

# SUITABLE EMPLOYMENT FOR INJURED WORKERS

## A STEP BY STEP GUIDE TO IDENTIFYING SUITABLE DUTIES

As an employer, you have a legal obligation under the *Accident Compensation Act 1985* (the ACA) to provide suitable employment to your worker following a work-related injury or illness.

This guide contains practical information to help you meet this obligation. It explains how to identify suitable employment and how to make an *Offer of Suitable Employment* to your injured worker.

### OBLIGATION TO PROVIDE SUITABLE EMPLOYMENT

Your obligations to provide suitable employment to your injured worker can be summarised as follows:

- if your injured worker can remain at or return to pre-injury work, you must provide a job the same as or equivalent to the job held before the injury; or
- if your worker has a work restriction, you must provide a job that suits the worker, taking into account their medical condition, age, skills and experience.

Your obligation to provide suitable employment continues for 12 months from the date your worker's claim for weekly payments is accepted [s 155A ACA].

**Note:** *The 12 month period is not necessarily 12 consecutive calendar months. Rather, it is a combined total of all the periods where your worker has an incapacity for work. Your WorkSafe Agent can assist you on a case by case basis to ensure that all relevant periods are taken into account and that you meet your legal obligations.*

### WHAT IS SUITABLE EMPLOYMENT?

Suitable employment is employment that your injured worker can do and is suited to doing. To identify suitable employment you need to ask the following questions:

- What is your worker's capacity for work?
- What were your worker's pre injury duties? Can these be modified?
- Where does your worker live?
- What other factors can be considered? (previous education, skills, experience etc)
- Are there any other duties available?
- Is there any suitable work available in your workplace?

This guide contains a worksheet to help you answer these questions and identify suitable duties that will help your worker return to work. Completing the worksheet will also document your efforts to identify suitable duties should proof of this be required at any time.

### WHEN SHOULD I MAKE AN OFFER OF SUITABLE EMPLOYMENT?

You are required to prepare a *Return to Work Plan* within 10 calendar days of your injured worker's claim for weekly payments being accepted, or the date you become aware that your injured worker will have an incapacity for more than 20 calendar days – whichever is the later.

If your worker has a current work capacity, the *Return to Work Plan* must include an *Offer of Suitable Employment*. An *Offer of Suitable Employment* is a written job offer that is required as part of the *Return to Work Plan* when your worker has a work capacity but cannot return to their full duties.

Supporting your worker to remain at or return to work benefits both you and your worker. Preparing a *Return to Work Plan* as soon as possible following an injury can help minimise the impact of the injury on your business and your worker.

WorkSafe Victoria has a *Return to Work Plan/Offer of Suitable Employment* template available to help you document your *Return to Work Plans* and *Offers of Suitable Employment*. This template can be obtained from your WorkSafe Agent, or can be downloaded from the WorkSafe website ([www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)).

### WHO CAN HELP YOU PREPARE AN OFFER OF SUITABLE EMPLOYMENT

Talking with your injured worker and their healthcare professional is the key to preparing an effective *Return to Work Plan* and *Offer of Suitable Employment*. This may help you clarify medical information and match the worker's capacity for work to duties available in your workplace.

Your WorkSafe Agent can also help you to develop *Return to Work Plans* and *Offers of Suitable Employment*.

An Occupational Rehabilitation Provider may also be engaged to help your worker remain at or return to work when required. If you believe an Occupational Rehabilitation Provider may be able to help, discuss it with your WorkSafe Agent as they must approve the cost of these services before they are provided.

### WHAT IF YOU CAN'T OFFER SUITABLE EMPLOYMENT?

You must consider suitable employment options and document the options you have considered. Completing the template inside this guide will help you demonstrate your efforts to identify suitable employment.

**If, after considering the suitable employment options, you believe you cannot offer your injured worker suitable employment, then you should contact your WorkSafe Agent immediately.**

### CAN AN EMPLOYER GET AN EXEMPTION FROM PROVIDING SUITABLE EMPLOYMENT?

Neither WorkSafe Agents nor WorkSafe Victoria can grant employers an exemption from providing suitable employment as required under the ACA.

**Note :** *When an employer does not provide their injured worker with suitable employment, WorkSafe will consider the available information and make a decision whether or not to prosecute the employer for breach of s 155A ACA.*

## A WORKSHEET TO IDENTIFY SUITABLE DUTIES

This worksheet contains the key questions you need to consider each time you identify and/or review the available suitable employment options for your injured worker.

Step through these questions each time your worker's capacity changes and/or each time your worker's *Return to Work Plan* is reviewed. Read each question then read the example provided to help you answer that question. Finally, write your answer to the question in the space provided as it relates to your worker and your workplace.

Answering these questions will help determine what work your injured worker can do and is suited to doing.

Steps to identifying suitable duties	<b>Step 1. Medical information</b> <b>What are the restriction and capacity details on the WorkSafe Certificate of Capacity?</b>  <b>What other medical information is available?</b> <i>Has your WorkSafe Agent provided any further medical information, e.g. Independent Medical Reports, treating doctor report, Occupational Rehabilitation report?</i>	<b>Step 2. Modified duties</b> <b>What are your injured worker's normal duties?</b>  <i>Consider modifying the normal duties:</i> <ul style="list-style-type: none"> <li>what parts of their pre-injury duties are within your injured worker's medical restriction?</li> <li>could your injured worker safely perform some/all of their normal duties with assistance (e.g. special tools, aids or buddy system)?</li> <li>Refer to available medical information (WorkSafe Certificate of Capacity)</li> </ul>	<b>Step 3. Injured worker consideration</b> <b>Where do they live?</b> <ul style="list-style-type: none"> <li>has the injury impacted upon your worker's ability to get to and from work?</li> <li>will your worker require travel assistance to return to work?</li> </ul>
<b>Example</b>	<p><i>John's WorkSafe Certificate of Capacity states that for the next 14 days John can work for 4 hours per day, 5 days per week. He can lift up to 5 kg and cannot stand or walk for periods greater than 10 minutes at a time. The WorkSafe Agent confirms that an Independent Medical Examiner has advised that John's injury prevents him from walking between his home and the bus stop. John attends his physiotherapy treatment after work.</i></p>	<p><i>John is a maintenance fitter. Of his pre-injury duties, the following are consistent with the available medical information:</i></p> <ul style="list-style-type: none"> <li>seated bench work</li> <li>safety / quality checks</li> <li>labelling stock</li> </ul>	<p><i>John walks 1200 metres from his house to the bus stop to go to work — and vice versa when coming home from work. John does not have a driver's license. John's manager drives near his house every day when travelling to/from work and has offered to give John a lift.</i></p>
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Keep the completed worksheet for your records and provide a completed copy to your WorkSafe Agent if you do not believe you can offer suitable duties.

Worker's Name

Claim Number

<p><b>Step 4. Other factors</b> How does your injured worker's age, education, skills, work experience and personal circumstances impact upon their RTW?</p> <p>Consider :</p> <ul style="list-style-type: none"><li>• whether your injured worker's age, education, skills and work experience make them suitable for performing duties other than those associated with their pre-injury work?</li><li>• your worker's resume/personnel file.</li></ul>	<p><b>Step 5. Alternative Duties</b> Are there any other duties available that your injured worker may be able to perform safely?</p> <p>Consider :</p> <ul style="list-style-type: none"><li>• is there other work that needs to be done in your business?</li><li>• can your injured worker safely perform any other tasks or roles?</li></ul>	<p><b>Step 6. Document the suitable duties then make an Offer of Suitable Employment.</b></p> <p>After considering and answering the questions in steps 1-5, you should have a good framework on which to put together a Return to Work Plan and an Offer of Suitable Employment for your worker. Remember to consult your worker and their treating health professional when preparing the Return to Work Plan and the Offer of Suitable Employment.</p> <p><b>If no duties are available or identified, contact your Case Manager to discuss what steps you need to take and what support your WorkSafe Agent can offer.</b></p>
<p><i>John has been a maintenance fitter for 20 years. He has been advised not to perform duties that involve heavy lifting. John is 62 years old, English is his second language, and whilst his numeracy and literacy skills are sufficient to perform his normal duties, his spoken English is not sufficient for customer service.</i></p>	<p><i>John's manager regularly requests assistance with coordinating the delivery of plant and equipment from suppliers. John's literacy is sufficient to assist with these duties</i></p>	<p><i>Using the information in the above example, John could be made an Offer of Suitable Employment:</i></p> <ul style="list-style-type: none"><li>• working Monday to Friday from 8.00am to 12 noon</li><li>• receiving travel assistance to get to and from work</li><li>• working in the delivery office for the first two hours each day confirming the delivery of plant and equipment from suppliers</li><li>• working at his bench on the factory floor for the final two hours each day performing seated bench work conducting safety / quality checks of stock and labelling stock.</li></ul>
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### WorkSafe Advisory Service

The WorkSafe Advisory Service is a free service that can:

- explain return to work, rehabilitation rights and obligations;
- answer general occupational health and safety enquiries;
- advise you on your rights, including health and safety.

#### Telephone

Freecall 1800 136 089

#### Email

info@worksafe.vic.gov.au

**Website** [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

#### Visit

WorkSafe Victoria  
222 Exhibition Street  
Melbourne VIC 3000

#### Write to

WorkSafe Advisory Service  
GPO Box 4306  
Melbourne VIC 3001

### WorkSafe Publications

All WorkSafe publications are available on our website ([www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)). Some of the WorkSafe publications you may find helpful include:

- *What to do if a worker is injured – A guide for employers*
- *Return to Work Plan template*
- *Offer of Suitable Employment template*
- *Original Employer Services – Helping injured workers get back to work*
- *New Employer Services – Helping injured workers get back to work*
- *WorkSafe Incentive Scheme for Employers – Helping injured workers get back to work with a new employer*

### WorkSafe Agents

For more information contact your WorkSafe Agent.

#### ALLIANZ Workers' Compensation (Vic) Limited

Level 26, 570 Bourke Street,  
Melbourne 3000  
Ph: (03) 9234 3800  
Fax: (03) 9234 3760  
Freecall: 1800 240 335

#### Cambridge Integrated Services Victoria Pty Ltd

Level 10, 390 La Trobe Street,  
Melbourne 3000  
Ph: (03) 9947 3000  
Fax: (03) 9947 3005  
Freecall: 1800 801 070

#### CGU Workers Compensation (Vic) Limited

Level 5, 477 Collins Street,  
Melbourne 3000  
Ph: (03) 8630 1000  
Fax: (03) 8804 9429  
Freecall: 1800 066 204

#### Gallagher Bassett Services

##### Workers Compensation Vic Pty Ltd

Ground Floor, 50 Queen Street,  
Melbourne 3000  
Ph: (03) 9297 9000  
Fax: (03) 9297 9010  
Freecall: 1800 774 377

#### GIO Workers' Compensation (Victoria) Ltd

Level 14, 447 Collins Street,  
Melbourne Vic 3000  
Ph: (03) 9860 3555  
Fax: 1300 133 180  
Freecall: 1800 817 969

#### QBE Workers Compensation (Vic) Limited

Level 8, 628 Bourke Street,  
Melbourne 3000  
Ph: (03) 9246 2444  
Fax: (03) 9246 2400  
Freecall: 1800 817 820