

ADVICE SHEET 6

Workers compensation and return to work

Do I need a workers compensation insurance policy and a return to work program?

A person conducting a business or undertaking (PCBU) (with employers' responsibilities under Workers Compensation legislation) must have a current workers compensation insurance policy, an injury reporting system and an effective return to work program. These measures ensure that, in the event of a workplace injury or illness, workers receive early and appropriate treatment and benefits, including assistance in returning to work.

As part of their workers compensation and return to work obligations, employers must:

- have a current workers compensation insurance policy that covers all workers
- display the WorkCover *Watching out for you poster* (catalogue no. WC00022.1) in their workplace
- notify the scheme agent of every workplace injury within 48 hours of being aware of the injury
- notify WorkCover immediately on **13 10 50** of serious incidents
- make suitable duties available to injured workers who are certified fit for suitable duties if reasonably practicable to do so
- establish a return to work program that is consistent with their scheme agent's injury management program
- make suitable duties available to their injured workers
- keep a record of wages for the past five years
- keep a register of workplace-related injuries and illnesses for at least five years
- forward, without delay, any workers compensation payments to their injured workers
- not dismiss an injured worker because of their injury within six months of the worker first becoming unfit for employment.

For further details please refer to WorkCover *Guidelines for workplace return to work programs* (catalogue no. WC02872).

<p>Where the red zone is ticked...</p>	<p>Workers are not covered for workers compensation insurance, and the organisation does not have an effective injury reporting system or return to work program.</p> <p>Ticks in the red zone indicate that the PCBU (with employer responsibilities under Workers Compensation legislation) needs to take immediate action to obtain a workers compensation insurance policy and to implement an injury reporting system and an appropriate return to work program.</p>
<p>Notify serious incidents – ie a fatality or serious injury or illness – to WorkCover immediately on 13 10 50</p>	<p>Workers compensation insurance policy.</p> <p>In NSW, workers compensation insurance claims and policy services are offered to workers and employers by seven organisations that are known as scheme agents. They are the following:</p> <ul style="list-style-type: none"> • Allianz Australia Workers’ Compensation (NSW) Limited Phone: 1300 130 664 allianz.com.au • Xchanging Integrated Services Australia Pty Ltd Phone: 1800 803 905 xchangingaustralia.com • CGU Workers Compensation (NSW) Limited Phone: 1300 666 506 cgu.com.au • Employers Mutual NSW Limited Phone: 1800 469 931 emia.com.au • Gallagher Bassett Services Pty Ltd Phone: 1800 007 033 gallagherbassett.com.au • GIO General Limited Phone: 13 10 10 gio.com.au • QBE Workers Compensation (NSW) Limited Phone: (02) 9375 4444 <p>How to obtain a workers compensation insurance policy?</p> <p>Employers must obtain a policy and provide the following information:</p> <ul style="list-style-type: none"> • Registered business name • Registered business address • Workplace address (if different from the business address) • ACN and/or ABN • Description of their business • Estimate of their total wages for the policy period • Total number of workers, including permanents and casuals • Estimate of payments to contractors.
<p>PCBUs must develop a return to work program in accordance with the <i>WorkCover Guidelines for workplace return to work programs</i> (catalogue no. WC02872) available from workcover.nsw.gov.au</p> <p>For small employers, WorkCover has developed a standard return to work program that they can adapt and adopt.</p>	<p>What is a return to work program?</p> <p>A return to work program is an agreed system of policies and procedures that an employer must have in place to help their injured workers with their recovery and return to the workplace. It outlines the employer’s commitment to assist injured workers with accessing necessary treatment and rehabilitation, and specifies the steps to be taken to achieve a safe, timely and durable return to work.</p> <p>A return to work program must be consistent with their scheme agent’s injury management program and it must be displayed in the employer’s workplace.</p> <p>A return to work program must be developed in consultation with workers and any relevant industrial union.</p>

Where the orange zone is ticked...

The employer has a workers compensation insurance policy, an injury reporting system and a return work program in place but the policy does not reflect the true nature of the employer's business and the injury reporting system and return to work program are ineffective.

Ticks in the **orange** zone indicate that the employer is partially compliant but may need to update their workers compensation coverage with their scheme agent and review their injury reporting system and return to work program.

For assistance, employers should contact their scheme agent and provide them with details about their current business activities, the number of workers and estimated wages for the current workers compensation policy period.

Employers should review their return to work program to ensure that:

- they have an effective reporting system in place for the notification and reporting of all workplace incidents, including bullying
- all workers are aware of the employer's workplace incident reporting system and return to work program for all injuries including, psychological injuries caused by bullying
- the reporting system and return to work program is up-to-date and working effectively for all injuries, including psychological injuries caused by bullying.

Where the green zone is ticked...

The employer has an appropriate workers compensation insurance policy and an effective injury reporting system and return to work program.

Ticks in the **green** zone indicate that the employer is compliant with their obligations regarding workers compensation insurance, injury reporting and return to work programs.

However, employers would be well-advised to:

- monitor their workers compensation insurance policy details
- ensure that their scheme agent is advised of any significant changes to details regarding their business activities, number of workers, or estimated wages
- monitor and review incident reporting and return to work program procedures on a regular basis to ensure they are still providing effective assistance to injured workers including workers with psychological injuries in returning them to work.

Standard return to work program for small business employers

Employer commitment

_____ is committed to the return to work of our injured workers and will:
(name of organisation)

1. Prevent injury and illness by providing a safe and healthy working environment.
2. Participate in the development of an injury management plan and ensure that injury management commences as soon as possible after a worker is injured.
3. Support the injured worker and ensure that early return to work is a normal expectation.
4. Provide suitable duties for an injured worker as soon as possible.
5. Ensure that our injured workers (and anyone representing them) are aware of their rights and responsibilities – including the right to choose their own doctor and approved workplace rehabilitation provider, and the responsibility to provide accurate information about the injury and its cause.
6. Consult with our workers and, where applicable, unions to ensure that the return to work program operates as smoothly as possible.
7. Maintain the confidentiality of injured worker records.
8. Not dismiss a worker as a result of a work related injury within six months of becoming unfit for employment.

Procedures

1. Notification of injuries

- Notify all injuries to the supervisor as soon as possible.
- Record all injuries in the Register of Injuries.
- Notify _____ of all injuries within 48 hours.
(name of workers compensation agent/insurer)

2. Recovery

- Ensure that the injured worker receives appropriate first aid and/or medical treatment as soon as possible.
- Consult with the doctor nominated by the injured worker and who is responsible for the medical management of the injury and assist in planning return to work.

3. Return to work

- Arrange a suitable person to explain the return to work process to the injured worker.
- Ensure that the injured worker is offered the assistance of a WorkCover approved workplace rehabilitation provider if it becomes evident that they are not likely to resume their pre-injury duties, or cannot do so without changes to the workplace or work practices.

Nominated WorkCover approved workplace rehabilitation providers:

- Arrange for the worker's early return to work (subject to medical and rehabilitation provider advice).

4. Suitable duties

- Develop an individual return to work plan when the worker according to medical advice, is capable of returning to work.
- Provide suitable duties that are consistent with medical advice and that are meaningful, productive and appropriate for the injured worker's physical and psychological condition depending on the individual circumstances of the injured worker. Suitable duties may be:
 - at the same worksite or a different worksite
 - the same job with different hours or modified duties
 - a different job
 - full time or part time.

5. Dispute resolution

- Work together with the injured worker and their union representative to resolve any disagreements about the return to work program or suitable duties.
- If disagreements cannot be resolved, involve other parties such as the worker's treating doctor, the agent/insurer, an approved workplace rehabilitation provider or an injury management consultant.

Contacts

Workplace contact for return to work program

Name: _____ Telephone: _____

Workers compensation agent/insurer

Name: _____ Telephone: _____

Address: _____

_____ Website: _____

WorkCover Claims Assistance Service on 13 10 50

Workers Compensation Commission for resolution of disputes wcc.nsw.gov.au

Information for workers

You have the right to:

- nominate your own treating doctor who will be involved in your injury management plan
- choose your own approved workplace rehabilitation provider if necessary
- be actively involved in the planning of your return to work.

You must:

- take care to prevent work injuries to yourself and others
- notify your employer of an injury as soon as possible
- comply with your injury management plan
- provide accurate information about any aspect of your claim
- notify the agent/insurer if you get a job or if you earn extra income from your job while you are receiving weekly benefits
- attend medical and rehabilitation assessments
- cooperate in workplace changes that will assist other injured workers.

If you do not comply with your injury management plan, the agent/insurer may suspend your benefits.

Disclaimer

This publication may contain work health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au).

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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