

ACT PUBLIC SECTOR

Managing Injury and Illness in the Workplace

1. PURPOSE

This document outlines the ACT Government policy for the care, recovery and support of ACTPS staff with work related and non-work related injuries or illness.

2. APPLICATION

This policy applies to all ACT Public Sector (ACTPS) Directorates. Separate procedures outline the assistance to ACTPS staff under:

- industrial agreements and the Public Sector Management Act 1994; and
- Directorate-specific employee assistance programs and related policies.

3. LEGISLATIVE REFERENCE

Workers' compensation arrangements for ACT Public Sector (ACTPS) workers are provided under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

The ACTPS has been declared to be a Commonwealth authority under the SRC Act and the principal officer (as a Commonwealth authority for the purposes of the SRC Act), is the ACT Commissioner for Public Administration.

The ACT is considered to be a single policy holder for the purposes of workers' compensation insurance coverage extended under section 5 (11) of the SRC Act. This cover extends to authorities or bodies where the relevant Commonwealth Minister has made a written declaration that a body corporate is a body to which subsection 11 applies.

The key principles of this policy are consistent with the following authorised sources:

- SRC Act;
- *Public Sector Management Act 1994*;
- Public Sector Management Standards 2006;
- *Work Health and Safety Act 2011*; and
- *The Privacy Act 1988 (Cwlth)*.

4. DIRECTION STATEMENT

Fundamental to this policy is a 'one service approach' to the care, recovery and support of ACTPS injured workers¹ with a single cohesive strategy executed across the service. This strategy is to be executed in line with the fundamental principles of the ACT Government Respect, Equity and Diversity Framework.

4.1 Charter of Partnership with Comcare

Comcare and the ACTPS have a range of responsibilities under the SRC Act and have agreed to a Charter of Partnership which details the cooperative approach between Comcare and the ACTPS in effectively managing compensable work-related injuries.

The overall goals of this agreement are to:

- implement an arrangement that delivers effective and sustainable return to work outcomes for injured employees and for managing the financial impact of workplace injury on the ACTPS;
- ensure a holistic and integrated approach to the management of all ACTPS workers' compensation claims; and
- improve Comcare's understanding of, and service delivery, to the ACTPS.

The Charter of Partnership details the cooperative approach between Comcare and the ACTPS in effectively managing work-related injuries. The Charter of Partnership is available at the following link: <http://www.cmd.act.gov.au/governance/public/wpsafety>

4.2 Early Intervention

The ACT Government is committed to early intervention and pro-active injury management for injured or ill ACTPS staff.

'Early Intervention' means a rapid and appropriate response once there is knowledge of any problem or circumstance that may impact upon a worker's physical or psychological wellbeing.

Supervisors and Managers are responsible for identifying workers with an injury or illness and initiating early intervention activity for their employees either through their relevant Human Resources Director or by direct referral to Shared Services case management.

Written approval for payment of any potential expenditure associated with early intervention activity for workers who do not have an accepted claim for worker's compensation benefits, must be sought through the Human Resource Manager of the Directorate/entity in which the worker is employed. The cost of funding such early intervention activity is the responsibility of that Directorate/entity.

¹ For the purposes of this policy injury refers to both compensable and non-compensable injuries and illnesses

Document name: WHS Policy – Managing Injury and Illness in the Workplace	Prepared by: Continuous Improvement & Workers' Compensation Branch, CMCD
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Issue Date: February 2012	Review Date: February 2015

4.3 Triaging Injured Workers

All injured workers referred for case management will be triaged to identify the medical and psycho-social factors impacting the worker.

All injured workers requiring some level of assistance will be allocated to a case manager. The allocation of an injured worker to a case manager for assessment and ongoing management will be based on:

- The identified medical and psycho-social factors of the injured worker;
- The worker's individual needs and risk profile (in relation to successful RTW); and
- Matching, as closely as possible, the case manager's skills, experience and capability to the needs of the injured worker.

Injured workers will be triaged in accordance with the Triaging Injured Worker procedures.

4.4 Initial Action Plan and Injured Worker Progress Reviews

An individually customised management strategy will be developed and implemented, where necessary, for every injured worker to ensure that support for the injured worker and any necessary return to work activity are fully integrated and focused on improving health and return to work outcomes.

Initial action plans and scheduled case reviews provide a thorough and formulated assessment and enable monitoring and ongoing review of the rehabilitation interventions necessary for the effective management of injured workers. Initial action planning regular and systematic reviews of injured worker progress are to be undertaken in accordance with the initial action plan and case review procedures.

Case reviews are also to be conducted in response to a particular event such as a sudden onset or an extended period of incapacity.

4.5 Engagement of rehabilitation providers

The ACT Government has established an approved panel of providers of rehabilitation services and has entered into associated contractual arrangements. Where rehabilitation expertise is required to assist an injured worker the services of a panel provider should to be used.

If there are particular circumstances warranting the engagement of rehabilitation expertise outside of the contacted provider arrangements, then approval to engage such services must be sought through the Workplace Injury and Performance team (WIP) within the Chief Minister and Cabinet Directorate (CMCD).

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The performance and accountability of rehabilitation service providers will be assessed in accordance with the framework developed by CMCD.

4.5.1 Rehabilitation support for compensable injuries - SRC Act Section 41 Guidelines

Part III of the SRC Act sets out the legislative framework for providing workplace rehabilitation for injured workers with a compensable injury and distinguishes the roles of Comcare and rehabilitation authorities. Comcare has prepared and issued guidelines under section 41 of the SRC Act in relation to the performance and the exercising of functions and powers under part 3 of the SRC Act. All Directorates and other entities covered under the ACT Government's worker's compensation insurance policy will comply with the guidelines issued by Comcare. The guidelines can be accessed via the following link:

http://www.comcare.gov.au/forms_and_publications/publications/injury_management/rehabilitation_guidelines_for_employers/rehabilitation_guidelines_for_employers_pub_19

4.6 Provision of Suitable Employment and use of the Injured Worker Redeployment Committee

For the purposes of an injured worker who has suffered an injury in respect of which workers compensation is payable under the SRC Act, all reasonable steps must be taken to provide them with suitable employment or to assist them in finding such employment.

Consistent with the definition within the SRC Act, suitable employment means:

- (a) In the case of an employee who was a permanent employee of the ACT Government on the day on which the worker was injured and continues to be so employed, employment within the Act Government for which they are suited having regard to:
 - (i) the injured workers age, experience, training, language and other skills;
 - (ii) the injured workers suitability for rehabilitation and vocational retraining;
 - (iii) where employment is available in a place that would require the employee to change his or her place of residence – whether it is reasonable to expect the employee to change his or her place of residence; and
 - (iv) any other relevant matter.

For workers with a non compensable injury or illness supervisors and managers will have regard to the principles of reasonable adjustment to support and assist their return to, or maintenance at work. Reasonable adjustment means managing some feature(s) of work so that people with temporary or permanent disabilities can do their work more effectively, e.g. modifying equipment or work practices. The injured worker's supervisor/manager is required to make reasonable adjustments unless they would result in 'unjustifiable hardship' to the employer.

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In circumstances where an injured worker is unable to return to their pre-injury duties because of their illness or injury, and all employment placement opportunities within the originating Directorate have been exhausted, injured workers are to be referred to the Injured Worker Redeployment Committee for the identification and placement into a suitable employment opportunity.

The home directorate will fund the injured workers placement in another suitable role for up to six-months. Placements beyond this period will generally be funded by the new Directorate. Directorates make also continue to make their own arrangements.

4.7 Dispute Management

Where a dispute arises in relation to the support and management of an injured worker the supervisor/manager is to manage the dispute in accordance with the processes outlined within the individual Directorates/Entity's relevant enterprise agreement. Every effort will be made to resolve the dispute as quickly as possible.

Where the dispute is related to a claim for worker's compensation benefits and is being appealed to the Administrative Appeals Tribunal (AAT), the dispute will be brought to the attention of the ACTPS Workers' Compensation Dispute and Review Committee. This committee is an oversight and review committee with the responsibility of assisting the ACT Government to fulfil its governance obligations.

The functions of the Committee are:

- to establish policy oversight of all proposed ACTPS agency initiated appeals to the AAT relating to a Workers' Compensation matter;
- to consider ACTPS injured worker initiated appeals to the AAT relating to a Workers' Compensation matter;
- to receive updates on the progress of such appeals and disputes including Comcare or injured worker initiated Federal Court appeals relating to ACTPS workers' compensation matters; and
- to analyse the outcome of ACTPS and other Safety, Rehabilitation and Compensation Scheme AAT and Federal Court matters and their impact on current or future ACT Public Sector policies, practices and procedures.

4.8 Privacy and Confidentiality

All data and information relating to incidents and injuries and the management of injured workers must be obtained in accordance with legislative requirements and managed in accordance with the National Privacy Principles contained in Schedule 3 of the *Privacy Act 1988* (Cwlth) and the *ACT Health Records (Privacy and Access) Act 1997*. Information related to injured workers is not to be seen or provided to individuals who are not authorised to receive such information without the express permission of the person about whom the information relates.

Case management files must be stored in accordance with the ACT Protective Security Policy and Guidelines.

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5. ROLES AND RESPONSIBILITIES

5.1 Chief Ministers and Cabinet Directorate (CMCD)

CMCD is responsible for developing government wide policies and initiatives to improve injury prevention and management across the ACTPS and in relation to this policy is responsible for:

- the strategic management of the workers' compensation scheme;
- managing the strategic relationship between the ACTPS and Comcare;
- developing the model of injury management;
- developing the case manager capacity strengthening program;
- providing executive leadership and guidance;
- ensuring the parties to the Workers' Compensation and Work Safety Improvement Plan meet their key obligations;
- providing the secretariat to the Workers' Compensation and Work Safety Improvement Plan Steering Committee;
- undertaking detailed analysis and reporting at both the Scheme and Directorate level; and
- resourcing the technical management and triage functionality.

The Director, Continuous Improvement and Workers' Compensation is accountable for the performance of CMCD and achieving the CMCD performance targets and quality and timely reporting.

5.2 Shared Services

Shared Services is responsible for:

- delivering of case management services across the ACTPS;
- implementing the case management model for ACTPS injured workers;
- implementing the case manager strengthening capacity program;
- implementing whole-of-government improvement initiatives; and
- administering the whole-of-government injured employee redeployment network.

The Director HR Services is accountable for the performance of Shared Services and achieving the relevant performance targets.

5.3 Directors-General

Directors-General have primary responsibility and accountability for the implementation of ACT Government policies at all levels of their organisation and across the ACTPS and overarching responsibility for workplace health and safety.

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Directors-General have additional responsibilities to provide leadership to the implementation of the ACTPS Workers' Compensation and Work Safety improvement plan. Key responsibilities include:

- providing leadership in the implementation of a one service approach to the care, support and recovery of ACTPS injured workers;
- actively preventing workplace injuries; and
- actively promoting work health and work safety by adopting whole-of-government policy.

5.4 All staff

All staff have a responsibility to:

- act in accordance with the ACTPS Code of Ethics/ Code of Conduct and uphold the values and principles of the ACTPS and their own Directorate values;
- act in accordance with the principles outlined in the Respect, Equity and Diversity Framework;
- comply with obligations under the Work Health and Safety Act 2011 and the Safety, Rehabilitation and Compensation Act 1988;
- ensuring the safety and wellbeing of self and others;
- not to expose themselves or others to work safety risks;
- properly use equipment supplied for work safety at the workplace; and
- report any risk, illness and injury, connected with work, which the worker is aware of.

5.5 Directorate/Entity HR Director/Manager

HR Directors/Managers have additional responsibilities to support Directorate managers and injured workers.

Key responsibilities include:

- ensuring the Directorate's compliance with SRC Act (s41) guidelines in relation to compensation matters and PSM Act (standards and the relevant industrial agreements) in relation to pre-liability and non-compensation matters;
- ensuring that a framework and process are in place to identify and support employees at risk of injury or disease;
- maintaining contact and supporting the injured worker's supervisor;
- supporting and promoting established ACTPS early intervention and injury response processes;
- maintaining oversight of the Directorates injury management performance;

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- developing and implementing Directorate-based initiatives to enhance employee health and wellbeing; and
- actively participating in the Redeployment Panel.

5.6 Triage Team

The triage team identifies the level of risk to a worker's potential to stay at, or return to work through the identification and examination of key medical and psycho-social issues and ensure the workers needs are matched with the necessary skills, expertise and experience of case managers.

Key responsibilities include:

- identifying the type and severity of any medical and psychosocial factors impacting on the worker's overall health and ability to remain at, or return to work;
- ensuring that the triage process is initiated and completed within 2 – 48 hours of referral;
- allocating a level of risk to an injured worker's potential to return to work and making initial recommendations on the assistance and support required by the worker; and
- ensuring the worker is referred to the appropriate case manager/case management team for management.

5.7 Technical Managers

The Technical Managers provide high level technical advice, expertise and targeted support to team leaders and case managers to improve health outcomes for injured workers. Key responsibilities include:

- assisting with the development of targeted whole-of-government improvement strategies and implementing those strategies;
- developing evidence-based strategies to address broader strategic issues that are hampering the achievement of improved outcomes for the ACTPS;
- working with case managers, team leaders and Directorate- based senior management to provide technical expertise in injury management;
- overseeing the progress of complex matters;
- providing technical direction to injured worker case reviews;
- developing evidence-based strategies to help support high risk workers achieve effective return to work outcomes;
- actively consulting with managers, supervisors, team leaders and case managers on a range of issues related to identifying and resolving barriers to a successful return to work outcome for individual injured workers; and

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- working with senior case managers, team leaders and Directorate-based senior management to inform the education and training of case managers on initial recruitment and as part of an ongoing continuous improvement approach to building and maintaining core competencies in case and injury management.

5.8 Team Leader (Case Management)

Team leaders are responsible for the delivery of high quality, timely and targeted case management services to injured ACTPS workers and their Directorate. Key responsibilities include:

- allocating a case manager to an injured worker based on the 'best match' of the worker's needs and the skills, experience and qualifications of the case manager;
- ensuring active engagement with the Triage team members and Technical Managers to best support the injured worker;
- ensuring the achievement of case management and return to work performance targets;
- ensuring the timely identification of adverse trends and the implementation of strategies to redirect such trends;
- ensuring that case managers consistently manage cases towards the outcomes defined in each claims strategy;
- conducting regular and event driven claim reviews in conjunction with case managers;
- working with Directorate- based senior and middle management to embed the key principles of work- based rehabilitation (i.e. provision of suitable duties, support of injured workers and management, and the engagement with treating doctors etc);
- supporting case managers to overcome barriers to the injured worker's return to work;
- where necessary, initiating and managing issues associated with benefit disputation and work with relevant Directorate managers to minimise the adverse impact of disputed liability or contentious decisions on the injured worker and the rehabilitation process;
- providing leadership and effectively managing the case management team's overall skill development and work performance;
- reviewing the approved Rehabilitation Providers' (ARP) service delivery and outcomes on a case by case basis; and
- supporting case managers to drive, in conjunction with Comcare, the holistic management of each ACTPS injured worker's claim and rehabilitation.

5.9 Case Manager

Case Managers have the responsibility to ensure the effective, targeted and holistic case management and successful return to work of injured workers. Key responsibilities include:

- in conjunction with the injured worker and their employer, develop and implement an individually customised management strategy for all ACTPS claims. This targeted strategy

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will focus on a holistic approach, such that the management of the claim and the employer's return to work activity are fully integrated and focused on improving health and return to work outcomes for injured workers;

- establishing a set of agreed return to work goals with the injured worker, the relevant Comcare Claim Service Officer, the injured worker's supervisor and the rehabilitation provider;
- being accountable for each matter, including being a contact for the service providers, injured worker's supervisor, Directorate Human Resources Director/Manager, the injured worker and all other stakeholders;
- being the principal advisor on claim and case management strategies;
- proactively communicating with the injured worker, the worker's supervisor, the Directorate Human Resources Director/Manager and relevant Comcare Claims Service Officers;
- coordinating services – managing the day to day activities of service providers and their levels of service provision, actively reviewing service providers performance, levels of treatment, appropriateness of treatment and adherence to protocols and guidelines;
- informing matters associated with claim disputation;
- undertaking regular and event-driven case reviews in consultation with the key parties to the case;
- outlining and communicating roles, responsibilities and obligations to the injured worker, the injured worker's supervisor and Directorate Human Resources Director/Manager;
- identifying the specialist resources that are needed to be accessed to realise case management outcomes;
- taking a tailored approach to the worker's individual circumstances and ensuring that communication and engagement is in line with the principles of the Respect, Equity and Diversity framework; and
- leading the development of the return to work plan in consultation with the injured worker, the injured workers' general practitioner and supervisor and the Directorate Human Resources Manager.

5.10 Manager/Supervisor

Managers have additional responsibilities to support their workers who have an injury or illness, irrespective of the nature or cause of their condition. Key responsibilities include:

- identifying and supporting employees at risk of injury or disease;
- managing the risk of injury or illness at the workplace;

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- inducting workers regarding business unit accident/incident reporting and early intervention processes;
- ensuring early reporting of injuries and illness and unplanned absences that may require early intervention or reasonable adjustment to assist with returning an employee to work;
- establishing and maintaining contact with the injured worker on matters pertaining to the workplace. Where there are issues of conflict of interest or a relationship breakdown this responsibility is to be escalated within the Directorate;
- managing the performance, conduct and attendance of an injured worker with appropriate consideration to their medical restrictions;
- working with Shared Services payroll to resolve less complex pay and condition issues or for more complex pay and condition issues, works with the Directorate HR Manager and Shared Services Payroll;
- identifying and providing suitable duties within the workplace that align with the injured workers medical capacity and, wherever possible, accommodating the worker by making changes to the workplace and duties in accordance with reasonable adjustment principles. Where this is not possible, escalating the matter to the Directorate Human Resources Manager for identification of suitable employment elsewhere within the Directorate;
- participating in the development of a return to work plan;
- implementing the agreed return to work plan with assistance and guidance from the case manager;
- participating in rehabilitation planning with the case manager, worker, treating doctor and other relevant stakeholders to achieve return to work goals;
- working with the relevant Directorate Human Resources Manager to access early intervention initiatives for injured workers;
- taking a tailored approach to the worker's individual circumstances and ensuring that communication and engagement is in line with the principles of the Respect, Equity and Diversity framework; and
- participating in Case Manager led communication with healthcare professionals.

5.11 Injured Worker

Workers injured during the course of their employment have a number of responsibilities including:

- being aware of, and understanding, the ACTPS's rehabilitation policy;
- understanding their obligations and rights regarding rehabilitation;
- reporting an incident, injury or illness to their supervisor or Human Resources area as soon as possible;
- undergoing a rehabilitation assessment with an external rehabilitation provider or medical

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specialist if required;

- participating in the development and implementation of a targeted Return to Work plan;
- participating in regular reviews of their medical status with the case manager and treating doctor;
- participating in regular reviews at the workplace with the supervisor and case manager;
- initiating and remaining in regular contact with their supervisor (or workplace) when unable to attend work due to illness or injury;
- advising their supervisor or case manager if they have any change in their medical status and/or personal circumstances that may impact on their rehabilitation and return to work; and
- advising their supervisor or case manager if they have any concerns about their rehabilitation and return to work plan.

6. RETURN TO WORK MONITORING AND EVALUATION

The ACT Government's evaluation framework and its performance measures are clearly articulated within the ACTPS Worker's Compensation and Work Safety Improvement Plan.

7. DICTIONARY

"Case Manager" means a person who holds the delegation of the Rehabilitation Authority under Section 41A of the SRC Act.

"Rehabilitation Authority" the Commissioner for Public Administration is the Rehabilitation Authority for the purposes of the SRC Act. The Commissioner's powers as the Rehabilitation Authority are delegated to case managers.

"Approved Rehabilitation Provider" means a person or body approved under section 34F or 34H of the SRC Act and a current contracted member of the ACT Government's Preferred Provider Panel arrangement.

"Compensable injury or illness" means an injury or illness that is determined by Comcare to have arisen out of, or in the course of, employment.

"EAP" means Employee Assistance Program.

"Workplace rehabilitation" means a managed process involving timely intervention with appropriate and adequate services based on assessed need and is aimed at maintaining injured or ill employees in, or returning them to, suitable employment.

"Return to work plan" means a plan of activities and assistance to maintain an injured employee at, or return him or her, to work

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8. REFERENCES and LINKS

SRC Act 1988:

<http://www.comlaw.gov.au/Series/C2004A03668>

Comcare *SRC Act* Section 41 Guidelines:

http://www.comcare.gov.au/forms_and_publications/publications/injury_management/rehabilitation_guidelines_for_employers/rehabilitation_guidelines_for_employers_pub_19

Work Health and Safety Act 2011:

<http://www.legislation.act.gov.au/a/2011-35/default.asp>

Work Health and Safety Regulation 2011:

<http://www.legislation.act.gov.au/sl/2011-36/default.asp>

Territory Records Act 2002:

<http://www.legislation.act.gov.au/a/2002-18/default.asp>

Privacy Act 1988:

<http://www.comlaw.gov.au/Series/C2004A03712>

The Public Sector Management Act 1994:

<http://www.legislation.act.gov.au/a/1994-37/default.asp>

Public Sector Management Standards 2006:

<http://www.legislation.act.gov.au/di/2006-187/default.asp>

Work Safety policy information and links to the Incident/Accident Report can be obtained from:

<http://www.cmd.act.gov.au/governance/public/wpsafety>

ACT Government Health and Safety Framework – Accident/Incident Reporting and Investigation Section:

http://sharedservices/actgovt/WHS/SafetyMgt/r_accident.htm

9. REVIEW

This Policy Statement will be reviewed after three (3) years unless earlier review is required.

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Appendix 1

ACT Government entities covered by the SRC Act for workers' compensation purposes

Chief Minister and Cabinet Directorate
 Community Services Directorate
 Economic Development Directorate
 Education and Training Directorate
 Environment and Sustainable Development Directorate
 Health Directorate
 Justice and Community Safety Directorate
 Territory and Municipal Services Directorate
 Treasury Directorate

Legal Aid Office

ACTEW Corporation Limited (declaration under s5(13) of the SRC Act – Gazette S254, 30 June 1995)

University of Canberra

Canberra Institute of Technology

Calvary Health Care

Cultural Facilities Corporation

ACTTAB Limited (declaration under s5(13) of the SRC Act – Gazette S2573, 17 July 1996)

ACT Legislative Assembly

Rhodium Asset Solutions Limited (wound down)

Public Trustee of the ACT

Auditor General's Office

ICRC

Volunteers who take part in emergency management activities or training exercises under the contract or direction of the ACT Emergency Services Authority or the Chief Officer of an emergency service under the *Emergencies Act 2004* (a declaration under s5(15) of the SRC Act, Gazette S 284, 15 July 2004)

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