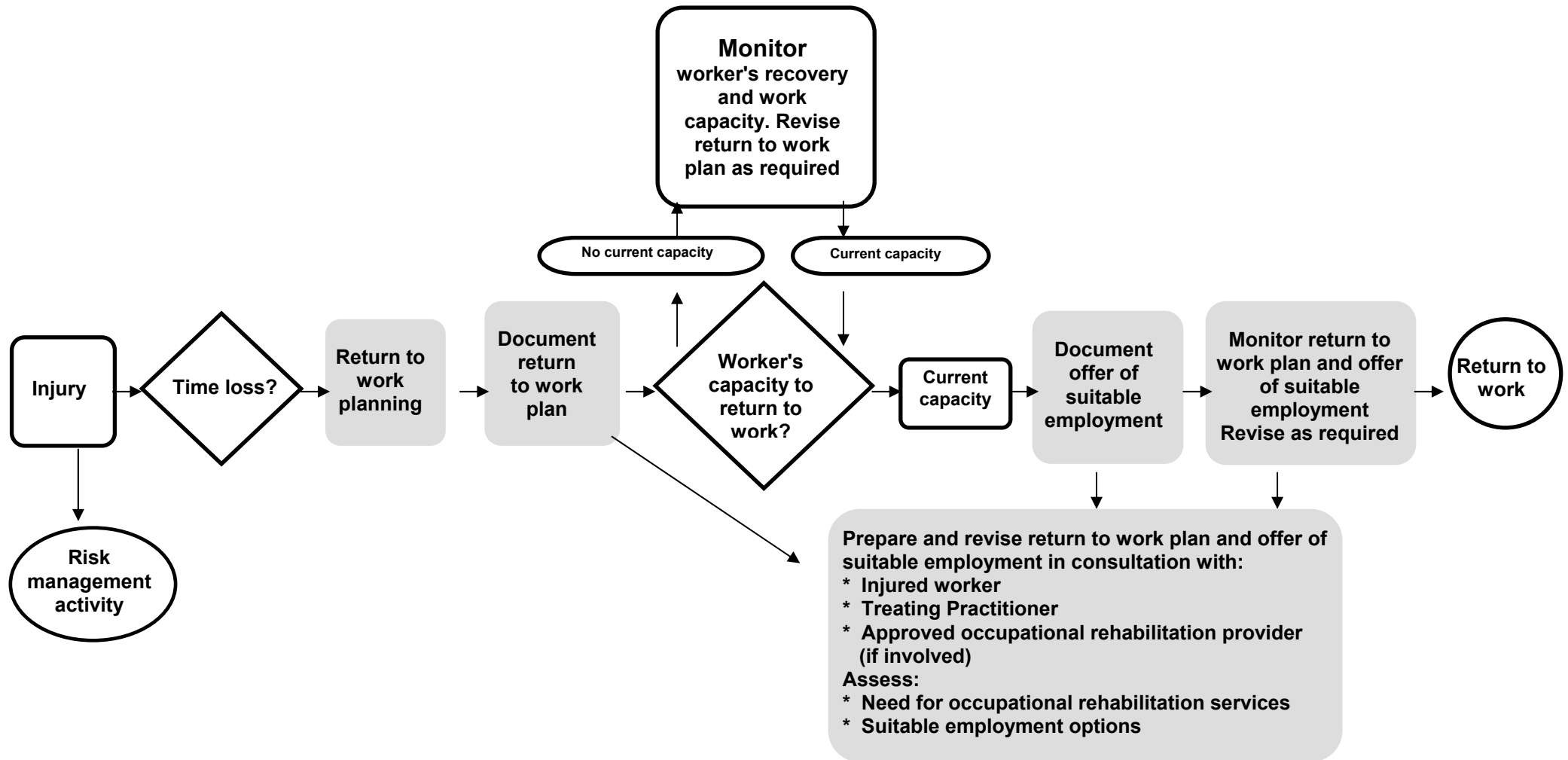
Date plan forwarded to
Authorised Agent 13 Treating Practitioner

- ⑦ Revise the plan in accordance with the Guidelines for preparation of return to work plans. (Number each plan accordingly, i.e. first plan write '1' second plan '2' etc.)
- ⑧ **Injuries before 1 March 2004:** Prepare the plan within 10 days of your injured worker's 20th day of no current work capacity.

Injuries on or after 1 March 2004: Prepare the plan as soon as practicable but no later than 10 days after the relevant day.
- ⑨ Include the name of your injured worker.
- ⑩ Where you make an offer of suitable employment to your injured worker incorporate it into your return to work plan document.
- ⑪ Estimate the date that your injured worker should be fit to return to work.
- ⑫ Revise the plan as soon as you become aware of any relevant change to: the worker's injury; medical condition; work capacity; or other circumstances - including any difficulty in performing work to which the worker has returned.
- ⑬ The plan must also be revised when requested by your worker, their treating practitioner, the occupational rehabilitation provider (if any), your worker's supervisor or your Authorised Agent.
- ⑭ Contact your Authorised Agent (or self insurer) to inform them of the relevant circumstances and respond to any enquiries as to the necessity for any occupational rehabilitation services or the engagement of an approved occupational rehabilitation provider⁶.

⁶ For all entitlements to receive occupational rehabilitation services on or after 1 July 2005 a worker may choose an approved occupational rehabilitation provider from a list of the names of not less than three approved occupational rehabilitation providers (where available) nominated by the Authority, employer or self insurer. (See section one for detailed information)

ILLUSTRATION OF RETURN TO WORK PROCESS



Notes: This diagram provides an overview for illustration only. Shaded areas indicate the activity that is required by law. Your full legal obligations are outlined in this section of the Guide.

Return to Work Plans

WHAT IS A RETURN TO WORK PLAN?

It is your written action plan to maintain your injured workers at work or return them to work after injury. It details the assistance you will provide to your injured worker to return them to work and who will provide it.

A return to work plan has two parts:

- ◆ The overall plan setting out the workplace assistance, and as a part of this
- ◆ An offer of suitable employment

It is important that the content of the plan is tailored to each injured worker, and caters for any special needs. For example, a non-English speaking worker may need an interpreter at various stages of their treatment and return to work.

WHEN IS A RETURN TO WORK PLAN REQUIRED?

For injuries before 1 March 2004:

For injuries occurring before 1 March 2004 a return to work plan is required when an injured worker has no current work capacity for 20 calendar days or more, The plan must be prepared as soon as practicable, but no later than 10 days after the 20th day of no current work capacity.

For injuries on or after 1 March 2004:

For injuries occurring on or after 1 March 2004 a return to work plan is required when an injured worker has an incapacity for work, The plan must be prepared as soon as practicable, but no later than 10 days after the relevant day.

Although a plan is only required under the law in the above circumstances, your chances of successfully returning an injured worker to work are increased if their plan is developed earlier than this. Your chances of maintaining an injured worker at work, or returning an injured worker to work who has a partial work capacity, will also increase if you have a plan in place for them and you actively manage their return to work.

WHO IS RESPONSIBLE FOR RETURN TO WORK PLANS?

You are responsible for preparing, monitoring and reviewing return to work plans and ensuring all the action necessary to do this is undertaken at your workplace.

HOW DO I PREPARE A RETURN TO WORK PLAN?

It is very important that you record the information that you obtain when you develop a plan. Keeping accurate records is an essential part of the communication involved with return to work activities. There are many parties involved in the return to work process and your return to work coordinator will need to stay in contact with them all, providing each with information they can use to make decisions and evaluate progress. How you maintain this information is up to you, however written records, with diarised contact notes, and confidentiality are essential.

The steps to preparing return to work plans are:

1. Gather information about your worker's injury, capacity to work, assistance they may require, and the opportunities for suitable employment at your workplace.
2. Determine the return to work goal.
3. Document the plan.
4. Implement the plan.
5. Monitor the plan.
6. Review the plan.

STEPS TO PREPARING A RETURN TO WORK PLAN

STEP 1: GATHERING INFORMATION

Contact your injured worker

Arrange a meeting with your injured worker to discuss their injury. This is best done at their workplace, but if necessary due to the circumstances of their injury (and always with their agreement), consider meeting your worker at their home. If your worker is hospitalised, visiting the hospital is a real sign of support. If necessary, a telephone call or letter can start this process. In some circumstances your worker may be more comfortable with the support of another person at the initial meeting, this could be a family member or another chosen representative.

Questions to ask your injured worker

- ◆ What is their understanding of their injury?
- ◆ The name(s) and contact details of their treating medical practitioner and any other treatment providers. Advise your worker that, with their authority, you will be contacting them to discuss their injury and how you can assist with their recovery and return to work.
- ◆ What treatment are they receiving?
- ◆ How they are coping at home with the effects of their injury?
- ◆ Could they continue with their job or come back to their job if it was changed in some way - get their input.

Are there times it may not be appropriate to contact my injured worker?

There may be times it is not prudent to contact your injured worker because of the circumstances of their injury. For example, stress illness, significant workplace conflict or serious injuries. You should contact your Authorised Agent for advice in these matters.

Contact your injured worker's treating practitioner(s)

The treating practitioner(s) can provide advice that will assist your return to work plan by determining whether your injured worker has a capacity to work. You will need their subsequent endorsement of any suitable duties, prior to your injured worker's return to work. Treating practitioners can include a range of health professionals, depending upon your worker's injury and treatment program.

Direct telephone contact with the treating practitioner is preferable. If this is difficult, or if they are unavailable, write to them, and outline your occupational rehabilitation program and the workplace assistance available to your injured worker. If this is also difficult, or they do not respond, you could make an appointment with them and your injured worker (with your worker's agreement) or invite them to visit your workplace.

Providing treating practitioners with advice about your worker's job means they can take into consideration the elements of the physical demands of the job when planning their treatment. This allows the treating practitioner to give your worker advice specific to the tasks involved in their jobs, such as lifting and manual handling techniques.

Questions to ask the treating practitioner

- ◆ What is the nature of the worker's injury and what does this mean for their return to work?
- ◆ What is the worker's current work capacity?
- ◆ What can the worker do and when can they return to work?
- ◆ What assistance does the injured worker require?

(Strategies for liaising with treating practitioners are discussed later in this section.)

Contact relevant workplace parties

When you know what your worker can or cannot do, review whether your workplace can accommodate them. Talk with your supervisors and other workers to find out the requirements of the worker's job and whether or not the job can be changed to suit their injury. If the job cannot be changed, find out whether there are any other jobs that may be suitable. When doing this, you should bear in mind the effect of any changes on other workers and plan to minimise them. Involving your injured worker and other workers in discussions to identify return to work opportunities can help ease any concerns other workers may have about how any changes will affect them. *(Strategies for identifying suitable duties are discussed on pages 53-56.)*

Contact your Authorised Agent

Your Authorised Agent can advise you of your obligations and give you advice to meet them. Discussing the information you have gathered about your worker's capacity to work, and the jobs you have to offer, with your Authorised Agent can help them manage your worker's claim and decide if you need any further assistance. If your Authorised Agent has received any medical reports about your worker, this information may be useful in assisting you to determine if you have duties to offer and what restrictions to accommodate. The law requires that you advise your Authorised Agent of the progress of your worker's return to work, at regular intervals - the intervals MUST NOT exceed three months.

Determine if your worker needs occupational rehabilitation services

Most workplace injuries can be managed successfully at the workplace with assistance from the worker's treating practitioner(s). If the injury is more complex or the return to work process does not go smoothly, you may need help. If you are unsure how to return your worker to work, or whether you have any duties to match the available medical advice, you may need help from an approved occupational rehabilitation provider. Talking with your injured worker, their treating practitioner and your Authorised Agent can clarify this. Your Authorised Agent must authorise the service and the cost and can assist you with compiling a list of approved occupational rehabilitation providers for your workers to choose from and making a referral⁷.

STEP 2: DETERMINE THE RETURN TO WORK GOAL

Once you have contacted all the relevant parties, and know what your worker can do and whether your workplace can offer duties, you need to decide your plan for returning your injured worker to work. It is essential that you involve your worker in these discussions, so that if they have any concerns you can discuss what to do about them. In discussions with your worker, and based on medical advice and where involved, the advice of the approved occupational rehabilitation provider, decide the goal of the return to work.

⁷ For all entitlements to receive occupational rehabilitation services on or after 1 July 2005 a worker may choose an approved occupational rehabilitation provider from a list of the names of not less than three approved occupational rehabilitation providers (where available) nominated by the Authority, employer or self insurer. (See section one for detailed information)

The goal initially may be to modify your worker's normal work, or provide short-term modified or alternative work. To support this you may need to return your worker on half time hours for several weeks and gradually build back up to full hours. If your worker has some capacity to work and you can offer suitable employment, you will need to complete an offer of suitable employment as part of your overall plan. *(Offers of suitable employment are discussed on page 49.)*

If medical advice indicates that it is too early for your worker to return to any work, document this on their plan, together with a review date. An offer of suitable employment may not be appropriate in this case. However, it may be appropriate to talk to your injured worker and their treating practitioner as to whether other rehabilitation services, including occupational rehabilitation services, would help your worker to improve their work capacity. The important thing about the return to work goal is that it is a shared goal, aiming to return your injured worker to their full time normal duties as soon as medically possible.

STEP 3: DOCUMENT THE PLAN

There are two parts to documenting a return to work plan - the overall return to work plan, and, where your worker has a capacity to work and you have suitable duties, the offer of suitable employment.

When you make an offer of suitable employment as part of the injured worker's return to work plan, you must request that the worker respond to that offer of employment within a reasonable, specified period *(see page 50 for the components of an offer of suitable employment)*. It is recommended that you consult with your injured worker to determine a date by which they will notify you whether they accept or reject your offer of suitable employment.

In determining this date you should consider that your injured worker will need to talk with their treating practitioners to discuss the duties you have offered in the offer of suitable employment, and confirm that they are suitable for their injury. In most instances two weeks would be sufficient time for this consultation to have occurred and a decision made.

The overall plan should be considered a draft in the first instance and given to your worker and their treating practitioners to review. Any changes to the plan or offer of suitable employment recommended should be accommodated if possible. Inviting your injured worker to endorse their plan by signing it, along with yourself, demonstrates your mutual commitment to their return to work.

Copies of the plan should be given to all the parties involved in its development. This will include the worker and their treating practitioner(s). Other parties will need a copy of the plan, including the worker's supervisor and your Authorised Agent.

(An example of a return to work case study and completed plan and offer of suitable employment are provided on pages 57-60 of this section. An example of a return to work plan format that meets the requirements of the law is provided in Attachment 7. Use the checklist at the end of this section to ensure any existing return to work plan formats you have fully comply with the law.)

STEP 4: IMPLEMENT THE PLAN

Prior to your worker's return, you need to ensure their workplace is prepared and appropriate supervision is available. The supervisor and other workers should be aware of the date for the injured worker's return and the contents of their plan. If changes to the workplace are required so that your worker can return, make sure these have been done prior to the return to work commencing. Maintain contact with your worker, at least weekly, to support their treatment program and discuss preparations for their return to work.

Before your worker can commence their return to work, they need a WorkCover certificate of capacity from their treating practitioner indicating they are able to return. Compare this certificate to the plan and the offer of suitable employment to make sure the duties match the certificate of capacity.

On the day of your worker's return, review the contents of the plan with your worker and their supervisor and ensure everyone knows what is expected of them. If your worker is undertaking different duties, you may need to provide them with training in the new jobs and additional supervision until they are competent with the work. If you make changes to other worker's jobs to accommodate your injured worker, ensure you monitor the effects of these changes.

STEP 5: MONITOR THE PLAN

If your worker returns to work

Keep in touch with your worker and their supervisor, set up a weekly review meeting to ensure the plan is followed and any concerns are discussed. Ensure the supervisor keeps you in touch with the worker's progress.

Be flexible to any changes that need to be made to the plan and offer of suitable employment along the way, such as additional rest breaks in the early stages, or further modification to the work. Always ensure any changes are in line with medical advice - if you are unsure, in the first instance ask your worker's treating practitioner.

If return to work is delayed

Maintain contact with your worker and their treating practitioner(s). Contact your worker weekly, and their treating practitioner(s) monthly, or at agreed intervals, to support your worker's recovery and monitor their progress towards returning to work. You may need to contact the treating practitioner(s) before your worker's anticipated monthly visit, to inform them of any changes to the suitable employment opportunities at your workplace. You may need to speak to your injured worker and their treating practitioner after their visit to find out if your injured worker's capacity to undertake the duties has changed.

Maintain contact with your Authorised Agent at least monthly, to keep them informed of progress toward return to work. Give them copies of the return to work plan and any revisions. Keep a record of the actions taken for your worker.

STEP 6: REVIEW THE PLAN

The plan should be revised informally on a weekly basis to check that it remains relevant to your worker and workplace and to ensure any problems or concerns are identified early and dealt with. Generally the plan would be reviewed at intervals agreed with the injured worker and their treating practitioner, and this may vary according to the nature of their injury, treatment schedule and their anticipated recovery and work schedules. A critical point for review is when your worker visits their treating practitioner, and this would be at least every 28 days if ongoing WorkCover certificates are required. Your Authorised Agent may also request the plan be reviewed if they receive medical reports indicating a change in your injured worker's capacity for work.

Note: The circumstances of your worker's injury may dictate that it may not be immediately appropriate to include your worker in the development of their return to work plan. For example, a life-threatening injury or disease. In these circumstances you should seek advice from your Authorised Agent.

YOUR OBLIGATIONS: OFFER OF SUITABLE EMPLOYMENT

Where you make an offer of suitable employment the offer **MUST** be in writing and incorporated into the return to work plan document.

The steps to prepare an offer of suitable employment and an example of an offer of suitable employment are provided in the following section. .

Your Offer of Suitable Employment Obligations

To prepare your return to suitable employment and comply with the law you **MUST** take the following actions:

- ① Request a response from your worker within a reasonable, specified period.
- ② Provide a description of the duties (including a description of any relevant medical limitations).
- ③ Specify the wages.
- ④ Specify the locations of the job, and its proposed commencement date.
- ⑤ Specify the days and hours of work, including any rest periods.
- ⑥ Specify the occupational rehabilitation services, if required, which are to be provided in conjunction with the job⁸.
- ⑦ Specify the date for revision or review of duties.
- ⑧ This offer **MUST** be:
 - signed by you;
 - given or posted to your worker and their treating practitioner; and
 - copied to your Authorised Agent (or the self insurer).

⁸ For all entitlements to receive occupational rehabilitation services on or after 1 July 2005 a worker may choose an approved occupational rehabilitation provider from a list of the names of not less than three approved occupational rehabilitation providers (where available) nominated by the Authority, employer or self insurer. (See section one for detailed information)

YOUR COMPANY LETTERHEAD

OFFER OF SUITABLE EMPLOYMENT

Date	Initial offer	Subsequent offer, No.
<input type="text"/>	<input type="text"/>	<input type="text"/>

This offer is made to

as part of your Return to Work Plan, and is not a new employment contract. You are requested to respond by

Return to work position Current return to work restrictions

Return to work wages

Return to work commencement date

Work location (address)

Return to work Supervisor Contact number

Describe the specific duties/tasks to be undertaken, including physical and other requirements of the job eg. weights, standing, sitting, performance expectations. (Provide attachments as required.)

<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>

Hours of work. (Specify start and finish eg. 9am - 5pm)

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Hours per week
Week 1	am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 2	am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 3	am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 4	am pm	am pm	am pm	am pm	am pm	am pm	am pm	

Other considerations eg. specify rest breaks, special equipment, occupational rehabilitation services.

<input type="text"/>
<input type="text"/>
<input type="text"/>

Employer's signature Date Date duties to be reviewed/revised

Worker's endorsement Date

Treating practitioner's endorsement Date Date plan forwarded to
Authorised Agent Treating Practitioner

All forms available at www.workcover.vic.gov.au

Offer of Suitable Employment

WHAT IS AN OFFER OF SUITABLE EMPLOYMENT?

An offer of suitable employment is the written outline of the suitable duties you have identified to return your injured worker to work.

WHAT IS SUITABLE EMPLOYMENT?

It is defined in the law and means work that suits the nature of your worker's injury and their current work capacity. It is work your injured worker can do without the risk of further injury, taking into account current medical advice. The aim of suitable employment is to support your injured worker so they can remain at work while they recover from their injury and return to their normal work when possible. An offer of suitable employment does not constitute a new employment contract.

WHEN MUST I OFFER SUITABLE EMPLOYMENT?

You should offer any injured worker the opportunity to undertake suitable work while they recover from their injury. If your injured worker has a current work capacity, you are required by law to provide them with suitable employment to assist them to return to work. When they no longer have an incapacity for work, you are required by law to provide them with employment that is the same as, or equivalent to, their pre-injury employment.

WHEN DOES THE LAW APPLY?

For injuries before 1 March 2004:

The law applies within 12 months (or the sum of periods not more than 12 months in aggregate) first occurring after your worker's injury, during which they have an incapacity for work. The law applies to you unless you can demonstrate that it is not possible for you to provide employment, as outlined above, to your injured worker. If you are unsure whether the law applies to you, or the 12 month period that applies to your injured worker's claim, you should discuss this with your Authorised Agent.

For injuries on or after 1 March 2004:

For injuries on or after 1 March 2004, the period during which suitable or pre-injury employment must be provided starts on the day a claim for weekly payments is either:

- (a) accepted ; or
- (b) a Conciliation Officer gives a direction that weekly payments are to be paid; or
- (c) a Conciliation Officer makes a recommendation that weekly payments are to be paid and the recommendation is accepted by the employer or the Authority or the self-insurer; or
- (d) the claim is determined by a court in favour of the worker.

The period includes any periods after that time, during which, the worker has an incapacity for work.

The period in which an employer's obligations ends, is when the aggregate of all periods described above is equal to:

- (a) 12 months⁹; or
- (b) 12 months less the aggregate of any periods the employer provided suitable or pre-injury employment before the employer was required to under the new Section 155A of the Act¹⁰.

⁹ For the purposes outlined above 12 months equals 365 days

¹⁰ This is with regard to any suitable or pre-injury employment provided before the obligation commenced (as described above).

The period does not include the following periods, (if applicable):

- (a) the period between when the Authority rejects a claim after it has been accepted by the employer and when weekly payments are resumed; or
- (b) the period between when a direction of a Conciliation Officer that weekly payments are to be made is revoked and when weekly payments are resumed.

If you are unsure whether the law applies to you, or the period that applies to your injured worker's claim, you should discuss this with your Authorised Agent.

Under some circumstances an employer may be exempt from the obligation to provide suitable or pre-injury employment if this would cause unjustifiable hardship to the employer.

A list of factors to consider in determining whether the obligation to provide suitable or pre-injury employment would cause unjustifiable hardship to an employer is included in Attachment 4. You should discuss your circumstances with your Authorised Agent if you believe you would be caused unjustifiable hardship by complying with these obligations.

HOW DO I IDENTIFY SUITABLE EMPLOYMENT?

Once you have contacted your worker and their treating practitioner(s) and know what your worker can do, subject to any medical restrictions, you can set about finding duties that will be "suitable". Alternative or modified duties should be time limited, monitored closely and regularly upgraded.

The steps to identifying suitable employment are:

1. Assess your options for providing suitable duties;
2. Review the jobs at your workplace;
3. Assess the jobs against the medical advice from the treating practitioner;
4. Decide if the jobs are suitable; and
5. Document the offer of suitable employment.

STEPS TO PREPARING AN OFFER OF SUITABLE EMPLOYMENT

STEP 1: ASSESS YOUR OPTIONS FOR PROVIDING SUITABLE DUTIES

Important considerations when assessing suitable employment include:

- ◆ All duties should be endorsed by your worker's treating practitioner(s), prior to the return to work commencing.
- ◆ Duties should be productive, and reflect your worker's capabilities, bearing in mind their age, education, work skills and experience.
- ◆ Additional training and supervision should be considered if the duties are not your injured worker's normal duties.
- ◆ Suitable duties can be provided at the same or a different worksite. Keep in mind where your worker lives and how they get to work.
- ◆ Balance the needs of your workplace and the needs of your injured worker.
- ◆ Consider the needs of your injured worker for supervision. You may need to offer duties when the workplace can provide the maximum assistance and supervision, night or weekend work may not be appropriate.

STEP 2: REVIEW THE JOBS AT YOUR WORKPLACE - ASSESS THE RISKS

Observing the work being done and talking to your injured worker, other workers and supervisors about the physical demands of their job, and how the equipment and tools are used, is the best way to identify what may be available for your injured worker to do. Document your observations and findings for review and discussion with your worker and their treating practitioner. Developing a job assessment format can assist with documenting the physical demands of a job. *(See Attachment 5 for a Job Matrix that includes an example of a job assessment format that could be used, together with instructions for its use. There are many job assessment formats available, this one is provided as a guide only.)*

If you are unsure how to describe a job consider taking photos or a short video to show your worker's treating practitioner. Consider whether you need a formal workplace assessment (an occupational rehabilitation service), by an approved occupational rehabilitation provider (See Section 1 for information regarding occupational rehabilitation services and approved occupational rehabilitation providers).

When observing jobs at your workplace there are many details to consider, however, your worker's injury, and their treating practitioner's advice, will highlight which risks you will need to control for their return.

For example, if the injury was a back strain, the weights your worker will be required to handle and the amount of bending, standing and sitting required will be vital questions to ask. If your worker's injury was related to 'stress, anxiety or depression', productivity demands, supervisory issues and workplace relationships may be more important considerations.

Further information regarding risk assessment is provided in Section 3.

STEP 3: ASSESS THE JOBS AGAINST THE MEDICAL ADVICE PROVIDED BY THE TREATING PRACTITIONER

When you have reviewed your workplace and your options for providing work, review the job tasks against the medical advice from your worker's treating practitioner, and talk with your worker to see if they match, or are suitable. *(See Attachment 5 for a Job Matrix which includes an example of a worker return to work questionnaire and workplace job assessment together with instructions for its use. The Job Matrix is designed to provide a comparison of an injured worker's physical capacities and the physical demands of a job in order to determine tasks that may be suitable.)*

STEP 4: DECIDE IF THE JOBS ARE SUITABLE - CONTROL THE RISKS

When you have reviewed the jobs at your workplace, meet again with your injured worker and discuss the options for their return to work. If you are unsure of the duties or some aspects of them, speak with your injured worker's treating practitioner, again and discuss the duties in detail.

Decide if you can make changes to the jobs to make them suitable for your injured worker, review whether your worker needs additional training to undertake the duties, or modifications to tools or equipment. Any changes should be finalised before your worker does the jobs they relate to. If you are unsure how to modify a job, tools or equipment to make it suitable for your injured worker, consider referral to an approved occupational rehabilitation provider. (See Section 1 for information regarding occupational rehabilitation services and approved occupational rehabilitation providers).

For example, if your worker had a back strain injury and their treating practitioner's restrictions involved their lifting a maximum of 5kg, along with advice for them to avoid repetitive lifting or bending, and their job required that they bend and reach into a box which is located on a pallet on the ground to pick out an item weighing 1kg, performing this job all day, this job would be unsuitable.

The job would be unsuitable because of the repetitive bending and lifting involved, not the weight the worker was lifting. However, if the height of the pallet was raised to eliminate the bending and the box tipped on an angle toward your worker to eliminate the reaching and lifting required to pick out the item, the job may be suitable.

Further information regarding risk control is provided in Section 3.

STEP 5: DOCUMENT THE OFFER OF SUITABLE EMPLOYMENT

An offer of suitable employment is documented as part of your injured worker's return to work plan. The offer should provide a 'job description' for the injured worker's return to work and should list all the components of the job you want your injured worker to do, as well as outlining the other assistance that you will provide for your injured worker so they can do the job safely.

In addition to the minimum details the law says you must include, you should provide sufficient detail to enable your injured worker and their treating practitioner, to decide if the duties are suitable for your injured worker. This information will also make it clear to everyone at the workplace exactly what it is your injured worker can do, and what they cannot do, so that they can assist your injured worker where required, and manage their return to work effectively. *(An example of a return to work case study and completed plan with an offer of suitable employment is provided at the end of this section. An example offer of suitable employment format is provided at Attachment 7. Use the checklist at the end of this section to ensure any offer of suitable employment formats you have fully comply with the law.)*

WHAT IF I HAVE DIFFICULTY IDENTIFYING SUITABLE EMPLOYMENT?

If you are unsure whether you can offer suitable employment, or are having difficulty identifying suitable duties, seek further assistance:

- ◆ Ask your worker's treating practitioner to visit your workplace, review the work and advise you which duties your worker could do; and/or
- ◆ Speak with your Authorised Agent about whether an occupational rehabilitation service such as a workplace assessment may be appropriate.

WHAT IF I CANNOT OFFER SUITABLE EMPLOYMENT?

If, after completing the steps outlined, including discussion with your Authorised Agent, you believe you have no suitable duties at your workplace, discuss this with your injured worker, and notify your Authorised Agent. (Your Agent may choose to verify this through a workplace assessment by an approved occupational rehabilitation provider). A statement should be made in the return to work plan to this effect, together with a review date.

It is important to review the availability of suitable employment at your workplace as your injured worker's circumstances may change as their recovery progresses and their ability to undertake work improves.

WHAT IF MY WORKER IS UNABLE TO RETURN TO WORK?

Maintaining contact with your worker and their treating practitioner will alert you to any changing work capacity. When your worker's injury is sufficiently improved, their return to work should be reconsidered. If the treating practitioner indicates that your worker is unable to return to work you must still have a documented return to work plan, however an offer of suitable employment may not be appropriate. The plan should continue to be regularly reviewed with your worker and their treating practitioner, ready for the opportunity to provide duties when your injured worker is able.

If the treating practitioner indicates that your worker's injury is unlikely to recover sufficiently to allow them to return to any work at your workplace, given the duties you have available and you are unable to offer your worker a new job, advise your Authorised Agent immediately. An alternative return to work strategy should be discussed and then agreed with your injured worker and their treating practitioner.

WHAT IF MY WORKER WILL NEVER RETURN TO THEIR NORMAL WORK?

If your worker remains unable to return to their normal work because of their injury, modifications to their job may need to be permanent. If this is not possible long term, you should consider whether you have any jobs your worker could do if they were provided with retraining. If there are no suitable

employment opportunities at your workplace because of your worker's injury, you will have to consider what other assistance your worker will need to find suitable employment.

You should discuss future employment options with your worker first and then their treating practitioner, and consult with your Authorised Agent. It may be necessary to refer your worker to an approved occupational rehabilitation provider for assistance to identify new employment opportunities. This may mean that your worker requires assistance to identify a new employment goal in order to obtain a new job with a different employer, which may also include vocational re-education or retraining. Full details regarding the occupational rehabilitation services available to assist injured worker's to obtain a new employer are available at www.workcover.vic.gov.au.

WHAT IF THERE IS A DISAGREEMENT ABOUT RETURN TO WORK?

If you believe you have duties to offer your worker, and your worker or their treating practitioner does not agree these duties are suitable, discuss this first with your worker and their treating practitioner to see if you can resolve the issues. Invite the worker's treating practitioner to your workplace to review the duties available. Every effort should be made to resolve the situation in your workplace through discussion and consultation. If changes are agreed, the changes need to be reflected in a revised offer of suitable employment.

Other actions to consider include:

Speaking with your Authorised Agent about whether an occupational rehabilitation service may assist the process.

Obtaining a written medical opinion about your worker's injury. You can request medical advice about your worker's capacity to return to work and the suitability of the duties you have available, from your worker's treating practitioner(s), your Authorised Agent can assist with this if necessary. If the information is difficult to obtain or the information received is insufficient speak with your Authorised Agent and request their assistance.

Where necessary your Authorised Agent may formally request information from your worker's treating practitioner(s) or may request your worker attend a formal, independent medical examination on your behalf. The independent medical examiner used will depend on the nature of your worker's injury and their ongoing incapacity, however, an occupational physician who can examine them, and attend the workplace to review the duties you have available could be used. Your worker must attend this examination when requested by your Authorised Agent. Failing to do so without a valid reason can result in suspension of their WorkCover benefits until they do attend.

Your Authorised Agent should present all available information to the medical examiner on your behalf, including the return to work plan, or an outline of the duties you have available at your workplace, so that they can consider whether your worker should be able to return and when. You could provide photos of the jobs or a short video to your Authorised Agent to include in their submission. These can be useful ways of showing the medical examiner the duties available. Further action is then determined by the outcome of the medical examination.

WHAT IF THERE IS A DISPUTE ABOUT RETURN TO WORK?

If you believe your worker is not co-operating with their return to work plan or the agreed offer of suitable employment, you should talk with your worker about your concerns. You should also talk with their treating practitioner, as there may be matters that your worker is reluctant to address directly with you.

If you remain concerned that your worker is not co-operating, discuss this with your Authorised Agent. They will investigate the circumstances and may recommend an occupational rehabilitation service from an approved occupational rehabilitation provider or they may request your worker attend an independent medical examiner for further advice.

Return to Work Case Study

INTRODUCTION TO CASE STUDY

Maintaining your injured worker at work or returning them to work involves careful review and assessment of the components of their job, work practices and the risks they pose for your injured worker.

Controlling those risks by making changes to the workplace or work practices, as illustrated in the following case study, is the next vital step in identifying suitable employment and returning your injured workers to work. Examples of an appropriate return to work plan and offer of suitable employment for this case study are also provided.

A further case study highlighting some common situations employers face is provided in Attachment 6.

THE CASE OF BRENDA: A NURSE WITH A BACK INJURY

Brenda is a 37-year-old nurse, of slim build and 160cm tall. She lives a short distance from her employment, and has two children aged 12 and 7.

Brenda has worked for her current employer, who operates a 50-bed nursing home, for eight years as a Registered Nurse - Division 2, and is experienced in manual handling techniques.

The nursing home has elderly residents who are bedridden and require considerable manual handling, and others who are capable of some walking and self-care. Many of the residents suffer from varying degrees of dementia and are subject to erratic, and sudden, unexpected behaviour. In dealing with these situations great physical demands can be placed on nursing and other staff.

Brenda had enjoyed good health until she injured her back. Brenda sustained the injury to her back when she and a co-worker helped an elderly lady to stand up at a rail in the toilet area. The resident had subsequently let go of the rail and fallen and Brenda had instinctively, but awkwardly, reached out to grab her to stop her falling.

Brenda's medical diagnosis is that of acute back strain. Brenda has been having physiotherapy 2 times a week, and maintains an exercise program, including daily walking, that is supervised by her physiotherapist. Brenda has been treated by her doctor with medication to assist with pain relief while supporting her exercise program.

The doctor and the physiotherapist expect Brenda to return to work about 4-6 weeks after the injury.

1. Assessing the risks of Brenda's work	2. Controlling the risks to return Brenda to work
<p>Key physical demands of the job:</p> <ul style="list-style-type: none"> ◆ lifting, or assisting in the lifting of residents who are bedridden, or others who have difficulty in standing or walking; ◆ lifting or assisting residents in confined spaces such as the shower or toilet; ◆ stretching and reaching when making beds; ◆ bending when moving residents or attending to residents' daily care; and ◆ twisting and turning when washing or dressing residents. <p>Workplace risk management activities:</p> <p>The injury investigation highlighted that the cause of Brenda's injury was the awkward manual handling involved with breaking the resident's fall. The resident involved was subsequently assessed as not having the physical capacity to have stood at the rail unsupported.</p>	<p>The employer, in consultation with Brenda, her physiotherapist, doctor, and the Authorised Agent, developed a graduated return to work plan for Brenda.</p> <p>The changes included:</p> <ul style="list-style-type: none"> ◆ Part time work for the first two weeks, progressively increasing Brenda's hours to full time over several months; ◆ No lifting for two weeks, then review with the physiotherapist to gradually reintroduce; ◆ Changing Brenda's resident allocation initially so that Brenda only dealt with residents who could walk, shower or dress independently or with minimal assistance; ◆ Pauses at regular intervals, and when required, to do back exercises; and ◆ Using the bed height adjuster to ensure beds are at a height to enable Brenda to change them without bending or stretching for long periods; ◆ All residents were individually assessed with regard to their self-care and ambulating abilities, together with the level of supervision they required in the toilet and bathroom areas. Individual requirements were documented on their care plans. Care plans are to be reviewed monthly, or as required to reflect each resident's status and assistance requirements ◆ Planned resident emergency assistance strategies were developed in consultation with staff and residents.

VICTORIA NURSING HOME

RETURN TO WORK PLAN

Employer details

Victoria Nursing Home		Plan number	Date
1 Victoria St		1	18/05/01
Victoria		Position	Contact number
Return to work (RTW) plan prepared by		RTW Co-ordinator	9876 5432
Mary Blue			

Worker details

Given name	Brenda	Surname	Smith
Place of residence	1 The Avenue	Telephone	9876 5555
	Victoria	Date of birth	01/06/74
Occupation/pre-injury duties: (Attach job description if available)	Registered Nurse - Division 2	Date of injury	1/05/01
		Claim number	0000001
		Interpreter required?	Language
		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	N/A

Treating medical practitioner details

Name	Dr. G. Scott
Address	24 Rose Street Victoria
Telephone	9465 1234
Fax	9465 1235
Nature of injury	Acute soft tissue back strain

Other treating practitioners (physiotherapist etc.)

Name	S. Wilby (physiotherapist)
Address	2A Bush Street Victoria
Telephone	9465 4321
Fax	9465 4322
Current treatment: (include how often attends)	Physio 2 x week + self managed exercise program + medication

Return to work process

Medical restrictions affecting the capacity to work

RTW at the end of June. 4 hrs Mon, Wed & Fri for 2 weeks then review before any increase.

Avoid prolonged bending and standing.

Suitable employment offer attached?

Yes No If no, date this will be reviewed

Will assistance for RTW or other occupational rehabilitation services be required for this worker?

Yes No

Approved occupational rehabilitation provider (if applicable)

Telephone

Occupational rehabilitation services

Will you be able to offer duties?

Yes No Unknown

Estimated date of return to work

25/06/01 Unknown

Employer's signature

M. Blue Date 18/05/01

Worker's endorsement

Brenda Smith Date 18/05/01

Date plan to be reviewed

18/06/01

Date plan forwarded to

Authorised Agent 18/05/01 Treating Practitioner 18/05/01

VICTORIA NURSING HOME

OFFER OF SUITABLE EMPLOYMENT

Date: 18/05/01 Initial offer: Subsequent offer, No.

This offer is made to

Brenda Smith

as part of your Return to Work Plan, and is not a new employment contract. You are requested to respond by 1/06/01

Return to work position: Registered Nurse - Division 2

Current return to work restrictions: No lifting, Avoid prolonged bending and standing. 4 hours, Mon, Wed & Fri then medical review before increase.

Return to work wages: \$300 per week

Return to work commencement date: 25/06/01

Work location (address): 1 Victoria Street, Victoria

Return to work Supervisor: Mary Blue

Contact number: 9876 5432

Describe the specific duties/tasks to be undertaken, including physical and other requirements of the job eg. weights, standing, sitting, performance expectations. (Provide attachments as required.)

- Supervise ambulatory residents with dressing and showering.
- Assist residents with meals, feeding residents where required.
- Assist residents with leisure activities including reading to residents, assistance with letter writing and card games.
- Bed making with assistance from other staff - maximum one bed every hour for first 2 weeks. Adjust bed to height as instructed.
- Rotate all activities between standing and sitting and walking.
- Report any difficulties to Mary Blue immediately.

Hours of work. (Specify start and finish eg. 9am - 5pm)

	Week Commencing	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Hours per week
Week 1	25/06/01	10 am 2 pm	am pm	10 am 2 pm	am pm	10 am 2 pm	am pm	am pm	12
Week 2	2/07/01	10 am 2 pm	am pm	10 am 2 pm	am pm	10 am 2 pm	am pm	am pm	12
Week 3	9/07/01	9 am 3 pm	am pm	9 am 3 pm	am pm	9 am 3 pm	am pm	am pm	18
Week 4	16/07/01	9 am 3 pm	am pm	9 am 3 pm	am pm	9 am 3 pm	am pm	am pm	18

Other considerations eg. specify rest breaks, special equipment, occupational rehabilitation services

5 - 10 minute rest break every hour if required. self pace all work. Undertake back exercises as required. Request assistance with any task as required.

Employer's signature: *M Blue*

Date: 18/05/01

Date duties to be reviewed/revised: 18/06/01

Worker's endorsement: *Brenda Smith*

Date: 18/05/01

Date plan forwarded to

Treating practitioner's endorsement

Date

Authorised Agent: 18/05/01 Treating Practitioner: 18/05/01

WORKING WITH TREATING PRACTITIONERS

Developing a rapport with your injured worker's treating practitioners, in particular their doctor, will assist with the return to work process, and improve your chances of maintaining your injured worker at work or returning them sooner. Your worker's treating practitioners can provide you with information about your worker's injury, their treatment program, their likely recovery and the timing of their return to work.

Do I need my worker's permission to speak with their treating practitioner?

Medical records are confidential and treating practitioners are reluctant to give any information concerning a patient without the patient's written consent.

When your injured worker completes a WorkCover "Worker's Claim Form" to claim for workers' compensation, they sign their authority to release medical information. This provides authority for "any person who provides a medical service or a hospital service" to your worker in connection with the injury relating to their claim, to give relevant information about that service to you (as the employer), your Authorised Agent, the Authority, or a WorkCover conciliation officer.

If the treating practitioner requests your worker's signed consent before they will speak with you, forward a copy of this form. This authority also extends to speaking with other treating practitioners.

Many employers and approved occupational rehabilitation providers request that workers sign a specific authority to release information to them so that they can intervene after workplace injury, before a formal claim is lodged. In requesting that your worker do this, the authority to release medical information should be brief and specific to the work injury. *(An example of an authority to release medical information is provided at the end of this section.)*

How do I contact the treating practitioner?

To contact your injured worker's treating practitioner(s):

- ◆ Telephone their practice or clinic and speak with their receptionist or practice manager. Explain who you are, which company you represent and your position. Advise the receptionist of the purpose of your call (i.e. to discuss return to work opportunities), and which worker you want to discuss so that they can locate your worker's medical file.

Advise the treating practitioner of your workplace's commitment to return to work and your concern for your injured worker's recovery. Advise them you have spoken with your injured worker about contacting them, and you have their authority for the release of information about their injury. If you haven't already done so, you may be requested to forward this authority.

or

- ◆ Forward a letter to the treating practitioner, introduce yourself and provide your contact details, including your workplace return to work policy. Consider including brochures about your company, your injured worker's job, and your worker's authority for the release of medical information. *(An example of a letter to a treating practitioner is provided at the end of this section. You could use this letter, or adapt it to meet your needs.)*

What if I have difficulty contacting the treating practitioner?

When doctors and other treating practitioners are in their rooms they are usually seeing patients and it can be difficult for them to accept calls. Alternative suggestions for making contact are:

- ◆ Ask the receptionist for the best time to call back, or leave your name and phone number, include times you will be available if you have a busy schedule.
- ◆ Speak with your worker about your difficulties contacting their treating practitioner, ask them to make an appointment to speak with their treating practitioner about return to work. Suggest that the treating practitioner telephone you during this appointment; ensure you are available to take the call.
- ◆ Prepare a video or photos of your injured worker's job and other jobs you have available, and forward these for the treating practitioner to consider.
- ◆ Forward the information by fax or deliver the letter to the treating practitioner so that the earliest contact is possible.
- ◆ Fax the treating practitioner a list of questions that you want to ask, and include information about duties you have, with a request that they contact you or fax the information back.
- ◆ Invite the treating practitioner to visit your workplace.
- ◆ With your injured worker's agreement, make an appointment with their treating practitioner and attend with your worker to discuss return to work.

What questions should I ask the treating practitioner?

Before you speak with the treating practitioner prepare a list of questions to ask, and record the answers you receive. Do not ask for information unrelated to your worker's injury. Questions you may want to ask the treating practitioner so you understand your worker's injury and can determine how the workplace can assist with their return to work include:

- ◆ An explanation of the type of injury your worker has and its effects.
- ◆ What treatment your worker requires, how often, and how long for?
- ◆ If your worker is away from work, their likely return date and whether they could return earlier with workplace support and suitable duties.
- ◆ Could your worker return to their normal job if it was changed, could they return if the hours were reduced?
- ◆ If the treating practitioner indicates that a return to work may be possible, ask for specific advice you will need to consider including:
 - Any restrictions that may apply, including: weights that can be lifted, how often? How long your worker can stand or sit for? Can they do work that involves bending, how often?
 - The hours your worker can attend for, the days of the week they can work, do they need alternative days to rest or to attend treatment?
 - Does your worker need additional rest breaks built into their time at work? How long for, and how often?
 - Should they work alone or do they require closer supervision or assistance?
 - Are there any environmental factors to consider such as heat, cold, avoid exposure to certain substances, chemicals?

- Are they taking any medication that may interfere with their ability to safely use machinery, tools or equipment?
- Does the injury restrict their ability to drive or use public transport to get to work? If so how? For how long?
- A suggested review date for you to recontact for further advice.
- Other assistance your worker may require i.e. aids or appliances such as lumbar support for seated work.

CONFIDENTIALITY

Assuring the participants in the return to work process, in particular injured workers and their treating practitioners, of the confidentiality of information they give you is critical to gaining their full co-operation.

Any information you obtain regarding your injured worker should be kept in a secure place, for example; a locked cabinet. WorkCover and return to work coordinator activities should be recorded and maintained in a separate file to the worker's personnel file, so that access is restricted.

WORKING WITH YOUR AUTHORISED AGENT

The law also imposes obligations on your Authorised Agent with regard to return to work, and your communication and co-operation with your Agent is vital.

How can my Authorised Agent help me?

Your Authorised Agent can:

- ◆ Provide advice on claim related matters.
- ◆ Explain your rights and responsibilities under the law and those of your workers.
- ◆ Help with any questions you or your injured worker may have about the worker's claim or their return to work.
- ◆ Assist you to develop your workplace occupational rehabilitation program.
- ◆ Assist you to prepare individual return to work plans, including offers of suitable employment for injured workers.
- ◆ Provide advice as to the necessity of occupational rehabilitation services and assist you with compiling a list of approved occupational rehabilitation providers to nominate for your worker to choose from. Where required your authorised agents can provide the list to your worker on your behalf and assist with referral and monitoring of service provision.
- ◆ Organise independent medical examinations to obtain further advice regarding return to work where your worker's capacity to work is unclear.
- ◆ Provide training for your return to work coordinator and information regarding the WorkCover system.

Simple measures to assist are:

- ◆ Send the Authorised Agent a copy of your workplace occupational rehabilitation program so they are aware of your commitments to return to work, the actions your workplace will take following an injury and the name of the approved occupational rehabilitation provider nominated in your workplace Occupational Rehabilitation Program.
- ◆ Allocate one person in your workplace who will be responsible for talking with your Authorised Agent about claims and return to work, usually this would be the return to work coordinator, unless your workplace has separate persons managing the WorkCover claim and return to work activities.
- ◆ Find out who your Authorised Agent has allocated to manage your WorkCover matters. There may be different people responsible for various aspects of your WorkCover insurance, for example premium and claims management, and you will need to know who your claims officer or case manager will be in the event of an injury occurring at your workplace.
- ◆ Find out whether the Authorised Agent can provide you with risk management advice following injury, and whether you can access this before a worker lodges a formal claim.
- ◆ Find out the names of your Authorised Agent 's specialist staff and if they are available to assist you directly with aspects of return to work management, such as internal Risk Management or Injury Management Advisors. Speak with them if you are experiencing any difficulties with return to work activities.
- ◆ Invite the claims officer or case manager to visit your workplace so they are familiar with the work undertaken, and can provide advice on return to work or suitable duties, or an appropriate approved occupational rehabilitation provider for your industry.
- ◆ Consult with your Authorised Agent during the development of any individual return to work plans for injured workers and while compiling your list of approved occupational rehabilitation providers to nominate to a worker if an occupational rehabilitation service is necessary so they are aware of the plan and any suitable employment offer.
- ◆ Ensure that any information you are required to forward to your Authorised Agent is received by them in a timely manner to allow sufficient time for them to make appropriate decisions as required under the law.

Example

AUTHORITY TO RELEASE MEDICAL INFORMATION

WORKER'S AUTHORITY-

I, _____ (name), employed by _____ (name), hereby authorise you to release to representatives of my employer, _____ (name), all relevant medical information about my work related _____ (specify injury), to assist with my occupational rehabilitation and return to work. (A photocopy of the original form may also be used to obtain this information.)

Employee: _____

Signed: _____

Date: _____

EMPLOYER'S AGREEMENT:

I, _____ (name), representing _____ (company name), hereby agree that this information will be only be used to assist with the occupational and rehabilitation and return to work of _____ (name), and that the information will be maintained in confidence, and only shared with those person(s) involved with the return to work process.

Name: _____

Signed: _____

Date: _____

Note: Where an injured worker has completed a "Worker's claim form", they have also signed their authority to release medical information about their claimed injury. This authority allows the worker's medical and hospital treatment providers to release information about that injury to the employer.

Example

LETTER TO TREATING PRACTITIONER

Dr/Mr/Ms: _____

Address: _____

Fax: _____

Date: _____

Dear: _____

I understand that you are the treating (medical) practitioner for (name), who works with us as a (position).

Our return to work policy is that we will, where possible, provide suitable work for (name) during his/her recovery, and we will provide occupational rehabilitation services through our nominated approved occupational rehabilitation provider, (name), where necessary.

We would appreciate your help in developing a return to work plan for (name).

To identify suitable work opportunities for (name) we will need your advice regarding his/her work capacity, including your advice about any medical restrictions we will need to accommodate.

To assist you to determine (name) work capacity I have enclosed a copy of his/her job description and a list of available duties we have. We can also be flexible about hours of attendance and the need for any additional rest breaks, if necessary.

Our return to work coordinator (name) will contact you shortly to discuss how we may best assist (name).

A copy of (name), signed medical authority is attached. You are also welcome to visit our workplace, or to contact our return to work coordinator directly in the interim on (contact telephone number)

We look forward to working with you in assisting (name)

Yours sincerely,

Name/Signature/Position

CHECKLIST FOR RETURN TO WORK PLANS

For injuries before 1 March 2004 use this checklist to assess if your return to work plans meet your obligations.

Your obligation: prepare a return to work plan for injured workers who have no current work capacity for 20 calendar days or more. After the 20 days you have 10 days in which to prepare the plan.

- Do you have a return to work plan for every injured worker who has no current work capacity for 20 calendar days or more?
- Was the plan developed within 10 days after the 20th calendar day of no current work capacity?
- Did your return to work coordinator, or other authorised person, undertake the required actions to prepare the plan?
- Were your worker and their treating practitioner contacted in order to obtain information about the worker's capacity to work?
- Was your Authorised Agent contacted to inform them of the relevant circumstances and discuss the necessity for any occupational rehabilitation services?
- Where an occupational rehabilitation service was provided on or after 1 July 2005 - was the worker offered a choice of approved occupational rehabilitation provider from a list of (not less than three where available) approved occupational rehabilitation providers? Was the list compiled having regard to the worker's circumstances at the time and the criteria specified in the law?
- Was the plan prepared (or reviewed) in consultation with your worker, their treating practitioner(s), and where one was involved, the occupational rehabilitation provider?
- Were the contents of the plan consistent with information, if any, obtained from the worker's treating practitioner?
- Was the plan developed with the view to your worker ultimately returning to their pre-injury employment?
- Did you use your best endeavours to arrive at a consensus with all parties in relation to the plan?
- Was the plan revised? Did you revise the plan when:
You became aware of your worker's capacity to work? When requested by your worker?
Their treating practitioner? Their occupational rehabilitation provider?
Their return to work coordinator? Your Authorised Agent?
- Did you sign the plan and invite your worker to endorse the plan?

Does the return to work plan contain the following information?

- Your worker's name?
- An estimate of the date that your injured worker should have been fit to return to work?
- Where made, an offer of suitable employment?
- The occupational rehabilitation services (if any) that are reasonably necessary for the maintenance at work or return to work of your injured worker?

Have you ticked all the boxes? If not, to ensure your return to work plans comply fully, refer to Section 2 of this guide.

CHECKLIST FOR RETURN TO WORK PLANS

For injuries on or after 1 March 2004 use this checklist to assess if your return to work plans meet your obligations.

Your obligation: prepare a return to work plan for injured workers who have an incapacity for work. Prepare your plan as soon as practicable but no later than 10 days after the relevant day.

- Do you have a return to work plan for every injured worker who has an incapacity for work?
- Was the plan developed as soon as practicable but no later than 10 days after the relevant day?
- Did your return to work coordinator, or other authorised person, undertake the required actions to prepare the plan?
- Were your worker and their treating practitioner contacted in order to obtain information about the worker's capacity to work?
- Was your Authorised Agent contacted to inform them of the relevant circumstances and discuss the necessity for any occupational rehabilitation services?
- Where an occupational rehabilitation service was provided on or after 1 July 2005 - was the worker offered a choice of approved occupational rehabilitation provider from a list of (not less than three where available) approved occupational rehabilitation providers? Was the list compiled having regard to the worker's circumstances at the time and the criteria specified in the law?
- Was the plan prepared in consultation with your worker, their treating practitioner(s), and where one was involved, the occupational rehabilitation provider?
- Were the contents of the plan consistent with information, if any, obtained from the worker's treating practitioner?
- Was the plan developed with the view to your worker ultimately returning to their pre-injury employment?
- Did you use your best endeavours to arrive at a consensus with all parties in relation to the plan?
- Was the plan revised? Did you revise the plan when:
You became aware of your worker's capacity to work? When requested by your worker?
Their treating practitioner? Their occupational rehabilitation provider?
Their return to work coordinator? Your Authorised Agent?
- Did you sign the plan and invite your worker to endorse the plan?

Does the return to work plan contain the following information?

- Your worker's name?
- An estimate of the date that your injured worker should have been fit to return to work?
- Where made, an offer of suitable employment?
- The occupational rehabilitation services (if any) that are reasonably necessary for the maintenance at work or return to work of your injured worker?

Have you ticked all the boxes? If not, to ensure your return to work plans comply fully, refer to Section 2 of this guide.

CHECKLIST FOR OFFER OF SUITABLE EMPLOYMENT

Use this checklist to assess if your return to work plans meet your obligations.

Your obligation: where you make an offer of suitable employment, the offer must be incorporated into the return to work plan document

Do you have an injured worker who has a current work capacity?

If yes:

Have you made an offer of suitable employment to your injured worker?

Did you include the following details?

- A description of the duties.
- A description of any relevant medical limitations.
- The address where the duties are to be undertaken.
- The proposed commencement date for the duties.
- The worker's wages.
- The days and hours, including any rest breaks.
- The occupational rehabilitation services, if any, the worker will have access to, in conjunction with the job.
- A request for a response from your worker within a reasonable, specified period.
- Date for revision or review of duties.

Further, did you:

- Incorporate the offer into a return to work plan?
- Provide the offer in writing?
- Sign the offer?
- Give or post the offer to your worker?
- Give or post the offer to your worker's treating practitioner?
- Send a copy of the offer to your Authorised Agent or self insurer?

Have you ticked all the boxes? If not, to ensure your offer of suitable employment complies fully, refer to Section 2 of this guide.

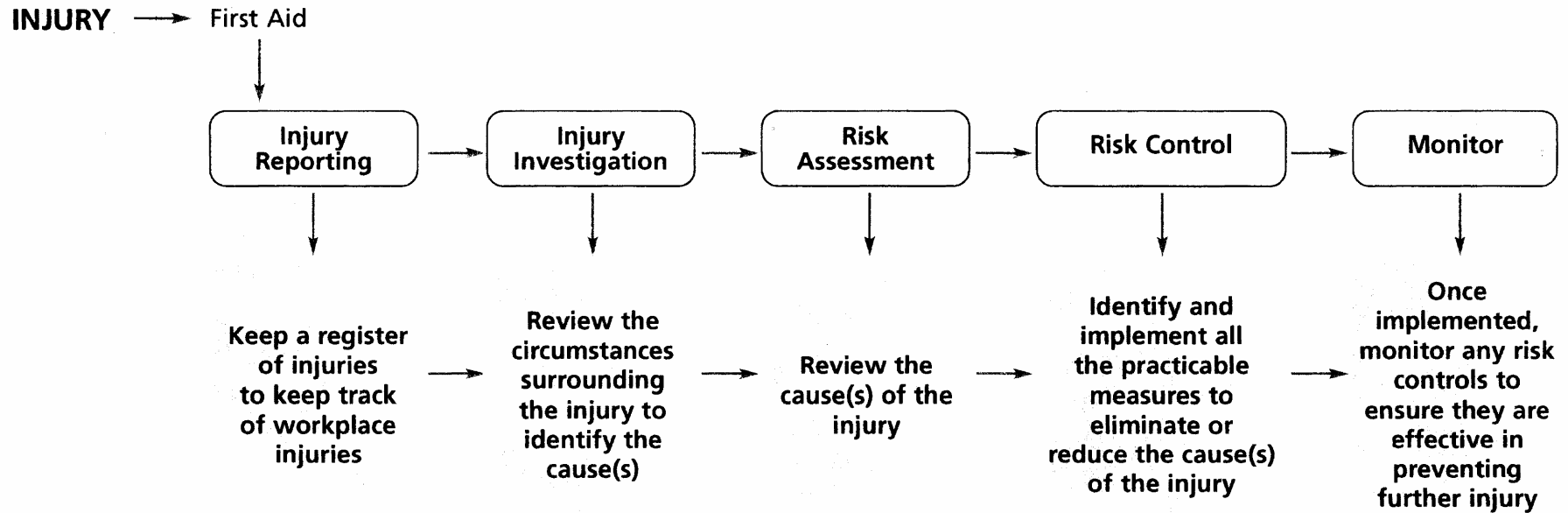
Section 3

PREVENTING FURTHER INJURIES

Your Risk Management Program

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ILLUSTRATION OF RISK MANAGEMENT PROGRAM ACTIVITIES FOLLOWING WORKPLACE INJURY



Note : This diagram provides an overview for illustration only. Your full legal obligations are outlined in this section.

Risk Management Programs

WHAT IS RISK MANAGEMENT?

In a broad sense, risk management involves finding or identifying hazards and assessing risks and fixing (eliminating or controlling) those risks within your workplace so that injuries are prevented.

You should be aware that there are different requirements related to risk management under accident compensation law and occupational health and safety law. The requirements under occupational health and safety law are discussed further at the end of this section.

WHAT IS A RISK MANAGEMENT PROGRAM?

A risk management program is required under the *Accident Compensation Act 1985*. When you are required to establish such a program is outlined on page 10.

A risk management program is a written outline of the steps you will take after an injury has occurred in your workplace to, so far as is practicable, reduce the risk of subsequent injury of that kind, (see page 11 for an example of a risk management program that details your obligations under the law and builds upon these to promote good workplace practice).

What does this mean?

This means you should:

- ◆ Outline the steps you will take to target the cause or causes of an injury; and
- ◆ Outline the steps you will take to eliminate or reduce the risk of such an injury happening again.

When an injury occurs at your workplace, you should document the steps you have taken to identify the cause(s) of that particular injury, including what you have done to prevent that kind of injury happening again.

HOW DO I ESTABLISH AND MAINTAIN A RISK MANAGEMENT PROGRAM?

Establishing your program involves consulting your workers and determining policies and procedures that outline how you will respond to workplace injuries, including allocating responsibilities and accountabilities. If you have Health & Safety Representatives at your workplace, you should (and in certain circumstances, under occupational health and safety law, you must), where practicable, include them in the consultation that takes place.

Informing your workers and promoting your policies will mean that reported injuries are dealt with promptly so the cause(s) of the injury can be quickly identified, and a recurrence prevented.

If you already have a program, use the checklist at the end of Section 1 to ensure it complies with the requirements of the law for a risk management program.

Developing forms or checklists specific to your workplace can help you obtain information to use in investigating injuries and determining action to prevent their recurrence.

You should also outline how you will review the effectiveness of your risk management program to ensure it prevents recurrence of injuries. Reviewing both individual injuries and overall workplace injuries will help you identify hazards and assess risks, which must then be controlled.

WHAT ARE THE COMPONENTS OF A RISK MANAGEMENT PROGRAM?

Your risk management program must outline the actions you will take following workplace injury, to prevent a recurrence of that injury.

These actions include:

- ◆ Injury reporting and investigation (hazard identification);
- ◆ Risk assessment; and
- ◆ Risk control.

Injury Reporting

All employers are required by law to keep a register of injuries, or "injury report book", to keep track of workplace injuries and disease. Your workers must report to you, in writing, any work related injury and you must acknowledge in writing that you have received such a report.

Injury Investigation

Injury investigation involves reviewing the circumstances surrounding the injury to identify the cause or causes. The investigation of injuries in the spirit of "no blame" is important to encourage further reporting of near misses and incidents, developing workplace prevention initiatives and improving safety.

Injury investigation will also form an essential part of the risk assessment process.

Risk Assessment

Risk Assessment involves a thorough review of all hazards relevant to the cause(s) of an injury that has occurred in your workplace with a view to identifying appropriate controls.

Risk Control

Risk control following workplace injury involves identifying and implementing all the practicable measures to eliminate or reduce the cause(s) of the injury. Generally, risks should be eliminated where practicable. If they cannot be eliminated, they must be reduced as far as is practicable. Some examples include isolation, engineering modifications, administrative measures (e.g. job rotation or training) or personal protective equipment.

Once implemented, review any risk controls to ensure they are effective.

DOCUMENTING YOUR RISK MANAGEMENT PROGRAM

If you have a worker who is injured, you should keep records that detail the actions you have taken regarding this injury. Injury report forms, and accident investigation forms are commonly used to record this information. These written records allow you to know what you have already done, what more needs to be done and when, as well as demonstrating you have met your obligations under the *Accident Compensation Act 1985*.

RISK MANAGEMENT AND THE OCCUPATIONAL HEALTH AND SAFETY ACT 1985

This section outlines your obligations to document how you will manage risks under the *Accident Compensation Act 1985*, in a risk management program.

You should be aware that you must also comply with risk management obligations under the law related to occupational health and safety.

These more comprehensive obligations aimed at securing the safety and health of your workers are outlined in the *Occupational Health and Safety Act 1985* and its associated Regulations and Codes of Practice, and the *Dangerous Goods Act 1985*.

Managing risks properly as required under occupational health and safety law will help you comply with the requirement to establish a risk management program under accident compensation law. However, putting in place a risk management program as required under the accident compensation law does not in itself mean compliance with occupational health and safety laws or dangerous goods laws.

A risk management program should not be seen as an alternative or stand-alone document to meet all your risk management obligations, but as a tool that will help you control risks in your workplace when an injury has occurred.

Occupational health and safety law contains specific requirements relating to how you must identify hazards, assess risks and control those risks as well as specific requirements relating to: consultation with health and safety representatives; documentation; and training. It also contains requirements relating to the allocation of responsibilities.

To become fully aware of your risk management obligations under occupational health and safety law, refer directly to the *Occupational Health and Safety Act 1985* and its Regulations and Codes of Practice and the *Dangerous Goods Act 1985* and its Regulations.

Contact WorkSafe Victoria for written or verbal advice on this legislation or on how to obtain copies, by phoning toll-free 1800 136 089, or by visiting the web site at www.workcover.vic.gov.au.

Section 4

GUIDELINES FOR THE PREPARATION AND REVISION OF RETURN TO WORK PLANS AND ADDITIONAL MATTERS TO BE PROVIDED FOR IN OCCUPATIONAL REHABILITATION PROGRAMS

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PREAMBLE

Guidelines for the preparation and revision of return to work plans and Additional Matters to be provided for in occupational rehabilitation programs - employers' obligations.

Part VI of the *Accident Compensation Act 1985* (the Act) enables the Victorian WorkCover Authority to issue guidelines for the preparation and revision of return to work plans (the Guidelines) and to specify additional matters to be provided for in occupational rehabilitation programs (the Additional Matters).

The Guidelines specify a number of requirements in accordance with which return to work plans must be prepared and revised by employers. The Additional Matters specify matters, in addition to those specified in the Act, which must be provided for in employers' occupational rehabilitation programs.

For injuries before 1 March 2004 employers have obligations under Section 122 of the *Accident Compensation Act 1985*, to provide suitable employment, or employment in a position which is the same as or equivalent to the position which the worker held before the injury.

For the purposes of Section 122, employment must be offered within a period of 12 months or the sum of the periods not exceeding, in the aggregate, 12 months first occurring after the injury during which the worker has an incapacity for work.

This provision does not apply if the employer can demonstrate to the Authority's satisfaction that it is not possible for the employer to provide suitable employment or employment in a position which is the same as or equivalent to the position which the worker held before the injury.

For injuries on or after 1 March 2004 an employer has obligations to provide suitable or pre-injury employment. These obligations arise from Section 155A of the Act which replaces Section 122. These changes were introduced following the introduction of the "*Accident Compensation and Transport Accident Acts (Amendment) Act 2003*."

For the purposes of Section 155A the period during which suitable or pre-injury employment must be provided starts on the day a claim for weekly payments is either:

- (a) accepted ; or
- (b) a Conciliation Officer gives a direction that weekly payments are to be paid; or
- (c) a Conciliation Officer makes a recommendation that weekly payments are to be paid and the recommendation is accepted by the employer or the Authority or the self-insurer; or
- (d) the claim is determined by a court in favour of the worker.

The period includes any periods after that time, during which, the worker has an incapacity for work.

The period in which an employer's obligations ends, is when the aggregate of all periods described above is equal to:

- (a) 12 months¹⁶; or
- (b) 12 months less the aggregate of any periods the employer provided suitable or pre-injury employment before the employer was required to under the new Section 155A of the Act¹⁷.

The period does not include the following periods, (if applicable):

- (a) the period between when the Authority rejects a claim after it has been accepted by the employer and when weekly payments are resumed; or
- (b) the period between when a direction of a Conciliation Officer that weekly payments are to be made is revoked and when weekly payments are resumed.

Under some circumstances an employer may not be required to comply with the obligation to provide suitable or pre-injury employment if this would cause unjustifiable hardship to the employer.

¹⁶ For the purposes outlined above 12 months equals 365 days

¹⁷ This is with regard to any suitable or pre-injury employment provided before the obligation commenced (as described above).

Failure to comply with the obligations under Part VI of the Act, or the related Guidelines and Additional Matters can lead to a prosecution in the Magistrates' Court, and fines of up to \$12,577.20¹⁸ can be imposed.

Failure to comply with the obligations to provide suitable employment under Section 122 (injuries before 1 March 2004) or Section 155A (injuries on or after 1 March 2004) can lead to a prosecution in the Magistrates' Court, and fines of up to \$26,202.50¹⁹ can be imposed.

In addition, employers should be aware of their obligations to provide safe and healthy workplaces, primarily outlined in the *Occupational Health and Safety Act 1985*, its associated regulations and codes of practice, and in the *Dangerous Goods Act 1985* and its regulations.

¹⁸ Fines have increased to this amount effective from 1 July 2005 as a result of an increase to the value of a penalty unit from \$100 to \$104.81 – in accordance with the Monetary units Act 2004

¹⁹ As above

GUIDELINES FOR THE PREPARATION AND REVISION OF RETURN TO WORK PLANS

Accident Compensation Act 1985 Part VI

Introduction

1. These are guidelines for the preparation and revision of return to work plans, which employers are required by Part VI of the *Accident Compensation Act 1985* to establish and maintain.

For injuries before 1 March 2004 the guidelines apply for injured workers who have no current work capacity for a period or periods which total 20 or more calendar days.¹

For injuries on or after 1 March 2004 the guidelines apply for injured workers who have an incapacity for work.

2. These guidelines are issued by the Victorian WorkCover Authority (the Authority) under Section 160(1)(c) and Section 160(2) of the Act and come into operation on 1 July 2002.

Object

3. The object of these guidelines is to provide a process for enhancing the prospects of an injured worker successfully returning to work with his or her employer by requiring the employer to:

- (a) **collaborate** with the worker in planning and achieving return to work;
- (b) **commence** this collaboration at the earliest possible time; and
- (c) **continue** this collaboration in maintaining the worker at work, and with a view to the worker returning to his or her pre-injury employment.

Definitions

4. In these guidelines:

"Act" means the *Accident Compensation Act 1985*.

"Plan" means return to work plan - in its original or its revised form, as the context requires.

"Pre-injury employment" means employment in a position that is the same as or equivalent to the position that the worker held before the injury.²

"Occupational rehabilitation provider" means an approved provider of an "occupational rehabilitation service" as defined in Section 5 of the Act.

"Treating practitioner" means medical practitioner treating the worker, or the medical practitioner or other provider who gives the certificates of capacity to the worker under the Act.³

"Authorised Agent" means a person appointed under Section 23 of the Act to be an authorised agent of the Authority.

- 1 Refer Section 156(2)(a)
- 2 Refer Section 122(1)(a) – injuries before 1 March 2004
Refer Section 155A & Section 155B – injuries on or after 1 March 2004
- 3 Refer Section 111(2)

Preparation of return to work plan

5. Where an employer authorises another person (including a nominated return to work coordinator) to carry out any or all of the actions required of the employer under these guidelines in relation to the preparation of a return to work plan, the employer must ensure that the return to work coordinator or other authorised person carries out the required actions.

Commencement of process

6. In order to meet the 10-day statutory deadline, the employer must commence preparation of the plan immediately once the worker has had no current work capacity for 20 calendar days (for injuries before 1 March 2004) or on the relevant day (for injuries on or after 1 March 2004).⁴

7. To this end, the employer must:

- (a) contact the worker (unless it is not practicable to do so) and the worker's treating practitioner in order to obtain information about the worker's capacity for work; and
- (b) if an Authorised Agent is responsible for administering the worker's claim: contact the Agent, inform the agent of the relevant circumstances, and respond to the Agent's enquiries (if any) as to the necessity for occupational rehabilitation services⁵ or the engagement of an occupational rehabilitation provider; or
- (c) if a self-insurer is responsible for administering the worker's claim and the employer is a wholly owned subsidiary of the self-insurer: contact the self-insurer; inform the self-insurer of the relevant circumstances; and respond to the self-insurer's enquiries (if any) as to the necessity for occupational rehabilitation services⁶ or the engagement of an occupational rehabilitation provider.

Consultation

8. The employer must:

- (a) prepare the plan in consultation with:
 - (i) the worker;
 - (ii) the worker's treating practitioner; and
 - (iii) where one is involved, the occupational rehabilitation provider;⁷ and
- (b) endeavour to arrive at a consensus with these persons in relation to the plan.

9. The employer must ensure that the contents of the plan are consistent with the medical information, if any, obtained from the worker's treating practitioner, and is developed with a view to the worker ultimately returning to pre-injury employment.

10. When the plan is prepared, the employer must sign it, and must invite the worker to endorse the plan.

Offer of suitable employment

11. Where an employer makes an offer of suitable employment, the offer must be incorporated into the return to work plan document, and must be:

- (a) in writing;
- (b) signed by the employer;
- (c) given or posted to the worker and the worker's treating practitioner;
- (d) copied to the Authorised Agent or, if the employer is a wholly owned subsidiary of a self-insurer, to the self-insurer.

4 Refer Section 156(2)(a)

5 In addition, refer Section 160(1)(b)

6 In addition, refer Section 160(1)(b)

7 Refer Section 160(1)(b)

12. The offer of suitable employment must include:

- (a) a description of the duties (including a description of any relevant medical limitations);
- (b) the location of the job, and its proposed commencement date;
- (c) wages, and days and hours of work, including any rest periods;
- (d) the occupational rehabilitation services, if required, which are to be provided in conjunction with the job;
- (e) a request for a response from the worker within a reasonable, specified period; and
- (f) date for revision or review of duties.

Revision of return to work plan

13. Once the plan has been prepared, and whether or not the worker has returned to work, the employer must maintain contact with the worker (unless it is not practicable to do so).

14. The employer must revise the plan:

- (a) as soon as the employer becomes aware of any relevant alteration in the worker's relevant injury, medical condition, work capacity or other circumstances - including any apparent capacity for work or more work, and any difficulty in performing work to which the worker has returned; and
- (b) whenever requested to do so - by the worker (or the worker's treating practitioner), the occupational rehabilitation provider (if any), the return to work coordinator, or the Authorised Agent.

15. In revising a plan, the employer must observe the above guidelines that relate to preparation of the plan - in particular, the guidelines as to consultation and offers of suitable employment.

Progress

16. The employer must, at intervals not exceeding three months, and after consultation with the worker, advise the Authorised Agent, or if the employer is a wholly owned subsidiary of a self-insurer, the self-insurer, of the progress of the worker's return to work in accordance with the plan.

17. In determining the appropriate intervals for a progress report, the employer should have regard to the key elements of the plan.

Mode of sign-off

18. The return to work plan and offer of suitable employment required by these guidelines to be signed by the employer must be signed:

- (a) if the employer is a corporation, by a person with sufficient authority to commit the employer to the return to work plan and make an offer of suitable employment; or
- (b) if the employer is a natural person, by the employer personally.

OCCUPATIONAL REHABILITATION SPECIFICATIONS

ADDITIONAL MATTERS TO BE PROVIDED FOR IN OCCUPATIONAL REHABILITATION PROGRAMS

Accident Compensation Act 1985 Part VI

Introduction

1. These are additional matters to be provided for in occupational rehabilitation programs established and maintained by employers under Part VI of the *Accident Compensation Act 1985* (the Act).
2. These additional matters are specified by the Victorian WorkCover Authority under Section 158(1)(b) of the Act with effect from 1 July 2002.

Additional matters

3. An employer who establishes an occupational rehabilitation program under the Act must, in addition to complying with the other requirements of Section 158 of the Act, ensure that the occupational rehabilitation program includes:
 - (a) details of the resources and any training the employer will provide to the return to work coordinator;
 - (b) all matters agreed by the employer and the employer's workers, in the course of the consultation that takes place, as required by Section 158(1)(c) of the Act, in the development of the program;
 - (c) provision for a statement that can be signed by the workers, or by representative workers, certifying that the program has been developed in consultation with workers; and
 - (d) provision for sign-off by the employer - by the employer in person or, where the employer is a corporation, by a person with sufficient authority to commit the employer to the occupational rehabilitation program.

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Attachment 1

EMPLOYERS EXEMPT FROM THE REQUIREMENT TO ESTABLISH AND MAINTAIN A RISK MANAGEMENT PROGRAM AND AN OCCUPATIONAL REHABILITATION PROGRAM

The following prescribed class of employers are exempted under the law from establishing a risk management program and an occupational rehabilitation program.

- ◆ Employers (including bodies corporate constituted under the *Subdivision Act 1988*) who employ domestic or similar workers otherwise than for the purposes of the employer's trade or business (but only to the extent that such workers are concerned).
- ◆ Employers who hold owner-builder permits under the *Building Control Act 1981* (but only to the extent that workers are employed for the specific work of the permit).
- ◆ Employers (being corporations) whose only workers are directors of the corporation.
- ◆ Employers who only employ workers who are members of the employer's family.
- ◆ Employers who employ workers who only perform work while outside Victoria.
- ◆ Employers of workers who are pupils at a school within the meaning of Part IVA of the *Education Act 1958* employed pursuant to a work experience arrangement under that Part in respect of those workers.

Attachment 2

EXPLANATION OF TERMS

Terminology used in the guide	Explanation/further reference
Annual payroll/Payroll	Means the certified, or assessed annual rateable remuneration for all your workplaces for a financial year.
Approved occupational rehabilitation provider	Means a person who is approved by the WorkCover Authority as a provider of occupational rehabilitation services.
Authorised agent	Means a person appointed under Section 23 of the <i>Accident Compensation Act 1985</i> to be an authorised agent of the Authority. The Authorised Agent manages your worker's compensation policy on behalf of the Victorian WorkCover Authority. References to Authorised Agents in this document are not relevant where the employer is covered by a self-insurance approval.
Calendar days	Means consecutive days of the week (i.e. Monday to Sunday is 7 calendar days).
Consultation	Means a discussion, conference, meeting or other activities designed to seek advice and information.
Current work capacity	In relation to an injured worker, means a present inability arising from an injury such that the injured worker is not able to return to his or her pre-injury employment but is able to return to suitable employment.
Exempt employer	In relation to the preparation of risk management and occupational rehabilitation programs - means a member of one of the prescribed class of employers exempted from the requirements of Section 156 of the <i>Accident Compensation Act 1985</i> , by Section 157 of that Act.
Incapacity for work	In relation to an injured worker, an "incapacity for work" means the injured worker has either: <ul style="list-style-type: none"> • "No current work capacity" – such that they are not able to return to pre-injury employment or suitable employment; or <ul style="list-style-type: none"> • a "Current work capacity" – such that they are not able to return to pre-injury employment but are able to return to suitable employment.
Independent medical examination	Means a medical examination under Section 112 of the <i>Accident Compensation Act 1985</i> .

Terminology used in the guide
Explanation/further reference

Independent medical examiner	Means a medical practitioner, registered physiotherapist, chiropractor and osteopath or a registered psychologist approved by the WorkCover Authority for the purposes of Section 112 of the <i>Accident Compensation Act 1985</i> .
Injury	Means an injury within the meaning of Section 5 of the <i>Accident Compensation Act 1985</i> .
Injured worker	Workers who have incurred an injury or disease at work and have entitlement to workers' compensation under the <i>Accident Compensation Act 1985</i> in respect of that injury or disease.
Large employers	Means an employer with rateable remuneration for all workplaces for a financial year is more than \$1 million in accordance with the <i>Accident Compensation (WorkCover Insurance) Act 1993</i> .
No current work capacity	In relation to an injured worker, means a present inability arising from an injury such that the injured worker is not able to return to his or her pre-injury employment and is not able to return to suitable employment.
Occupational rehabilitation program	Means a written program developed by an employer that sets out the assistance available at their workplace to help injured workers remain at or return to work - required to be established by an employer under Part VI, Section 156 of the <i>Accident Compensation Act 1985</i> .
Occupational rehabilitation services	Means occupational rehabilitation services as defined in Section 5 of the <i>Accident Compensation Act 1985</i> .
Practicable	Means capable of being put into practice, done or effected, especially with the available means or with reason or prudence.
Pre-injury employment	Means employment in a position that is the same as or equivalent to the position that the worker held before the injury.
Prudent	Means applying cautious practical wisdom, good judgement or discretion.
Relevant day	Means the later of the following events: <ul style="list-style-type: none"> • The day when a claim for weekly payments is accepted; a Conciliation Officer gives a direction or makes a recommendation that weekly payments are to be paid and the recommendation is accepted by the employer, the Authority or the self-insurer (as the case may be); or the claim is determined by a court in favour of the worker (whichever happens earliest; or • The day when the employer becomes aware, or ought reasonably have become aware, that the worker's period of incapacity is likely to exceed 20 days.

Terminology used in the guide**Explanation/further reference**

Return to work coordinator	Means a person to be nominated by an employer under Section 158 of the <i>Accident Compensation Act 1985</i> , to carry out the functions under Section 161 of the Act.
Risk management program	Means a program developed by an employer to identify the cause of injuries at their workplace and reduce the risk of recurrence - required to be established by an employer under Part VI, Section 156 of the <i>Accident Compensation Act 1985</i> .
Representative workers	Means workers (employed by the employer) who are consulted during the development of the occupational rehabilitation program as representative of all workers of the employer.
Return to work plan	Means the individual written plan for returning an injured worker to work required under Part VI (Section 156(2)) of the <i>Accident Compensation Act 1985</i> , where a worker has no current work capacity within the meaning of the Act in respect of an injury for a period or periods which total 20 or more calendar days.
Self-insurer	Means a body corporate or partnership approved as a self-insurer under Part V of the <i>Accident Compensation Act 1985</i> .
Small employer	Means an employer with rateable remuneration for all workplaces for a financial year of \$1 million or less in accordance with the <i>Accident Compensation (WorkCover Insurance) Act 1993</i> .
Suitable employment	Means employment for which the worker is currently suited within the meaning of Section 5 of the <i>Accident Compensation Act 1985</i> .
Suitable employment offer	For injuries before 1 March 2004: Means an offer of suitable employment made to an injured worker under Section 122 of the <i>Accident Compensation Act 1985</i> - (required under Part VI - Section 160 to be part of a return to work plan). For injuries on or after 1 March 2004: Means an offer of suitable employment made to an injured worker under Section 155A of the <i>Accident Compensation Act 1985</i> - (required under Part VI - Section 160 to be part of a return to work plan).

Terminology used in the guide**Explanation/further reference**

Treating practitioner	Means the medical practitioner treating the worker, or the medical practitioner or other provider who gives the certificates of capacity to the worker. This includes a medical practitioner, registered physiotherapist, registered chiropractor or registered osteopath.
W.I.S.E.	Stands for WorkCover Incentive Scheme for Employers. It is aimed at securing employment for workers who are work ready, but do not have the option of returning to their pre-injury employer. For more information about W.I.S.E. contact your WorkCover Agent, or your approved occupational rehabilitation provider, or the Victorian WorkCover Authority.
Worker	Means a person who is a worker within the meaning of Section 5 of the <i>Accident Compensation Act 1985</i> .
WorkCover Authority	The Victorian WorkCover Authority.
WorkCover certificate	Means a medical certificate required under Section 103(1)(b) of the <i>Accident Compensation Act 1985</i> to accompany a claim for compensation.
WorkSafe Victoria	The arm of the Victorian WorkCover Authority responsible for the regulation of health and safety in Victorian workplaces.

Attachment 3

OCCUPATIONAL REHABILITATION SERVICES

The following occupational rehabilitation services (as defined in the *Accident Compensation Act 1985*), are approved by the Victorian WorkCover Authority under the law and can only be provided by approved occupational rehabilitation providers. Your Authorised Agent **MUST** approve the costs of occupational rehabilitation services before they are delivered. These services, when required to help achieve your return to work goal, are delivered as part of your injured worker's return to work plan. If you organise services directly with the approved occupational rehabilitation provider, they must seek your Authorised Agent's written authority before they start.

The following occupational rehabilitation services are applicable for returning injured workers to work with their injury employer. Information regarding the occupational rehabilitation services available to assist injured workers to return to work with a new employer is available at www.workcover.vic.gov.au

OR services description and codes effective for Return to Work with Injury Employer from 5 January 2004

Occupational rehabilitation services are payable at an hourly rate negotiated between the Authorised Agent and the approved occupational rehabilitation provider.

<i>Code</i>	<i>Definitions</i>	<i>Qualifications</i>
<i>RC100</i>	<p>Initial Occupational Rehabilitation Assessment</p> <p>An assessment of the injured worker's current medical status and employment status to determine specific occupational rehabilitation needs with regard to the injured worker's recovery and return to work.</p>	<p>A qualified rehabilitation professional. This person has qualifications in a medical, health or related areas and would include a diploma, degree or graduate diploma in medicine, health science, behavioural science, social work or rehabilitation counselling or eligibility for registration as a Division 1 Nurse in accordance with requirements as established by the Nurses Board of Victoria.</p>
<i>RC113</i>	<p>Functional Assessment</p> <p>The assessment should be an objective measurement of the injured worker's physiological functioning to identify work capabilities and only used in conjunction with objective and verifiable tests.</p>	<p>Specialist in rehabilitation medicine. A Physiotherapist. An Occupational Therapist. An Occupational Physician.</p>
<i>RC119</i>	<p>Advice or assistance to the worker in obtaining Vocational Re-education</p> <p>Assistance to the worker in obtaining appropriate vocational re-education relevant to the identified employment goal.</p>	<p>A qualified rehabilitation professional. A vocational adviser. This person has received formal qualifications in, and/or experience in employment services and knowledge of current labour market eg placement agencies, Employment National or similar.</p>
<i>RC199</i>	<p>Work Conditioning</p> <p>This is an individually prescribed, work orientated process involving the injured worker in simulated or actual work tasks and activities that are structured and graded to progressively increase physical capacity, tolerance, stamina, endurance and productivity, with the goal of remaining at or returning to suitable work.</p>	<p>A Physiotherapist. An Occupational Therapist. An Occupational Physician.</p>
<i>RC225</i>	<p>Occupational Rehabilitation Counselling</p> <p>Counselling service to the worker throughout the course of occupational rehabilitation focussing on the totality of their needs. Counselling is aimed towards achieving maintenance at, or early return to, work.</p>	<p>A qualified rehabilitation professional.</p>
<i>RC245</i>	<p>Functional Education</p> <p>Educating the injured worker to maintain good physical habits to strengthen the body and/or mind to avoid re-injury.</p>	<p>A Physiotherapist. An Occupational Therapist. An Occupational Physician.</p>

Code	Definitions	Qualifications
RC295	<p>Job Analysis, Workplace Assessment * and/or advice concerning Job Modification</p> <p>The visit to the workplace to meet with the employer, worker, return to work coordinator or supervisor to identify suitable duties, to facilitate maintenance at or return to work following injury. The may also include advice regarding workstation, equipment modification or the provision of aids, appliances, apparatus or other material.</p> <p>*Effective from 5 January 2004, workplace assessment can include both a physical assessment of the worker's duties, workstation or equipment or alternatively, it can include an objective vocational assessment of the worker's transferable skills and abilities to determine appropriate suitable employment options within the injury or other workplace of the employer.</p>	<p>Workplace Assessment including Job Analysis (physical requirements):</p> <ul style="list-style-type: none"> Formal qualifications in ergonomics. Formal qualifications in occupational health or related field in which ergonomics has been studied. Undergraduate degree studies which includes an ergonomics unit and a substantial component of human biosciences. Undergrad studies including substantial component of human factors engineering. <p>Workplace Assessment including Job Analysis (vocational requirements):</p> <ul style="list-style-type: none"> A vocational adviser. A Psychologist. <p>Advice Concerning Job Modification:</p> <ul style="list-style-type: none"> A Physiotherapist. An Occupational Therapist. A qualified rehabilitation professional.

Attachment 4

FACTORS TO CONSIDER IN DETERMINING WHETHER THE OBLIGATION TO PROVIDE SUITABLE OR PRE-INJURY EMPLOYMENT WOULD CAUSE UNJUSTIFIABLE HARDSHIP TO AN EMPLOYER

Under some circumstances an employer may need not comply with from their obligation to provide suitable or pre-injury employment to an injured worker. This applies only for injuries that occur on or after 1 March 2004 if the obligations imposed would cause “unjustifiable hardship” to the employer..

Relevant factors in determining “unjustifiable hardship” include:

- (a) “the nature of the benefit likely to accrue, or the detriment likely to be suffered, by any relevant person;
- (b) the effect on the worker of his or her incapacity for work;
- (c) the financial circumstances of the employer and the estimated cost to the employer of compliance;
- (d) the extent of previous efforts by the employer to rehabilitate the worker;
- (e) the sustainability of the relevant work in the medium to longer term with regard to the worker’s injury;
- (f) the length of service of the worker
- (g) the employer’s documented return to work policy;
- (h) the potential for retraining the worker;
- (i) the number of workers to which the employer has already extended suitable employment;
- (j) the extent to which the injury that caused or materially contributed to the worker’s incapacity is related to the worker’s employment with the employer;
- (k) the potential of the worker to obtain suitable employment elsewhere in the labour market if he or she is not provided with suitable employment”.

Attachment 5

JOB ASSESSMENT MATRIX

Instructions for use

The job assessment matrix consists of two parts, a workplace job assessment, and a worker questionnaire. The workplace job assessment component provides basic information about the range of activities a worker is required to perform to do a particular job; this includes the physical and mental aspects of the job. The worker questionnaire provides a basic picture of the range of activities the worker believes they are capable of undertaking. Matches between the two assessments indicate potential duties for the worker to undertake. Mismatches between the two assessments indicate where particular aspects of the job or the worker's injury may require further assessment, or where some modification is required to assist with return to work.

Understanding the Workplace Job Assessment

The workplace job assessment deliberately focuses on the abilities required for the performance of the job rather than describing the actual work processes.

The ultimate success of the matching process is largely dependent upon the ability of the assessment to provide a clear picture of the job demands, and the ability of the job assessor to detect what particular demands are involved. If critical or significant performance demands in your workplace are noted or observed, but not covered by the assessment form, they should be added to the form for that job.

Each of the demands of the job is rated against their importance to the job. These are represented as:

CRITICAL: Demands that are essential and must be undertaken to perform the work (you cannot do the activity any other way).

SIGNIFICANT: Demands that are required but may be undertaken with assistance or by another worker (you can do the activity another way).

NOT IMPORTANT: Demands that are not required for the performance of the work.

For example: there may be one part of a job that requires a worker to climb a set of four stairs. If this is done regularly over the shift it is likely to be a critical demand, if it is done once a shift and assistance may be provided by another worker, it is likely to be significant rather than critical.

NOTE: Demands marked as critical may be reduced to significant by further assessment and modification. You should speak to your Agent about assistance from an approved occupational rehabilitation provider to determine whether a job could be changed to accommodate an injured worker.

How to use the Workplace Job Assessment form

1. Observe a worker who is familiar with the job, undertaking the activity several times to ensure you thoroughly understand all the components, tasks and demands of the job.
2. After observing the job fill in the form in consultation with your worker.

It is important to have input from both the observer and the worker as familiarity with the work can impede a clear analysis of the real work demands. It is important that this process teases out the subtle demands and occasional activities, as these are as important in a return to work as the more regular tasks.

NOTE: Any demands of the job that are assessed as critical or significant which involve putting, pushing, pulling, carrying or manually handling any weights, should be further assessed using WorkCover's Manual Handling Code of Practice (No. 25, April 2000) for clarification and modification.

Understanding the worker questionnaire

This questionnaire focuses on your worker's functional capacity, that is their physical abilities given the limitations of their injury. It does not focus on the specific nature of their injury, their treatment, their likely recovery or their endurance, that is how long they can undertake any activity for. These factors, such as any medical restrictions, or limitations on hours of work or required rest breaks, will need to be clarified with your worker's treating practitioner(s). Often these factors will be highlighted on the WorkCover certificate of capacity.

How to use the worker questionnaire

This form should be filled in by your injured worker. You should offer your injured worker assistance to fill in the form, bearing in mind any language, literacy or cultural barriers they may have in completing it themselves. Alternatively, your injured worker could take the form to their treating practitioner and request that they complete the details. If an approved occupational rehabilitation provider is involved they could assist your worker to complete the form.

Using the forms to identify suitable employment

The two forms are designed to overlap. The questions asked on one form relate to the same question number on the other form. Each question then provides information about the same aspect of the job. The workplace job assessment looks at the demands of the job, and the worker questionnaire looks at the injured worker's ability to perform this part of the job.

Once you have undertaken the job assessment and your injured worker has completed their questionnaire you should review the answers to each question on both forms and "match" the demands of the job to your injured worker's abilities. This will give you an indication as to which parts of the job may be suitable for your injured worker to assist them to remain at work or return to work.

For example: If the demands of the job marked in the job assessment as "critical" or "significant", are reviewed against the same question number on the worker's questionnaire completed by your injured worker and noted as "no" or "sometimes" or "partial", this would indicate a mismatch that MUST be addressed or further assessed. Conversely, if your injured worker indicates, "yes" in terms of their ability to perform all the tasks marked as "critical" or "significant" on the job assessment, it is likely they can perform the activity.

NOTE: It should be noted that any assessment is an indicator only of an injured worker's ability to perform the work. The completed job assessment and worker questionnaire should be forwarded to your injured worker's treating practitioner for their assessment of the suitability of the job for your injured worker.

* The Job Assessment Matrix was designed in 1980 by Dr. Edwin Knight and Alan J. Scott. Ms. R. Stuckey of Associated Professional Ergonomists revised the Matrix with the author's permission for this publication. Ms. Stuckey is a qualified Occupational Therapist and Ergonomist, practising in workplace based Occupational Health, Safety and Rehabilitation.

WORKER RETURN TO WORK QUESTIONNAIRE

Worker's Name:

Date:

			No	Sometimes	Yes
1.	Do you have any use of	left hand?			
		right hand?			
2.	Can you grip with your	left hand?			
		right hand?			
3.	Can you use fingers on your	left hand?			
		right hand?			
4.	Do you have the unsupported use of your	left arm?			
		right arm?			
5.	Can you raise above your shoulders your	left arm?			
		right arm?			
6.	Can you reach out with your	left arm?			
		right arm?			
7.	Can you provide pressure or force with your	left arm or hand?			
		right arm or hand?			
8.	Can you reach forward with your	left hand?			
		right hand?			
9.	Can you co-ordinate your	arms and legs?			
10.	Do you have use of your	left leg and foot?			
		right leg and foot?			
11.	Can you press down with your	left foot?			
		right foot?			
12.	Can you sit for a full shift?				
13.	Can you stand for a full shift?				
14.	Can you work a full shift both sitting and standing?				
15.	Can you walk around without difficulty?				
16.	Can you move around in confined or restricted spaces?				
17.	Can you climb steps or stairs without difficulty?				
18.	Can you climb a ladder without difficulty?				
19.	Can you kneel or crouch without difficulty?				
20.	Can you bend forwards or sideways without difficulty?				
21.	Can you balance normally?				
22.	Do you have good colour identification?				
23.	Can you read English words and numbers at a distance?				
24.	Can you read English words and numbers up close?				
25.	Can you judge depth and distance?				
26.	Do you have normal hearing?				
27.	Can you speak clearly?				
28.	Can you use non-verbal communication i.e. written English?				
29.	Can you feel by touch without seeing?				
30.	Is your sense of smell normal?				
31.	Do you have good vision?				
32.	Can you work in high temperatures?				
33.	Can you work in low temperatures?				
34.	Can you work with changing temperatures?				
35.	Can you work in damp or wet conditions?				
36.	Can you work in dry conditions?				
37.	Can you work in conditions with dust, smoke or fumes?				
38.	Can you work in noisy conditions?				
39.	Can you work with hazardous or toxic materials or solvents?				
40.	Can you work in dirty conditions?				
41.	Can you work at heights?				
42.	Can you work with moving objects or machinery?				
43.	Can you work outdoors?				
44.	Can you work indoors?				
45.	Can you work underground?				
46.	Can you work alone?				
47.	Can you work in low light?				
48.	Can you work on uneven or unstable surfaces?				
49.	Can you work with others?				
50.	*Can you lift and lower weights over 10kg between floor and bench height?				
51.	*Can you lift and lower weights over 10kg between bench and shoulder height?				
52.	*Can you lift and lower weights over 10kg between shoulder and above head height?				
53.	*Can you carry a weight over 10kg walking on an even surface?				
54.	*Can you push or pull a weight over 10kg walking on an even surface?				

***All aspects including duration, frequency, weight, coupling, etc. should be further assessed with the [Manual Handling Code of Practice \(No. 25, 20 April 2000\)](#).**

WORKPLACE JOB ASSESSMENT

Job/Task Title:

Date Assessed:

Does the job involve:

Assessed by:

			Critical	Significant	Not Important
1.	Full activity with	left hand?			
		right hand?			
2.	Gripping with	left hand?			
		right hand?			
3.	Use of fingers on	left hand?			
		right hand?			
4.	Unsupported use of	left arm?			
		right arm?			
5.	Railing arm above shoulder height	left arm?			
		right arm?			
6.	Reaching out with	left arm?			
		right arm?			
7.	Pressure or force with	left arm or hand?			
		right arm or hand?			
8.	Ability to reach forward	left hand?			
		right hand?			
9.	Co-ordination of	arms and legs?			
10.	Use of	left leg and foot?			
		right leg and foot?			
11.	Pressing down with	left foot?			
		right foot?			
12.	Sitting for full shift?				
13.	Standing for full shift?				
14.	Both standing and sitting for full shift?				
15.	Movement around the work area?				
16.	Restricted or confined spaces?				
17.	Climbing steps or stairs?				
18.	Climbing ladders?				
19.	Kneeling or crouching?				
20.	Bending forwards or sideways?				
21.	Balancing?				
22.	Colour identification?				
23.	Reading English words and numbers from a distance?				
24.	Reading English words and numbers close up?				
25.	Perception of depth or distance?				
26.	Ability to hear?				
27.	Ability to speak?				
28.	Non-verbal communication i.e. writing?				
29.	Ability to feel by touch without seeing?				
30.	Ability to smell?				
31.	Ability to see clearly?				
32.	High temperatures?				
33.	Low temperatures?				
34.	Temperature changes?				
35.	Damp or wet conditions?				
36.	Dry conditions?				
37.	Conditions with dust, smoke or fumes?				
38.	Noisy conditions?				
39.	Hazardous or toxic materials or solvents?				
40.	Dirty conditions?				
41.	Working at heights?				
42.	Working with/near moving objects or machinery?				
43.	Outdoor work only?				
44.	Indoor work only?				
45.	Working underground?				
46.	Working in low light?				
47.	Working on uneven or unstable surfaces?				
48.	Working alone?				
49.	Working with others?				
50.	*Lifting and lowering weights over 10kg between floor and bench height?				
51.	*Lifting and lowering weights over 10kg between bench and shoulder height?				
52.	*Lifting and lowering weights over 10kg between shoulder and above head height?				
53.	*Carrying weight over 10kg walking on an even surface?				
54.	*Pushing or pulling weight over 10kg walking on an even surface?				

*All aspects including duration, frequency, weight, coupling, etc. should be further assessed with the [Manual Handling Code of Practice \(No. 25, 20 April 2000\)](#).

Attachment 6

PETER AND MARK: A RETURN TO WORK CASE STUDY

The following case study is a generalisation of some common situations employers face.

It is an example of two different ways of managing the same situation:

- ◆ WITHOUT a return to work approach; and
- ◆ WITH a return to work approach.

And the outcomes in each case.

The example highlights the specific issues and responsibilities of early identification, timely intervention and, perhaps most importantly, regular and effective communication.

Background

Mark is in his mid-forties and a little unfit. He has worked at a warehouse for the past 11 years. He's seen numerous changes, although he's sceptical of the results of the changes.

Mark's supervisor Peter, felt his job depended upon implementing improvements in his department. He found it hard to get Mark to try new approaches or make suggestions and felt Mark had a "bad" attitude.

One day, Mark and Peter argued about a change in the inventory procedure. Mark was getting fed up with all these new procedures that never really seemed to work and Peter was irritated because Mark was never willing to try anything new.

Later in the day, Mark (a little preoccupied) was reaching for a box on the warehouse shelf and twisted as he moved to place it on the floor. He felt a painful stab in his lower back...

This is what happened WITHOUT a return to work approach...

When the injury first happened...

As it was almost 4.30 pm on a Friday, Mark went home **without telling anyone about his injury**. On Saturday morning, he couldn't get out of bed as the pain in his back was intense. His family attended to his needs and he saw his doctor on Monday.

Mark told the doctor about hurting himself at work on Friday. The doctor gave Mark a WorkCover certificate stating that he had no current work capacity, started him on a treatment program and suggested he report the injury to his employer.

Mark phoned work and asked a co-worker to tell Peter that he would be off work for a few days with a bad back. Mark obtained a WorkCover worker's claim form from the post office and sent it to his employer with the certificate.

Peter was surprised to learn that Mark was claiming his injury was work related and making a WorkCover claim. Peter had his doubts about the circumstances of the claim and decided to challenge the claim through his Authorised Agent.

While Mark was away from work...

Three weeks passed and Mark's back still hurt. He had **no contact from his workplace** and found out through a friend that someone new had been hired on a temporary basis to do his job. The doctor told him that time would heal his injury, but Mark worried that he would never be able to do his old job again. From the lack of communication from his employer, Mark thought they weren't too interested in having him return.

Mark's family was becoming less sympathetic and wondered when he would recover. Lying in bed, he thought about his financial and health problems.

Peter was unhappy with the WorkCover claim costs, but felt it was easier to have Mark "out of his hair". He didn't really know what to do about the whole situation.

As more weeks passed, Mark began to feel his employer wanted him to stay away. Mark thought his only hope for financial security was to make sure people knew he had a "bad back" and show them he was permanently disabled.

After **3 months off work**, Mark's back still hurt. His doctor referred him to a specialised physical rehabilitation program for back injuries, where Mark gradually rebuilt his physical strength over several months and regained a capacity for some work. Although he had improved, Mark's doctor said he couldn't go back to his old job.

Returning Mark to work...

He had now been off work for 6 months and there were **still no return to work opportunities** with his employer. The Authorised Agent referred Mark to an approved occupational rehabilitation provider.

Through their involvement, Mark refocused on returning to work with a new employer and was assisted to identify new employment opportunities for the future that would not aggravate his back injury.

8 weeks later, after a total of 8 months off work, he was hired at a retail outlet. The new employer received a financial subsidy through the WorkCover W.I.S.E program* to take Mark on. Mark continued to be supported in his new job by his doctor and the approved occupational rehabilitation provider.

Peter kept appealing the claim and the ongoing medical and occupational rehabilitation services, on the grounds that Mark's injury wasn't work related in the first place. The employer lost the appeal against the claim at all levels and bears the full financial liability for Mark's continuing treatments and services.

Mark was **off work for a total of 8 months**. His marriage suffered and so did his friendships with people at work. His back still hurts. He wishes the pain would just go away and things would get back to normal.

This is how Peter and Mark managed the situation - WITH a return to work approach...

When the injury first happened...

Peter had repeatedly told his staff that all work injuries should be reported right away. Everyone was aware through the development of the company's risk management program of the importance of reporting all injuries, so that others could be prevented. When Mark felt pain in his back late one Friday afternoon, he remembered this and **reported his injury**.

Peter took the details and they completed an **injury report**, and started the **injury investigation**. Peter wasn't sure how the injury happened at work, but Mark seemed to be in pain so he asked a co-worker to drive him to the doctor. As the return to work coordinator for the company, Peter faxed a copy of the return to work policy from their occupational rehabilitation program to the doctor, with a short note advising the company were able to modify Mark's job to help him come back to work as soon as possible.

On Monday Mark called in sick, so Peter called him at home to see how he was doing. Peter had been involved with the development of the company's occupational rehabilitation program and knew he would need to prepare a return to work plan for Mark if it was likely he would be away for 20 days or more²⁰.

Mark told him **he might be off work for a couple of weeks**, according to the doctor. Peter talked to Mark about making a WorkCover claim and discussed the **preparation of his initial return to work plan**. He knew that he needed to prepare a return to work plan regardless of whether he had an actual return to work date for Mark.

For the next few days, Peter made sure co-workers called Mark to tell him about the social news as well as the company news. He asked one of Mark's friends to drop off a copy of the company newsletter on his way home one day.

While Mark was away from work...

Peter talked to Mark about ways of **modifying his job** so he could return to work as soon as he was able. He asked Mark for authority to **talk to his doctor** about return to work possibilities and then worked with Mark's doctor to identify work that was suitable. Peter told Mark he would **discuss any work possibilities** with him and his doctor to make sure they would be suitable and then outline the jobs in a written offer of suitable employment, which would form part of his return to work plan. With everything in writing, the doctor, Mark and everyone else at the workplace would be clear about the work Mark could do when he returned. Peter also spoke to his Authorised Agent about Mark's injury. He promised to keep in touch with Mark and he did.

²⁰ An employer's obligation to prepare a return to work plan where an injured worker has no current work capacity for 20 or more calendar days applies to injuries before 1 March 2004. For injuries on or after 1 March 2004 the obligation to prepare a return to work plan occurs as soon as practicable but no later than 10 days after the relevant day.

As soon as Mark was able, Peter arranged for him to come in to talk about his return to work plan and the options at the workplace for his return. **Peter kept in touch with Mark throughout the time he was away from work** and made sure he received all the services he needed. Throughout Mark's absence from the workplace, Peter made sure Mark focused on a future return to work and included him in all the discussions about his return to work plan.

He worked with Mark's co-workers to prepare them for Mark's eventual return and looked for job possibilities, keeping in mind Mark's doctor's restrictions. Mark was a bit concerned, as he was unsure about returning to work when he still had some back pain and was sceptical about the workplace's ability to look after him. He had to admit he was also a little unsure of Peter's intentions. However, he was happy to attempt to return to work with a plan that he had a say in, which was developed in consultation with his doctor.

The plan had an **offer of suitable employment** that allowed him to avoid the heavier aspects of his job and come back to work on a part time basis. The plan also took into account his current need to attend physiotherapy. Mark felt secure knowing that his job was still there waiting for him.

Returning Mark to work...

Mark was able to **return to work gradually over the next 5 weeks**. In conjunction with his doctor, the return to work plan and offer of suitable employment were updated to include more hours and more of Mark's normal duties as he gradually recovered. Peter was flexible with the demands of Mark's job and let Mark take rest breaks when necessary.

Peter and his workmates worked out ways to keep the strenuous work away from Mark until his doctor said that he could do it. They also followed through with their risk management program and made some permanent changes, to the way they worked and the workplace itself, to make sure what happened to Mark didn't happen to anyone else.

Peter and Mark still don't see eye to eye on some of the aspects of the business, but they now have a little more trust in each other due to the proper management of the return to work.

The Outcomes

HUMAN COSTS

Without a Return To Work Approach	With a Return To Work Approach
<ul style="list-style-type: none"> ◆ Mark lost his job. ◆ He is in marriage counselling with his wife. ◆ Some of his co-workers think he is faking his injury. ◆ Some co-workers are angry with the company for doing little for Mark except fight him. They wonder if the same thing will happen to them one day. Morale is Low. ◆ Peter mistrusts his Authorised Agent and is spending a lot of time on the phone arguing with them about Mark's injury and benefits. 	<ul style="list-style-type: none"> ◆ Mark feels he is important to the company because they worked to bring him back to work. ◆ Mark joined the workplace health and safety committee and is trying to get the company to introduce a back care program. ◆ Morale in Peter's department is slightly higher.

WORKCOVER PREMIUM COSTS

Without a Return To Work Approach	With a Return To Work Approach
◆ Peter's WorkCover premium before Mark's claim: 3.75%.	◆ Peter's WorkCover premium before Mark's claim: 3.75%.
◆ Peter's WorkCover premium after Mark's claim: 4.28%.	◆ Peter's WorkCover premium after Mark's claim: 3.85%.
*With no return to work plan and Mark's prolonged absence from the workplace, the cost incurred through Mark's claim was substantial and had a significant impact on Peter's premium.	*Peter's premium went up a little, but his early action to return Mark to work at his workplace meant he avoided additional claims costs and kept his premium low.

How was Peter's premium calculated?

Peter is a medium sized employer with one workplace, in the warehousing and storage industry, with a total annual payroll of \$5 million.

Peter's premium: as with all WorkCover premiums, was calculated using five key factors:

- ◆ Peter's total remuneration;
- ◆ The total costs of Peter's claims by his injured workers, including Mark's claims costs;
- ◆ The average cost per \$ remuneration in Peter's industry;
- ◆ Peter's previous WorkCover rate, which was 3.75%; and
- ◆ The premium rate for Peter's industry, which is 4.420%.

Prior to Mark's claim Peter's premium was 3.75%. The industry rate for his entire industry was 4.420% so Peter was doing a little better than some others in a similar business.

WorkCover premiums are experience rated, which means that they can go up or down depending on the workplace's claims experience, The costs incurred through Mark's claim without a return to work approach had a direct impact on Peter's experience rating and accordingly his WorkCover premium.

For more information about managing WorkCover claims see www.workcover.vic.gov.au

The Outcomes

FINANCIAL COSTS

Without a Return To Work Approach	With a Return To Work Approach
<ul style="list-style-type: none"> ◆ Claims Costs: (These costs are all used to calculate Peter's WorkCover premium) ◆ 8 months workers compensation benefits (PIAWE \$600 p.w.) \$15,960 ◆ Approved occupational rehabilitation provider costs (vocational assessment, counselling, job search, work site assessments and job placement services). \$3,330 ◆ Multi-disciplinary, physical rehabilitation program (including psychological counselling for depression). \$3,000 ◆ WISE program costs (1.08.01), including 12 months wage subsidy payments (for full time employment) to the new employer. \$10,430 ◆ Medical treatment (including multiple medical interventions, physiotherapy, medications, medical tests, medical specialists). \$6,500 ◆ Other claims costs: investigations, medical reports, and claim estimates for future potential medical and other costs until Mark's recovery and return to work stabilises; (including provision for potential permanent impairment claim). \$60,000 	<ul style="list-style-type: none"> ◆ Partial WorkCover benefits during return to work. \$1,350 ◆ Medical visits and investigations. \$600
TOTAL: \$99,220	TOTAL \$1,950
*Peter incurred additional costs to pay the first 10 days of Mark's compensation payments, some medical expenses and the costs to hire and train a replacement for Mark. As part of their workplace agreement, Peter also had to pay Mark "make up" pay for 12 months to cover his WorkCover losses.	*Peter incurred additional costs to pay the first 10 days of Mark's compensation payments, some medical expenses and 5 weeks of "make-up" pay.

Note: The costs used in the calculation of this case study are provided as a demonstration only to highlight the relationship between claims costs and premium calculations. These costs are only applicable to the situations represented in the case study.

Attachment 7

YOUR COMPANY LETTERHEAD	
RETURN TO WORK PLAN	
Employer details	
<input style="width: 100%; height: 15px;" type="text"/> <input style="width: 100%; height: 15px;" type="text"/> <input style="width: 100%; height: 15px;" type="text"/>	Plan number <input style="width: 100%; height: 15px;" type="text"/> Date <input style="width: 100%; height: 15px;" type="text"/> Position <input style="width: 100%; height: 15px;" type="text"/> Contact number <input style="width: 100%; height: 15px;" type="text"/>
Return to work (RTW) plan prepared by <input style="width: 100%; height: 15px;" type="text"/>	
Worker details	
Given name <input style="width: 100%; height: 15px;" type="text"/> Place of residence <input style="width: 100%; height: 15px;" type="text"/> Occupation/pre-injury duties: (Attach job description if available) <input style="width: 100%; height: 15px;" type="text"/>	Surname <input style="width: 100%; height: 15px;" type="text"/> Telephone <input style="width: 100%; height: 15px;" type="text"/> Date of birth <input style="width: 100%; height: 15px;" type="text"/> Date of injury <input style="width: 100%; height: 15px;" type="text"/> Claim number <input style="width: 100%; height: 15px;" type="text"/> Interpreter required? Yes <input type="checkbox"/> No <input type="checkbox"/> Language <input style="width: 100%; height: 15px;" type="text"/>
Treating medical practitioner details	
Name <input style="width: 100%; height: 15px;" type="text"/> Address <input style="width: 100%; height: 15px;" type="text"/> Telephone <input style="width: 100%; height: 15px;" type="text"/> Fax <input style="width: 100%; height: 15px;" type="text"/> Nature of injury <input style="width: 100%; height: 15px;" type="text"/>	Other treating practitioners (physiotherapist etc.)
	Name <input style="width: 100%; height: 15px;" type="text"/> Address <input style="width: 100%; height: 15px;" type="text"/> Telephone <input style="width: 100%; height: 15px;" type="text"/> Fax <input style="width: 100%; height: 15px;" type="text"/> Current treatment: (include how often attends) <input style="width: 100%; height: 15px;" type="text"/>
Return to work process	
Medical restrictions affecting the capacity to work <input style="width: 100%; height: 15px;" type="text"/> <input style="width: 100%; height: 15px;" type="text"/> <input style="width: 100%; height: 15px;" type="text"/>	
Suitable employment offer attached? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, date this will be reviewed <input style="width: 100%; height: 15px;" type="text"/>	Will you be able to offer duties? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/>
Will assistance for RTW or other occupational rehabilitation services be required for this worker? Yes <input type="checkbox"/> No <input type="checkbox"/>	Estimated date of return to work <input style="width: 100%; height: 15px;" type="text"/> Unknown <input type="checkbox"/>
Approved occupational rehabilitation provider (if applicable) <input style="width: 100%; height: 15px;" type="text"/> Telephone <input style="width: 100%; height: 15px;" type="text"/>	Employer's signature <input style="width: 100%; height: 15px;" type="text"/> Date <input style="width: 100%; height: 15px;" type="text"/>
Occupational rehabilitation services <input style="width: 100%; height: 15px;" type="text"/>	Worker's endorsement <input style="width: 100%; height: 15px;" type="text"/> Date <input style="width: 100%; height: 15px;" type="text"/>
	Date plan to be reviewed <input style="width: 100%; height: 15px;" type="text"/>
	Date plan forwarded to Authorised Agent <input style="width: 100%; height: 15px;" type="text"/> Treating Practitioner <input style="width: 100%; height: 15px;" type="text"/>

YOUR COMPANY LETTERHEAD

OFFER OF SUITABLE EMPLOYMENT

Date <input type="text"/>	Initial offer <input type="text"/>	Subsequent offer, No. <input type="text"/>
-------------------------------------	--	--

This offer is made to

as part of your Return to Work Plan, and is not a new employment contract. You are requested to respond by

Return to work position <input style="width: 95%;" type="text"/>	Current return to work restrictions <input style="width: 95%;" type="text"/>
--	--

Return to work wages <input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
---	--

Return to work commencement date <input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
---	--

Work location (address)

Return to work Supervisor <input style="width: 95%;" type="text"/>	Contact number <input style="width: 95%;" type="text"/>
--	---

Describe the specific duties/tasks to be undertaken, including physical and other requirements of the job eg. weights, standing, sitting, performance expectations. (Provide attachments as required.)

Hours of work. (Specify start and finish eg. 9am - 5pm)

	Week Commencing	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Hours per week
Week 1		am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 2		am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 3		am pm	am pm	am pm	am pm	am pm	am pm	am pm	
Week 4		am pm	am pm	am pm	am pm	am pm	am pm	am pm	

Other considerations eg. specify rest breaks, special equipment, occupational rehabilitation services

Employer's signature <input style="width: 95%;" type="text"/>	Date <input style="width: 95%;" type="text"/>	Date duties to be reviewed/revised <input style="width: 95%;" type="text"/>
---	---	---

Worker's endorsement <input style="width: 95%;" type="text"/>	Date <input style="width: 95%;" type="text"/>	
---	---	--

Treating practitioner's endorsement <input style="width: 95%;" type="text"/>	Date <input style="width: 95%;" type="text"/>	Date plan forwarded to Authorised Agent <input style="width: 50px;" type="text"/> Treating Practitioner <input style="width: 50px;" type="text"/>
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Notes:

FURTHER WORKCOVER RETURN TO WORK SUPPORT

WORKCOVER ADVISORY SERVICE

The WorkCover Advisory Service is a free service available to everyone in the community on the full range of WorkCover issues. Advice can be obtained by telephone, e-mail, in writing or by arranging a personal consultation.

Contact the WorkCover Authority on 9641 1555 or toll free 1800 136 089 for more details.

WORKCOVER CONCILIATION SERVICE

The WorkCover Conciliation Service is a service available to facilitate the resolution of disputes related to WorkCover matters. The service does this through Conciliation officers who understand the WorkCover scheme and are independent. Conciliation works to involve you, your injured worker, and your Agent in an informal, non-adversarial process, to achieve an agreement that is mutually acceptable.

The Conciliation service is explained in WorkCover's publication "Conciliation - Resolving WorkCover Disputes". If you would like more information you can ring the Conciliation Service's toll-free hotline on 1800 810 071.

WORKCOVER ON THE WEB

WorkCover's website - www.workcover.vic.gov.au - provides access to WorkCover information 24 hours a day, 7 days a week. The site allows you to also view and print many WorkCover forms.



Helping injured workers get back to work

