



Returning to work

Workers Comp Fact Sheet 8

Under the Law, the employer must

1. **Provide** an injured worker with suitable duties, unless the employer can prove it is not possible
2. **Not dismiss** an injured worker within 6 months of the injury
3. Have a return-to-work program, which complies with WorkCover guidelines and has been agreed to by the union. It is important for you as a Union Representative to **ensure that the union has agreed in writing to the program** and that you have been involved in the selection of rehabilitation providers for your workplace.

Workers back at work on suitable duties

- The worker's treating doctor must sign off on any return to work plan
- If workers require treatment i.e. physiotherapy, etc., this should be included in the return to work plan. The worker should be given adequate time to attend treatment.

Supervisors **cannot request** that a worker go outside of the requirements of the return-to-work plan.

The worker must follow the return-to-work plan, however, if there is an issue, seek assistance from their Union Representative.

Workers are entitled to make-up pay while they are back on suitable duties. The make-up pay has to take into account penalty rates and overtime.

Retraining

If an injured worker is not able to return to their pre injury occupation, they may require retraining or upskilling (e.g learning computer skills) for another job. Priority must be given to **retraining or upskilling** with the original employer and prior to looking outside

at other employment options. This is organised by their rehabilitation provider or the employer's return to work coordinator. The insurance company covers the cost of retraining.

The union representative should ensure that the worker is referred to the provider agreed by the union in the return to work program.

Disputes over suitable duties

Unions lobbied the government to ensure that disputes where an employer has not provided suitable duties can be dealt with appropriately.

The Government has established a special division in the new Workers Compensation Commission to deal with all disputes relating to suitable duties. For example, if the employer refuses to provide suitable duties, the union can lodge a dispute with the Commission. The employer must then prove that they do not have suitable duties. The union will organise the evidence to support the injured worker.

The union can also take other disputes, such as, a worker not being able to choose their own provider or a dispute over a return to work plan on behalf of their members to the Commission.

In such disputes, the Commission will be able to:

- Attempt to conciliate
- Direct that an injury management consultant or other qualified person (paid by the employer) carry out a workplace assessment
- Refer it to WorkCover
- Make a recommendation on the matter.

Under the Law the employer is required to provide suitable duties.

OHS Representatives/Union Representatives should develop a list of suitable duties for their workgroup.

For more information please contact your union. This Literature is recommended as a guide only and is not a substitute for professional or legal advice. If you need clarification or further advice please consult your Union for further information or *Contact the Workers Health Centre. The [Workers Health Centre](#) is a non-profit organisation that has provided workers with quality health and safety services since 1976.*

If you are an Injured Worker and in need of assistance and support when injured, please contact us

The Injured Workers Support Network

Address:
Phone:
Email:
Website:

The Injured Workers Support Network is a Not for Profit Organisation.

Who can participate?

- **All injured workers**
- **Any immediate family or support persons of injured workers.**

If interested in further information concerning meetings, membership or other forms of support for the Injured Workers Support Network, please contact us.