

# SESLHD PROCEDURE COVER SHEET



**Health**  
South Eastern Sydney  
Local Health District

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<b>TYPE OF DOCUMENT</b>	Procedure
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<b>EXECUTIVE SPONSOR</b>	Director People and Culture
<b>AUTHOR</b>	Chantelle Khanlu Manager, Workers Compensation & Injury Management
<b>POSITION RESPONSIBLE FOR THE DOCUMENT</b>	Vee-Lyn Tan Head of Health Safety and Wellbeing <a href="mailto:Veelyn.Tan@health.nsw.gov.au">Veelyn.Tan@health.nsw.gov.au</a>
<b>FUNCTIONAL GROUP(S)</b>	Health Safety and Wellbeing
<b>KEY TERMS</b>	Injury Management; Return to Work; Recovery at Work
<b>SUMMARY</b>	This district procedure is in place to support employees post workplace injury. This procedure aligns with and supports the NSW Ministry of Health Recovery and Return to Work Policy. It includes obligations of both staff and the organisation as well as connection to work health and safety procedures.

## **COMPLIANCE WITH THIS DOCUMENT IS MANDATORY**

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## 1. POLICY STATEMENT

This procedure has been developed to provide information for South Eastern Local Health District (SESLHD) employees on actions that will be taken in the event they sustain a work-related injury or illness. It also includes actions for the management of a disputed or non-work-related injury or illness (NWRI). It acts as the Return to Work Program for SESLHD.

The document aims to ensure a standard and consistent response to workplace injuries across SESLHD which is in line with NSW Health procedures and policies, as well as legislative requirements and guidelines from regulators. Procedures include immediate actions to be taken at the time of the injury, assistance to be provided to a worker throughout their recovery and return to work and the roles of the stakeholders in this process.

## 2. BACKGROUND

### 2.1 Recover at Work (R@W) consultation and implementation

This Rehabilitation, Recovery and Return to Work Procedure and all required programs will be implemented following consultation with:

- workers, via the intranet or other accepted means of communication and through WHS Committees and relevant Health and Safety Representatives,
- industrial associations which are represented in the workplace, and
- other relevant stakeholders.

### 2.2 South Eastern Local Health District commitment

SESLHD is committed to providing a safe work environment and systems of work for all workers and a safe environment for all those on our site/s. We are committed to regulatory compliance and will ensure work practices reflect our policy and strategic objectives.

Safety is up to each and every one of us to keep front of mind, and ensuring we foster a positive safety culture is a top priority at SESLHD. Our aim is for all workers to finish their shifts both physically and mentally well, having been supported to undertake their work safely.

The [Work Health and Safety \(WHS\) Act 2011](#) (NSW) and regulated legislation requires provision of a safe workplace and contains specific requirements for both SESLHD and its workers which can be enforced by a range of measures.

As a public sector agency, we are committed to, and expect all workers to commit to:

- Eliminating unsafe practices of both physical and psychosocial origins, to reduce the incidence of workplace injury and illness
- Fostering a positive safety culture which identifies, reports and controls hazards and unsafe actions
- Complying with legislative and regulatory requirements

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- Engaging in consultation regarding ways to improve the safety of our staff
- When planning a safe recovery of an injured worker, collaborating with the worker, the worker's supervisor/manager, the Recovery Partner, the treating medical and allied health practitioners and TMF Claims Manager
- The identification of, provision of, and participation in, suitable duties (including reasonable modifications to the workplace, if required and where reasonably practicable).

### This commitment further extends to:

Collaboratively developing a Recover at Work Plan to ensure that injury or illness is managed as soon as possible;

Supporting the worker and ensuring a recovery at work or, if not possible, an early return to work is a priority;

Participating and cooperating in the development of injury management plans

Ensuring that workers (and anyone representing them) are aware of their rights and responsibilities, including the right to choose their own doctor and, if required, a SIRA approved workplace rehabilitation provider;

Ensuring that workers understand their responsibility to provide accurate information about the injury and its cause;

Consulting all stakeholders and, where applicable, worker's representatives;

Maintaining the confidentiality of a worker's records, in line with the [Privacy and Personal Information Protection Act 1998](#) (NSW) [PIPP ACT]; and

Investigating alternate duties in consultation with the worker, with the same or different employer, and assisting the worker to reach maximum medical improvement where a return to pre-injury duties is not possible.

Investigating and addressing any health and safety issues which may have led to injury.

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### 2.3 Summary of rights and obligations

Workers will be notified of their rights and obligations in writing following notification of an injury/illness. A summary is below:

Worker Rights	Worker Obligations
Privacy and confidentiality.	Comply with advice of medical professionals and Recover at Work Plan, to minimise risks of exacerbation or re-injury.
Suitable duties as far as reasonably practicable.	Report work-related injury/illness as soon as possible (Within 48hrs).
Be consulted and involved in identifying suitable duties and in developing the Recover at Work Plan.	Participate in the recover at work process.
Choice of a Nominated Treating Doctor.	Make all reasonable efforts to recover and return to work as soon as possible.
Access to interpreter services where required.	Maintain regular contact with the TMF Claims Service Provider and Recovery Partner
Protection from dismissal resulting from the injury, within six (6) months of first becoming unfit for employment.	Nominate a treating doctor and provide regular certificates of capacity to support any absences related to the injury/illness.
Access mechanisms for resolving complaints and disputes.	Attend treatment outside of work hours wherever possible.
Have a say in the choice of their rehabilitation provider (where one is required).	Participate and cooperate in establishing an Injury Management Plan and comply with the actions required within this plan.
	Participate in treatment as directed by the nominated treating doctor.

### 2.4 Key definitions

<b>Case conference</b>	A meeting between two or more stakeholders to discuss matters related to the claim, injury management or return to work planning. A case conference can be held face-to-face, over the phone or by video link.
<b>Early intervention</b>	Following an injury/illness potential risks are identified, a worker's individual needs are assessed, and treatment and/or rehabilitation services begin as soon as possible.

<p><b>Early Stakeholder Intervention (ESI) or Support Action Strategy (SAS) call</b></p>	<p>A collaborative case management approach to managing complex and psychological claims. This is known as the Early Stakeholder Intervention (ESI) process or Support Action Strategy (SAS) and involves a teleconference between some key stakeholders at the earliest juncture from when the injury/illness is notified.</p>
<p><b>Functional Capacity Assessment</b></p>	<p>A functional capacity evaluation or assessment is a set of tests, practices and observations that are combined to determine the ability of the evaluated person to function in a variety of circumstances, most often employment, in an objective manner. This assessment must be undertaken by an allied health professional accredited by SIRA.</p>
<p><b>Injury</b></p>	<p>The <a href="#">Workers Compensation Act 1987</a> (NSW) Section 4 defines injury as:</p> <ul style="list-style-type: none"> <li>a) means personal injury arising out of or in the course of employment,</li> <li>b) includes a <b>disease injury</b>, which means—             <ul style="list-style-type: none"> <li>(i) a disease that is contracted by a worker in the course of employment but only if the employment was the main contributing factor to contracting the disease, and</li> <li>(ii) the aggravation, acceleration, exacerbation or deterioration in the course of employment of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease, and</li> </ul> </li> <li>c) does not include (except in the case of a worker employed in or about a mine) a dust disease, as defined by the <a href="#">Workers' Compensation (Dust Diseases) Act 1942</a> (NSW) or the aggravation, acceleration, exacerbation or deterioration of a dust disease, as so defined.</li> </ul>
<p><b>Injury Management Plan (IMP)</b></p>	<p>An IMP is a customised plan for co-ordinating and managing those aspects of injury management that relate to the treatment, rehabilitation and retraining of an injured worker, for the purpose of achieving a timely, safe and durable return to work for the worker. An IMP can provide for the treatment, rehabilitation and retraining to be given or provided to the injured worker. It is a document created by the insurer in consultation with the worker and other stakeholders and is required when there is an injury which results in an incapacity for work (whether total or partial) that lasts for seven (7) days.</p>
<p><b>Nominated Treating Doctor (NTD)</b></p>	<p>A doctor selected by the worker to manage their injury/illness and recovery and to assist with a safe and durable return to work.</p>

<p><b>Pre-Injury Average Weekly Earnings (PIAWE)</b></p>	<p>The weekly average of the gross pre-injury earnings received by the worker for work in any employment in which the worker was engaged at the time of the injury, including:</p> <ul style="list-style-type: none"> <li>• wages, including any paid leave and loadings</li> <li>• shift, overtime and other allowances paid</li> <li>• commission and piece rates</li> <li>• any government subsidies provided in lieu of work performed.</li> </ul> <p>Where a worker has the use of a non-monetary benefit (for example, a motor vehicle) and after the injury they no longer have the use of that benefit, then the cash value of that benefit can also be included.</p>
<p><b>Psychological injury</b></p>	<p>Psychological injury or illness includes a range of cognitive, emotional and behavioural symptoms that interfere with a worker’s life and can significantly affect how they feel, think, behave and interact with others. Psychological injury may include such disorders as depression, anxiety or post-traumatic stress disorder.</p> <p>Job stress is commonly used to describe physical and emotional symptoms which arise in response to work situations, but it is not in itself a diagnosed disorder or a psychological injury.</p>
<p><b>Public Health Organisation (PHO)</b></p>	<p>Refers to a range of health entities including local health districts, specialty networks and non-government affiliated health organisations that fall under the collective management of NSW Health.</p>
<p><b>Recovery Partner</b></p>	<p>Employees of SESLHD, whose key roles are identifying the needs of the worker; understanding any constraints on the employer; facilitating consultation between the worker, SESLHD, TMF Claims Manager and treating health professionals; developing the recover at work plan with the supervisor/manager and the worker in line with the current certificate of capacity; and identifying appropriate and meaningful suitable duties for the worker for the development of the recover at work plan. Details of the relevant Recovery Partners for SESLHD, can be found on the <a href="#">local intranet page</a>. Recovery Partners are sometimes called Recovery Partners or Return to Work Coordinators.</p>
<p><b>Recover at work (R@W) Plan</b></p>	<p>An individual plan which the employer (or an approved rehabilitation provider) develops in consultation with the worker to manage the recovery at work.</p>
<p><b>Significant injury</b></p>	<p>An injury likely to deem a worker unable to work for more than seven continuous days, whether or not those are workdays, and whether or not the worker’s incapacity is total, partial or a combination of both.</p>
<p><b>State Insurance Regulatory Authority (SIRA)</b></p>	<p>SIRA is the government organisation responsible for the regulatory functions for workers compensation insurance, motor accidents compulsory third party (CTP) insurance and home building compensation.</p>

<b>Suitable duties / work</b>	Work that is suited to a worker’s current capacity, taking into account their certificate of capacity, medical information, skill set and capability, work experience and pre-injury employment. Suitable duties should be meaningful and, so far as reasonably practicable the same as, or equivalent to, the employment in which the worker was at the time of the injury.
<b>Suitable employment</b>	<p>Employment for which the worker is currently suited:</p> <p>(a) having regard to:</p> <ul style="list-style-type: none"> <li>(i) the nature of the worker’s incapacity and the details provided in medical information including, but not limited to, any certificate of capacity supplied by the worker (under section 44B of the <i>Workers Compensation Act 1987 No 70</i>), and</li> <li>(ii) the worker’s age, education, skills and work experience, and</li> <li>(iii) any plan or document prepared as part of the return to work planning process, including an injury management plan under Chapter 3 of <i>Workplace Injury Management and Workers Compensation Act 1998</i>, and</li> <li>(iv) any occupational rehabilitation services that are being, or have been, provided to or for the worker, and</li> <li>(v) such other matters as the Workers Compensation Guidelines may specify, and</li> </ul> <p>(b) regardless of:</p> <ul style="list-style-type: none"> <li>(i) whether the work or the employment is available, and</li> <li>(ii) whether the work or the employment is of a type or nature that is generally available in the employment market, and</li> <li>(iii) the nature of the worker’s pre-injury employment, and</li> <li>(iv) the worker’s place of residence.</li> </ul>
<b>TMF Claims Manager / TMF Claims Service Provider</b>	Day-to-day responsibility for managing workers compensation claims for NSW Health is undertaken by a number of icare-appointed insurers called TMF Claims Managers or Claims Services Providers. The TMF Claims Managers work closely with the recovery partners and workers to conduct and oversee the management of workers compensation claims.
<b>SIRA Accredited Rehabilitation Provider</b>	External workplace rehabilitation providers are organisations made up of health professionals (from the disciplines of Allied Health) approved by SIRA to provide specific rehabilitation related services aimed at returning workers to suitable employment.

<b>Vocational assessment</b>	An assessment undertaken by a qualified rehabilitation provider which identifies appropriate vocational opportunities for workers. It considers the worker's capacity, transferrable skills, experience and interests, as well as the availability of the identified vocations through a job market analysis. A vocational assessment may be conducted where a worker is unable to return to their pre-injury role or to enable the delivery of a work capacity decision.
<b>Work capacity</b>	The worker's current ability to undertake any form of work, be it in their pre-injury employment or suitable alternate employment.
<b>Worker</b>	Under the <a href="#">Workplace Injury Management and Workers Compensation Act 1998</a> (NSW) worker means a person who has entered into or works under a contract of service or a training contract with an employer (whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, and whether the contract is oral or in writing).

## 2.5 Legal and legislative framework

The following legislation sets out the obligations of all stakeholders required to manage the rehabilitation, recovery and return to work for a worker:

- [Workers Compensation Act 1987](#) (NSW)
- [Workplace Injury Management and Workers Compensation Act 1998](#) (NSW)
- [Workers' Compensation \(Dust Diseases\) Act 1942](#) (NSW)
- [Workers Compensation Legislation Amendment Act 2012](#) (NSW)
- [Workers Compensation Legislation Amendment Act 2018](#) (NSW)
- [Workers Compensation \(Bush Fire, Emergency and Rescue Services\) Act 1987](#) (NSW)
- [Workers Compensation Regulation 2016](#) (NSW)
- [Work Health and Safety Act 2011](#) (NSW)
- [Work Health and Safety Regulation 2017](#) (NSW)

The State Insurance Regulatory Authority (SIRA) has guidelines for claiming workers compensation to support, inform and guide workers, employers and other stakeholders:

- [SIRA Workers Compensation Guidelines](#)
- [NSW workers compensation guidelines for the evaluation of permanent impairment](#)
- [Workers compensation medical dispute assessment guidelines](#)
- [Recover at work planning tool](#)

## 2.6 Self-Insurance arrangement

NSW Health, including all public health organisations, are self-insured through the NSW Government managed fund scheme known as the Treasury Managed Fund (TMF). The TMF



contracts experienced providers to manage the claims on behalf of the TMF and its agencies, including NSW Health.

## **2.7 Using injury data to improve performance**

SESLHD is committed to improving recover at work outcomes. One way of achieving this is by analysing injury data to identify trends and to identify, assess and control/eliminate hazards. Performance data must include lead and lag indicators, examples include:

- Performance against health and safety goals and objectives;
- Workers compensation internal claims management audit results;
- Health and safety incident notifications and investigations;
- Workers compensation statistics; and
- People matter employee survey/other employee engagement or culture survey results.

## **2.8 Interpreter services**

Workers have access to interpreter services through SESLHD, should this be required. A note will be made on the worker's file when an interpreter is required or used.

## **3. RESPONSIBILITIES**

SESLHD is responsible for ensuring that workers can return to work safely. To do this we will develop a plan for a worker to return to work in support of their recovery. Depending on the nature of the injury and the progress of recovery, a worker might be unable to work full-time or perform all their usual duties. Workers with a reduced capacity will be provided with suitable duties, aligned with the medical restrictions indicated on their certificate of capacity.

Suitable duties may require adjustments and/or modifications in the work or the workplace to support a worker during their recovery such as installing specific equipment or changing a process.

Potential duties should be carefully considered to ensure they don't pose physical or psychosocial risks to the worker.

### **3.1 Worker**

The worker must notify their supervisor/manager of any work-related injury or illness as soon as possible after it occurs and prior to leaving the workplace where possible and safe to do so. All workers will be proactive in aiding in the prevention of workplace injuries to themselves and others. This includes not performing duties which do not comply with their certified capacity.

Workers must cooperate with SESLHD to meet recover at work obligations and to make all reasonable efforts to return to work. This includes collaborating in the development and implementation of an injury management and recover at work plan which would require:

- Specifying one nominated treating doctor (NTD) who is prepared to participate in the development and ongoing management of their recovery and return to work.
- Review the Consent Form provided by SESLHD. The consent form is to enable active management of the claim, treatment and recovery. Consent is voluntary and must be informed. There are potential risks with not providing consent and these are outlined in the form.
- Actively participating in the development of the R@W Plan. Signing all certificates of capacity.
- Attending appointments with the NTD as required and obtaining certificates of capacity at least one day prior to the current certificate expiring. Reviews should be booked in advance in order to meet this obligation.
- Providing updated certificates of capacity to the Recovery Partner and supervisor/manager prior to expiration and within 24 hours of receipt.
- Reporting any changes in capacity directly to the Recovery Partner and (where it impacts on work duties) their supervisor/manager.
- Immediately informing the supervisor/manager and the Recovery Partner if unable to perform the tasks outlined in the R@W Plan or if unable to attend work for any reason.
- Attending all required treatments, arranging appointments outside work hours where possible or at the beginning or end of the shift.
- Attending all appointments arranged by the TMF Claims Manager to assist with the management of the claim and support the graduated return to the pre-injury role. (Noting relevant Guideline requirements for insurers on arranging appointments).
- Completing Section 3 of each Certificate of Capacity – Employment Declaration.

### **The worker must also tell the nominated treating doctor (NTD):**

- exactly how and when the injury or illness occurred and any previous related injuries/illnesses including any previous or current treatment;
- the type of duties and tasks normally performed at work, including days worked, hours and shift patterns; and
- the name and contact details of the Recovery Partner and claim number (when obtained).

### **3.2 Supervisor / Manager:**

- Must support the worker in their recovery/return to work, including the identification of suitable duties when required. Must ensure the incident is entered into ims+, is investigated and preventative actions are implemented (see WHS better practice procedures and incident management policies for detail). The principal responsibility rests with the direct line supervisor/manager to monitor and support the worker in the

workplace whilst on a R@W Plan, with support, guidance and advice provided by the Recovery Partner.

- Ensure any notifiable incident is immediately reported to senior management/WHS unit so that it can be reported to SafeWork NSW within the legislated timeframes (see 2.1 for detail).
- Ensure a documented induction into the work/workplace is completed for an employee commencing duties in a position/unit other than their substantive role.
- Return all signed R@W Plans to the Recovery Partner within required timeframes.
- Contact the Recovery Partner in relation to any concerns about the R@W Plan or about their own ability to assist the worker in the recover at work process.
- Ensure the worker is not asked to perform duties outside of their certified capacity.
- Remain in contact with the worker as agreed in the R@W Plan.
- Attend case conferences as requested by the Recovery Partner to address any identified barriers with the R@W Plan.
- Forward each new certificate of capacity to the Recovery Partner within 24 hours of receipt.
- Maintain usual rostering systems and practices including HealthRoster entries.

### **3.3 Recovery Partner**

SESLHD is committed to participating and cooperating in developing a R@W Plan for an injured worker through the Recovery Partner.

The Recovery Partners details can be found in [Workers Compensation and Injury Management Contacts](#).

The Recovery Partner carries out the day to day duties of the R@W Program and is the link between the worker and their support team. The Recovery Partner has the authority to represent and make decisions for the employer in relation to the functions specified below. The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer's responsibility. Duties of the Recovery Partner include:

- Compiling the initial notification information.
- Coordinating the worker's recovery at work, including identifying suitable work opportunities.
- Liaising with all key stakeholders, both internal and external. Including but not limited to the injured worker, the supervisor/manager, the NTD, insurer, treatment providers, union and workplace rehabilitation provider.
- Preparing, implementing, monitoring and reviewing a R@W Plan (in consultation with key parties), that documents the worker's capacity and the duties available.

- Supporting the redeployment of workers (internally or externally) into suitable work, when they cannot return to their pre-injury duties.
- Keeping injury and recover at work statistics.
- Keeping confidential case notes and records in line with laws and guidelines.
- Promoting the health benefits of good work to the workforce.
- Contributing to the improvement of relevant policies and systems.
- Providing the worker with the [“Injured at Work: A Recovery at Work Guide for Workers”](#)
- Arrange review meetings as required to update the R@W Plan based on the certificates of capacity provided by the worker’s NTD prior to the completion of the current plan.
- Initiate, arrange and attend case conferences with the NTD to facilitate improvement in the worker’s recovery and address any issues/barriers.
- Remain in contact with the worker as agreed in the IMP and R@W Plan.
- Support the worker in their recovery and return to work, communicating with the supervisor/manager and by ensuring all certificates of capacity and R@W Plan are current and cover all periods of injury.
- Assisting workers and supervisors/managers in understanding their rights and responsibilities.

If there is a conflict of interest with the worker or the worker’s supervisor/manager, SESLHD will consult with the worker and supervisor/manager to ensure an appropriate alternate is allocated.

### **3.4 Nominated Treating Doctor (NTD)**

A NTD is the medical practitioner the worker nominates (normally a General Practitioner) to manage their recovery from injury and to assist in safe recovery at/return to work.

The NTD will:

- Recommend and organise treatment for the workers injury or illness.
- Cooperate and communicate with SESLHD, the claims manager, treating health professionals and rehabilitation provider (if involved) about the injured worker’s condition, needs, progress and capacity for work.
- Work with the TMF Claims Manager and SESLHD to develop the worker’s Injury Management Plan.
- Complete the certificate of capacity.
- Review the workers condition and capacity for work on a regular basis.
- Recommend and arrange treatment (including referrals) as needed and review the worker’s condition and fitness for work, assisting with their recovery at work as needed.

- Inform the employer and the TMF Claims Manager about ongoing injury management needs.
- Participate in case conferences and medical reviews as requested by the TMF Claims Manager and SESLHD to ensure a speedy recovery and that the worker's return to work is on track, ensuring timeframes are developed and maintained that align with evidence-based recovery for the relevant injury/illness.

### **3.5 SIRA-approved workplace rehabilitation provider will:**

- Identify barriers to the worker's recovery and develop strategies to address these.
- Identify suitable duties.
- Conduct workplace assessments as required.
- Focus on recovery in the worker's pre-injury employment or alternative suitable employment.
- Assist in the redeployment, retraining and job seeking efforts when the worker is unable to return to pre-injury duties.

### **3.6 TMF Case Manager**

The workers compensation case manager is a person assigned to manage a worker's claim. They are employed by the TMF Claims Manager.

### **3.7 TMF Claims Manager**

The TMF Claims Managers are responsible for developing an Injury Management Plan, determining overall liability and approving and managing all reasonably necessary treatment and medication requests.

The TMF Claims Manager for SESLHD is Employers Mutual Limited.

Workers will be consulted and involved in identifying suitable duties and in developing the R@W Plan. The TMF Claims Manager is required to develop an IMP where a worker is not able to complete their usual duties for a period of seven (7) days. Legislation refers to "an incapacity to work" whether total or partial. If a worker unreasonably refuses to comply with their IMP, weekly benefits may be suspended. Prior to suspension of benefits, compliance by the worker will be managed by the TMF Claims Manager.

### **3.8 Union**

Provides support and advice to members who are injured.

Assists the worker to negotiate any aspect of the recover at work process, if requested.

## **4. RECOVERY AND RETURN TO WORK FOR WORK-RELATED INJURIES OR ILLNESS**

SESLHD is committed to the recovery and return to work of injured or ill workers in a safe, durable and timely manner. Our rehabilitation, recovery and return to work program aims to foster positive attitudes and champion early access to treatment and support services. We encourage workers to maintain consistent engagement with the workplace and be focused on a 'return to health' in a safe and supportive workplace environment.

While a worker is recovering post injury, if they are unable to immediately return to their pre-injury duties, recovery at work is best practice. This will be facilitated through the provision of temporary alternate suitable duties, that meet the current work capacity of the worker, reflected in a recover at work plan. The Recovery Partner will assist the worker and their supervisor/manager with the recovery and return to work process.

See Section 7 for guidance on where a change of rehabilitation goal (away from return to pre-injury duties) is medically required.

#### **4.1 Immediate response to a workplace injury**

Workers must report all work-related injuries and illnesses to their immediate supervisor/manager as soon as practicable, preferably within 24 hours. Where possible and safe to do so, this must be before leaving the workplace following an injury.

All incidents and injuries will be reported into the injury/incident management system (ims+). This must be as a 'worker' incident to ensure all the relevant information about the injured worker is included. Training in this system and how to register an incident or injury is provided as mandatory training on commencement of employment. Once the injury notification has been submitted, it is reviewed by the supervisor/manager, Work Health and Safety and, where relevant, forwarded to the recover at work team.

In the event that the worker is unable to submit an incident report within 24 hours of an injury, their supervisor/manager must complete the injury notification on their behalf.

Failure to report an injury in a timely manner may delay access to appropriate medical treatment, return to work or access to workers compensation benefits.

Any injury or illness as a result of alleged bullying/harassment will concurrently be referred to the relevant workforce support team to ensure additional support is offered and information on progression of other processes to investigate the incident will be provided direct to the worker and will not impact the determination of their claim for compensation.

When a psychological injury is raised through a grievance or other employee relations or human resources process, the usual requirement for reporting to the Claims Manager within 48 hours, still applies (see Section 2.4). The human resources department will therefore advise the worker that their injury will be reported to the Claims Manager and they will advise the recovery at work team for follow up and reporting.

All incidents and injuries are reviewed by our senior management and the relevant Work Health and Safety teams. Where required a formal investigation will be undertaken (See [NSW Health Incident Management Policy \(PD2020\\_047\)](#)). These reviews and investigations are necessary to ensure:

- workers remain safe in the workplace;
- prevention of further injuries/illnesses;

- any faulty equipment or supplies are removed;
- correct notifications are made ie: SafeWork NSW, Police or to NSW Health;
- relevant escalations are undertaken including completion of a reportable incidents brief;
- open communication and consultation between the workplace and workers;
- a determination of What, Why and How is made and relevant actions taken;
- implementation of actions, controls or mitigation measures are tracked and assessed;
- feedback is provided to the worker, manager/supervisor (if not the investigator) and any other interested parties.

Some incidents may be notifiable to SafeWork NSW. If anyone (manager/workers) believes an incident is a [notifiable incident](#) contact your WHS unit and/or the senior manager on site immediately. Notifiable incidents include:

1. Death
2. Serious injury or illness
3. Dangerous incident

#### **4.2 Acute first aid/medical treatment**

Following injury/illness, the worker, with the assistance of their supervisor/manager, should seek appropriate first aid/medical attention. If immediate medical attention is required, the worker is to attend their local First Aider (noted on notice boards), SESLHD's preferred doctor network for priority appointment, an on-site emergency department or an ambulance must be called.

If the worker does not require emergency medical intervention, they are to attend their NTD or SESLHD's preferred doctor network their supervisor/manager of the incident. This includes workers experiencing psychological distress following an incident (such as exposure to violence or a traumatic incident) who should be offered immediate support and encouraged to speak with the Employee Assistance Provider or their NTD.

Workers have the right to choose their SIRA-approved medical providers and may attend an alternate treatment provider such as a physiotherapist in addition to their NTD.

A certificate of capacity should be obtained on the first visit to the doctor in instances where a worker wishes to lodge a claim for compensation in relation to the injury or illness.

#### **4.3 Initial notification of injury**

An initial notification of an injury to the employer by a worker or some other person acting on behalf of the worker can be made in writing (either online or email) or verbally (including by phone or face to face). The standard notification template can be found here [Injury Notification Form](#). Incomplete details may delay decisions related to treatment and/or liability.

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The following information is required for the notification to be forwarded to the TMF Claims Manager:	
About the worker	Name Contact details, including a phone number, email address and postal address
About the employer	Business name Business contact details
Nominated treating doctor (NTD)	Doctor's name Name of medical centre and address
Injury details	Date of the injury or the period over which the injury/illness emerged Time the injury occurred Description of how the injury occurred Description of the injury Whether any medical treatment is required Whether there is an incapacity for work
Who is notifying the injury (if not the worker)	Name Relationship to the worker or employer Contact details (including a phone number, email address and postal address)

### 4.3 Workers compensation claim number

Once the injury has been reported to the worker's supervisor/manager or the Recovery Partner team (whichever is first), SESLHD must notify the TMF Claims Manager immediately. Employers must report all injuries to the claims manager within 48 hours of becoming aware. This timeframe commences from any notification to the employer of the injury e.g. IMS+ entry, notification of injury form or verbal report to a supervisor/manager. The TMF Claims Manager will issue a claim number and advise the worker once the claim has been lodged. Where possible a certificate of capacity issued by the NTD should be provided with the notification, but it is not required to complete it.

This claim number must appear on all correspondence, electronic or hard copy, relating to a worker's claim, provided to the NTD and other treatment providers.

### 4.4 Requirement for claim lodgment

The initial notification of a claim allows for the claims manager to accept provisional liability before making a formal determination of liability. To make a claim for workers compensation benefits that continue beyond provisional liability the following information is required.

A claim for compensation by a worker must provide the following information:
Name and contact details of the worker;
Name and contact details of the employer (individual or organisation);
Name and contact detail of the worker's NTD;



# SESLHD PROCEDURE

## Return to Work Program

**SESLHDPR/276**

### A claim for compensation by a worker must provide the following information:

If applicable, the name and contact details of any witnesses and any witness statements, if the incident was witnessed;

Date and time of the injury or period over which the injury emerged;

Description of how the injury happened;

Description how the injury occurred;

Notification into the incident management system; and

Information to support the medical expenses or other losses (if any) the worker is claiming.

### 4.4 Initial communication with the worker

Early communication is extremely beneficial in creating the foundation for a positive recovery at work. It ensures an ongoing connection to the workplace and reinforces our support for an early and sustainable return to work.

Contact will be made with the worker within two (2) business days of a claim being notified.

### Supervisor/manager communication includes:

Checking the worker's welfare;

Identifying and addressing any hazard which may impede or impact on the worker's recovery and return to work;

Ensuring a WHS investigation is undertaken to prevent further or subsequent injuries or illnesses;

Updating the worker about the workplace to maintain connection; and

Description of the injury and how it occurred;

Supporting the identification of suitable duties.

### Recover at Work communication includes:

Confirming the worker's preferred method of contact;

Arranging a meeting to discuss additional support services available to assist with the worker's recovery and return to work. For example, a worker indicating psychosocial concerns may be offered psychological support to address issues which may be a barrier to recovery and return to work;

Providing the authority for release of medical information form to allow discussion between the stakeholders about treatment and recovery;

Clarifying the nature and cause of an injury and any treatment undertaken or proposed;

Identifying factors or barriers which may prevent early return to work and discussing a plan to address them;

Facilitating realistic injury management and return to work goal setting;

Information on standardised recovery timeframes and practices; and

Accessing interpreter services, if required.

### TMF Claims Manager communication includes:

Providing information to the worker about rights and responsibilities, the recover at work and workers compensation

# SESLHD PROCEDURE

## Return to Work Program

SESLHDPR/276

### TMF Claims Manager communication includes:

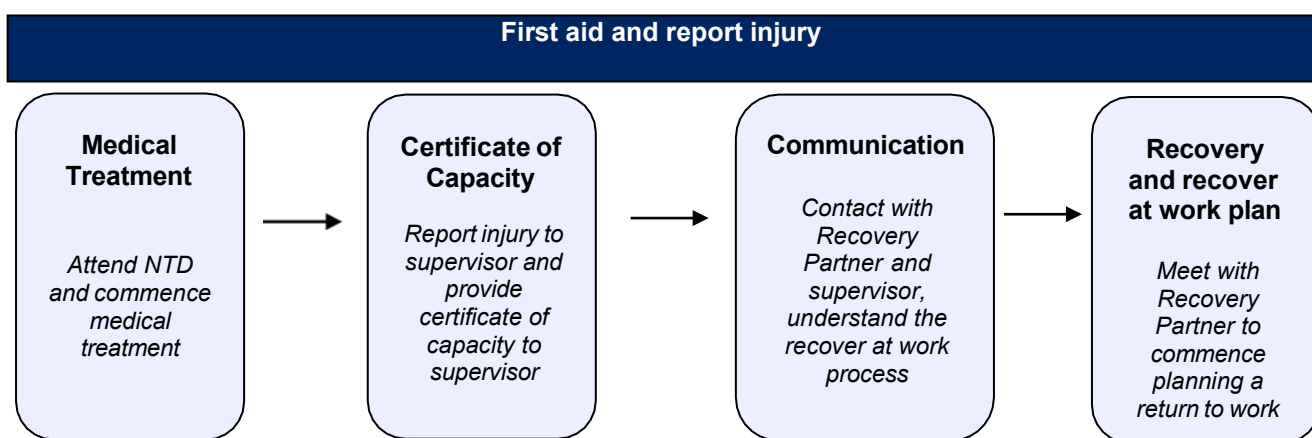
processes in general;

Assisting with establishing an Injury Management Plan to document strategies to assist with recovery and return to work;

Providing information in relation to liability determination and approval of reasonably necessary medical treatment; and

Providing additional information as detailed in the points above.

### 4.5 Early intervention: the first five (5) days following injury



### 4.6 Choosing a Nominated Treating Doctor (NTD)

Workers must choose an NTD. This may be an individual doctor, treating medical specialist or medical practice and is usually a General Practitioner.

The NTD will provide treatment, participate in the establishment of an individual R@W Plan, comment on capacity for work and appropriateness of suitable duties or employment and provide certificate(s) of capacity for the duration of the recovery and return to work.

All certificates of capacity are to be forwarded by the worker to the The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer’s responsibility. Duties of the Recovery Partner include:and TMF Claims Manager as soon as possible. This is to allow the TMF Claims Manager to assess the treatment and for return to work planning.

To assist with the development of a R@W Plan and confirm any restrictions and or treatment, the The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer’s responsibility. Duties of the Recovery Partner include:may contact the NTD directly, following receipt of consent from the worker.

### 4.7 Certificate of Capacity

The NTD is required to complete a certificate of capacity. It is the worker’s responsibility to ensure their certificate of capacity remains current (and provided to the The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer’s

responsibility. Duties of the Recovery Partner include:and TMF Claims Manager) so that weekly payments continue, and treatment continues to be provided.

A certificate of capacity must not be backdated (dated prior to the date of examination). If a certificate covers a period prior to the date of examination (maximum of 90 days – [section 44B\(5\) of the Workers Compensation Act 1987](#)), there should be an adequate reason (eg the worker has been in hospital and is now visiting their NTD at the earliest availability). The certificate must not cover a period of more than 28 days unless there is medical justification for doing so.

The NTD is to specify on the certificate of capacity:

- periods of capacity or incapacity;
- treatment recommended;
- medication recommended;
- the worker's capacity, such as types of activities and duration for example six (6) hours for four (4) days per week;
- referral/s for further/different treatment or to a workplace rehabilitation provider; and
- any medical reason there is a delay in upgrading work capacity or barriers to the worker's recovery.

#### **4.8 Pre-approved treatment**

Workers can receive some reasonably necessary treatments and services without pre-approval from the TMF Claims Manager. The goal is to reduce delays in accessing early treatment. Part 4 of the SIRA Guidelines outlines the types of medical treatments and services which are exempt from pre-approval.

The most common are:

- up to eight (8) sessions physiotherapy/osteopathy/chiropractic/exercise physiology/psychology, if the injury was not previously treated and begins within three (3) months of the date of injury,
- up to three (3) sessions if the injury was not previously treated and treatment starts over three (3) months after the injury,
- one (1) consultation with the same practitioner if he/she has treated the worker previously, and
- up to two (2) hours per provider for a case conference.

Requests for further treatment require an Allied Health Recovery Request (AHRR) to be submitted, which details the expected upgrade, specific treatment modalities, recovery and discharge timeframes. This form is filled in by the injured worker's allied health practitioner.

Each plan will allow up to eight (8) additional sessions and must be approved by the TMF Claims Manager prior to commencement of treatment.

The following treatment providers must be SIRA accredited:

- Exercise Physiologists
- Chiropractors
- Counsellors
- Osteopaths
- Physiotherapists
- Psychologists

#### **4.9 Recover at Work (R@W) Plan**

A R@W Plan is designed to return the worker to their pre-injury duties or other suitable employment as determined by medical practitioners. A worker will not be disadvantaged by participating in a R@W Plan. If, for example, a training or professional development opportunity was expected to occur prior to the injury and the physical or psychological requirements of these tasks do not conflict with any medical restrictions issued by the doctor, the worker may continue.

Workers compensation legislation (protection of injured workers from dismissal), directs that a worker is not dismissed within six (6) months of becoming unfit to work due to a work-related injury. Any worker dismissed in this manner can make an application to their employer for reinstatement (see [Section 241 of the Workers Compensation Act 1987](#) (NSW)).

#### **4.10 Return to work**

SESLHD supports the body of evidence of the health benefits of remaining connected to the workplace following a work-related injury/illness. Research shows that if a worker remains working/recovers at work, they have greater chance of making a full recovery. If they are unable to remain working initially, then getting back to work as soon and as safely as possible is an important part of the recovery process. The sooner a worker returns, in any capacity, the greater their chances of making a full recovery.

Recovering/returning to work can assist a worker with getting back on track and returning to some sort of normality and routine. It also prevents financial stress which can accompany long periods of absence from work.

It is therefore vital for the recover at work process to commence as soon as possible after an injury and for all stakeholders, including the worker and the NTD, to cooperate fully with the recover at work process and the return to work goal.

### **5. WORKPLACE ARRANGEMENTS**

#### **5.1 Communication**

We are committed to maintaining positive communications between the worker, their supervisor/manager, the The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer's responsibility. Duties of the Recovery Partner include:and workplace team.

Communication by the supervisor/manager is integral to an early and sustainable recovery and return to work. Regular communication should continue with the supervisor/manager to keep the worker informed and socially connected to the workplace.

Where a worker's injury or illness limits their ability to communicate directly, alternate arrangements can be made using a nominated representative such as a family member. Where possible, the worker should provide authority in writing for the nominated representative to communicate on their behalf.

## **5.2 Requesting authority and consent for the collection and release of personal and health information**

Part 3.3 of the SIRA [Workers compensation guidelines](#) states SESLHD is required to seek a worker's consent to gather and exchange information regarding their health, injury and recovery. This consent enables the exchange of information between the SESLHD the TMF Claims Manager, the NTD and other health practitioners. This open communication allows all parties to work collaboratively towards the common goal of supporting the worker with their recovery and return to work in their substantive position.

Once a notification of injury is received, the Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer's responsibility. Duties of the Recovery Partner include: will seek the worker's written consent to release and exchange medical information by requesting the worker sign the "Authority and Consent for the Collection and Release of Personal and Health Information" (Refer to NSW Health Injury Management resources for a template ([Authority & Consent for the collection & Release of Personal & Health Information](#))).

Health information includes any electronic or paper-based information or opinion about a worker's:

- Physical or psychological health
- Treatment
- Rehabilitation
- Retraining
- Claim/s
- Injury or employment management practices to aid the recovery at work

See [Section 243 of the Workplace Injury Management and Workers Compensation Act 1998](#) (NSW) for details of disclosure requirements.

## **5. THE RECOVER AT WORK PLAN**

The Recovery Partner does not make decisions on claims liability or funding for treatment – this is the insurer's responsibility. Duties of the Recovery Partner include: will work closely with the worker, the supervisor / manager, the NTD and the worker's representative (if required) to develop the recover at work plan (Refer to NSW Health Injury Management resources for a

template ([NSW Health Recover at Work Plan Template](#)). The R@W Plan will ensure that the workplace is safe and suitable for the worker's return and minimises risks of aggravation or re-injury. All stakeholders have a role to play in developing a R@W Plan as summarised below.

### 5.1 The Recover at Work Plan

The R@W Plan will be in writing and contain:

- The recovery goal;
- Position, department and normal days/hours where employed;
- Current capacity/medical restrictions listed on the most recent certificate of capacity;
- Suitable duties, location, hours/days to be worked including tasks to avoid, and rest and/or meal breaks to be taken;
- Treatment arrangements and medical appointments;
- Commencement and review dates;
- Anticipated timeframes for goal attainment; and
- Any additional obligations i.e. attendance at medical appointments outside of work hours where possible.

When developing a R@W Plan, the following will be considered:

- The worker's physical and psychological capacity;
- Special needs of individual workers, for example, the communication needs of workers who speak languages other than English;
- The worker's age, education, skills and work experience;
- Any occupational rehabilitation services available to the worker;
- Impact on the workload of other workers; and
- Whether the worker may require training in the suitable duties tasks prior to the R@W Plan being implemented.

The employment that must be provided is employment that is both suitable employment (as defined in [Section 32A of the Workers Compensation Act 1987](#) (NSW)) and (subject to that qualification) so far as reasonably practicable the same as, or equivalent to, the employment in which the worker was at the time of the injury. (As per Section 49 of the [Workplace Injury Management and Workers Compensation Act 1998](#) (NSW) the SESLHD must provide suitable work.)

This obligation is negated if:

- It is not reasonably practicable to do so;
- The worker voluntarily resigns from their employment, either before or after their incapacity for work; or
- Employment is terminated after the injury for reasons other than the worker not being fit for work as a result of their injury.

The responsibility to initiate the process for developing, coordinating, distributing and managing the R@W Plan lies with the Recovery Partner. The Recovery Partner will work closely with the worker, the supervisor / manager, the NTD and the worker's representative (if required) to ensure the capacity outlined in the certificate of capacity is incorporated and any concerns or queries are addressed in a timely manner. Everyone nominated to undertake actions under the agreed R@W Plan are to cooperate in implementing the requirements of the plan.

The R@W Plan review process will be determined in consultation with the NTD and on receipt of certificates of capacity. The R@W Plan will be reviewed at the end of each plan period (no greater than three (3) months) or when there is a change in work capacity or significant change in the worker's treatment plan.

If a worker unreasonably fails to comply with the requirements of the R@W Plan after being requested to by SESLHD, the worker may have further entitlements to weekly payments of compensation suspended during any period that the failure continues. This action can only occur if the worker is given written notice to that effect (by the TMF Claims Manager), together with a statement of reasons for the entitlements ceasing.

The TMF Claims Manager will explore the reasons for non-compliance prior to ceasing benefits and will advise the worker in writing, outlining the reasons and steps to be taken to avoid the suspension of weekly benefits.

(See [Section 48A of the Workplace Injury Management and Workers Compensation Act 1998](#) (NSW)).

1. If a worker does not comply with an obligation imposed under section 48, the insurer may in accordance with this section:
  - a. suspend the payment of compensation in the form of weekly payments to the worker, or
  - b. terminate the payment of compensation in the form of weekly payments to the worker, or
  - c. cease and determine the entitlement of the worker to compensation in the form of weekly payments in respect of the injury under this Act.

Where weekly benefits are reinstated after a period of suspension, there is no entitlement to payment for periods of non-compliance. It is recommended that workers and their supervisor/manager read the R@W responsibilities documentation and understand the shared commitment to the plan to ensure the best physical and psychological recovery and outcome for all workers.

The Recovery Partner will ensure that the worker has access to these documents, including where the worker needs such information in a language other than English.

Where a worker has remained unfit for a period of 12 weeks from the date of injury, the Recovery Partner will ensure the claim is being strategically reviewed on a regular basis with the claims manager to maintain the worker's engagement with the recovery process. Discussions should include prognosis and timeframes for a return to suitable duties as well as the suitability of the overall return to work goal.

This case management process is designed to reaffirm the worker's and workplace expectations regarding recovery and return to work and to support the worker's recovery by proactively engaging with the NTD through a case conference rather than waiting for the next review.

At the case conference, the barriers or obstacles which are stopping the worker from achieving these goals are identified and strategies or actions that are needed to address or prevent these barriers are agreed.

Worker engagement is key to achieving the agreed goals. The Recovery Partner will maintain frequent contact and case conferences with the NTD.

## **5.2 South Eastern Sydney Local Health District must provide suitable work**

Suitable duties are any duties identified that can be provided to assist with a worker's R@W. Suitable duties form one part of an overall rehabilitation and recovery strategy used to achieve a return to full capacity. Suitable duties will be provided when a worker is unable to immediately return to their normal duties.

Suitable duties must be:

- in line with the worker's capacity for work;
- provided for the purpose of allowing a worker the opportunity to recover at work, maintaining or increasing the worker's capacity for work or providing relevant experience for alternate vocations should the worker be certified as permanently unable to return to their pre-injury position; and
- so far as reasonably practicable the same as, or equivalent to, the employment in which the worker was at the time of the injury.

The above is with reference to [Section 49 of the Workplace Injury Management and Workers Compensation Act 1998](#) (NSW) and [Section 32A of the Workers Compensation Act 1987](#) (NSW) definition of suitable employment.

1. If a worker who has been totally or partially incapacitated for work as a result of an injury is able to return to work (whether on a full-time or part-time basis and whether or not to his or her previous employment), SESLHD is liable to pay compensation to the worker under this Act and in respect of the injury must at the request of the worker provide suitable employment for the worker.

## **5.3 Offers of suitable duties**

Suitable duties within the certified work capacity will be provided where reasonably practicable to partially incapacitated workers, irrespective of liability. The supervisor/manager will work with the Recovery Partner and the worker to identify suitable duties and the Recovery Partner will facilitate this by providing a R@W Plan. Suitable duties may include reasonable adjustments to the worker's pre-injury role to assist with their recovery.

The Recovery Partner will consult with the supervisor/manager to identify suitable duties. This will inform the R@W Plan which will be discussed, agreed and signed by all stakeholders which may include:



- the worker;
- the worker's representative, if one is nominated;
- supervisor/manager;
- NTD; and
- The Recovery Partner or external SIRA-approved rehabilitation provider.

Suitable duties are time-limited, reviewed and regularly upgraded towards achieving pre-injury duties or the ultimate recovery goal.

#### **5.4 Reasonable adjustments**

In circumstances where a change of recover at work goal is formalised the Recovery Partner will begin discussions with the worker and their NTD to determine whether reasonable adjustments are necessary and can be made within the existing workplace to allow the worker to continue at work.

##### **Factors to be considered are:**

The size of the worker's current workplace. In a small workgroup setting it may be more difficult to accommodate adjustments compared to a larger workgroup where there is greater capacity to equitably share different tasks or redesign work arrangements;

Whether permanent accommodation of the worker's medical restrictions places additional risk to others in the workplace;

Whether significant work adjustments would need to be made, disadvantaging other workers in the workplace;

Whether it is reasonably practicable to do so;

Impact on service delivery; and

Ability to perform the role e.g. education and/or transferable skills.

Consultation about reasonable adjustment will be undertaken with the worker and any support person they request.

The following people may be invited to discuss:

- the worker;
- their support person which may be a Union representative;
- the worker's immediate line manager/supervisor;
- the Recovery Partner
- a workforce or human resources representative;
- the appointed SIRA-approved rehabilitation provider (if necessary).

### **5.5 Suitable duties unavailable or withdrawn**

Unavailability of suitable duties will impact SESLHD's workers compensation costs and may result in a breach of our obligation to provide suitable employment. There are some rare situations where suitable duties may not be available or may be withdrawn. Examples of when this may occur include:

- where medical capacity is limited to the degree that no meaningful or productive duties can be identified;
- where the continuing provision of suitable duties does not progress toward the agreed return to work goal;
- where the provision of suitable duties is not reasonably practicable; or
- where there is an identified risk of aggravation and/or complication to either the compensable injury or concurrent non-compensable injuries.

In these cases, SESLHD will continuously review the ability to provide suitable duties.

### **5.6 Changing Nominated Treating Doctor (NTD)**

Consistent medical care is essential for a worker's recovery and safe return to work. Changing the NTD can interrupt medical care, however there may be a good reason for change. In cases where a worker reports that they are not receiving the level of support, treatment or communication from their NTD to progress their recovery, a change of NTD can be a productive and pro-active move towards recovery.

Some reasons for changing the NTD include:

- if the NTD has moved or has ceased practicing in the worker's local area and they are no longer able to see them;
- there is evidence that the NTD is not progressing the worker's recovery and safe return to work.

If the worker has a reason to change the NTD, the worker must inform the TMF Claims Manager and SESLHD. If there is evidence the NTD is not assisting the worker or SESLHD with a safe recovery and return to work, the claims manager may:

- ask a doctor experienced in workplace rehabilitation (Injury Management Consultant) to review the management of the injury, and discuss the best course of action with the NTD and SESLHD, or
- ask the worker to nominate another treating doctor.

### **5.7 SIRA-approved workplace rehabilitation providers**

External workplace rehabilitation providers are organisations made up of health professionals (from the disciplines of Allied Health) approved by SIRA to provide specific rehabilitation related services aimed at returning workers to suitable employment. Workers have the right to engage an independent rehabilitation provider and to change their provider. A full listing of all approved rehabilitation providers can be found on the SIRA website.

If required, the Recovery Partner or the TMF Claims Manager, may engage an external Rehabilitation Provider in consultation with the worker and their NTD. SIRA recommends employers nominate one or more approved providers to assist in the rehabilitation of workers. SESLHD has nominated the providers on the TMF Claims Manager Rehabilitation Provider Panel to ensure the services support the worker's recovery and return to work.

Alternatively, the worker or their NTD may request the services of another SIRA-approved rehabilitation provider and this request will not be unreasonably denied.

The Recovery Partner will communicate and collaborate with the rehabilitation provider to ensure the worker receives optimal support for their recovery and return to work.

**Examples of when a SIRA-approved workplace rehabilitation provider may be engaged include:**

The worker is likely to have an extended period of total incapacity for work;

There is difficulty in identifying suitable duties within a worker's certified capacity for employment;

An assessment of the worker's physical and/or psychological capacity may be required to assist finding suitable alternate employment;

An assessment of daily living activities is required;

The worker is unlikely to resume full pre-injury duties in the long-term;

The worker's rehabilitation goal is identified to be a return to a different job with the same employer, or different job with different employer, and training, work trials or job placement may be required;

An assessment of transferrable skills is required to assist with identifying suitable duties, work trials or redeployment;

A conflict of interest is perceived; or

The worker has resigned or been medically separated.

Rehabilitation providers may be engaged for a one-off service or to assist with the day to day injury management of complex cases. Their functions and services include:

- Identifying suitable duties within a worker's certified capacity;
- Identifying and coordinating rehabilitation strategies for an early and sustainable return to work;
- Developing and monitoring R@W plans, with progressive upgrades to return to pre-injury duties where appropriate;
- Providing education and support regarding the worker's recovery and return to work;
- Assisting with job seeking and placement in alternative employment when there is a change of return to work goal; or
- Conducting workplace assessments including functional, vocational and ergonomic advice.

### **5.8 Changing approved workplace rehabilitation provider**

Requests to change SIRA-approved workplace rehabilitation provider/s will be communicated between the worker and the Recovery Partner. Examples of reasons to consider a change include:

- Lack of appropriate qualifications/experience in the required specialty;
- Non-compliance with the service level agreement;
- Communication (including language difficulties) with the provider is impeding the worker's recovery and early, safe and sustainable return to work;
- Either the worker or provider moves, or the provider no longer services the area; or
- The provider discontinues practice in the required specialty.

### **5.9 Scheduling medical appointments**

Medical appointments should be made outside of work hours wherever possible, otherwise at the beginning or end of a shift, with sufficient notice (not less than 72 hours) to be provided to the supervisor/manager.

### **5.10 Accruing leave entitlements**

Workers continue to accrue leave during an absence on workers compensation. Whilst on a R@W Plan, Accrued Days Off (ADOs) are only accrued when working 5 (five) days per week (regardless of the number of hours worked).

### **5.11 Taking leave**

Suitable duties are an integral part of a worker's rehabilitation and recovery. Workers have a legislative obligation to be available to participate in their recovery and to attend work as part of this. All requests for leave while receiving workers compensation entitlements will be reasonably considered to ensure rehabilitation and recovery at work will not be adversely affected. Supervisors/managers who receive requests for leave from workers participating in a R@W Plan, are to consult with their Recovery Partner.

Any leave approved prior to lodgment of a claim will be discussed with a view to ensuring both the worker is able to take their leave as planned and also the planned recovery will not be adversely impacted. Following discussions, there may be agreement to keep, cancel or postpone their leave.

Any issues arising from requests for leave can be discussed at a case conference.

### **5.12 Changes to employment arrangements post injury**

If an injured worker requests to change their employment arrangements for reasons unrelated to their injury, this must be discussed with the Recovery Partner team and Claims Manager, prior to approval. For example, requests to reduce hours, change from full-time to part time, permanent to casual, or similar.

Whilst on workers compensation, entitlements for "non-exempt workers" are calculated using the pre-injury average weekly earnings (PIAWE), usually the 52 weeks prior to injury. Reductions in

hours or changes in shift patterns (unrelated to injury), which occur post injury, will not change PIAWE calculations and can therefore result in a worker being paid above newly contracted arrangements.

## **6. PSYCHOLOGICAL INJURY OR ILLNESS**

Psychological injuries often present unique challenges. Best practice claims management begins with understanding this complexity and ensuring a worker feels empowered and supported throughout the R@W process. Maintaining the worker's wellbeing, including wherever possible their recovery at work, or a return to work, is the desired outcome of claims management.

Once a psychological injury or illness is reported, the early intervention process will begin.

An early stakeholder intervention meeting or a support assist strategise teleconference (ESI/SAS) should be held on all complex claims, particularly psychological claims. An ESI or SAS meeting may be organised between the Recovery Partner (and/or relevant members of the workers compensation team), the worker's supervisor/manager, the TMF Claims Manager and, where required, a rehabilitation provider to accurately assess underlying concerns and identify;

- Support required for the worker to recover, including reasonably necessary treatment.
- Any potential barriers to the worker staying at or returning to work, and strategies to overcome these barriers.
- Information required to allow the TMF Claims Manager to make a sound liability decision. This may include any or all of the following (as appropriate):
  - statements from the worker and witnesses
  - a factual investigation
  - an Independent Medical Examination
  - legal advice.

The stakeholders for an ESI / SAS may vary in each location but each should involve at least the TMF Claims Manager and a representative from the Injury Management Unit from SESLHD.

Psychological injuries that are as a result of a workplace grievance will be managed concurrently to any workforce action or investigation, however the matters will remain separate. If the grievance is in relation to the worker's supervisor/manager, alternate reporting line arrangements and/or mediation should be considered.

Acceptance or declinature of liability on any psychological claim will not impact the determination or outcome of any workplace investigation. Any information collected during investigation, can only be used for the purposes for which it was collected, unless written consent is obtained from the party/parties involved. For example, a witness statement taken for investigating a workers

compensation claim, cannot be used for investigating an internal grievance claim, unless written consent is received from the witness.

For information on liability for psychological claims, see section 7.2.

## **7. DETERMINING LIABILITY**

There is an obligation for the TMF Claims Manager to process a claim for workers compensation and determine liability for a workplace injury within a specific, reasonable timeframe based on the information available. The worker may request a review of the liability decision through the TMF Claims Manager. Documentation required for a review is provided to the worker with their liability correspondence.

There are four (4) liability decisions that can be made:

### **1. Liability accepted**

Liability may be accepted upon receipt of the injury notification if the evidence meets legislative requirements. Liability can be accepted within 21 days from receipt of the claim form supported by an approved and complete certificate of capacity. Alternatively, liability can be accepted when provisional liability has been exhausted at the 12-week point.

### **2. Provisional liability**

Provisional liability can be determined within seven (7) days of notification of the injury or illness. This decision is based on the information obtained from the initial contact with the worker and the certificate of capacity provided by the NTD. Provisional liability is not an admission of liability; it allows the commencement of weekly benefit payments up to a period of 12 weeks whilst further information is gathered and a formal liability decision is made. Medical treatment and other reasonable expenses can be paid up to a maximum amount of \$10,000.

### **3. Reasonable excuse**

A reasonable excuse notice may be issued where evidence does not support the payment of workers compensation or where all reasonable efforts have been made to obtain important information on which to make a formal decision.

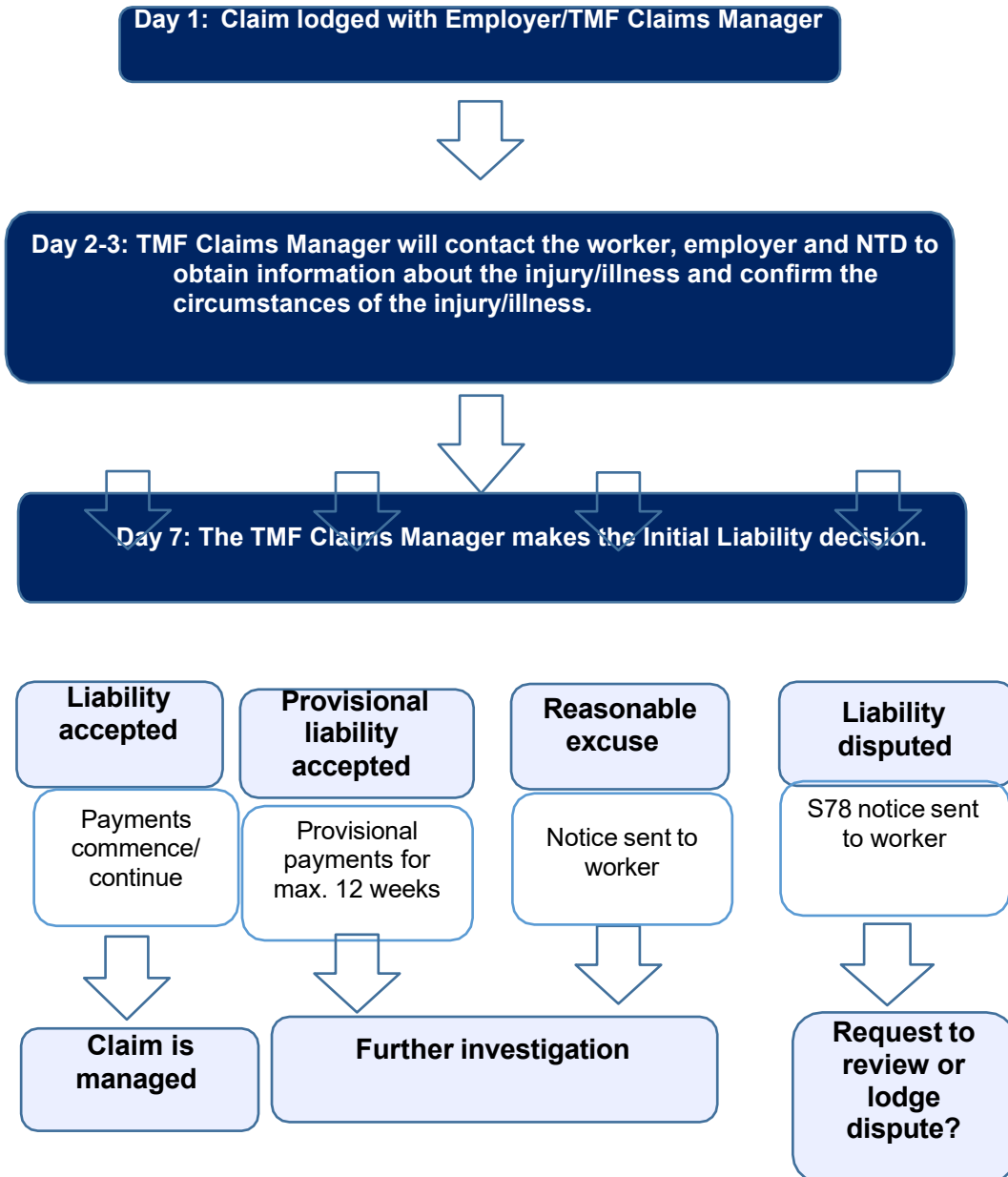
Reasonably necessary medical treatment is covered during the time the claim is reasonably excused.

### **4. Liability disputed**

Where there is sufficient evidence that liability is queried, the TMF Claims Manager will issue a written dispute notice to the worker.

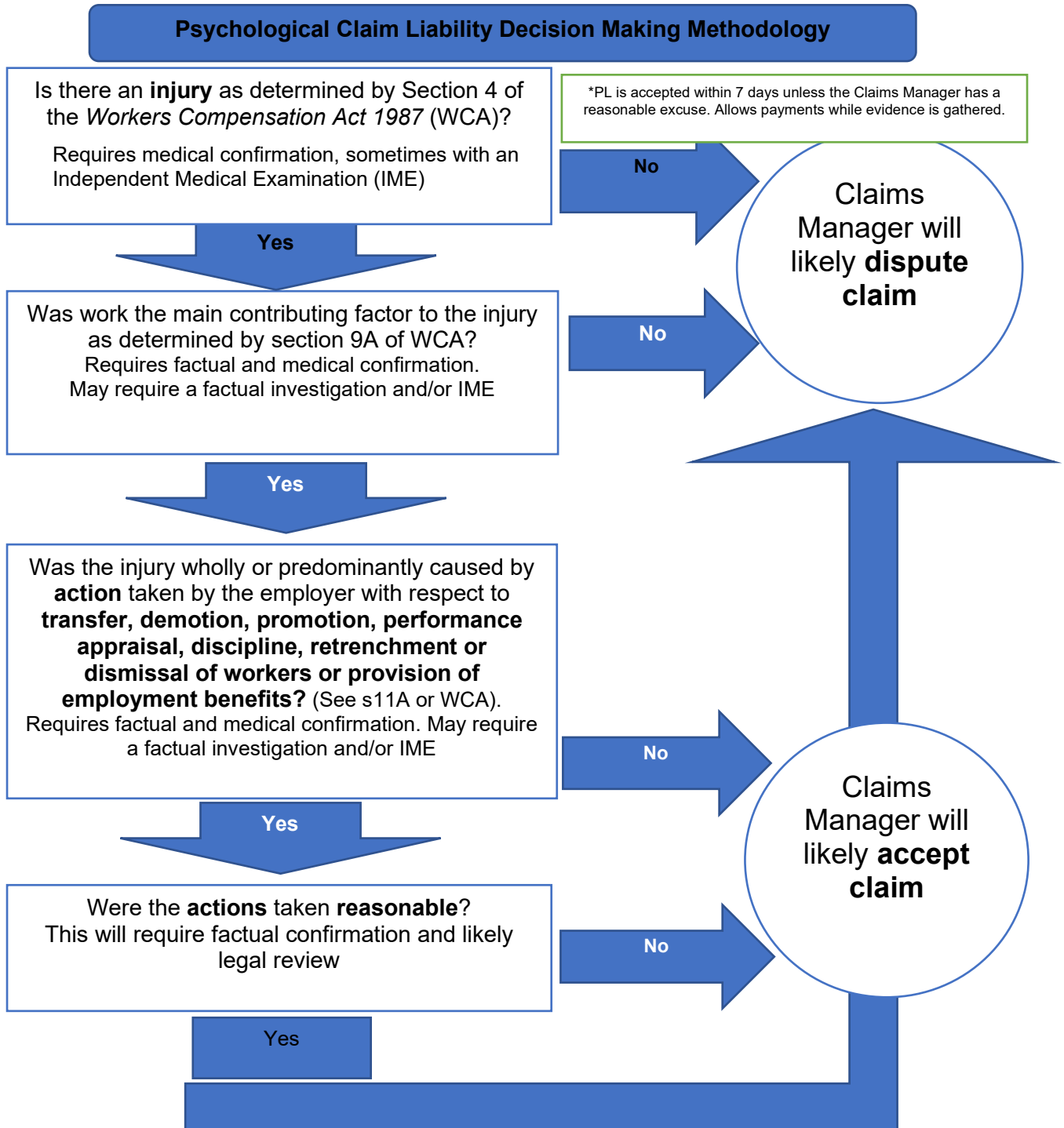
SESLHD will continue to support the worker in their recovery and safe return to work irrespective of the liability status of the claim.

**7.1 Initial liability timeline**



7.2 Liability for psychological claims

For a psychological claim to be compensable, work must be the main contributing factor. It is not compensable if the injury was wholly or predominantly caused by reasonable management action taken in respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or the provision of employment benefits.





### 7.3 Weekly payment and pre-injury average weekly earnings (PIAWE)

Where a worker has lost work time due to their claim, their wage payments are based on a calculation of 'PIAWE' which is based on their average weekly earnings before the claim. The TMF Claims Manager will issue a letter informing the worker of the liability decision and associated 'PIAWE' calculation. \*Paramedics are "exempt workers" in relation to the *Workers Compensation Amendment Act 2012* (NSW), including the use of PIAWE for calculating benefits. Paramedics and their supervisors / managers should refer to Section 6.3.1 below.

If a worker is undertaking suitable duties on restricted or normal hours they will be paid in accordance with their contract/award. Any difference between earnings in suitable duties, and their entitlements, (based on PIAWE and claim timeline), will be supplemented in the worker's wage payment. In most cases payment will be processed in conjunction with the normal pay/pay cycle. If the worker is not receiving payment from SESLHD then it will be paid by the TMF Claims Manager.

If a claim is accepted, weekly benefits are paid in accordance with the PIAWE:

- a rate of 95% of a worker's pre-injury average weekly earnings for the first 13 weeks;
- following this, a reduced rate of 80% of a worker's PIAWE is paid for a worker who is not working at least 15 hours per week.

Weekly entitlements are separated by 'entitlement periods':

- 0-13 weeks
- 14-130 weeks
- Post 130 weeks – weekly benefits after 130 weeks depend on the worker's capacity to work. The worker will need to apply to the TMF Claims Manager for a continuation of benefits.

Weekly benefit payments may be paid in the following circumstances:

- the worker is back working reduced hours following an injury; or
- the worker has returned to work following an injury in a role which has a different pay grade; or
- the worker has some capacity for work but all avenues for providing suitable alternate duties have been exhausted.

[Section 39 of the \*Workers Compensation Act 1987\*](#) (NSW) provides that weekly benefits are limited to a maximum of 260 weeks unless the level of whole person impairment has been assessed as being greater than 20%.

If a claim is disputed, the TMF Claims Manager will issue a declinature notice with supporting evidence attached to the notice. These notices can be reviewed and/or disputed in the Personal Injury Commission for which legal representation is required. Certain awards in NSW Health also allow the worker to use leave balances to make up the difference between their workers compensation entitlements and their pre-injury earnings.

\*\*Calculation of workers compensation benefits are completed and communicated by the TMF Claims Manager.

Refer to the [NSW Health Policy Directive Leave Matters for NSW Health Service \(PD2023\\_006\)](#).

#### **7.4 Weekly payments from accrued leave**

Whilst liability is being determined in relation to a claim lodged for workers compensation, on production of an acceptable certificate of capacity, a worker can apply for weekly payments utilising accrued leave including sick leave, annual leave and long service leave, until a workers compensation decision is made, or accrued leave is exhausted.

Where the worker uses accrued annual leave, this leave will not be reinstated. [Section 49 of the Workers Compensation Act 1987](#) (NSW) states that workers' compensation weekly benefits will be paid to the employee in addition to the annual leave already paid and this includes annual leave loading which is applicable under public health Awards. Workers can elect whether to utilise their annual leave balance with the knowledge that leave taken will not be reinstated or reimbursed.

In relation to long service leave taken for a period which then becomes a period of workers compensation, long service leave may be reinstated or reimbursed and the payment made as for workers compensation.

[Section 50 of the Workers Compensation Act 1987](#) (NSW) refers specifically to sick leave and states that where a worker has been paid sick leave for a period and this then becomes a period of workers compensation, the sick leave must be reinstated and the payment made as a workers compensation benefit.

As workers compensation entitlements for non-exempt workers are 95% of PIAWE at a maximum, there may be a difference in the figure when leave is recredited and workers compensation paid. For Paramedics, there may be no difference in the figure as they are generally paid 100% of CWWR in the first 26 weeks post injury.

#### **7.5 Why payments can be reduced or stopped**

There are a number of reasons payments may be reduced or stopped altogether. Weekly benefit payments can be suspended 14 days after the TMF Claims Manager issues a notice to the worker in the following circumstances:

- Failure to provide a current certificate of capacity;
- Failure to provide a signed declaration that the worker is not engaged in other employment. If this is incomplete seven (7) days after the claim is notified, weekly benefit payments may be discontinued;

- Non-compliance with return to work obligations. If the worker is assessed as having some capacity to work, and suitable duties are available, weekly benefit payments may be reduced or stopped on the basis of what can be earned in suitable employment;
- Not attending a medical or rehabilitation appointment as arranged, without a reasonable excuse. Weekly benefit payments may be suspended until the examination takes place; or
- Refusing or not participating in an assessment of work capacity may lead to a suspension of payments until the assessment takes place. \*Paramedics are exempt from work capacity assessments and decisions.

## 7.6 Work Capacity Decisions

A Work Capacity Decision (WCD) determines a worker's entitlement to weekly payments of compensation. The TMF Claims Manager will undertake a work capacity assessment to determine whether a worker is fit for work or partially fit for work.

It is a process involving information gathering, usually including an assessment of the worker's functional, vocational, and medical status to make a decision as to whether they are fit to return to work or not.

Once a work capacity assessment has been undertaken, the TMF Claims Manager will review the information and make a WCD.

The WCD is a decision made by the TMF Claims Manager about:

- the worker's current work capacity;
- what constitutes suitable employment for a worker;
- the amount the worker is able to earn in suitable employment;
- the amount of pre-injury average weekly earnings and current weekly earnings;
- whether a worker is, as a result of injury, unable, without substantial risk of further injury, to engage in employment because of the nature of that employment; or
- any other decision that affects a worker's entitlement to weekly compensation.

A WCD can be made at any time throughout the life of the claim, but in particular will be made at or prior to a worker being in receipt of weekly benefits for a period of 130 weeks of compensation (2.5 years).

This period is important as a worker is only entitled to receive weekly payments beyond 130 weeks in very specific circumstances. (See section 38 of the Workers Compensation Act 1987 No 70).

A WCD can be appealed. The worker has the choice of either requesting for an internal review with the TMF Claims Manager or proceeding directly to the Personal Injury Commission.

**Review by the TMF Claims Manager**

A worker may request an internal review of a WCD by the TMF Claims Manager after receiving the decision. The worker must give a completed [Work Capacity – Application for Internal Review by Insurer](#) form to the TMF Claims Manager specifying the grounds on which the review is being sought with any information on why the worker disagrees with the decision and including medical information.

**Review by the Personal Injury Commission**

If the worker is not satisfied with the outcome of the internal review or decides not to seek an internal review, the worker may proceed directly to the Personal Injury Commission to resolve the dispute.

**7.7 Procedures for claims where liability is disputed**

SESLHD will continue to support the worker in their recovery and safe return to work irrespective of the liability status of the claim.

[Section 41A of the Workplace Injury Management and Workers Compensation Act 1998](#) (NSW) specifies that the requirements for workplace injury management apply even when there is a dispute as to liability.

Workers whose claim for workers compensation has been disputed or is under reasonable excuse for payment by the TMF Claims Manager, have the following entitlements:

Benefit or Entitlement	Eligibility
Salary or wages benefits whilst on reduced hours	NO Workers may access their own leave entitlements if required.
Medical expenses for treatment related to their injury	NOT covered when a claim is disputed, but certain treatments may be covered whilst a Reasonable Excuse has been exercised by the TMF Claims Manager.
Legal expenses related to the claim	Available upon application by an approved legal provider to the Independent Review Office (IRO) for funding under the Independent Legal Assistance Review Service (ILARS).
Workplace based rehabilitation	YES By the worker's employer
Suitable duties on request	YES

**7.8 Dispute resolution procedure**

All efforts will be made by SESLHD to resolve disagreements about the recover at work program through discussion in the spirit of cooperation. If a dispute arises over an individual R@W Plan or any aspect of the return to work process, then all parties will work towards resolution by using the following strategies:

1. The worker, or their nominated representative, will advise the Recovery Partner of the dispute, who will attempt to resolve it by coordinating discussions with, as appropriate, the worker, the claims staff, the NTD, other medical professionals treating the worker, a workplace rehabilitation provider if

involved, supervisors/managers and, where requested, the worker’s nominated representative.

2. If further objective information is required to assist the dispute resolution, then the Recovery Partner may:

- seek further information from the treating providers;
- refer to an external SIRA-approved workplace rehabilitation provider
- refer to an Injury Management Consultant for issues regarding suitability of available duties and return to work.

*An Injury Management Consultant is a doctor who is a return to work facilitator. The Injury Management Consultant is experienced in occupational injury and workplace-based rehabilitation, mediation/negotiation skills, and liaises with treating doctors, insurers, employers and workers to solve problems in complex return to work cases;*

- refer to an Independent Medical Examiner (IME) for issues regarding treatment or injury management.

*An IME is a specialist medical practitioner with qualifications relevant to the worker’s injury but is not in a treating relationship with the worker. Referral to an IME is appropriate when information from the NTD is inadequate, unavailable or inconsistent and where the referrer has been unable to resolve the problem directly with the NTD.*

3. In cases where a resolution with either a claims or injury management dispute is not achieved, the SIRA customer contact line is able to help the worker and/or the employer to resolve any problems that may arise during the workers compensation claim, recovery and rehabilitation process.

SIRA Customer Contact Centre	Phone: 131 050 <a href="mailto:customerfeedback@workcover.nsw.gov.au">customerfeedback@workcover.nsw.gov.au</a>
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4. If a worker’s compensation claim or part thereof has been disputed, the worker may seek resolution by submitting an application to review decision to the TMF Claims Manager, or through:

- the Personal Injury Commission (PIC):

Online Form	<a href="https://pi.nsw.gov.au/contact/contact-us">https://pi.nsw.gov.au/contact/contact-us</a>
Address	Level 19, 1 Oxford St DARLINGHURST NSW 2010
Postal Address	PO BOX 594 DARLINGHURST NSW 1300
Email	<a href="mailto:registry@wcc.nsw.gov.au">registry@wcc.nsw.gov.au</a>

or

- Independent Review Office (IRO):

Phone	139IRO / 139476
Complaints & Enquires	<a href="mailto:compaints@iro.nsw.gov.au">compaints@iro.nsw.gov.au</a>
Independent Legal Assistance & Review Service (ILARS)	<a href="mailto:ilarscontact@iro.nsw.gov.au">ilarscontact@iro.nsw.gov.au</a>
General Enquires	<a href="mailto:contact@iro.nsw.gov.au">contact@iro.nsw.gov.au</a>

## 8. CHANGE OF RECOVER AT WORK GOAL

The goal of workplace-based rehabilitation and recovery is to return a worker to their pre- injury duties. Where it becomes evident that a worker is unable to return to their pre-injury duties, there is an obligation for SESLHD to assist that worker through a redeployment process. This process cannot commence until a formal change of recover at work goal has been made.

Change of goal discussions can be initiated, if a return to pre-injury duties may not be realistic, at the request of:

- the worker;
- relevant treating providers;
- TMF Claims Manager;
- The Recovery Partner; or
- external rehabilitation providers.

This may be identified following:

- prolonged incapacity;
- prolonged suitable duties;
- unchanged capacity for 13 weeks or more;
- risk assessment; and/or
- medical evidence.

Medical information required for a change of recover at work goal includes:

- the certificate of capacity which details permanent restrictions are required;
- report from the NTD or treating specialist that the worker is unlikely or unable to resume pre-injury capacity; or
- report from an Independent Medical Examiner (IME), Injury Management Consultant (IMC) or Independent Practitioner Consultant (IPC) appointed by the TMF Claims Manager, commenting on prognosis.

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### 8.1 Consultation regarding the change of recover at work goal

Stakeholders will be consulted to discuss and agree on the updated recover at work goal.

Stakeholders may include:	
the worker;	a worker's support person;
the NTD;	the worker's line manager/supervisor;
the Recovery Partner;	a workforce or HR representative;
a SIRA-approved external rehabilitation provider	a Union representative

The purpose of the consultation is to assess the medical evidence, inform the worker of their options and the relevant support services available and to agree on a new recover at work goal.

Taking into account:	
permanent and temporary restrictions;	education history;
vocational experience;	vocational interests;
transferrable skills;	suitable vocational options;
current available vocational options within and external to SESLHD.	

### 8.2 Identifying a suitable vocation

Once a change of return to work goal has been agreed, the process to identify a suitable alternate vocational option will commence. As part of this process the following may occur:

- a SIRA-approved rehabilitation provider appointed;
- a vocational assessment undertaken; and
- a functional capacity evaluation undertaken.

Priority assessment in relation to redeployment of workers will be considered in accordance with the [Redeployment of Injured Employees under Workers Compensation Procedure \(SESLHDPR/279\)](#) and any applicable whole of government or NSW Health policy. Where employment with a new employer is considered, the following additional support will be provided by either the rehabilitation provider, or in some cases, an external job seeking agency:

- assistance in developing a resume;
- assistance in completing application forms including online applications;
- education and training in interview skills;
- job seeking strategies including online searches, cold calling and lodgment of a resume on a proactive basis; and

- advocacy with potential employers including promotion of incentives available under the SIRA JobCover placement program and other incentive options such as transition to work payments.

SESLHD has a local procedure to manage this [process](#).

### **8.3 Commencing the job seeking process**

Once the change of recover at work goal has been formalised, a number of actions will commence which may include:

- Canvassing advertised job vacancies within the organisation;
- Referral to an external rehabilitation provider for assistance with applications;
- Resume writing and job interview skills;
- Referral of the worker for a vocational assessment;
- Coordination of potential work trials for internal or external positions;
- Activation of the internal redeployment process for workers;
- Update of the Injury Management Plan by the Case Manager.

When commencing the job seeking process, suitable employment options can be identified by the Recovery Partner, the worker, their line manager/supervisor or external rehabilitation provider and assessed for consideration of a priority placement or temporary work trial in accordance with the [Redeployment of Injured Employees under Workers Compensation Procedure \(SESLHDPR/279\)](#).

Job seeking support and activities can commence as soon as there is agreement that a change in recovery goal (away from return to pre-injury duties) is necessary. It is not mandatory to wait for a formalised vocational option to have been identified, in order to commence.

During the job seeking and redeployment process the worker is not to unreasonably decline an offer of assignment. Unreasonable decline of an offer may result in a review of ongoing entitlement to workers compensation payments by the Claims Manager.

### **8.4 Internal job seeking**

At the commencement of the job seeking process and if medically appropriate, the worker will be assisted to find alternate suitable employment within the same location/facility or the broader organisation. Although initial focus remains redeployment within SESLHD it is important that the worker also considers appropriate vocational options within other PHOs and outside of NSW Health, should they become available.

This is particularly important for workers with a WCD in place, should they be unable to secure an internal position at the conclusion of a 12-week job seeking period and be subject to a medical separation they may no longer be entitled to ongoing wages.



Where the worker identifies a potentially suitable role, contact must be made with the Recovery Partner and/or rehabilitation provider so all relevant recruitment and redeployment policies can be enacted, including the NSW Health Policy Directive [Recruitment and Selection of Staff to the NSW Health Service \(PD2023\\_024\)](#) and the [Redeployment of Injured Employees under Workers Compensation Procedure \(SESLHDPR/279\)](#).

**This procedure may include:**

placing an advertised position temporarily on hold;

an evaluation of the worker's skills and experience against the selection criteria;

assessing the job demands against the worker's medical capacity;

arranging a work trial for the worker to temporarily undertake the duties of the role.

**8.5 External job seeking**

If a suitable alternate position is unable to be identified within SESLHD, or the worker has been medically certified as being unable to return to the organisation, then external job seeking will commence.

Support will be provided as outlined above to assist with job seeking strategies and advocacy with a potential employer.

**8.6 Continuation of suitable duties whilst job seeking**

Where possible the worker will remain in suitable duties whilst job seeking, with reasonable time available to enable the worker to continue job seeking actions such as completion of selection criteria.

After 12 weeks of job seeking, (time frame does not commence until formalising suitable vocational option/s), a review will take place to determine if further attempts at internal redeployment are likely to be fruitful or if a medical separation is to be recommended. A worker can request a review of this timeframe which will be considered on a case-by-case basis. If medical separation is recommended, where reasonably practicable, suitable duties will be provided until if/when termination takes place.

If the worker has been unable to identify or maintain permanent and durable work or the worker's vocational options are niche, SESLHD may expect the worker to increase their efforts in job seeking by looking for work on a full-time basis. In this instance, the worker will be given a period off work to concentrate on job seeking or to attend retraining on a full-time basis.

This is not a termination of the employment contract. The worker remains employed and where eligible will receive ongoing wage benefits according to their current period of entitlement under workers compensation legislation.

Should permanent suitable work be identified within the 12-week job seeking period, the timeframe may be extended to allow for the position to be fully explored and/or a work trial commenced or completed prior to consideration of medical separation.

## 8.7 Responsibility to consider suitable employment options

Where a suitable employment opportunity is identified either as a work trial, or a permanent redeployment, the worker has an obligation to participate in the trial and/or employment. While particular vocational options may not be the worker's preference, they have an obligation to reasonably participate when the option is within their capacity.

Failure of a worker to reasonably participate in suitable employment, or workers who deliberately foil an employment option, may have a non-compliance process initiated by the TMF Claims Manager.

## 8.8 Successful redeployment to an alternate employer

Workers who are successfully redeployed to an alternate employer, will be separated in accordance with the NSW Health Policy Directive [Recruitment and Selection of Staff to the NSW Health Service \(PD2023 024\)](#) once the transition has been finalised.

## 8.9 Termination of employment on medical grounds

The decision to terminate a worker's employment on medical grounds should only take place after discussions between the worker, relevant medical practitioners, human resources/workforce and Recovery Partner staff.

It is not considered to be in the best interests of either SESLHD or workers, to prematurely proceed to medical termination, therefore all avenues for internal redeployment should be robustly explored prior to these discussions taking place.

Any termination on medical grounds of ill health will be undertaken consistently with the provisions of the [Workers Compensation Act 1987](#) (NSW) and the [Workplace Injury Management & Workers Compensation Act 1998](#) (NSW).

## 9. WORKING REMOTELY

[Section 4 of the Workers Compensation Act 1987](#) (NSW) states that workers compensation is not payable unless the worker has sustained a personal injury arising out of or in the course of employment; and [Section 9A](#) states that employment is a substantial contributing factor to the injury, or in the case of a disease, the main contributing factor to the development of the disease, or aggravation of an existing disease ([Section 4\(b\)](#)).

If a worker is working remotely from a health workplace (e.g. at home or another location) and sustains an injury, they must be able to show that the nature or the requirements of their work played a substantial role in an injury for the injury to be compensable.

SESLHD has practices in place to ensure workers create a safe work environment whilst working remotely, these can be found within [SESLHDPR/435 - Flexible Work Practices](#). Where workers are working remotely, this includes (but is not limited to) ensuring as much as possible that workers have an ergonomically appropriate workspace, in an area that is free of trip hazards and with adequate lighting. Workers are to also ensure that they have adequate power outlets/power boards to safely run their computer and other necessary equipment without overloading.

SESLHD encourages workers to take extra care for their personal safety whilst remotely, including not rushing or running, and to keep a proper lookout for any general hazards just as they would in a more formal work environment.

## **10. NON-WORK RELATED INJURIES AND ILLNESSES (NWRI)**

### **10.1 Return to work following non-work related injury/illness**

SESLHD is committed to achieving an early, safe and durable return to work for all workers including workers who have sustained non work related injuries. In cases where a worker has been unable to work due to a non work related injury/illness and medical restrictions have been recommended for their return to work, their supervisor/manager must commence the Non-Work Related Injury/Illness process with the Recovery Partner. This process will be managed in accordance with the [SESLHDPR/564 - Non-Work Related Injury or Illness Management procedure](#) and any applicable whole of government or NSW Health policy. This will include communication with the worker and medical practitioners, if the worker provides authority (see NSW Health Injury Management resources for a template ([Authority to Release Information NWRI](#))) to facilitate a gradual, safe and durable return to work.

The worker must provide the supervisor/manager with a certificate from a doctor indicating any medical restrictions that may need to be considered when identifying the availability of suitable duties or alternatively suitable employment. The worker must provide an updated certificate when these restrictions change.

The supervisor/manager should contact Recovery Partner staff if advice is required to assist them in facilitating a safe and durable return to work for the worker. This is to be considered under SESLHD's duty of care and suitable duties may be offered where considered practicable by the supervisor/manager.

There may be cases where suitable duties are not practicable to be supplied or may be withdrawn if they can no longer be operationally sustained by the work area. SESLHD may require the worker to attend an independent medical examination should clarification of their injury/illness be required.

### **10.2 Reasonable adjustments to the workplace**

In cases where an injury, disability or illness is not covered by workers compensation, employees can ask for assistance in making changes to the workplace to accommodate any disability.

Any decision regarding reasonable adjustment in a workplace will be taken with regards to what is practicable and the timeline of any adjustment. A workplace adjustment is a change to a work process, practice, procedure or environment that enables an employee to perform their job in a way that minimises the impact of their injury, disability or illness.

Workplace adjustments allow a person to:

- perform the inherent or essential requirements of their job safely in the workplace;
- have equal opportunity in recruitment processes, promotion and ongoing development;
- experience equitable terms and conditions of employment;

- steadily return to their pre-injury productivity; and
- maintain a safe working environment for all staff.

Under the [Disability Discrimination Act 1992](#) (Commonwealth), SESLHD is obligated to make adjustments to accommodate an individual’s disability, unless that adjustment would result in unjustifiable hardship.

**10.3 Making adjustments**

An adjustment is considered reasonable unless it causes “unjustifiable hardship” to the employer. Unjustifiable hardship could be in the form of financial cost, an amendment to the physical building that is not possible due to council or other restrictions, or an adjustment that would disadvantage other workers.

The Non-Work-Related Injury/Illness process is not to be used with declined workers compensation claims where liability is in dispute.

Factors to consider when considering whether an adjustment is reasonable:
the effectiveness of the adjustment in assisting the worker with disability to perform their job
the practicality of the adjustment
the extent of any disruption caused to business operations
the financial or other costs of the adjustment
the extent of the employer’s financial and other resources
the availability of financial or other assistance to help make the adjustment e.g. the employment assistance fund
the nature of business activities and size of the organisation
the impact of the adjustment on other employees.
Examples of workplace adjustments that create an inclusive environment include:
allowing a worker with disability to have some flexibility in their working hours, such as working part-time or starting and finishing later, or teleworking for part of the week
redistributing minor duties, non inherent requirements of a job, that a worker with disability finds difficult to do
purchasing or modifying equipment, such as speech recognition software for someone with vision impairment, an amplified phone for a person who is hard of hearing, or a digital recorder for someone who finds it difficult to take written notes
providing additional training, mentoring, supervision and support
providing agendas in electronic formats for people who find it difficult to manipulate pages
height-adjustable workstations

**11. CONFIDENTIALLY OF INJURY MANAGEMENT INFORMATION**

All information and records collected during the injury management process will be kept confidential in accordance with the [Australian Privacy Principles](#) and will only be disclosed in

accordance with these and / or the provisions under information collection and sharing of the [Workplace Injury Management and Workers Compensation Act 1998](#) (NSW).

Injury management information is information that involves the treatment, rehabilitation, retraining, claims management and employment management practices that are directed to assist a worker to return to work.

The worker is responsible for giving consent for the NTD, employer, Claims Manager, SESLHD treating practitioners and rehabilitation providers to exchange information for the purposes of managing the injury/illness and workers compensation claim, should they choose to do so. This is done by signing the authority to release form and the initial and/or subsequent Certificate of Capacity.

The worker may withdraw consent at any time, in writing to the Recovery Partner or TMF Claims Manager, however if consent is withdrawn, recover at work assistance may not proceed and it may affect the worker's entitlement to worker's compensation benefits.

Information covered by the authority to release includes, but is not limited to:

- File notes, letters, faxes, emails and recover at work plans developed by the Recovery Partner;
- NTD reports, medical information, file notes and assessments;
- Specialist assessments and reports if the worker was referred to the specialist by the NTD; and
- Approved workplace rehabilitation provider documents.

### **11.1 Retention of records and maintaining confidentiality**

Records of all conversations held with various stakeholders and copies of all documents and reports used in the rehabilitation and recovery process, plus all case notes relevant to the management of the R@W Plan, will be maintained by the Recovery Partner. These records will be kept and maintained in confidence in accordance with the [State Records Act 1998](#) (NSW) and the [Health Records and Information Privacy Act 2002](#) (NSW). Workers are entitled to view and/or obtain a copy of all records held relating to their workplace rehabilitation.

The Recovery Partner will meet with the worker to review the records and explain the documents, notations and abbreviations as part of providing such records. The worker may bring a support person to this meeting with the Recovery Partner.

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### 12. DOCUMENTATION

The following templates are available on the NSW Health Injury Management SharePoint site ([Injury Management](#)). Further information will be added to this location as needed.

1. [Recover at Work Plan](#) (pro forma)
2. [Letter to worker: Receipt of Injury Notification](#)
3. [Authority and Consent for the Collection and Release of Personal and Health Information](#)
4. [Authority to Release Information – NWRI](#)

### 13. AUDIT

This procedure will be audited during the NSW Health WHS audit program conduct every two years and the NSW Ministry of Health Workers Compensation and Injury Management case file audit.

### 14. REFERENCES

- [Workers Compensation Act 1987](#) (NSW)
- [Workplace Injury Management and Workers Compensation Act 1998](#) (NSW)
- [Work Health and Safety Act 2011](#) (NSW)
- [NSW Ministry of Health Policy Directive PD2018\\_013 Work Health and Safety: Better Proactive Procedures](#)
- [NSW Ministry of Health Policy Directive PD2020\\_047 Incident Management](#)
- [NSW Ministry of Health Policy Directive PD2023\\_016 Rehabilitation, Recovery and Return to Work](#)
- [State Insurance Regulatory Association \(SIRA\) Guidelines](#)

### 8. VERSION AND APPROVAL HISTORY

Date	Version	Version and approval notes
April 2012	2	Terms amended by Dieter Schultejohann in consultation with SESLHD Workers Compensation Managers and Rehabilitation Case Managers
May 2012	3	Changes approved by Sharon Litchfield Director Workforce Services
June 2013	4	Amended to reflect updated Ministry of Health Policy
April 2015	5	Amendments to reflect minor changes to our “Our Commitment to Injury Management” and update related document hyperlinks. Endorsed by Executive Sponsor
December 2016	6	Amendments to reflect the introduction of investigative actions to improve future performance, and the change in title from Rehabilitation Case Management and Return to Work Plan to Recover at Work Coordinator and Recovery at Work Plan
March 2017	6	SESLHDPR/276 updated and published on SESLHD Policy webpage- minor review
August 2017	7	Document title changed- Catherine Johnson, WHS Consultant

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November 2018	8	Links updated, change of title of “the insurer” to the “the Fund Manager”- Peggy Pollock, Manager, Health Safety and Wellbeing
March 2019	8	No changes- approved by Executive Sponsor.
June 2020	9	Risk rating reduced to Medium. Review date amended to November 2020 to align with Medium Risk rating. Executive Sponsor updated from Director Workforce Services to Director People and Culture. Approved by Executive Sponsor.
November 2021	10	Major review to align with the new SIRA return to work legislative requirements. Risk rating reduced to Low. Inclusion of Appendix 15.2 Approved by Executive Sponsor.
February 2022	10	Approved by Executive Sponsor following Draft for Comment period.
March 2022	10	Approved by Executive Council
13 October 2023	10.1	Minor review to align with Ministry of Health Policy Directive PD2023_016. Approved by Executive Sponsor.