

Return to Work Obligations

April 2011

The most important person in your recovery is you. Actively participating in the return to work process can help your rehabilitation.

While 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.

You don't 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.

The earlier you start planning to return to work, the better your chances of getting back to work sooner. Whether it's on reduced hours in your regular job or on modified or alternative duties, getting back to work is an important part of your rehabilitation while you are recovering.

Your legal obligations

When you have an incapacity for work, you have responsibilities under the law to do what you can to get back to work. These obligations are to:

✓	make reasonable efforts to return to work in suitable or pre-injury employment
✓	make reasonable efforts to actively participate and cooperate in planning for your return to work
✓	actively use an occupational rehabilitation service, if provided and cooperate with the provider of that service
✓	actively participate and cooperate in assessments of your capacity for work, rehabilitation progress or future employment prospects
✓	actively participate and cooperate with the WorkSafe Agent (Agent) in an interview to enhance your opportunities to return to work, if requested to do so.

Meeting your obligations

✓	Keep in regular contact with your employer, Agent and occupational rehabilitation provider (if involved). Talk to them about what you think you can do at work or anything you think may help you get back to work sooner.
✓	Regularly provide information about the progress of your recovery to your employer, Agent and occupational rehabilitation provider. This may include phoning work to let them know how your treatment is going, what advice the treating health practitioner has given you about getting back to work and providing your employer with your WorkSafe <i>Certificate of Capacity</i> .
✓	Make every reasonable effort to respond in a timely way to suitable employment options proposed by your employer. If the proposed employment is within your capacity, you must make every reasonable effort to get back to work. If the proposed employment does not match your capacity, talk to your Return to Work Coordinator.
✓	Attend any meetings arranged for your return to work and talk about your progress. If you can't attend a meeting, advise the person who arranged the meeting as soon as possible and make alternative arrangements.
✓	Make sure your employer, Agent and occupational rehabilitation provider have your up-to-date contact details. If they try and contact you, get back to them quickly.
✓	Ask for help if you need more information, advice or assistance.

If you do not meet your obligations

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 discuss your injury, circumstances and your progress towards getting back to work.

After considering your progress and circumstances, if your Agent still believes that you are not making reasonable efforts to get back to work and meet your obligations, your Agent may take the following action:

Step 1: Send you a written warning that your weekly payments will be suspended from a specified date unless compliance with the obligations is met. The specified date will be at least 14 days after the written warning is given, but no more than 60 days after the warning is given. This letter will give you information about how to demonstrate you are meeting your return to work obligations. This will include the time frames you must meet and the consequences of failing to comply with your obligations.

Step 2: Suspend your weekly payments for 28 days, during which time a further opportunity will be given to you to meet your obligations. A letter will be sent to you providing further information about what you can do to meet your obligations in the 28 days.

Step 3: Terminate your weekly payments.

Working together

Your employer has obligations under the law to help you get back to work. To the extent that it is reasonable to do so, your employer must provide you with suitable or pre-injury employment, plan your return to work and consult with you, your treating health practitioner and occupational rehabilitation provider (if one is involved) about your return to work. This consultation could include talking about changing your hours or duties while you recover.

Your employer has an obligation to make return to work information available to you, as well as an obligation to nominate and appoint a Return to Work Coordinator who has an appropriate level of seniority and who is competent to assist your employer to meet their return to work obligations.

If you believe your employer isn't meeting their return to work obligations, you should talk to them about it. Alternately, you can contact your Agent, the WorkSafe Advisory Service or talk to your union representative.

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 (where available and if the 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. 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 your obligations for you
- suitable or pre-injury employment to be provided for 52 weeks following a work-related injury
- maintenance of the privacy of your confidential information, and
- the opportunity to have decisions regarding your claim reviewed.

Further information

For more information about your return to work obligations, please:

- visit our website **[worksafe.vic.gov.au](https://www.worksafe.vic.gov.au)**
- call the WorkSafe Advisory Service on **(03) 9641 1444** or freecall **1800 136 089**
- read the WorkSafe publication *Returning to work – a guide for injured workers*
- contact your Agent
- contact your union representative

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