



Department of Education and  
Early Childhood Development

# DEECD Corporate WorkSafe policy guide

January 2013



Published by the Communications Division  
for Human Resources Division  
Department of Education and  
Early Childhood Development  
Melbourne  
January 2013

© State of Victoria (Department of Education  
and Early Childhood Development) 2012

The copyright in this document is owned by the  
State of Victoria (Department of Education and Early Childhood  
Development), or in the case of some materials, by third parties  
(third party materials). No part may be reproduced by any process  
except in accordance with the provisions of the Copyright Act 1968  
the National Education Access Licence for Schools (NEALS)  
(see below) or with permission.

NEALS is an educational institution situated in Australia which is  
not conducted for profit, or a body responsible for administering  
such an institution may copy and communicate the materials, other  
than third party materials, for the educational purposes of the  
institution.

Authorised by the Department of Education  
and Early Childhood Development,  
2 Treasury Place, East Melbourne, Victoria, 3002.  
ISBN [to be inserted if required]  
This document is also available on the internet at  
[insert URL].

## Version Control

Version	Sections Amended	Amendment	Date Created	Author
1.0			19/08/10	B.O'Brien
2.0	2.2.1,2.3, 4.0, 5.1, 5.2, 6.3, 6.4	Entitlements, definitions etc.	05/03/12	B.Halliday
3.0			10/1/13	B.Halliday

<b>1. INTRODUCTION .....</b>	<b>5</b>
<b>2. THE VICTORIAN WORKSAFE SCHEME AND WORKSAFE ENTITLEMENTS.....</b>	<b>5</b>
2.1 WorkSafe scheme key features and legislative basis .....	5
2.2 WorkSafe entitlements .....	6
2.2.1 Weekly benefits .....	6
2.3 Weekly benefits and make up pay applicable to DEECD employees .....	6
2.3.1 Medical and like expenses.....	7
2.3.2 Other benefits.....	7
<b>3. THE DEPARTMENT'S WORKSAFE MANAGEMENT ARRANGEMENTS .....</b>	<b>7</b>
3.1 DEECD's WorkSafe Insurance Policy .....	7
3.2 Arrangements for the payment of medical and like expenses .....	7
<b>4. KEY LEGAL OBLIGATIONS AND RESPONSIBILITIES .....</b>	<b>8</b>
4.1 Managers' key WorkSafe obligations and responsibilities .....	8
4.2 CGU Workers Compensation Insurance's key responsibilities .....	9
4.3 Employees' responsibilities.....	9
4.4 Return to work issues resolution process .....	10
<b>5. LEAVE AND PAYROLL MATTERS .....</b>	<b>10</b>
5.1 WorkSafe leave and accrual of other leave .....	10
5.2 WorkSafe leave and other entitlements .....	10
5.3 WorkSafe leave and personal leave .....	10
5.4 Attendance at CGU arranged medical examinations and Conciliation .....	11
5.5 Termination of WorkSafe leave at 130 weeks .....	11
5.6 Management of ceased employees.....	11
<b>6. REHABILITATION AND RETURN TO WORK REQUIREMENTS.....</b>	<b>11</b>
6.1 The provision of return to work information for all employees.....	12
6.2 Return to Work Coordinator requirements and roles .....	12
6.2.1 Return to Work Coordinator Seniority.....	13
6.2.2 Return to Work Coordinator Competency.....	13
6.2.3 The role of Return to Work Coordinators.....	13
6.3 Return to work issues resolution process .....	14

6.4 Return to work planning and providing suitable employment .....	14
6.5 Required return to work process consultation.....	15
6.6 Occupational rehabilitation provider (ORP) and employee right of choice.....	15
6.7 The role of Occupational Rehabilitation Providers (ORPs).....	16
<b>7. CLAIMS LIABILITY DISPUTE RESOLUTION.....</b>	<b>16</b>
7.1 Conciliation .....	16
7.2 Conciliation Conferences.....	16
7.3 Jurisdiction of the Conciliation Service .....	17
7.4 Conciliation Conference Outcomes .....	17
<b>8. INJURY PREVENTION .....</b>	<b>17</b>
<b>9. OTHER SOURCES OF WORKSAFE ADVICE AND SUPPORT .....</b>	<b>18</b>
<b>10. APPENDIX 1 .....</b>	<b>19</b>
<b>11. APPENDIX 2: DEECD Return to Work Issues Resolution Procedure .....</b>	<b>20</b>

## 1. INTRODUCTION

The purpose of this Guide is to provide the policy background to the WorkSafe claims management advice contained in the DEECD Non School Locations WorkSafe Management Manual by outlining:

- the legislative basis and key features of the Victorian WorkSafe scheme
- the key legal obligations associated with the management of WorkSafe in workplaces and non workplace locations
- the Department's arrangements and support infrastructure for the management of WorkSafe.

Detailed advice on the procedures to be followed when managing WorkSafe claims and the documents required to process WorkSafe claims can be accessed from the DEECD Non School Locations [WorkSafe Management Manual](#).

## 2. THE VICTORIAN WORKSAFE SCHEME AND WORKSAFE ENTITLEMENTS APPLICABLE TO DEECD EMPLOYEES

### 2.1 WorkSafe scheme key features and legislative basis

The Victorian WorkSafe Authority, operating under the title WorkSafe, is responsible for administering the Victorian WorkSafe Scheme. WorkSafe currently has six authorised WorkSafe Agents who perform most of the functions associated with managing WorkSafe claims. The legislative basis for the WorkSafe Scheme is the Accident Compensation Act 1985 with amendments effective from 1 July 2010.

The WorkSafe scheme is a 'no fault' work related injury compensation scheme. This means that a worker's entitlement to compensation is not a question of who was responsible for the injury, but is determined by whether the injury was employment related, according to the provisions of the Accident Compensation Act.

The key objective of the scheme is to ensure that the social and economic costs of workplace injuries and illnesses are minimised by:

- improving the health and safety of people at work and the rehabilitation of injured employees
- ensuring that injured employees receive appropriate entitlements as compensation for workplace injuries
- ensuring that employers provide suitable employment for employees who have been injured at work
- ensuring employers contribute equitably to the costs of the scheme through the payment of WorkSafe premiums.

Further information about WorkSafe and the WorkSafe scheme can be found at the [WorkSafe](#) website

## 2.2 WorkSafe entitlements

### 2.2.1 Weekly benefits

Injured employees may access compensation for loss of earnings (weekly benefits) by lodging a Worker's Injury Claim Form and a WorkSafe Certificate of Capacity (medical certificate) with their manager.

WorkSafe weekly benefits are calculated as a percentage of the employee's average gross weekly wage for the 12 months prior to their injury. The rates applicable to weekly benefits for employees who have not returned to work are:

- for the first 13 weeks off work, 95% of the pre injury wage to a maximum \$2000\*

then

- from 14 to 130 weeks 80% of the pre injury wage to a maximum of \$2000\* if the employee has no capacity for work, or if the employee has a capacity for work and has not been provided with suitable employment

or

- from 14 to 130 weeks, if the employee has a capacity for work, 80% of the pre injury wage, to a maximum of \$2000\*.

Employees with a capacity for work who have returned to work on selected or alternative duties are entitled to a weekly benefit of 80% of their pre injury pay less 80% of what they are currently earning a week to a maximum of \$2000\* a week.

Entitlement to weekly benefits ceases at 130 weeks if the employee has a capacity for work. After 130 weeks an employee may apply for weekly benefits to continue if the employee has returned to work and is working at least 15 hours per week and is not capable, because of their injury of working beyond this level.

For employees who have no capacity for work, entitlement to weekly benefits may continue beyond 130 weeks until they reach 65 years of age, provided they continue to have no capacity for work.

WorkSafe Insurance Agents' assessments of work capacity are based upon WorkSafe Certificates of Capacity, reports from treating doctors and/or independent medical examinations.

WorkSafe weekly benefit payments are indexed each year on the anniversary of the WorkSafe claim acceptance date. Indexation changes are based on changes to the Australian Consumer Price Index.

*\* Correct as at July 2012. Maximum amounts are indexed annually.*

## 2.3 Weekly benefits and make up pay applicable to DEECD employees

Victorian Government Industrial Agreements provide for injured employees to receive Make-Up Pay (MUP) to bridge the gap between the legislated WorkSafe weekly benefit and what the injured worker would be entitled to be paid had they not been injured.

The industrial agreements are available through the following link: [industrial agreements](#).

Make-Up Pay is payable in respect of a particular injury or incapacity for an aggregate of 1984 hours or pro rata for part time staff.

Any absence exceeding the aggregated 1984 hours does not attract MUP and the worker is paid according to the applicable compensation rate.

Workplaces should accurately record all days/hours that the worker does not work.



During the MUP period employees continue to accrue other leave entitlements.

Please note:

- there is no entitlement to MUP if employment with the Department ceases
- if, after injury, the injured worker alters their work time fraction their MUP pay will then be calculated on the pay that is applicable to the altered time fraction.

Contact Corporate HR Services for further information on calculating MUP periods.

### **2.3.1 Medical and like expenses**

Employees are entitled to compensation for reasonable medical and like expenses incurred as a result of a work related injury. WorkSafe has a maximum fee structure for medical and like services. If a health practitioner charges more than the set maximum fee WorkSafe will only reimburse to the level of the set maximum.

### **2.3.2 Other benefits**

Employees may be entitled to lump sum payments for permanent impairment suffered as a result of a workplace injury. In the event of the death of an employee due to a work related injury, the dependants of the employee may be entitled to a lump sum payment and the payment of a pension. Employees who have suffered an injury as a result of employer negligence may also be able to access damages through court action.

Further information concerning benefits can be found at the [WorkSafe](#) website

## **3. THE DEPARTMENT'S WORKSAFE MANAGEMENT ARRANGEMENTS**

### **3.1 DEECD's WorkSafe Insurance Policy**

The Department's authorised WorkSafe Agent is CGU Workers Compensation Insurance (CGU Insurance). The Department's WorkSafe policy covers all DEECD employees in both schools and non school locations.

### **3.2 Arrangements for the payment of medical and like expenses**

The Department has an arrangement with CGU Insurance whereby CGU Insurance pays all medical and like accounts, including those accounts that fall within the employer threshold medical and like expenses component of \$629. Workplaces should not pay any medical accounts. All medical accounts should be sent to CGU Insurance for payment

## 4. KEY LEGAL OBLIGATIONS AND RESPONSIBILITIES

Managers, in conjunction with Corporate HR Services are responsible for the management of WorkSafe claims lodged by non school location DEECD employees. Managers are supported in this role by:

- CGU Insurance's Return to Work Consultants and Case Managers
  - CGU's Panel of Occupational Rehabilitation Providers
  - DEECD WorkSafe Claims Advisory Service - 9637 2441
  - advisory support from the Employee Safety & Wellbeing Unit
  - advisory support from Corporate HR Services.

### 4.1 Managers' key WorkSafe obligations and responsibilities

In the event of an employee lodging a WorkSafe claim managers are required to receive the claim from the employee and acknowledge receipt of the claim in writing to the employee. It is a criminal offence to refuse to accept a claim from an employee.

Following receipt of claims, managers in conjunction with Corporate HR Services are required to ensure that:

- claims are sent to Corporate HR Services within 3 calendar days from the date on which the employee lodged the claim
- claims are sent to CGU Insurance within 10 calendar days from the date on which the employee lodged the claim
- CGU Insurance is provided with timely and accurate information about the circumstances of the claim
- employees in receipt of weekly compensation payments are paid correctly on their scheduled pay days
- arrangements are made to plan for employee's return to work by an appointed Return to Work Coordinator as soon as the employee lodges the claim. (See Section 6.4 below for further information.)
- Return to Work Arrangements Forms are prepared and forwarded to CGU when an employee has either a full or partial capacity for work (See Section 6.4 below for further information.)
- suitable employment is provided for injured employees (See Section 6.4 below for further information.)
- they participate in Conciliation conferences and/or court hearings and associated legal processes in the event of disputed WorkSafe claims decisions. (See Section 7 below for further information)

Other WorkSafe responsibilities, not directly related to the management of claims, require managers to ensure:

- all work related injuries and incidents are reported on eduSafe
- that there is an appointed Return to Work Coordinator for the workplace who has an appropriate level of seniority and competency. (See Section 6.2 below for further information.)
- all employees are provided with information on their return to work rights and obligations and processes under WorkSafe
- there is an agreed workplace return to work issue resolution process in place (See 6.5 below)



- that when employing new staff, applicants are provided with a written description of the proposed duties and are asked to disclose any pre existing injury or illness that could be affected by the nature of the proposed duties.
- advise job applicants that a failure to disclose a pre existing injury or illness may jeopardise their entitlement to compensation should the injury or illness recur. Further information on pre employment procedures is available on the [HR Website](#).

In the event of a contractor from a labour hire agency being injured the Department as the host employer is required to cooperate with the labour hire agency's return to work arrangements for the injured contractor. Contact the DEECD's WorkSafe Claims Advisor on 9637 2441 for further advice.

## 4.2 CGU Workers Compensation Insurance's key responsibilities

CGU Insurance is required to:

- contact the manager within two days of receiving an employee's WorkSafe claim
- advise on obligations and steps to be taken on the claim and to discuss the matter of liability
- take account of information provided by managers concerning the circumstances of the claim when determining liability for the claim
- advise the manager and Corporate HR Services and the claimant within 28 days of receiving a claim of the decision on acceptance of liability of the claim
- facilitate the early return to work of injured employees through the provision of timely advice to managers on rehabilitation obligations and options
- arrange independent medical examinations for injured employees following consultation with managers and Corporate HR Services and advise managers of the results of medical examinations
- advise Corporate HR Services of changes in employee's compensation entitlements and or rates
- contact and advise managers and Corporate HR Services when disputed claims are scheduled for a Conciliation Conference
- process and pay medical accounts within 30 days.

## 4.3 Employees' responsibilities

WorkSafe claimants are required to:

- notify their employer of a work related injury or illness within 30 days of becoming aware of it
- participate in assessments of their capacity for work and approved rehabilitation programs and make reasonable attempts to return to work in suitable employment if they have an accepted WorkSafe claim
- provide evidence of current weekly earnings to both CGU Insurance and Corporate HR Services to ensure that the correct rate of compensation is applied

- cooperate with their employer's attempts to return them to work
- provide valid WorkSafe Certificates of Capacity if there is an entitlement to receive weekly compensation payments.

Where employees do not meet these requirements they may jeopardise their entitlement to compensation.

It should also be noted, that as part of the pre employment process, applicants are required to disclose any pre existing injury or illness that may be affected by the proposed duties of the position. Failure to disclose a pre existing injury or illness may jeopardise an employee's entitlement to compensation if that injury or illness recurs as a result of their employment.

#### **4.4 Return to work issues resolution process**

Injured employees who have a complaint about some aspect of the return to work process may request their manager in writing that the matter be resolved according to the WorkSafe return to work issues resolution process. (See Section 6.3 below for further information.)

## **5. LEAVE AND PAYROLL MATTERS**

### **5.1 WorkSafe leave and accrual of other leave**

Employees on WorkSafe leave continue to accrue personal leave credits, recreation leave credits and long service leave entitlements during the period they are entitled to receive make up pay, i.e. the first 1984 hours (or pro rata for part time staff) of WorkSafe leave.

At the conclusion of the make up pay period employees on return to work programs will continue to accrue leave entitlements on a pro rata basis according to the number of hours worked.

### **5.2 WorkSafe leave and other entitlements**

The following entitlements are payable to employees on WorkSafe leave during the make up pay period.

- Higher Duties: Remains payable to expiry date if the higher duties have been performed continuously for a period of no less than twelve months immediately prior to the claim being lodged. If higher duties were paid for a period less than twelve months then this will continue for a period of one (calendar) month into the claim or to the expiry date if sooner.
- Special Payments: Special payments to employees for undertaking tasks designated by the manager are payable for up to one month or until the expiry of the assignment, whichever is the sooner. Employees in receipt of special payments for a continuous period of 12 months prior to the taking of paid leave (during WorkSafe MUP period) will continue to receive the payment during the MUP period.
- Salary Leave Loading: Payable for the duration of the MUP period.
- Employer superannuation contributions

### **5.3 WorkSafe leave and personal leave**

Personal leave cannot be paid in the same period during which an employee is receiving WorkSafe weekly payments, unless the employee is participating in a Return to Work Program. Employees on Return to Work

Programs can use personal leave for a non-WorkSafe related illness if the absence coincides with one of the scheduled work days of the program. The absence is to be recorded as personal leave, not WorkSafe.

Employees on WorkSafe leave do, however, have the option of accessing annual or long service leave for which they have an entitlement without the leave payments affecting their WorkSafe weekly payments.

#### **5.4 Attendance at CGU arranged medical examinations and Conciliation Conferences**

Employees who have resumed duty, and are required to attend a WorkSafe Conciliation Conference are considered to be on duty whilst attending the conference. In most cases attendance at a Conciliation conference should involve up to a maximum of 4 hours absence from the workplace.

An employee who is on duty at the time they are required to attend an independent medical examination organised by CGU Insurance should be released from duty in order to attend the medical. CGU insurance will meet the cost of the attendance where the manager/manager submits a request for wage reimbursement attached to the medical notification. Leave of absence for this purpose is limited to 4 hours for metropolitan based staff, and 1 day for employees outside the metropolitan area.

#### **5.5 Termination of WorkSafe leave at 130 weeks- resumption of duty or application for further leave**

If an employee's WorkSafe weekly payment entitlement has been terminated in writing by CGU Insurance and the employee indicates that he or she wishes to resume duty, the worker should not be permitted to resume duty until a medical practitioner approved by the Secretary has certified he or she is fit to resume work.

If the employee is unable to resume duty for medical reasons and wants to access personal leave, the worker must make a written application to the manager requesting a period of personal leave. Applications for personal leave must be supported by a medical certificate confirming that the worker is not fit for duty. Applications for personal leave will be considered by the manager and will not be unreasonably refused.

Also, after 130 weeks an employee may apply to CGU Workers Compensation Insurance for weekly benefits to continue if they have returned to work and are working at least 15 hours per week and are not capable, because of their injury, of working beyond this level.

Advice concerning the arrangement of medical examinations and health related resumption of duty issues can be obtained from the Department's [Medical Advisory Service](#) on (03) 9692 7756.

#### **5.6 Management of ceased employees**

Termination of a worker's employment does not cease the employee's entitlement to receive WorkSafe weekly benefits. Schools HR Services are responsible for the payment of weekly benefits to ceased employees.

## **6. REHABILITATION AND RETURN TO WORK REQUIREMENTS**

Overview of employer legislative obligations.

Under the WorkSafe legislation the key return to work obligations require employers to ensure that:

- WorkSafe return to work information is made available for all employees.

- Each workplace has an appointed Return to Work Coordinator of appropriate seniority and competency.
- Return to work planning commences as soon as an employee lodges a claim or presents a Certificate of Capacity.
- Suitable employment is proposed and provided for employees who have a capacity for work.
- Return to work planning includes consultation with the employee, the treating doctor and other involved parties such as rehabilitation providers, CGU Insurance, etc
- Any return to work issues raised by an injured employee are resolved according to agreed workplace resolution procedures or according to the Accident Compensation Act 1985 Ministerial Direction No 1 of 2010

The legislation has also strengthened the compliance and enforcement of these obligations with increased financial penalties and increased powers for WorkSafe Return to Work Inspectors.

## 6.1 The provision of return to work information for all employees

The WorkSafe legislation requires managers to ensure that all employees are made aware of:

- an employer's return to work obligations
- an injured employee's return to work rights and obligations
- the name and contact number of the workplace's appointed Return to Work Co-ordinator
- the workplace's procedure for resolving return to work issues
- the need to consult and plan an injured employee's return to work

To meet this information obligation managers must ensure that:

- the WorkSafe 'Returning to Work Following a Workplace Injury' and 'If You are Injured' posters are displayed in location/s accessible to all staff. (See Appendix 1)
- that the poster is brought to the attention of all staff
- the poster contains the name and contact details of the workplace's Return to Work Coordinator

## 6.2 Return to Work Coordinator requirements and roles

The WorkSafe legislation requires managers to ensure that a member of staff of appropriate seniority and competency is appointed as the Return to Work (RTW) Coordinator for the workplace.

Managers may wish to consider the following matters when identifying the workplace's RTW Coordinator:

- Nominating themselves or another member of the workplace leadership team as the RTW Coordinator
- If there is perceived conflict between the injured employee and the RTW Coordinator that there are arrangements in place for another member of staff to take over the RTW Coordinator role

If the manager is not the RTW Coordinator it is important the manager is kept fully informed of all return to work matters.

### 6.2.1 Return to Work Coordinator Seniority

If the person appointed as the Return to Work Coordinator is not the manager he or she should be of sufficient seniority to have the authority to make decisions concerning matters such as:

- The allocation of appropriate duties
- Identifying and proposing suitable duties on behalf of the manager
- Liaising with all relevant parties about return to work related matters
- Acting as the manager's point of contact for all parties involved in the return to work process
- Participating in the resolution of return to work issues

### 6.2.2 Return to Work Coordinator Competency

A return to work coordinator should have sound understanding and knowledge of:

- The steps that employers should take following a workplace injury.
- The rights and obligations of injured workers.
- How to plan a return to work program, including the provision of suitable or pre injury employment.
- Who to consult with during the return to work process and steps involved in the consultation process.
- The ability to communicate with the diverse range of people involved in the return to work process.
- The importance of maintaining the confidentiality of the worker's private information, based on the Accident Compensation Act 1985, Information Privacy Act 2000, and the Health records Act 2001.
- The workplace's return to work issue resolution process.
- The functions of the Return to Work Inspectorate and their role in enforcing compliance with the return to work section of the Act.
- The Victorian worker's compensation system.

### 6.2.3 The role of Return to Work Coordinators

Return to Work Coordinators are responsible for:

- assisting injured employees to remain at work or return to work as soon as possible after injury or illness in a way which does not jeopardise the welfare of fellow workers or students
- monitoring the progress of an injured employees return to work
- liaising with medical professionals, rehabilitation providers involved in supporting the employee's return to work

- ensuring that injured employees are given access to rehabilitation services if required
- liaising with other personnel in the workplace who may be involved in facilitating the injured employee's return to work
- ensuring that rehabilitation records and the confidentiality of information is maintained
- ensuring that all action required to prevent a recurrence of the injury is implemented along with other general risk management measures
- helping to resolve any work related issues or disputes
- helping to ensure the injured employee and the manager meet their obligations under the Accident Compensation Act.

### 6.3 Return to work issues resolution process

Injured employees have the right to lodge complaints about return to work processes such as employers delaying the process, employers failing to consult about suitable duties, employers failing to provide suitable duties etc.

If a return to work issue arises the manager is required to resolve the issue in accordance with an agreed workplace (workplace) 'return to work dispute resolution' procedure which is in accordance with the requirements of the *Accident Compensation Act 1985 Ministerial Direction Number 1 of 2010*.

A generic DEECD Return to Work (RTW) Issues Resolution Procedure for central and regional offices is available in Appendix 2. Following discussion with employees the RTW Issue Resolution Procedure should be displayed in the workplace along with other WorkSafe posters.

### 6.4 Return to work planning and providing suitable employment

The WorkSafe legislation requires managers to:

- provide a position which is the same or equivalent to the pre-injury position if the injured employee is not incapacitated or,
- provide suitable employment, if the injured employee has only a partial capacity for work, by way of modified duties/hours or alternative duties.

The obligation to provide suitable employment does not require the creation of a new position. It may require modifications to the employee's pre injury duties or the provision of alternative duties within the base workplace or at another workplace.

This obligation starts from the date the manager receives the worker's WorkSafe Certificate of Capacity or claim for weekly payments, or from the date CGU Insurance advises they have received either of these documents, whichever is earlier.

The obligation period continues for the first 52 weeks that the injured employee has an incapacity for work. This 52 week period is not necessarily consecutive calendar weeks, and may start and stop based on a number of factors. If it is not continuous, it will be for an aggregate period of 52 weeks.

Your CGU Return to Work Specialist can explain the various factors relevant to calculating this period.

The provision of suitable employment for employees with a partial capacity for work is intended to be short term as part of a strategy aimed at returning these employees to their full pre injury duties.

If the employee cannot return to their pre-injury work, the ORP should investigate alternative employment options either within DEECD or with an external employer.



Injured employees on WorkSafe entitlements can be employed outside DEECD as part of an approved Return to Work Arrangements program. If this occurs CGU Insurance should be advised in writing of the details of the employment.

Please note that suitable employment obligations may still apply to ceased fixed term employees on WorkSafe compensation benefits. If a manager is unsure if this obligation applies to a recently ceased employee they should contact the Employee Safety & Wellbeing Unit on (03) 9637 2392 or (03) 9637 2441 for further advice.

## 6.5 Required return to work process consultation

The RTW coordinator is required to consult with:

- The injured employee
- CGU's RTW specialist and/or the assigned occupational rehabilitation provider
- The injured employee's doctor or healthcare provider

Consulting includes:

- Sharing information about the injured employee's return to work
- Obtaining information about injured employee's capacity for work
- Assessing and proposing options for suitable or pre-injury employment
- Providing a reasonable opportunity for the person being consulted to express their views
- Monitoring the injured employee's return to work to ensure arrangements are appropriate and progress over time, consistent with the injured employee's capacity for work

## 6.6 Referral to an occupational rehabilitation provider (ORP) and employee right of choice

A CGU RTW specialist will make contact with the manager within 3 working days of receipt of a WorkSafe claim to discuss and commence planning the injured employee's return to work. The RTW specialist will guide the manager through the initial return to work phase and decide if an Occupational Rehabilitation Provider (ORP) is required to assist with the RTW program.

If the services of an ORP are required as part of the injured worker's rehabilitation and return to work program the Accident Compensation Act provides injured employees with the right of choice of an ORP,

If an employee is to be referred to an ORP, CGU will provide the employee with a written list of at least three ORPs from which to make a choice.

A manager can refer an employee to a rehabilitation service if that employee is returning from a 'non work related' injury or illness, however the workplace would be expected to pay for the rehabilitation service. Current rehabilitation costs are approximately \$148 per hour. Contact the DEECD WorkSafe Claims Adviser on 9637 2441 for assistance.

## 6.7 The role of Occupational Rehabilitation Providers (ORPs)

CGU's panel of ORPs will assist managers with the rehabilitation and return to work of injured employees. Primarily they do this through liaison and negotiation with the RTW Coordinator, treating health professionals, CGU Insurance and the injured employee.

Services available from providers include:

- assisting with the formulation of Return to Work arrangements after discussion with the RTW coordinator
- assisting and supporting the employee during the return to work program
- on the job training of RTW coordinators in the ongoing management of return to work programs
- advice on the provision of aids (excluding ergonomic furniture for workplace purposes), or vocational assessments and worker re-training.

As a general rule, the services of an ORP should be used in the following circumstances:

- all stress related claims
- physical injuries that will result in an absence from work
- disc degeneration or bulge injuries and back injuries involving nerve root conditions
- spondylosis, osteoarthritis and degenerative conditions [of any body location]
- rotator cuff syndrome, frozen shoulder
- repetitive strain injuries
- medical expense only claims that exceed 3 months of treatment
- all voice loss claims
- where there are motivational issues with an employee's return to work.

## 7. CLAIMS LIABILITY DISPUTE RESOLUTION

### 7.1 Conciliation

WorkSafe claimants and employers have the right to appeal decisions made by WorkSafe Agents. In the first instance these appeals are referred to the Accident Compensation Conciliation Service (ACCS)

A Conciliation Outcome Certificate must be obtained from the ACCS before a matter can be pursued at either the Magistrates or County courts. The purpose of conciliation is to provide a cost-effective method of dispute resolution.

### 7.2 Conciliation Conferences

It is expected that managers, or a delegate, will represent DEECD as the employer representative at conciliation conferences. The representative must have the authority to make decisions on liability and the re-crediting of leave. The representative will also be required to provide information such as the circumstances surrounding a worker's claim, DEECD policies and the return to work options that are available.

A CGU Dispute Resolution Officer will also attend the Conference. The Dispute Resolution Officer will contact the manager at least 7 calendar days prior to the conference and arrange to meet with the manager for 15 to 30 minutes prior to the conference for a pre conference briefing.

In most cases, the employer representative, the CGU Dispute Resolution Officer, the Conciliation Officer and the injured worker and their representative attend the conciliation conference. A legal practitioner is not permitted to represent a worker at conciliation unless prior consent has been given by the DEECD representative and the CGU Dispute Resolution Officer.

The injured worker has the right to be supported at the conciliation conference and can be a relative, friend or union official.

### 7.3 Jurisdiction of the Conciliation Service

The conciliation service derives its authority from the Accident Compensation Act 1985 and its jurisdiction is limited to worker's entitlements under the Act. Conciliation Officers do not have the authority to make rulings that relate to the application of industrial award conditions.

### 7.4 Conciliation Conference Outcomes

Conciliation conferences can result in one of three outcomes:

- 'A Genuine Dispute', where the Conciliation Officer determines that the employer/insurer may have an arguable case. In this instance the insurer's decision is maintained and the workers entitlement continues to be rejected, suspended, terminated, or reduced.
- 'A Recommendation' where all parties must agree with the decision but there is no admission of liability. The terms of a recommendation could include limited or ongoing weekly compensation payments, reinstatement of part or all personal leave credits, or the payment of limited medical & like expenses.
- 'A Direction' may be issued where the Conciliation Officer concludes a genuine dispute does not exist but there is no agreement able to be reached by the parties. The Conciliation Officer's direction is enforceable on all parties, but cannot exceed a period of 12 weeks, and can be followed by a second direction of a further 12 weeks.

A claimant may appeal to the appropriate court jurisdiction if they do not agree with a conciliation conference outcome.

## 8. INJURY PREVENTION

Prevention of injuries is the most effective means of minimising the human and financial costs associated with workplace injuries. A successful prevention program will depend on schools and workplaces having:

- a leadership team which is seen by the staff as supportive
- an effective means of resolving conflict
- positive staff interaction and peer support
- an effective [Occupational Health and Safety Management System](#)

- an active process of risk identification, risk control and risk management

The school or workplace can clearly articulate their approach to health, safety and wellbeing through the display of the DEECD OHS policy statement. Schools may also wish to include such a statement in the goals of their strategic plan (school charter). Further information can be obtained from the [Department's Employee Health Website](#).

To support schools and workplaces to meet OHS legislative compliance and injury prevention needs, DEECD has an OHS Advisory & Support Service. The OHS Advisory and Support Service can be contacted by telephone on 1300 074 715 to provide advice and assistance on:

- Implementing occupational health and safety management systems
- conducting safety and compliance audits at your workplace
- identifying and implementing risk control strategies
- and any general advice on OHS matters

In addition, the department's Employee Safety & Wellbeing Branch is available to support staff with a range of employee support services. Contact details and Information on support services is available from the [Employee Safety & Wellbeing Website](#).

The Department also provides a telephone [Medical Advisory Service](#) (MAS) to assist principals and managers in the management and support of staff with health related problems which may be impacting on them in the workplace. The MAS can be accessed by calling 03 9692 7756. Additional information regarding individual or workplace support is available from the [Employee Safety & Wellbeing Website](#).

The DEECD [Employee Safety & Wellbeing Branch](#) can be contacted on (03) 9637 2460 in relation to these services.

## 9. OTHER SOURCES OF WORKSAFE ADVICE AND SUPPORT

For further assistance with the WorkSafe claim processes and procedures please telephone the DEECD WorkSafe Advisory Service on 9637 2441 or email: [workSafe.claims.advisory@edumail.vic.gov.au](mailto:workSafe.claims.advisory@edumail.vic.gov.au)

General information concerning Conciliation processes or the Accident Compensation Conciliation Service is available from the ACCS Website at [Accident Compensation Conciliation Service \(ACCS\)](#) or by phone on (03) 9940 1111.

Information concerning WorkSafe leave and payroll management is available from Corporate HR Services.

Advice on employee relations issues such as employees' award entitlements and conditions of employment is available from the [HR Website](#)

General information on WorkSafe and the WorkSafe scheme is available from the WorkSafe website at [WorkSafe](#) or by phone on (03) 9641 1444 or from CGU Insurance on (03) 8630 1311.

## 10. APPENDIX 1

['Returning to work after a workplace injury' poster](#)

['If you are injured' poster](#)





# 11. APPENDIX 2: DEECD Return to Work Issues Resolution Procedure

Return to Work Issue Resolution Procedure for .....

## Introduction

This document sets out the agreed procedure that will be followed if a return to work issue, pursuant to section 207(2) of the Accident Compensation Act 1985, is raised at (*insert name of workplace*).

A return to work issue is confined to matters directly associated with an injured employee's return to work. A return to work issue does not include matters such as:

- A complaint about WorkSafe, the insurance agent, claim liability or payment of a benefit or entitlement etc,
- General matters of policy and practice applying across the Department not related to the return to work.

A return to work issue may be raised for resolution by the injured employee or by the following designated persons:

- A representative of the injured employee
- The injured employee's principal or immediate supervisor
- The return to work co-ordinator
- The provider of occupational rehabilitation services to the injured employee
- The injured employee's treating health practitioner.

The procedure for raising and resolving a return to work issue

## Step 1

The injured employee or a designated person raises an issue by reporting it verbally or in writing to their manager, immediate supervisor or the return to work co-ordinator.

## Step 2

As soon as possible, and no later than 20 calendar days of a return to work issue being reported, the manager will convene a meeting with the return to work coordinator and the injured employee to try to resolve the issue. If a designated person reported the return to work issue, they will also be invited to participate in the return to work issue meeting and the resolution process.

## Step 3

If the parties to the resolution procedure reach an agreed outcome the manager will provide each of the parties with a document that sets out the details of the outcome or;

If the parties to the procedure cannot reach an agreed outcome within 14 calendar days of the first return to work issues resolution meeting the manager will notify CGU Workers Compensation that an agreed outcome has not been reached.

Status and duration of this agreed procedure

This agreed procedure comes into effect on (*insert date on which the agreed procedure is signed*) and will be reviewed on (*insert date 12 months from the date of signing*)

Employee Representative

Name.....

Signature.....

Date.....

Manager

Name.....

Signature.....

Date.....

Additional information on return to work issues resolution is available at: <http://www.education.vic.gov.au/hr/ohs/compensation/policy.htm>