

A guide for injured workers

Returning to work

April 2011



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About WorkSafe Victoria

WorkSafe Victoria is responsible for administering Victoria's *Accident Compensation Act 1985* (the Act) and its workers' compensation scheme.

The Victorian workers' compensation scheme is a no-fault scheme. This means that an entitlement to compensation is not linked to who is responsible for the injury or illness. Whether a person is entitled to compensation will depend on whether they meet the criteria for eligibility set out in the Act, including the nature of their injury or illness, and how it occurred.

WorkSafe also aims to ensure the health and safety of people at work, and to reduce the social and economic cost to the Victorian community of work-related injuries and illnesses.

Self-insurers

Self-insurers are employers approved by WorkSafe to manage their own injured workers' compensation claims. When reading this brochure, any reference to 'WorkSafe Agent' or 'Agent' should also read 'self-insurer' and 'approved Agent of a self-insurer'.

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The information presented in *Returning to work, A guide for injured workers* is intended as a guide only. Should any differences arise over the interpretations of the content of this document and the law, the law applies.

More information to help you is available at [worksafe.vic.gov.au/rtw](https://www.worksafe.vic.gov.au/rtw).

1.

Getting back to work

The most important person in your recovery is you. Actively participating in your rehabilitation and return to work can help you get better sooner.

It can be difficult to know what to expect following a work-related injury or illness. This guide contains information and ideas to help you get back to work and your normal routine. It explains the return to work process and the support that is available to help you.

A work-related injury or illness can have a big impact on your life. Research has shown that getting back to work is important for your health and wellbeing. The earlier you start planning to return to work, the better your chances of getting back sooner.

You may not have to wait until you are 100 per cent recovered to return to work. It's important to try to keep positive and motivated – focus on what you can do, rather than what you can't. Whether it's on reduced hours in your regular job or on modified or alternative duties, getting back to work is part of your rehabilitation. Talk to your treating health practitioner about the kind of work and activities that will best help your recovery.

Your employer has an important part to play in helping you return to work. Talk to your employer (or Return to Work Coordinator) about planning your return to work and the types of duties you will be able to do when you return.

Return to work is a team effort and communication between everyone involved in your return to work is essential. By working together, solutions can be found.



Getting back to work

Ideas to help you return to work

There are a number of things you can do to help your return to work.

<input checked="" type="checkbox"/>	Ask your treating health practitioner to write details about what you can do on your <i>Certificate of Capacity</i> . This should include any limitations, for example, difficulty with bending, lifting or the requirement for regular breaks.
<input checked="" type="checkbox"/>	Your employer will usually call you to see how you are. Talk to them about your progress and the parts of your job you think you can do. If you haven't heard from your employer, you may consider giving them a call.
<input checked="" type="checkbox"/>	Ask your treating health practitioner and employer to talk to each other about the plans for your return to work and the suitable duties that are available for you. Your Return to Work Coordinator is the best contact for them.
<input checked="" type="checkbox"/>	You can have someone represent, assist and support you at any stage of the return to work process. This can be anyone except a legal practitioner.
<input checked="" type="checkbox"/>	Talk to your Return to Work Coordinator if you experience difficulties when you return to the workplace. Be careful not to aggravate your injury or illness by doing too much too soon.
<input checked="" type="checkbox"/>	You may need additional help or support to return to work. If you need assistance, you can contact your employer's Agent, the WorkSafe Advisory Service, your employer, your Return to Work Coordinator or your union.



Staying positive

Staying positive and keeping active after an injury can benefit your rehabilitation as well as your general wellbeing. If you feel that your employer, treating health practitioner or Agent can do more to assist you get back to work, talk to them.

The following tips may also assist your rehabilitation:

<input checked="" type="checkbox"/>	Focus on what you can do, rather than what you can't.
<input checked="" type="checkbox"/>	Talk to your treating health practitioner about how you may be able to stay active.
<input checked="" type="checkbox"/>	Talk to your family about how they can support you and help you to get better.
<input checked="" type="checkbox"/>	If you're away from work, keep in touch with your employer and workmates. Talk to them about how you can stay connected with what's happening at work. There may be newsletters and updates they can send you.
<input checked="" type="checkbox"/>	Try not to get frustrated if things don't always go smoothly. Rehabilitation can take time and requires persistence. Try to stay positive.

Your employer's legal obligations

Your employer must:

- provide you with suitable and/or pre-injury employment for a minimum of the employment obligation period
- plan for your return to work
- obtain relevant information about your capacity for work
- assess and propose suitable or pre-injury employment options for you
- consider reasonable workplace support, aids or modification to assist in your return to work
- provide you with clear, accurate and current details of your return to work arrangements
- monitor your return to work progress
- consult directly with you about your return to work, as well as consult with your treating health practitioner and an occupational rehabilitation provider, if one is involved
- nominate and appoint a Return to Work Coordinator who has an appropriate level of seniority and is competent to assist them meet their return to work obligations, and
- make return to work information available to all workers in your workplace.

For more information about your employer's obligations, refer to WorkSafe's Compliance Codes:

- *Compliance Code 1 of 4: Providing employment, planning and consulting about return to work*
- *Compliance Code 2 of 4: Return to Work Coordinators*
- *Compliance Code 3 of 4: Return to work information*
- *Compliance Code 4 of 4: Cooperating with labour hire employers about return to work*

A Return to Work Inspector may visit an employer to assess whether they are complying with their return to work obligations. If appropriate, the Return to Work Inspector will issue an improvement notice that requires them to comply. Employers also risk prosecution and financial penalties if they don't comply with their return to work obligations.

For more information about Return to Work Inspectors, please refer to the *Return to Work Inspector* fact sheet available on the WorkSafe website, [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au).

If you believe your employer is not complying with their return to work obligations, talk to your employer's Agent. If you still have concerns, you can refer the matter to WorkSafe.

Anti-discrimination and labour requirements

An employer cannot take the following actions relating to a worker who pursues a claim for compensation or notifies an employer or WorkSafe of an injury:

- dismiss or threaten to dismiss the worker from employment, or
- alter or threaten to alter the position of the worker to the worker's detriment, or
- treat the worker less favourably than another worker in relation to promotion or re-employment.

Getting back to work

There are also other State and Commonwealth discrimination laws that require employers to make reasonable adjustments to hours, equipment and conditions to accommodate a worker's injury or illness regardless of its cause, nature or permanency. These laws apply to all workers, whether full-time, part-time, temporary, permanent or casual. It may be unlawful to treat a worker less favourably at work because of their illness or injury or allow them to be treated less favourably by others.

In addition, employers need to comply with relevant labour laws, industrial awards and agreements with respect to a worker's employment.

Your legal obligations

When you make a WorkSafe claim, you have responsibilities under the law to do what you can to get back to work. These obligations are to:

<input checked="" type="checkbox"/>	make reasonable efforts to return to work in suitable or pre-injury employment
<input checked="" type="checkbox"/>	make reasonable efforts to actively participate and cooperate in planning for your return to work
<input checked="" type="checkbox"/>	actively use an occupational rehabilitation service, if provided, and cooperate with the provider of that service
<input checked="" type="checkbox"/>	actively participate and cooperate in assessments of your capacity for work, rehabilitation progress or future employment prospects
<input checked="" type="checkbox"/>	actively participate and cooperate in an interview for the purpose of enhancing your return to work opportunities, if requested to do so by the Agent

You must make reasonable efforts to meet your obligations and get back to work. If your Agent has a reason to believe that you are not meeting your return to work obligations, they will contact you to talk about their concerns. They will talk to you about your injury and circumstances and your progress towards getting back to work.

If your Agent believes that you are not making reasonable efforts to meet your obligations to get back to work, they may take action affecting your weekly payments, which may ultimately result in the termination of your weekly payments.

What you can expect

When you make a claim for weekly payments you can expect:

- choice of your treating health practitioner
- choice of an occupational rehabilitation provider from a list of a minimum of three providers (when an occupational rehabilitation service is offered)
- the option to be represented, assisted and supported at any stage of the return to work process, including in the consultation process
- suitable or pre-injury employment to be provided following a workplace injury
- maintenance of the privacy of your confidential information, and
- the opportunity to have decisions regarding your claim reviewed.

2.

Key people involved in your return to work

Staying in touch with your employer, Return to Work Coordinator, treating health practitioner, occupational rehabilitation provider and Agent can help speed up your return to work. Refer to the WorkSafe publication *Who's who in the claims process* for further information about the role of these people.



Your Return to Work Coordinator

The role of your Return to Work Coordinator is to assist you return to work. A Return to Work Coordinator must have an appropriate level of seniority as well as the required knowledge, skills and experience to assist the employer meet their obligations under the Act.

- An employer with a rateable remuneration of \$2 million or more must have a nominated Return to Work Coordinator appointed at all times.
- An employer with a rateable remuneration of less than \$2 million must nominate and appoint a Return to Work Coordinator for the duration of the employer's return to work obligations to an injured worker.

Your Return to Work Coordinator will consult with everyone involved in managing your injury and monitor your recovery and return to work. Your Return to Work Coordinator should be in touch with you soon after you are injured.

Your Agent

Agents are engaged by WorkSafe to manage your claim and make decisions about your entitlement to compensation. Your employer is required to choose an Agent. Your Agent will assign a person to manage your claim. This person will be the primary contact for you and all others involved in your claim, such as your treating health practitioner, employer and any other parties. They may also assist your Return to Work Coordinator plan for your return to work.

The contact details for all Agents appear at the back of this brochure.

A self-insurer

Self-insurers are employers approved by WorkSafe to manage their own injured workers' compensation claims. If your employer is a self-insurer they are responsible for managing your claim and assisting with your return to work. When reading this brochure, any reference to 'your Agent' should be replaced by 'your employer'.

To find out if your employer is a self-insurer, call the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444.

A list of the currently approved self-insurers can be found at [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au).

Your treating health practitioner

Your treating health practitioner plays a crucial role in managing your injury and illness and helping you return to work. You have the right to choose your treating health practitioner. There is more information about getting the most from your treatment later in this guide.

Key people involved in your return to work



Occupational rehabilitation providers

Your Agent may refer you to an occupational rehabilitation provider. These are return to work and rehabilitation specialists who help your employer identify suitable employment for you.

Occupational rehabilitation services are usually delivered at the workplace. If your Agent approves occupational rehabilitation services, you are required to actively use the service and cooperate with the provider of the service.

If you feel occupational rehabilitation services may help you stay at work or return to work, you should talk to your doctor, healthcare provider, employer or Agent about these services. Your Agent must approve the costs of these services before they can be provided.

If you are entitled to receive occupational rehabilitation services, your employer or Agent will provide you with a list of at least three approved providers, where available. You will be asked to choose one provider from this list.

For more information about occupational rehabilitation services, go to the WorkSafe website [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au). You can also discuss occupational rehabilitation services with your Agent.

Your representative

You may be represented, assisted and supported at any stage of the return to work process, including in the consultation process. You may choose anyone (except a legal practitioner) to perform this function. If you have chosen someone to represent, support and assist you, your employer should liaise with this person throughout the return to work process. However, this person cannot meet the your obligations for you.

3.

Key information involved in your return to work



Certificates of Capacity

WorkSafe *Certificates of Capacity* are similar to medical certificates. They should include details of your injury or illness, expected time off work and any work restrictions that may enable you to return to work or stay at work.

Your initial *Certificate of Capacity* can only be obtained from a doctor and cannot be issued for longer than 14 calendar days. You must continue to obtain valid *Certificates of Capacity* until you are able to return to your pre-injury duties and hours. Ongoing *Certificates of Capacity* are usually valid for up to 28 calendar days, unless otherwise approved, and can be obtained from doctors, physiotherapists, chiropractors or osteopaths.

Sign and complete the declaration on each certificate and forward them to your employer promptly. This will enable your weekly payments to be paid. It is recommended that you also keep a copy of your *Certificates of Capacity*.

Return to work arrangements

Your employer must provide you with clear, accurate and current details of your return to work arrangements. Usually your employer will provide these to you in writing.

Your return to work arrangements will depend on your injury and workplace and may include, but are not limited to:

<input checked="" type="checkbox"/>	the suitable employment being provided, including modified or alternative duties that accommodate restrictions identified in your <i>Certificate(s) of Capacity</i>
<input checked="" type="checkbox"/>	any tasks or duties you should avoid
<input checked="" type="checkbox"/>	support provisions such as treatment or training arrangements
<input checked="" type="checkbox"/>	any aids or modifications required
<input checked="" type="checkbox"/>	specific details of your return to work, including hours, days, work breaks and work location
<input checked="" type="checkbox"/>	the name of the person to contact to discuss your return to work
<input checked="" type="checkbox"/>	the name of the supervisor or manager (if different from your usual supervisor or manager)
<input checked="" type="checkbox"/>	a review date (reviews can occur earlier than this date, depending on the circumstances)

4.

The return to work process

Returning to work is a team effort. Communication between everyone involved is vital. By working together constructively, solutions can be found that work for all.

The earlier you start planning to return to work, the better your chances of getting back sooner. You may not have to wait until you are 100 per cent recovered to return to work. While a work-related injury or illness can have a big impact on your life, getting back to work can be good for your health and wellbeing, so it is important to actively participate in your rehabilitation and return to work.

Feeling nervous or worried about getting better and returning to work are natural emotions. Try to keep a positive approach, as this and the right support can help you recover and return to your normal routine.

Planning for return to work

Your employer must start planning for your return to work as soon as they receive your claim for weekly payments or your WorkSafe *Certificate of Capacity*, whichever is earlier, or they are notified by their Agent that they have received these documents. How you and your employer plan for your return to work will depend on your injury or illness, your capacity for work and your workplace.



The return to work process



As stated earlier, your employer has a legal obligation to plan your return to work. This includes:

<input checked="" type="checkbox"/>	obtaining relevant information about your capacity for work (including from your <i>Certificate of Capacity</i>)
<input checked="" type="checkbox"/>	considering whether there are reasonable workplace supports, aids or modifications that would assist you return to work
<input checked="" type="checkbox"/>	assessing and proposing suitable or pre-injury employment options for your return to work
<input checked="" type="checkbox"/>	consulting about your return to work with you and your treating health practitioner and an occupational rehabilitation provider, if one is involved
<input checked="" type="checkbox"/>	providing you with clear, accurate and current details of the return to work arrangements
<input checked="" type="checkbox"/>	monitoring your return to work progress.

Your employer also has obligations under the *Occupational Health and Safety Act 2004* (OHS Act) to provide a safe work environment. They will need to consider their obligations under the OHS Act when planning your return to work.

Your employer must aim to get you back to your pre-injury role wherever possible.

Consulting about return to work

To plan for your return to work, it is essential that your employer consults with you directly. Your employer also needs to consult (with your consent) with your treating health practitioner and occupational rehabilitation provider, where one is involved.

The types of things your employer should consult with you about include:

<input checked="" type="checkbox"/>	your capacity for work and any limitations you may have
<input checked="" type="checkbox"/>	proposed options for duties and hours that you could do now or when your recovery progresses
<input checked="" type="checkbox"/>	other changes to support your return to work, such as reasonable aids or modifications, supervision arrangements or your work location
<input checked="" type="checkbox"/>	what to expect in your return to work
<input checked="" type="checkbox"/>	how they can support you at work during your recovery

The return to work process



These discussions will enable your employer to provide you with clear, accurate and current details of your return to work arrangements.

Depending on the circumstances, your employer may consult with you face to face, by telephone or in writing. Regardless, when consulting with you, your employer needs to:

- | | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | share relevant information about your return to work |
| <input checked="" type="checkbox"/> | provide a reasonable opportunity for you to consider the information and express your views |
| <input checked="" type="checkbox"/> | take your views into account. |

Consultation may often lead to agreement about aspects of your return to work. Your employer must consider your response and input. Although desirable, agreement is not required as part of consultation.

Suitable employment

Getting back to work that is safe and matches your capacity for work is part of your rehabilitation while you are recovering. The aim is to help you stay at work until you can do your normal work.

Suitable employment could mean taking on different duties or making reasonable changes to the tools or equipment you use. It could mean working reduced hours while you recover or modifying your duties until you can return to your normal work. When assessing suitable employment, your employer identifies you can do, taking into account your current work capacity, medical advice and your individual circumstances.

Return to work arrangements

Your employer needs to provide you with clear, accurate and current details of your return to work arrangements. Usually, these will be provided to you in writing.

Your return to work arrangements should be implemented as soon as possible. You may not have to be fully recovered or to have finished treatment before you return to work. Medical or other treatment (such as physiotherapy or psychology) can continue after you have returned to work.

Keep talking with your Return to Work Coordinator and advise them if you experience any problems when you return to work so that these can be resolved early.

If you or your treating health practitioner have concerns about the arrangements, you should discuss these with your Return to Work Coordinator and Agent. You or your treating health practitioner can also suggest modifications to your return to work arrangements.

If you have any concerns about your workplace's safety, you should talk to your Health and Safety Representative, supervisor, employer or union.

Reviewing your return to work arrangements

Over time, as your capacity for work changes, your employer needs to reassess the suitable employment options and review your return to work arrangements.

Initially, the arrangements should be reviewed regularly to ensure they are relevant and match your current capacity for work. Changes may need to be made. These might include additional rest breaks in the early stages or extra modification to your duties, in line with your recovery.

It is recommended that you, your Return to Work Coordinator and treating health practitioner formally review your return to work arrangements at least every 28 days. They can also be reviewed when your medical restrictions change, whichever is sooner.

Returning to normal duties and hours can vary for each worker. It can be a quick or gradual process that may involve several stages, including increases to work hours, duties or responsibilities as your injury or illness improves. Talk to your treating health practitioner, Agent or Return to Work Coordinator if you have concerns about the pace of your progress.

The final step in the return to work process is to obtain a full clearance to resume your normal job from your treating health practitioner, wherever possible. A *Certificate of Capacity* is used for this purpose. It will set a date when you are expected to be 'fit for full normal duties'. Once your employer receives this certificate they can expect that you will perform all normal duties and hours from the nominated date.



Ongoing employment

If you are unable to return to your normal job, your employer has an obligation to provide you with suitable employment when you have some capacity for work.

The obligation continues for 52 weeks. This may not be 52 consecutive weeks, as it only takes into account those periods that you are unable to do your full pre-injury duties and hours as a result of your work-related injury. The obligation starts from when you provide your employer with either a claim for weekly payments or your first WorkSafe *Certificate of Capacity*, whichever is earlier, or your employer's Agent advises them that they have received these documents.

If you recover sufficiently and are able to return to your normal job and hours during this 52 week period, your employer is required to provide you with your pre-injury or equivalent employment.

Employers must meet these requirements to the extent it is reasonable to do so. In most circumstances, it is expected that it will be reasonable for employers to fulfil this obligation.

Many employers continue to support their injured workers by providing suitable employment for a longer time period, but there is no legal obligation to do so.

Agents will write to workers who have an incapacity for more than 30 weeks to ensure they are aware of the duration of the employer obligation to provide suitable or pre-injury employment.

When you can't return to work with your pre-injury employer

Despite the best efforts of everyone involved, some workers may be unable to return to work and stay at work with their pre-injury employer. It's important that you keep your Agent fully informed to ensure you receive appropriate services for your situation.

If you are unable to return to work and stay at work with your pre-injury employer, the following assistance may be available through the Agent:

- New Employer Services – a service delivered by an occupational rehabilitation provider. It's designed to help you find a safe, suitable and sustainable job with a new employer if you are unable to return to work with your pre-injury employer.
- The WorkSafe Incentive Scheme for Employers – aimed at helping you to secure full-time or part-time permanent employment with a new employer. To be eligible you need to be ready, fit and motivated to return to work, but unable to return to your pre-injury employer.
- WorkSafe may also pay for short-term vocational training designed to assist you to obtain suitable employment.

For more information about these options, see the *New Employer Services* and *WorkSafe Incentive Scheme for Employers* brochures available on the WorkSafe website at [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au). You should also discuss these options with your Agent.

The return to work process

If an issue arises about your return to work

Sometimes, an issue may arise about your return to work that you feel is not being addressed through normal communication between you and your employer. If this happens, you can ask if your employer has an agreed issue resolution procedure to help resolve it. If they don't have one, there is a Return to Work Issue Resolution procedure specified in the law that you can use. For more information about this, contact your Agent or refer to the *Steps to resolving return to work issues* fact sheet available at **[worksafe.vic.gov.au](https://www.worksafe.vic.gov.au)**.

You can contact your Agent at any point to discuss any aspect of your return to work progress and to raise any queries or concerns that you may have.

If you have any concerns about your workplace's occupational health and safety, you should talk to your Health and Safety Representative, supervisor, employer or union.

5.

Getting assistance from your treating health practitioner

Nothing is more important than your wellbeing. When you visit your treating health practitioner speak up about anything you're unsure of and ask about how you can assist your recovery.

Getting the most out of your consultations with your doctor or healthcare provider is important to getting better and returning to work.

Your *Certificate of Capacity* contains important information about your injury or illness and your work status and restrictions. The *Certificate of Capacity* helps your employer plan for your return to work.

If your treating health practitioner isn't familiar with what you do in your job, it can be difficult for them to assess your capacity to return to work. Help out when you visit your treating health practitioner by taking a copy of your position description and a list of duties. Talk about the specific requirements of your role and what you can do, not just what you can't.

Your employer has an obligation to consult with the people involved in your return to work. This includes your treating health practitioner (after obtaining your consent). Ask your treating health practitioner to discuss available duties at your workplace with your Return to Work Coordinator. You may want to be involved in these discussions.

If you are unable to return to work, your treating health practitioner may be able to give you advice about when it is likely that you will recover. They may also be able to provide advice about the kinds of things you can do to continue your recovery at home.

If your treatment is working, you should notice improvement. If you are not happy with your progress, talk to your treating health practitioner about other treatment options. Alternatively, you can seek a second opinion from another treating health practitioner.



Getting assistance from your treating health practitioner

Services to help you get better

To help you get better, WorkSafe can pay the reasonable costs of medical and like services for your work-related injury or illness. Your doctor is primarily responsible for identifying the medical and like services that are appropriate for your work-related injury or illness. After a particular service is deemed appropriate, you can choose which treating health practitioner you visit.

You generally don't need to seek approval from your Agent before starting medical treatment if it:

<input checked="" type="checkbox"/>	relates to your work-related injury or illness and will contribute to your recovery or rehabilitation
<input checked="" type="checkbox"/>	follows straight on from the incident that caused the injury or illness
<input checked="" type="checkbox"/>	is a treatment that doesn't require a medical referral (chiropractic, dental, osteopathy, optometry, physiotherapy or podiatry)
<input checked="" type="checkbox"/>	is provided by a healthcare provider registered with WorkSafe
<input checked="" type="checkbox"/>	is not considered to be experimental

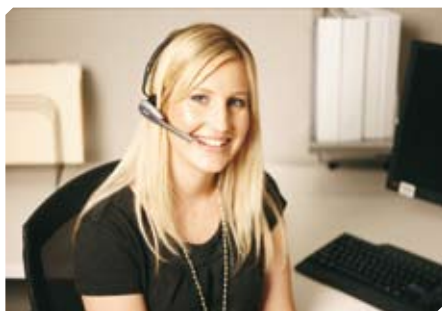
In order to access other services, a worker is required to obtain a referral from a medical practitioner and, in some instances, prior approval from the Agent.

For a complete list of available services, including those that require prior approval, visit [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au).



6.

Where to get more information



WorkSafe Advisory Service

The WorkSafe Advisory Service is a free service that:

- explains return to work and rehabilitation rights and obligations
- helps to resolve worker and employer concerns
- answers general occupational health and safety enquiries
- advises workers on their rights, including health and safety, and what to do if injured or ill.

Telephone: 1800 136 089 or (03) 9641 1444

Email: info@worksafe.vic.gov.au

Visit

WorkSafe Victoria

222 Exhibition Street

Melbourne, Victoria 3000

worksafe.vic.gov.au

Write to

WorkSafe Advisory Service

GPO Box 4306

Melbourne, Victoria 3001

Contact

- your union representative
- your Agent

WorkSafe Victoria

WorkSafe Agents

Agent contact details are all available at
[worksafe.vic.gov.au/agents](https://www.worksafe.vic.gov.au/agents)

For information about WorkSafe in your
own language, call TIS National on 13 14 50

Advisory Service

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