

# **WORKCOVER POLICY GUIDE**

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# 1 INTRODUCTION

The purpose of this Guide is to provide the policy background to the WorkCover claims management advice contained in the WorkCover Management Kit by outlining:

- the legislative basis and key features of the Victorian WorkCover scheme
- the legislative background and key legal obligations associated with the management of WorkCover in schools
- the Department's arrangements and support infrastructure for the management of WorkCover in schools.

Detailed advice on the procedures to be followed when managing WorkCover claims, and the documents required to process WorkCover claims can be accessed from the WorkCover Management Kit available at:

<http://www.eduweb.vic.gov.au/hrweb/safetyhw/injury/injman.htm>

## 2 THE VICTORIAN WORKCOVER SCHEME AND WORKCOVER ENTITLEMENTS APPLICABLE TO DEECD EMPLOYEES

### 2.1 WorkCover scheme key features and legislative basis

The Victorian WorkCover Authority, operating under the title WorkSafe, is responsible for administering the Victorian WorkCover Scheme. WorkSafe currently has six authorised WorkCover Agents who perform most of the functions associated with managing WorkCover claims. The legislative basis for the WorkCover Scheme is the Accident Compensation Act 1985.

The WorkCover scheme is a 'no fault' work related injury compensation scheme. This means that a worker's entitlement to compensation is not a question of who was responsible for the injury, but is determined by whether the injury was employment related, according to the provisions of the Accident Compensation Act.

The key objective of the scheme is to ensure that the social and economic costs of workplace injuries and illnesses are minimised by:

- improving the health and safety of people at work and the rehabilitation of injured employees
- ensuring that injured employees receive appropriate entitlements as compensation for workplace injuries
- ensuring that employers provide suitable employment for employees who have been injured at work

- ensuring employers contribute equitably to the costs of the scheme through the payment of WorkCover premiums.

Further information about WorkSafe and the WorkCover scheme can be found at the WorkSafe website:

<http://www.workcover.vic.gov.au/wps/wcm/connect/WorkSafe>

## **2.2 WorkCover entitlements**

### **2.2.1 Weekly benefits**

Injured employees may access compensation for loss of earnings (weekly benefits) by lodging a Worker's Injury Claim Form and a WorkCover Certificate of Capacity (medical certificate) with their principal.

WorkCover weekly benefits are calculated as a percentage of the employee's average gross weekly wage for the 12 months prior to their injury. The rates applicable to weekly benefits for employees who have not returned to work are:

- for the first 13 weeks off work, 95% of the pre injury wage to a maximum \$1250\*

then

- from 14 to 130 weeks 75% of the pre injury wage to a maximum of \$1250\* if the employee has no capacity for work, or if the employee has a capacity for work and has not been provided with suitable employment

or

- if the employee has a capacity for work, 75% of the pre injury wage, to a maximum of \$1250\*.

Employees with a capacity for work who have returned to work on selected or alternative duties are entitled to a weekly benefit of 75% of their pre injury pay less 75% of what they are currently earning a week to a maximum of \$1250\* a week.

Entitlement to weekly benefits ceases at 130 weeks if the employee has a capacity for work. After 130 weeks an employee may apply for weekly benefits to continue if the employee has returned to work and is working at least 15 hours per week and is not capable, because of their injury of working beyond this level.

For employees who have no capacity for work, entitlement to weekly benefits may continue beyond 130 weeks until they reach retirement age, provided they continue to have no capacity for work.

WorkCover Insurance Agents' assessments of work capacity are based upon WorkCover Certificates of Capacity, reports from treating doctors and/or independent medical examinations.

WorkCover weekly benefit payments are indexed each year on the anniversary of the WorkCover claim acceptance date. Indexation changes are based on changes to the Australian Consumer Price Index.

*\* Correct as at July 2008. Maximum amounts are indexed annually.*

### **2.3 Weekly benefits and make up pay applicable to DEECD employees**

Teaching Service Order 186 and Ministerial Order 188 provide for injured employees to receive Make-Up Pay (MUP) to bridge the gap between the legislated WorkCover weekly benefit and what the injured worker would be entitled to be paid had they not been injured. Make-Up Pay is payable in respect of a particular injury or incapacity for a continuous period of 52 weeks, or an aggregate of 261 working days if the absence is not continuous.

If a worker does not return to work in the period of the first 52 weeks of their accepted WorkCover claim then MUP is applied for the continuous period of 52 weeks. Periods beyond 52 weeks do not attract MUP and the worker is paid according to the applicable compensation rate.

If an employee returns to work for intermittent periods during the course of their claim then the aggregate MUP period is applicable. This aggregate must eventually add up to 261 working days absence, during which 1 day of MUP payment equals 1 day toward the aggregate calculation. Schools should accurately record all days that the worker does not work, or works reduced hours, as each partial day worked counts as 1 MUP day.

During the MUP period employees continue to accrue other leave entitlements as detailed in Section 5. Leave and Payroll Management, below.

Please note:

- there is no entitlement to MUP if employment with the Department ceases
- if, after injury, the injured worker reduces their work time fraction their MUP pay will then be calculated on the pay that is applicable to the reduced time fraction.

### **2.3.1 Medical and like expenses**

Employees are entitled to compensation for reasonable medical and like expenses incurred as a result of a work related injury.

WorkCover has a maximum fee structure for medical and like services. If a health practitioner charges more than the set maximum fee WorkCover will only reimburse to the level of the set maximum.

### **2.3.2 Other benefits**

Employees may be entitled to lump sum payments for permanent disability suffered as a result of workplace injury. In the event of the death of an employee, the dependents of the employee may be entitled to a lump sum payment and the payment of a pension. Employees who have suffered an injury as a result of employer negligence may also be able to access damages through court action.

Further information concerning benefits can be found at the WorkSafe website:

<http://www.workcover.vic.gov.au/wps/wcm/connect/WorkSafe>

## **3 THE DEPARTMENT'S WORKCOVER MANAGEMENT ARRANGEMENTS**

### **3.1 DEECD's WorkCover Insurance Policy**

The Department's authorised WorkCover Agent is CGU Workers Compensation Insurance (CGU Insurance). The Department's WorkCover policy covers all DEECD employees in both schools and non school locations.

School council employees are not covered by the Department's WorkCover insurance policy. Any school council that has an annual payroll in excess of \$7,500, or employs an apprentice/s, is required to have a WorkCover Insurance policy.

### **3.2 Costs and funding arrangements**

#### **3.2.1 Student Resource Package (SRP) WorkCover Costs**

All schools receive a SRP WorkCover budget allocation based on the average claims cost rate for each school type. The average claims cost rate for each school type is applied to the remuneration of each school to determine each school's WorkCover budget allocation.

The amount charged against a school's WorkCover budget allocation is based on the actual incurred costs of claims that have been lodged at the school during the three previous financial years.

If the actual incurred costs of claims lodged are greater than a school's WorkCover budget allocation the school is required to pay part of the difference, capped at 0.5% of its remuneration up to a maximum of \$10,000. Savings capped at 0.5% of remuneration, up to a maximum of \$10,000 accrue to those schools with actual incurred claims costs less than their WorkCover budget allocations.

Schools may request exemptions for the costs of certain categories of claims, e.g., claims with injury dates prior to 1 July 2000.

Further information on SRP WorkCover costs and budget allocations can be found in the Indicative Guide to the Student Resource Package on the SRP Website. The budget allocation and cost details for each school are also available in the WorkCover Summary Statement on the SRP Website.

### **3.2.2 Relief costs**

Schools are required to meet the following costs associated with WorkCover claims from DEECD employees:

- relief staff costs incurred in covering the first 10 days of WorkCover leave
- any relief costs incurred in covering between 10 and 30 days of WorkCover leave if the school has a staffing excess.

For WorkCover leave beyond 30 days, part or all of the salary of the employee on WorkCover leave is charged outside the SRP thereby releasing funds within the SRP meet the costs incurred in replacing the employee on WorkCover leave.

Further information on relief costs is available from the SRP Website.

### **3.2.3 Funding to support return to work programs**

Funding is available through the Employee Health Unit to support the provision of suitable employment (alternative duties) for employees on Return to Work Programs. The funding is provided to enable a replacement person to be employed whilst the injured employee performs alternative duties at their base school or undertakes duties at another work location. Funding is initially available for 30 days, after which it is subject to review.

Further advice on return to work funding can be obtained from the Employee Health Unit on (03) 9637 2392.

### **3.2.4 Other costs**

All other costs, including the premium paid to cover DEECD employees and the below threshold component of medical and like expenses (i.e. the first \$564) are met centrally by DEECD.

### **3.2.5 Payment of medical and like expenses**

The Department has an arrangement with CGU Insurance whereby CGU Insurance pays all medical and like accounts, including those accounts that fall within the employer threshold medical and like expenses component of \$564. Schools should not pay any medical accounts. All medical accounts should be sent to CGU Insurance for payment

## **4 KEY LEGAL OBLIGATIONS AND RESPONSIBILITIES**

Principals, in conjunction with CGU Insurance, are responsible for the management of WorkCover claims lodged by DEECD employees. Principals are supported in this role by:

- CGU Insurance's injury claims consultants
- DEECD's network of specialist Occupational Rehabilitation Providers
- advisory support from the Employee Health Unit
- advisory support from Schools HR Services on WorkCover leave and payroll matters.

### **4.1 Principals' key WorkCover obligations and responsibilities**

In the event of an employee lodging a WorkCover claim principals are required to receive the claim from the employee and acknowledge receipt of the claim in writing to the employee (It is a criminal offence to refuse to accept a claim from an employee.)

Following receipt of claims, principals are required to ensure that:

- the claims are sent to CGU Insurance within 10 days from the date on which the employee lodged the claims
- CGU Insurance is provided with timely and accurate information about the circumstances of the claim
- employees in receipt of weekly compensation payments are paid correctly on their scheduled pay days
- arrangements are in place to manage employees' work-related injuries through an appointed Return to Work Coordinator for the school. (See Section 6 below for further information.)
- return to work plans are prepared and forwarded to CGU for employees who are absent for 20 or more calendar days (See Section 6 below for further information.)

- suitable employment is provided for injured employees (See Section 6 below for further information.)
- CGU is provided with information on claimants' wages and return to work dates and a copy of the DEECD Offer of Suitable Employment
- they participate in Conciliation conferences and/or court hearings in the event of disputed WorkCover claims decisions. (See Section 7 below for further information.)

Other WorkCover responsibilities, not directly related the management of claims, require principals to ensure:

- That there is an appointed Return to Work Coordinator for the school. (See Section 6 below for further information.)
- that a register of injuries is maintained
- that the WorkCover poster 'If you are Injured' and a 'Risk Management and Occupational Rehabilitation Statement' are displayed in the school and brought to the attention of all staff. (See Section 6 below for further information. 'If you are injured posters' are available from CGU Insurance)
- that when employing new staff, applicants are provided with a written description of the proposed duties and are asked to disclose any pre existing injury or illness that could be affected by the nature of the proposed duties. Applicants should also be advised that a failure to disclose a pre existing injury or illness may jeopardise their entitlement to compensation should the injury or illness recur. (Further information on pre employment procedures is available on the HR Website.)

## **4.2 CGU Workers Compensation Insurance's key responsibilities**

CGU Insurance is required to:

- contact the principal within two days of receiving an employee's WorkCover claim
- advise on obligations and steps to be taken on the claim and to discuss the matter of liability
- take account of information provided by principals concerning the circumstances of the claim when determining liability for the claim
- advise the principal and the claimant within 28 days of receiving a claim of the decision on acceptance of liability of the claim
- facilitate the early return to work of injured employees through the provision of timely advice to principals on rehabilitation obligations and options
- arrange independent medical examinations for employees following consultation with principals and advise principals of the results of medical examinations
- advise principals of changes in employee's compensation entitlements and or rates
- contact and advise principals when disputed claims are scheduled for a Conciliation Conference

- process and pay medical accounts within 30 days.

### **4.3 Employees' responsibilities**

WorkCover claimants are required to:

- notify their employer of a work related injury or illness within 30 days of becoming aware of it
- participate in assessments of their capacity for work and approved rehabilitation programs and make reasonable attempts to return to work in suitable employment if they have an accepted WorkCover claim
- provide evidence of current weekly earnings to both CGU Insurance and school principal to ensure that the correct rate of compensation is applied
- cooperate with their employer's attempts to return them to work
- provide valid WorkCover Certificates of Capacity if there is an entitlement to receive weekly compensation payments.

Where employees do not meet these requirements they may jeopardise their entitlement to compensation.

It should also be noted, that as part of the pre employment process, applicants are required to disclose any pre existing injury or illness that may be affected by the proposed duties of the position. Failure to disclose a pre existing injury or illness may jeopardise an employee's entitlement to compensation if that injury or illness recurs as a result of their employment.

## **5 LEAVE AND PAYROLL MANAGEMENT**

### **5.1 Leave recording**

When an employee lodges a claim for weekly benefits (a time lost claim) and presents a WorkCover Certificate of Capacity, leave is recorded on HRMS as being 'personal leave pending WorkCover'. The dates entered on Certificates are the dates used for leave recording purposes.

For WorkCover claims for weekly benefits CGU Insurance will notify the claimant and the principal in writing of the acceptance or rejection of the claim within twenty-eight days of having received the claim. If liability for the claim is rejected by CGU Insurance, leave will continue to be recorded as personal leave on HRMS.

If CGU Insurance provides written notification of acceptance of liability for the claim, the claimant's leave and payroll record should be immediately adjusted to the appropriate WorkCover leave code.

For operational information of WorkCover leave recording please refer to the WorkCover Management Kit available at:

<http://www.eduweb.vic.gov.au/hrweb/safetyhw/injury/injman.htm> and Section 6 of the HRMS User Guide available on the HR Web at:  
<http://www.eduweb.vic.gov.au/hrweb/resources/User.htm>

## **5.2 WorkCover leave and accrual of other leave**

Employees on WorkCover leave continue to accrue personal leave credits, recreation leave credits and long service leave entitlements during the period they are entitled to receive make up pay, i.e. the first 52 weeks or aggregate of 261 days of WorkCover leave.

At the conclusion of the make up pay period employees on return to work programs will continue to accrue leave entitlements on a pro rata basis according to the number of hours worked.

## **5.3 WorkCover leave and other entitlements**

The following entitlements are payable to employees on WorkCover leave during the make up pay period.

- Higher Duties: Remains payable to expiry date if the higher duties have been performed continuously for a period of no less than twelve months immediately prior to the claim being lodged. If higher duties were paid for a period less than twelve months then this will continue for a period of one (calendar) month into the claim or to the expiry date if sooner.
- Special Schools Allowance: Payable only for the first month of WorkCover leave.
- Special Payments: Special payments to employees for undertaking tasks designated by the principal are payable for up to one month or until the expiry of the assignment, whichever is the sooner. Employees in receipt of special payments for a continuous period of 12 months prior to the taking of paid leave (during WorkCover MUP period) will continue to receive the payment during the MUP period.
- Remote Allowance: Payable for the duration of the MUP period.
- Salary Leave Loading: Payable for the duration of the MUP period.
- First Aid Allowance: If the allowance has been paid continuously for a period of no less than 12 months prior to the claim, the allowance is paid for the first two weeks of WorkCover leave. If it has been paid for less than 12 continuous months immediately prior to the claim, the allowance is paid for the first three days of WorkCover leave.

## **5.4 WorkCover leave and personal leave**

Personal leave cannot be paid in the same period during which an employee is receiving WorkCover weekly payments, unless the employee is participating in a Return to Work Program. Employees on Return to Work Programs can use personal leave for a non-WorkCover related illness if the absence

coincides with one of the scheduled work days of the program. The absence is to be recorded as personal leave, not WorkCover.

Employees on WorkCover leave do, however, have the option of accessing other forms of personal leave or long service leave for which they have an entitlement, provided they first notify CGU Insurance in writing that they wish to relinquish their entitlement to weekly WorkCover benefits.

## **5.5 Attendance at CGU arranged medical examinations and Conciliation Conferences**

Employees who have resumed duty, and are required to attend a WorkCover Conciliation Conference are considered to be on duty whilst attending the conference. In most cases attendance at a Conciliation conference should involve up to a maximum of 4 hours absence from the workplace.

An employee who is on duty at the time they are required to attend an independent medical examination organised by CGU Insurance should be released from duty in order to attend the medical. CGU insurance will meet the cost of the attendance where the principal/manager submits a request for wage reimbursement attached to the medical notification. Leave of absence for this purpose is limited to 4 hours for metropolitan based staff, and 1 day for employees outside the metropolitan area.

## **5.6 WorkCover leave, salary overpayments and payroll deductions**

If salary overpayments occur the provisions of the Financial Management Act (1994) require principals to implement debt recovery action. In seeking repayment of overpayments associated with WorkCover weekly benefits it should be noted that apart from income tax, deductions cannot be taken from an employee's weekly WorkCover Compensation payments without the written agreement of the employee. Deductions can, however, be made from the 'make up' pay component of an employee's weekly pay.

For employees who have been in receipt of weekly compensation payments for less than 52 weeks or an aggregate of 261 days, other deductions may be made, provided they do not exceed the value of the make up pay component of the employee's weekly pay.

All deductions, other than income tax, should be ceased for employees who are still in receipt of weekly WorkCover compensation payments after 52 weeks or an aggregate of 261 days.

## **5.7 Termination of WorkCover leave at 130 weeks- resumption of duty or application for further leave**

If an employee's WorkCover weekly payment entitlement has been terminated in writing by CGU Insurance and the employee indicates that he or she wishes to resume duty, the worker should not be permitted to resume duty until a medical practitioner approved by the Secretary has certified he or she is fit to resume work.

If the employee is unable to resume duty for medical reasons and wants to access personal leave, the worker must make a written application to the principal requesting a period of personal leave. Applications for personal leave must be supported by a medical certificate confirming that the worker is not fit for duty. Applications for personal leave will be considered by the principal and will not be unreasonably refused.

Also, after 130 weeks an employee may apply CGU Workers Compensation Insurance for weekly benefits to continue if they have returned to work and are working at least 15 hours per week and are not capable, because of their injury, of working beyond this level.

Advice concerning the arrangement of medical examinations and health related resumption of duty issues can be obtained from the Department's Medical Advisory Service on (03) 9692 7756.

## **5.8 Non-attendance at a DEECD Medical Assessment**

If an employee fails to attend a DEECD arranged medical assessment, the principal should request a written explanation from the employee stating the reason for non-attendance. If the explanation is unreasonable or the employee refuses to attend, the matter should be referred to the Senior Education Officer responsible for the school.

## **5.9 Management of ceased employees**

Termination of a worker's employment does not cease the employee's entitlement to receive WorkCover weekly benefits. Schools HR Services is responsible for the payment of weekly benefits to ceased employees from schools.

## **6 REHABILITATION AND RETURN TO WORK REQUIREMENTS**

### **6.1 The DEECD Risk Management and Occupational Rehabilitation Program statement.**

Section 156 of the Accident Compensation Act requires principals to ensure that the Department's 'Risk Management and Occupational Rehabilitation Program statement' at Appendix 1 is displayed in a prominent staffing location in the workplace. Appendix 3 should be used for 'non school' locations.

Schools may wish to develop their own program statement in consultation with staff members and their representatives. The Victorian WorkCover Authority (VWA) guidelines must be followed and are available on the VWA website: [VWA Occupational Rehabilitation](#)

The return to work policy section of the 'statement' details agreed return to work commitments, and the actions to be taken to assist injured workers to remain at work, or return to work, and to avoid the same injury reoccurring.

The name of the school's RTW Co-ordinator and the names of three occupational rehabilitation providers from the Department's list of nominated Occupational Rehabilitation Providers should also be included in the 'statement'. (The list of providers can be accessed from Appendix 2)

The RTW co-ordinator and a worker representative (Health and Safety representative) should complete and sign the 'Commitment' section of the program statement prior to display.

### **6.2 Preparation of Return to Work Plans**

Section 156 of the Accident Compensation Act requires employers to prepare a Return to Work Plan for an injured employee if:

- the injured employee has more than twenty calendar days of incapacity for work
- the circumstances of the claim indicate it is likely that the employee will have more than twenty calendar days of incapacity for work.

The completed Return to Work Plan should be forwarded to CGU Insurance as soon as possible, but no later than 10 days from the date on which the employer became aware that the employee's incapacity would exceed 20 calendar days.

Employers may be prosecuted for failing to comply with the return to work provisions of the Accident Compensation Act.

### **6.3 Suitable employment obligations under Section 155A of the Accident Compensation Act 1985**

Employers are obliged to re-employ an injured worker if the employee has a capacity to work within twelve months (continuous or aggregate time lost) from the date of acceptance of the WorkCover claim.

This requires principals to:

- provide a position which is the same or equivalent to the pre-injury position if the employee is no longer incapacitated or,
- provide suitable employment, if the employee has only a partial capacity for work, by way of modified hours and or alternative duties.

The obligation to provide suitable employment does not require the creation of a new position. It may require modifications to the employee's pre injury duties or the provision of alternative duties within the school or at another workplace.

The provision of suitable employment for employees with partial capacity is intended to be short term as part of a strategy aimed at returning these employees to their full pre injury duties.

If the employee cannot return to their pre-injury work the ORP should investigate alternative employment options either within DEECD or with an external employer.

Injured employees on WorkCover can be employed outside DEECD as part of an approved Return to Work program. If this occurs it should be noted on the employee's WorkCover file and CGU Insurance should be advised in writing of the details of the employment.

Suitable employment obligations do not apply to ceased employees. However, claimants whose employment has been terminated should be assisted in obtaining advertised vacancies via Recruitment Online. Contact the Employee Health Unit on (03) 9637 2392 for further advice.

### **6.4 Employee Obligations under Sections 93A(3) & 93B(2) of the Accident Compensation Act**

Employees may jeopardise their entitlement to weekly benefits if they fail to:

- participate in approved rehabilitation programs
- participate in assessments of their capacity for work
- make reasonable attempts to return to work
- cooperate with their employer's attempts to return them to work.

## **6.5 Early referral to an occupational rehabilitation provider (ORP) and employee right of choice**

Section 99 of the Accident Compensation Act provides injured employees with the right of choice of an ORP, if the services of an ORP are required as part of the injured worker's rehabilitation and return to work program. If an employee is to be referred to an ORP, the employee must be provided with a written list of at least three ORPs from which to make a choice.

However, once the employee lodges a WorkCover claim this offer of choice cannot be made until CGU Workers Compensation Insurance (CGU) has decided to accept liability for the employee's claim, which can be up to 28 days after they have received the claim. The employee then has a further 14 days to advise CGU as to their decision as to choice of an ORP.

Under these timeframes it is possible that an injured employee may not be provided with the support of an ORP until 6 weeks after CGU has received the claim.

To help ensure employees are provided with prompt rehabilitation support, Appendix 3 of the WorkCover Management Kit advises principals to refer an employee to one of the Department's nominated ORPs as soon as it becomes apparent that an employee will be lodging a WorkCover claim.

If CGU accepts liability for the employee's claim, CGU will at that time provide the employee with an offer of choice of ORP. At that stage the employee may either:

- elect to continue with the services of the ORP they have been referred to by the principal, or;
- choose a different ORP from a list that CGU will provide for the employee, or;
- advise CGU that they do not wish to exercise their right as to choice of an ORP.

Further information on the process for referring employees to ORPs can be accessed from the WorkCover Management Kit available at:

<http://www.eduweb.vic.gov.au/hrweb/safetyhw/injury/injman.htm>

## **6.6 Return to Work Coordinator requirements and roles**

Section 156 of the Accident Compensation Act requires principals to ensure that a member of staff is nominated as the Return to Work (RTW) Coordinator for the school.

Principals may wish to consider the following matters when identifying the school's RTW Coordinator:

- nominating themselves or another member of the school leadership team as the RTW Coordinator
- if there is perceived conflict between the injured employee and the RTW Coordinator that there are arrangements in place for another member of staff to take over the RTW Coordinator role
- identifying in conjunction with other schools a RTW Coordinator who would provide the service to a group of schools.

If the principal is not the RTW Coordinator then it is important that the person performing the task keeps the principal fully informed of all return to work matters.

RTW Coordinators are responsible for:

- ensuring that all employees are aware of and understand their rights and obligations under DEECD's Risk Management Occupational Rehabilitation Program
- assisting injured employees to remain at work or return to work as soon as possible after injury or illness in a way which does not jeopardise the welfare of fellow workers or students
- in conjunction with advice from CGU Insurance referring injured employees to occupational rehabilitation services where appropriate.
- monitoring the progress of an injured employees return to work
- liaising with medical professionals, rehabilitation providers involved in supporting the employee's return to work
- liaising with other personnel in the workplace who may be involved in facilitating the injured employee's return to work
- ensuring that rehabilitation case files are maintained and the confidentiality of information in respect of employees is maintained
- ensuring that all action required to prevent a recurrence of the injury is implemented along with other general risk management measures.

Ideally the RTW Coordinator should be a person who has sound interpersonal skills and:

- a detailed understanding of the school and its work practices.
- an understanding of the WorkCover legislation and occupational rehabilitation.
- a knowledge of claims management procedures.
- an understanding of Occupational Health and Safety issues as they relate to schools.
- an empathy with employees and their welfare
- the capacity to act with authority in allocating and identifying appropriate duties.

## **6.7 The role of Occupational Rehabilitation Providers (ORPs)**

The Department's panel of preferred ORPs support principals with the rehabilitation and return to work of injured employees. Primarily they do this

through liaison and negotiation with the RTW Coordinator, treating health professionals, CGU Insurance and the injured employee.

Services available from providers include:

- formulating job offers after discussion with the principal
- assisting and supporting the employee during the return to work program
- training RTW coordinators in the preparation of suitable job offers
- advice on the provision of aids (excluding ergonomic furniture for workplace purposes), or vocational assessments and worker re-training.

As a general rule, the services of an ORP should be used in the following circumstances:

- physical injuries that will result in an absence from work
- disc degeneration or bulge injuries and back injuries involving nerve root conditions
- spondylosis, osteoarthritis and degenerative conditions [of any body location]
- rotator cuff syndrome, frozen shoulder
- repetitive strain injuries
- medical expense only claims that exceed 3 months of treatment
- all stress related claims
- all voice loss claims
- where there are motivational issues with an employee's return to work.

## **6.8 Managing the rehabilitation services**

In those instances where a principal initiates a rehabilitation referral, the principal is responsible for the authorisation of limited funding agreements with the rehabilitation provider. The provider is paid a fee of up to \$132.05 per hour which is paid by CGU Insurance as a claim cost.

In agreeing to rehabilitation costs, schools should not authorise more than 5 hours of service in the request for funding approval. Any further rehabilitation costs will be authorised by CGU once liability on the claim is decided.

Quality standards principals should expect from a provider are:

- clear itemised costing of all rehabilitation activities
- a planned approach to rehabilitation and the goal of early return to work
- the regular provision of informative progress reports
- familiarity with Department policy and WorkCover practice
- Offers of Suitable Employment written in accordance with legislative and Department requirements

- arrangement of a workplace meeting with injured worker, RTW co-ordinator and rehabilitation consultant as soon as possible
- advice as to appropriate ergonomic aids or training courses.

## **6.9 Cessation of rehabilitation services.**

A rehabilitation service can be terminated or suspended at any time by the employer, the injured worker or CGU Insurance. If the employer ceases the rehabilitation service, the employee can request its continuance with CGU Insurance.

If an injured employee ceases rehabilitation prematurely, or does not fully participate in rehabilitation the principal should advise CGU Insurance.

# **7 DISPUTE RESOLUTION**

## **7.1 Conciliation**

WorkCover claimants and employers have the right to appeal decisions made by WorkCover Agents. In the first instance these appeals are referred to the Accident Compensation Conciliation Service (ACCS):

<http://www.conciliation.vic.gov.au>

A Conciliation Outcome Certificate must be obtained from the ACCS before a matter can be pursued at either the Magistrates or County courts. The purpose of conciliation is to provide a cost-effective method of dispute resolution.

## **7.2 Conciliation Conferences**

It is expected that principals, or a delegate, will represent DEECD as the employer representative at conciliation conferences. The representative must have the authority to make decisions on liability and the re-crediting of leave. The representative will also be required to provide information such as the circumstances surrounding a worker's claim, DEECD policies and the return to work options that are available.

A CGU Injury Claims Consultant will also attend the Conference. The Consultant will contact the principal at least 7 days prior to the conference and arrange to meet with the principal for 15 to 30 minutes prior to the conference for a pre conference briefing.

In most cases, the employer representative, the CGU Injury Claims Consultant, the Conciliation Officer and the injured worker and their representative attend the conciliation conference. A legal practitioner is not

permitted to represent a worker at conciliation unless prior consent has been given by the DEECD representative and the CGU Injury Claims Consultant. The injured worker has the right to be supported at the conciliation conference and can be a relative, friend or union official.

### **7.3 Jurisdiction of the Conciliation Service.**

The conciliation service derives its authority from the Accident Compensation Act 1985 and its jurisdiction is limited to worker's entitlements under the Act. Conciliation Officers do not have the authority to make rulings that relate to the application of industrial award conditions.

### **7.4 Conciliation Conference Outcomes.**

Conciliation conferences can result in one of three outcomes:

'A Genuine Dispute', where the Conciliation Officer determines that the employer/insurer may have an arguable case. In this instance the insurer's decision is maintained and the workers entitlement continues to be rejected, suspended, terminated, or reduced.

'A Recommendation' where all parties must agree with the decision but there is no admission of liability. The terms of a recommendation could include limited or ongoing weekly compensation payments, reinstatement of part or all personal leave credits, or the payment of limited medical & like expenses.

'A Direction' may be issued where the Conciliation Officer concludes a genuine dispute does not exist but there is no agreement able to be reached by the parties. The Conciliation Officer's direction is enforceable on all parties, but cannot exceed a period of 12 weeks, and can be followed by a second direction of a further 12 weeks.

## **8 CLAIMS BY NON DEPARTMENT EMPLOYEES**

Claims may be lodged by persons who are not employees of either the school or DEECD, but are deemed so under the legislation. Special arrangements have been made for Work Experience Students, and volunteers.

### **8.1 Work Experience and Work Placement Student Claims**

Work experience students and year 11 and 12 students undertaking work placements as part of vocational education courses are deemed workers under the DEECD WorkCover Policy with CGU Insurance.

Claims are processed in the same manner as an employee claim, excepting that the claim form must be filled in by the placement employer and is forwarded to the school for counter-signature by the Principal. When the claim

is forwarded to CGU Insurance the DEECD Work placement Arrangement Form must be provided with the claim. The claim form should be clearly marked 'work experience student' or work placement (VCE) in the employer reference and comments section.

Enquiries regarding claims for work experience students should be directed to CGU Insurance. (03) 8630 1188.

## **8.2 Work for the Dole Programs**

These workers are not the responsibility of the employer for WorkCover purposes. All claims are administered by CentreLink.

## **8.3 Volunteers**

Claims lodged by Volunteers are covered by a WorkCover policy with CGU Insurance and are processed as standard claims. Completed forms should be forwarded to CGU Workers Compensation, DEECD Team, GPO Box 2090S, Melbourne. 3001. Telephone contact is (03) 8630 1188.

# **9 INJURY PREVENTION**

Prevention of injuries is the most effective means of minimising the human and financial costs associated with workplace injuries. A successful prevention program will depend on schools and workplaces having:

- a leadership team which is seen by the staff as supportive
- an effective means of resolving conflict
- positive staff interaction and peer support
- an effective Occupational Health and Safety (OHS) management system
- an active process of risk identification, risk control and risk management

The school or workplace should clearly articulate their approach to health, safety and wellbeing through an appropriate policy statement. Schools may also wish to include such a statement in the goals of their school charter. Further information can be obtained from the *Occupational Health and Safety Guidelines* and the *CAP Risk Management Booklet* which are both available on the department's OHS/Safety School website at:

<http://www.eduweb.vic.gov.au/hrweb/ohs/accp/riskm.htm>

To support schools and workplaces to meet OHS legislative compliance and injury prevention needs, DEECD has engaged the services of Noel Arnold and Associates. Their team of consultants can be contacted by telephone on (03) 9890 8811 to provide advice and assistance on:

- occupational health and safety management systems
- conducting safety and compliance audits
- reviewing accident/incident data for risk assessment
- identifying and implementing risk control strategies
- OHS training

In addition, the department's Employee Health Unit is available to support staff with a range of employee support services. These include an Employee Assistance Program short term counselling service, leadership development and support, team facilitation and promotion of safe, healthy workplaces. The Employee Assistance Program can be accessed by calling 1300 361 008 or by going to: <http://www.eduweb.vic.gov.au/hrweb/ohs/health/morale.htm>

The Department also provides a telephone Medical Advisory Service (MAS) to assist principals and managers in the management and support of staff with health related problems which may be impacting on them in the workplace. The MAS can be accessed by calling 03 9692 7756. Additional information is available at:

<http://www.eduweb.vic.gov.au/hrweb/workm/perform/medicadvisory.htm>

The Employee Health Unit, DEECD can be contacted on (03) 9637 2395 in relation to these services.

## 10 OTHER SOURCES OF WORKCOVER ADVICE AND SUPPORT

General information on WorkCover and the WorkCover scheme is available from the WorkSafe website at [WorkSafe](#) or by phone on (03)9641 1444 or from CGU Insurance on (03) 8630 1311.

General information concerning Conciliation processes or the Accident Compensation Conciliation Service is available from the ACCS Website at [Accident Compensation Conciliation Service \(ACCS\)](#) or by phone on (03) 9940 1111.

Information concerning WorkCover leave and payroll management is available from Schools HR Services on 1800 641 943.

Assistance with complex or difficult to manage WorkCover claims and return to work issues is available from the Employee Health Unit. Email [employeehealth@edumail.vic.gov.au](mailto:employeehealth@edumail.vic.gov.au) or phone (03) 9637 2386, (03) 9637 2392 or (03) 9637 2391.

Advice on employee relations issues such as employees' award entitlements and conditions of employment is available from the HR Website at: <http://www.eduweb.vic.gov.au/hrweb/default.asp>

## 11 APPENDIX 1

### Risk Management and Occupational Rehabilitation Program Statement

#### DEPARTMENT OF EDUCATION AND EARLY CHILDHOOD DEVELOPMENT

#### RISK MANAGEMENT AND OCCUPATIONAL REHABILITATION PROGRAM

The Department of Education and Early Childhood Development is committed to providing a safe and healthy workplace for all workers. In the event of a work related injury we will take all necessary steps to ensure the injury does not happen again. Should one of our workers incur a work related injury where they are unable to continue their normal work we will provide the necessary assistance for them to remain at work, or return to work as soon as it is safe to do so. In all circumstances the welfare of the injured employee, other employees and students must be considered of paramount importance. All employees are expected to assist and cooperate in ensuring that this program is followed.

We will do this through risk management and occupational rehabilitation and our commitments are as follows:

#### RISK MANAGEMENT PROGRAM

We will:

- Take all practicable steps to identify, assess and control any known or potential risks to workers and visitors.
- Encourage the early reporting and recording of any symptoms of an injury or disease related to the work we undertake.
- Ensure that an injured worker receives appropriate first aid and/or medical treatment as soon as possible.
- Investigate all incidents, accidents, injuries or near misses to identify their cause(s) and prevent them happening again.
- Comply with all our legal obligations, including notification of incidents to Worksafe Victoria when required.

#### OCCUPATIONAL REHABILITATION PROGRAM

We will:

- Assist our injured workers to remain at work or return to work at the earliest opportunity.

Specifically our RETURN TO WORK POLICY is that:

- Return to work planning will commence as soon as possible after an injury, consistent with medical advice.
- Remaining at or early return to work following injury is a normal expectation of this workplace.
- Treatment, return to work activities and any reasonably necessary occupational rehabilitation services will begin as soon as they are necessary.
- Appropriate suitable duties, including modified or alternative duties which do not jeopardise the well being of the employee, other employees or students, will be provided, as part of the return to work program.
- Where suitable duties cannot be provided within the employee's workplace, reasonable attempts will be made to find other locations where these duties can be provided.

- An individual return to work plan will be established with any worker who is unable to work for 20 calendar days or more. This plan will be developed at the earliest opportunity, in consultation with our injured worker and their treating practitioner.
- Consultation and communication with all workers and / or representative worker(s) in the development and review of our occupational rehabilitation program and individual return to work plans will occur.
- Where disagreements about the return to work program or suitable duties arise, we will work together with the injured worker and, where applicable, union representing them, in an endeavour to seek resolution.
- Confidentiality of worker's information obtained during their return to work or while undertaking occupational rehabilitation services will be maintained.
- Participation in a return to work plan will not, of itself, prejudice any injured worker.

**RETURN TO WORK CO-ORDINATOR:**

Our return to work coordinator is: \_\_\_\_\_

Telephone: \_\_\_\_\_

Our return to work coordinator will attend the following training: *(contact CGU on 8630 1348 to arrange)*

\_\_\_\_\_

Following any workplace injury our return to work coordinator will:

Contact our injured worker and their treating practitioner to implement the commitments outlined in the risk management program and our return to work policy.  
 Determine the need for any occupation rehabilitation assistance in consultation with our injured worker and their treating practitioner, and offer the injured worker a choice of one of three approved occupational rehabilitation providers.

**APPROVED OCCUPATIONAL REHABILITATION PROVIDERS**

The injured DEECD employee has a choice of one of the following nominated approved occupational rehabilitation providers: (Refer to attached list)

\_\_\_\_\_

Telephone: \_\_\_\_\_ or

\_\_\_\_\_

Telephone: \_\_\_\_\_ or

\_\_\_\_\_

Telephone: \_\_\_\_\_

## CONSULTATION

### Return to Work plans

Our injured workers and their treating practitioners, will be involved in all aspects of their return to work and return to work plans will be developed and reviewed in consultation with them.

### Occupational rehabilitation program

This program was developed in consultation with our workforce and key external stakeholders. Following discussion and consultation with our workplace, the program was endorsed by the key external stakeholders and senior management in December 2005.

## COMMITMENT

This program represents our commitment to workplace occupational rehabilitation and return to work following work related injury. As representative of its development and our mutual commitment, this program is endorsed by:

Representative Worker(s): .....(Name, position and signature) .....

Management Representative: .....(Name, position and signature) .....

This Program will be reviewed on: ..... (*To be completed by workplace*)

## 12 APPENDIX 2

DEECD's Nominated Occupational Rehabilitation Providers	Provider chosen (Please tick)
<p><b>Counselling Appraisal Consultants</b></p> <p><b>EAST BRIGHTON</b> PH (03) 9596 0239, FAX (03) 9596 0839 Contact: Tess Andrews <a href="mailto:tandrews@cac.com.au">tandrews@cac.com.au</a></p> <p><b>IVANHOE</b> PH (03) 9499 4333, FAX (03) 9499 1300 Contact: Tess Andrews <a href="mailto:tandrews@cac.com.au">tandrews@cac.com.au</a></p> <p><b>GEELONG</b> PH (03) 5221 9333, FAX (03) 5221 9444 Contact: Tess Andrews <a href="mailto:tandrews@cac.com.au">tandrews@cac.com.au</a></p> <p>Also Satellite offices in <b>BENDIGO</b> and <b>BALLARAT</b></p>	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
<p><b>FitzWaters Consultants/ VoiceCare Management Australia</b></p> <p><b>MONT ALBERT NORTH</b> PH (03) 9816 4373, FAX (03) 9816 4901 Contact: Regina Fitzpatrick <a href="mailto:fitzpatrickregina@bigpond.com">fitzpatrickregina@bigpond.com</a></p>	<input type="checkbox"/>
<p><b>Higher Solutions</b></p> <p><b>NORTH MELBOURNE</b> PH (03) 9329 9414, FAX (03) 9329 0656 Contact: Claire Nichol <a href="mailto:clairenichol@highersolutions.com.au">clairenichol@highersolutions.com.au</a></p>	<input type="checkbox"/>
<p><b>Industrial Work Conditioning Clinic</b></p> <p><b>CARLTON</b> PH (03) 9347 0211, FAX (03) 9347 5382 Contact: Jane Rawnsley <a href="mailto:indwork@bigpond.com.au">indwork@bigpond.com.au</a></p> <p>Also Satellite office in <b>BENDIGO</b></p>	<input type="checkbox"/>
<p><b>Recovre</b></p> <p><b>MELBOURNE</b> PH (03) 8689 4503, FAX (03) 8689 4545 Contact: Sascha Schubiger <a href="mailto:sascha.schubiger@recovre.com.au">sascha.schubiger@recovre.com.au</a></p> <p><b>SHEPPARTON</b> PH (03) 5832 1139, FAX (03) 5832 1130 Contact: Ron Wilkinson <a href="mailto:ron.wilkinson@recovre.com.au">ron.wilkinson@recovre.com.au</a></p> <p><b>GEELONG</b> PH (03) 5273 0002, FAX (03) 5273 0010 Contact: Jamie Bryce <a href="mailto:jamie.bryce@recovre.com.au">jamie.bryce@recovre.com.au</a></p> <p><b>MOE</b> PH (03) 5120 1000, FAX (03) 5120 1010 Contact: Brian Bentley <a href="mailto:brian.bentley@recovre.com.au">brian.bentley@recovre.com.au</a></p>	<input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
<p><b>Work Solutions Australia</b></p> <p><b>MELBOURNE</b> PH (03) 9224 8800, FAX (03) 9224 8801 Contact: Tom Flynn <a href="mailto:tom.flynn@worksolutions.com.au">tom.flynn@worksolutions.com.au</a></p>	<input type="checkbox"/>

## 13 APPENDIX 3

### Risk Management and Occupational Rehabilitation Program Statement

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- Where disagreements about the return to work program or suitable duties arise, we will work together with the injured worker and, where applicable, the union representing them, in an endeavour to seek resolution.
- Confidentiality of worker's information obtained during their return to work or while undertaking occupational rehabilitation services will be maintained.
- Participation in a return to work plan will not, of itself, prejudice any injured worker.

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Telephone: \_\_\_\_\_

Our return to work coordinator will attend the following training: *(contact CGU on 8630 1348 to arrange)*

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\_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

## CONSULTATION

### Return to work plans

Our injured workers and their treating practitioners will be involved in all aspects of their return to work and return to work plans will be developed and reviewed in consultation with them.

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This program was developed in consultation with our workforce and key external stakeholders. Following discussion and consultation with our workplace, the program was endorsed by the key external stakeholders and senior management.

## COMMITMENT

This program represents our commitment to workplace occupational rehabilitation and return to work following work related injury. As representative of its development and our mutual commitment, this program is endorsed by:

Representative Worker(s): .....(Name, position and signature) .....

Management Representative: .....(Name, position and signature) .....

This Program will be reviewed on: ..... (*To be completed by workplace*)

