



**OFFICE OF THE OFFICIAL SECRETARY TO THE GOVERNOR-GENERAL**

**REHABILITATION & FITNESS FOR DUTY  
POLICY**

**POLICY NUMBER 2**

**January 2014**

## TABLE OF CONTENTS

<b>1. Introduction</b>	<b>4</b>
<b>2. Policy objectives</b>	<b>4</b>
<b>3. Definitions</b>	<b>4</b>
<b>4. Agreed roles and responsibilities</b>	<b>5</b>
The Office .....	5
Employees .....	5
Case manager.....	6
Manager.....	6
Rehabilitation Planning Flowchart .....	8
Rehabilitation provider .....	9
Medical Practitioner Responsibilities.....	9
<b>5. Prevention strategies</b>	<b>9</b>
5.1 Employee Assistance Program .....	9
5.2 Workstation Assessment .....	9
<b>6. Implementation strategies</b>	<b>10</b>
6.1 Return to work .....	10
6.2 Suitable duties .....	10
6.3 Graduated Return to Work .....	10
6.4 Reasonable adjustments .....	11
6.5 Redeployment .....	11
6.6 Reclassification .....	11
6.7 Consent to Reduction in Classification .....	12
6.8 Non-consent to Reduction in Classification .....	12
<b>7. The Office's Determination for an Employee's Fitness for Duty</b>	<b>12</b>
7.1 Referring an Employee to a Legally Qualified Medical Practitioner (LQMP).....	12
7.2 Supply of Information to the LQMP .....	13
7.3 Legally Qualified Medical Practitioner's Report .....	13
7.4 Unfit to Perform Duties .....	13
7.5 Further Review Period.....	14
7.6 Feedback to the Employee .....	14
7.7 Medical Information .....	14
7.8 Where a direction to return to work is disputed. ....	14
7.9 Separation on Medical Grounds .....	15
7.10 Total and Permanent Incapacity .....	15
7.11 Pre-Application Strategies .....	15

Flowchart for Separation on Medical Grounds .....	16
<b>8. Retirement</b>	<b>17</b>
8.1 Invalidation Retirement .....	17
8.2 Retirement Notice .....	17
8.3 Retirement with the Employee's Consent .....	17
8.4 Retirement without the Employee's Consent .....	17
8.5 Age Retirement .....	17
8.6 Separation, Other Than Retirement, on Medical Grounds.....	18
<b>9. Non-compliance</b>	<b>18</b>
<b>10. Non-compensable injuries</b>	<b>19</b>
<b>11. Making a workers' compensation claim</b>	<b>19</b>
11.1 Eligibility to make a claim .....	19
Current Employees .....	19
Former Employees.....	19
11.2 Worker's Compensation Coverage .....	19
11.3 How to Claim Workers Compensation .....	19
The process for an employee.....	19
The process for the Manager / Supervisor .....	20
11.4 What Happens Once an Employee Makes a Claim? .....	20
<b>12. Measurement and Evaluation</b>	<b>20</b>
12.1 Monitoring .....	20
<b>13. Auditing and Reporting</b>	<b>21</b>
13.1 Service Delivery and Evaluation.....	21
<b>14. Dispute resolution</b>	<b>21</b>
<b>15. Review of this policy</b>	<b>21</b>
<b>16. Further information</b>	<b>21</b>
<b>17. Relevant document/links</b>	<b>21</b>

## 1. Introduction

This policy assists the Office of the Official Secretary to the Governor-General to ensure the timely, safe and sustainable return to work of injured or ill employees through early intervention and effective case management.

The policy outlines the Office's responsibilities under the *Safety, Rehabilitation and Compensation Act 1998* (the Act). This policy also outlines the Office's commitment to its employees and describes how employees injured will be managed.

This policy applies to employees who have been injured as part of their duties and require assistance in returning to work, maintaining their working hours or performing their duties. It also applies to employees who become ill during their employment, or who suffer from chronic illness, and would benefit from support in maintaining employment and in their performance of work-related duties. An assessment for rehabilitation may be undertaken where an employee has been, or is likely to be, absent from duty for a total equal to or exceeding 10 consecutive working days or where the nature of the injury is such that a longer absence may occur.

This policy should be read in conjunction with Comcare's publication [Return to Work – Easy Reference Guide](#) and [Guidelines for Rehabilitation Authorities](#) as updated from time to time.

Information about making a claim for workers' compensation can be found in Comcare's publication [All About Workers' Compensation – A Guide For Employees Injured At Work On Or After 13 April 2007](#) as updated from time to time.

## 2. Policy objectives

**2.1** The objectives of this policy are to:

- reduce the human and financial costs of an injury or illness;
- enable injured or ill employees to remain at work, or return, in an appropriate, timely, safe and cost effective manner;
- ensure that all parties understand their rights, responsibilities and obligations regarding the rehabilitation of employees; and
- facilitate a culture of open, honest and timely communication between all parties.

**2.2** The Office supports early and regular contact with injured or ill employees, prompt access to rehabilitation services and sustainable return to work outcomes.

## 3. Definitions

**Case manager** – a legally trained Office employee from the Human Resource Management section responsible for the coordination of a rehabilitation program and nominated by the Official Secretary on behalf of the Office.

**Compensable injury** – as defined by the Act.

**Manager** – is the direct line manager of the injured employee.

**Medical practitioner** – a legally qualified medical practitioner such as a doctor, dentist or other medical specialist.

**Rehabilitation assessment** – an assessment made by either a medical practitioner or rehabilitation provider to determine if an injured or ill employee is fit to participate in a rehabilitation program.

**Rehabilitation program** – a structured series of activities designed to facilitate an injured or ill employee's effective and safe return to work, maintenance of working hours or performance of duties.

**Rehabilitation provider** – an external health service provider approved by Comcare.

**Return to work plan** – a component of the rehabilitation program which provides a written plan setting out the goals, responsibilities and timeframes for returning an employee to work.

**Suitable duties** – duties which are appropriate to the employee’s capacities, skills and experience and take into consideration their medical restrictions.

**Reasonable adjustments** - are any form of assistance or adjustment that is necessary, possible and reasonable to reduce or eliminate barriers at work.

**Workers** under the [Work Health and Safety Act 2011](#) include:

- (a) employees
- (b) independent contractors
- (c) sub-contractors
- (d) outworkers – e.g. home based
- (e) apprentices
- (f) work experience students
- (g) trainees
- (h) volunteers who work in employment-like setting.

## 4. Agreed roles and responsibilities

### The Office

The Office’s roles and responsibilities are to:

- ensure a system is in place which provides for the early identification and notification of injuries and illnesses;
- appoint case managers and ensure they receive support to fulfil their role;
- assist in finding suitable duties, alternative duties and/or make reasonable adjustments where appropriate, and where pre-injury or illness duties are not medically feasible;
- provide training and support to case managers;
- maintain written records of employees’ injuries, illnesses and associated rehabilitation programs; and
- review the effectiveness of each rehabilitation program and this policy from time to time.

### Employees

Employees’ roles and responsibilities are to:

- advise their managers as soon as practicable of injuries or illnesses and any personal or work related issues, the nature of the injuries, illnesses or issues and the effect they may have on their ability to perform work-related duties;
- provide documentary evidence (e.g. medical certificates) with a diagnosis, any restrictions on duties imposed, and where applicable, a review date;
- attend medical appointments identified as part of their rehabilitation programs;
- co-operate with all redeployment, retraining and rehabilitation actions;
- actively participate in the rehabilitation program;

- assist in the identification of suitable duties, alternative duties and/or any reasonable adjustments and actively perform these duties in accordance with their rehabilitation program;
- inform their managers of any changes in circumstances which may impact upon the rehabilitation program;
- adhere to any restrictions placed upon them by their medical practitioners;
- communicate effectively and regularly with the case manager, the rehabilitation provider and the medical practitioner; and
- perform their duties in a manner which does not increase the risk of further injury, illness or aggravation.
- wherever possible ensure any medical appointments are outside of their work hours including when participating in a graduated return to work program.
- submit hazard and injury report forms and workers' compensation claim forms (if applicable) following a work related injury or illness to the Human Resources Section as soon as possible.

### **Case manager**

The case manager's roles and responsibilities are to:

- contact the employee, where appropriate, as soon as practicable following the injury or illness;
- coordinate effective early intervention plans and rehabilitation programs in consultation with all parties and ensuring these comply with Comcare's guidelines;
- maintain open lines of communication with all parties (including the manager) to ensure that everyone is kept well informed;
- manage the rehabilitation program to ensure a successful return to work where possible;
- identify suitable duties, alternative duties and/or any reasonable adjustments that may be required to enable the employee to actively participate in the rehabilitation program;
- maintain confidential records of an employee's injury or illness and rehabilitation program;
- provide written and oral reports from the rehabilitation provider to the employee;
- monitor the effectiveness of the rehabilitation program and make amendments where appropriate; and
- manage the closure of the return to work plan and forward all necessary forms to Comcare.

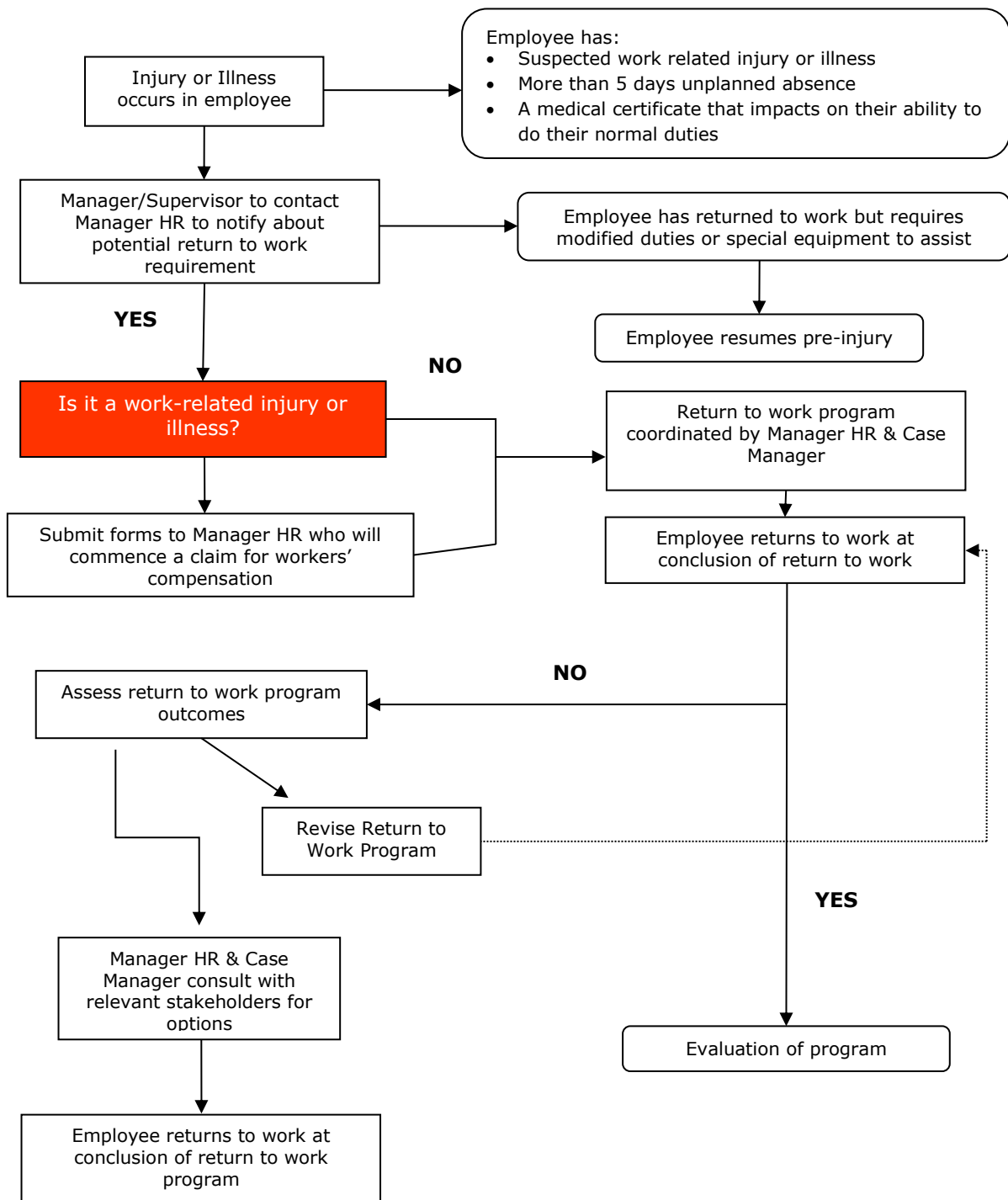
### **Manager**

The manager's roles and responsibilities are to:

- notify the Manager Human Resources as soon as they become aware of a work-related injury or illness, or a non-work related injury or illness which is likely to impact on an employee performing his or her duties;

- where appropriate, support the identification of suitable and meaningful duties for an employee undertaking a rehabilitation program;
- participate in the development of a rehabilitation program including identification and understanding of suitable duties, alternative duties and/or reasonable adjustments;
- maintain confidentiality in regards to the information of an employee's injury, illness and/or rehabilitation program;
- maintain contact with the employee, as considered appropriate, during any extended periods of absence and where appropriate, ensure that an injured or ill employee who is not at work is kept informed of work-related events and invited to meetings so that the employee remains involved and connected to work;
- advise the case manager of any unexpected absences of an injured or ill employee;
- provide ongoing support to the employee; and
- continue to monitor the employee's work-related performance after the closure of the rehabilitation program to ensure work is safe and sustainable.

## Rehabilitation Planning Flowchart





### **Rehabilitation provider**

The rehabilitation provider's roles and responsibilities are to:

- assess an employee's capability to participate in a rehabilitation program;
- assist in the development of a rehabilitation program;
- with the employee's permission, and where appropriate, attend medical assessments with the employee or communicate with the treating medical practitioner; and
- provide written and oral reports to the case manager.

### **Medical Practitioner Responsibilities**

The medical practitioner is responsible for the medical treatment of the injury or illness. The medical practitioner also provides advice on the capacity for workplace rehabilitation, restrictions imposed by the injury, possible alternative duties and any reasonable adjustments that may be required. The medical practitioner is expected to:

- Provide medical treatment for the injured employee;
- Provide treatment and services selected for an injured employee that link to functional outcomes;
- Demonstrate measurable effectiveness of injury management;
- Provide accurate medical assessments of capacity to return to work;
- Provide advice on alternative duties or modifications to the workplace;
- Ensure that the case manager and workplace rehabilitation provider are informed of the injured employee's abilities so that tailored duties can be organised within the injured employee's capacity
- Monitor and support workplace rehabilitation; and
- Be available and accessible for case conferences or workplace visits.

## **5. Prevention strategies**

### **5.1 Employee Assistance Program**

The EAP is a free, confidential counselling service available for employees and members of their immediate family. The injured/ill employee's supervisor, Manager HR or Case Manager may encourage the employee to access the EAP as part of an early intervention initiative or during their rehabilitation program. The EAP also provides a Manager Hotline to assist supervisors who may need guidance in managing an injured/ill staff member.

Further information is available on the Office intranet [EAP](#).

### **5.2 Workstation Assessment**

It is recommended that all employees are provided with information on appropriate workstation set up as part of their orientation and induction to the Office to ensure that they are aware of early warning signs and symptoms that may indicate possible injury or illness.

Workstation assessments assist the Office to identify potential health and safety hazards arising from the employee's workstation set up, equipment, work environment

and tasks, and to determine whether the activity or environment is likely to cause an injury.

Employees with pre-existing health conditions or at the onset of symptoms of muscular strain or other health condition should report these symptoms to their team leader or manager, who should then report this to the Manager HR. The request for a workstation assessment to be carried out by a legally qualified service provider is initiated by the HR team. Requests for further workstation assessments will be considered on a case by case basis.

## **6. Implementation strategies**

### **6.1 Return to work**

Where employees require support in returning to the workplace, return to work plans may be developed. A rehabilitation provider may be engaged to develop the return to work plan in accordance with the [Work Health & Safety Arrangements & Policy](#). The plan will be goal focussed and list the responsibilities of each party involved in the return to work plan. It will set out recommendations; list the outcomes to be achieved and a timetable for return to suitable duties, alternative duties and/or any reasonable adjustments. Retraining may be part of the rehabilitation program. Where possible, training should be tailored to job requirements and take the form of on-the-job-training. Plans may be renewed or a new plan issued as necessary. For non-compensable cases approval should be sought from the Deputy Official Secretary prior to a RTW plan being implemented.

### **6.2 Suitable duties**

The Office is committed to supporting employees' return to work through the assignment of suitable duties. Where practicable, employees will be provided with suitable duties in their current position, however, where this is not possible, suitable alternate duties may be temporarily assigned. The development and assignment of suitable duties will be conducted in consultation with the employee, the relevant manager, the case manager, the Manager HR, the rehabilitation provider and medical practitioner. Where suitable duties have been arranged, they will be specified in writing and attached to the return to work plan.

Where training is required, the training should be tailored closely to job requirements of potential positions and where practicable, take the form of on-the-job training.

Where, within a reasonable timeframe, the Office has been unable to reassign the employee to suitable duties within the Office and where the employee has transferred to the Office from an APS agency it is expected the employee return to the APS agency.

### **6.3 Graduated Return to Work**

In some cases it may be necessary for an employee's return to work to be on a graduated basis. In such instances the period of time over which the employee's hours will be incrementally increased and the dates at which the employee's progress is to be reviewed must be agreed by Manager HR, the Case Manager, the supervisor and the employee.

A rehabilitation provider may also be consulted to determine a suitable return to work strategy. This must be specified and agreed upon prior to the employee's return to work.

For non-compensable cases, personal Leave may be approved for the balance of hours an employee would have worked had they not been ill, if the employee has Personal Leave entitlements available.

#### **6.4 Reasonable adjustments**

Reasonable adjustments are any form of assistance or adjustment that is necessary, possible and reasonable to reduce or eliminate barriers at work.

In order to make reasonable adjustments for a worker, the inherent requirements of the job need to be understood. The inherent requirements of a job relate to what needs to be accomplished in the job rather than how the job is accomplished. The focus should be on how the person's injury, illness or disability affects their ability to undertake their work and what adjustments can be made to overcome this.

Reasonable adjustments are personalised and should be tailored to meet individual requirements and circumstances. The worker will understand their abilities and what restrictions they have and are often the best person to advise what adjustments are needed.

Reasonable adjustments can be temporary or long-term. They need to be reviewed regularly to make sure they remain relevant and effective for the worker, as well as manageable within the workplace.

#### **6.5 Redeployment**

The redeployment of an injured or ill employee would not normally be considered until all work options have been exhausted within the original work area or where substantial medical evidence and assessments have been considered.

The overall objective of a rehabilitation program is to return the employee to pre-injury duties. Subject to the availability of suitable employment, temporary redeployment may be considered to help the employee to gradually return to work or provide modified duties for a specified period of time. Where redeployment is considered, all stakeholders must be involved in the process and monitor the progress to determine the viability of long-term outcomes.

The work area in which the injured or ill employee originates from is responsible for the costs of a temporary redeployment. If a permanent redeployment opportunity becomes available, the costs are borne by the new work area unless otherwise negotiated and agreed.

Employees may source their own redeployment opportunities for consideration.

Where possible, within the scope of the medical recommendations, and subject to availability, the Office will consider appropriate redeployment for the employee when a legally qualified medical practitioner (LQMP) finds that the employee is unfit for their usual duties, but is fit for other duties.

The Office will attempt to deploy the employee at their current classification level. Trial placements and training opportunities may be arranged to demonstrate the employee's fitness and capacity for alternate duties.

#### **6.6 Reclassification**

The Office may reduce an employee's classification when their health precludes deployment at the same classification level or considers it would not be in the interests of efficient administration to transfer the employee at the same level.

Any reduction in classification must be to duties that the employee is qualified and able to perform effectively (either immediately or within a reasonable period).

The Office must inform an employee in writing in advance of giving formal notice of any proposed reduction in classification and must:

- Establish whether the employee consents to the proposed action

- The reasons for the notice
- Inform the employee that by giving prior written consent to the reduction in classification, there is no right to request review in accordance with the Office's Review of Decisions process.

### **6.7 *Consent to Reduction in Classification***

When an employee gives the Office prior written consent to the giving of notice of reduction in classification, the notice takes effect on any day specified in the notice, and agreed between the Office and the employee. This date is normally one month after the Office gives notice.

### **6.8 *Non-consent to Reduction in Classification***

When an employee does not consent to a reduction in classification, the employee will have recourse to the Office's Review of Decision processes.

When an employee does not give prior written consent to a reduction in classification, or does not agree to the date of effect of the reduction in classification, the notice takes effect on the latest of the following dates:

- One month after the day the Office gives notice to the employee
- A later date specified by the Office; or
- The day on which the original decision is affirmed or a request for review of decision withdrawn by the employee if the employee requests such a review under the Office's Review of Decisions processes.

## **7. The Office's Determination for an Employee's Fitness for Duty**

### **7.1 *Referring an Employee to a Legally Qualified Medical Practitioner (LQMP)***

Where it is considered desirable for a health assessment to be undertaken, the Official Secretary will review the case and direct the employee to attend a health assessment or require the employee to provide medical evidence to explain the employee's medical condition.

The employee's supervisor will be required to provide a written report to the Official Secretary on the employee's work performance. Performance will be assessed against the job description and selection criteria of the position the employee holds and the performance support framework outcomes.

The report will be forwarded to the LQMP prior to the health assessment. The employee will also be given a copy of the supervisor's report.

- An employee is absent from duty on account of injury or illness for four continuous weeks, and the Office believes the employee might be substantially impaired in their ability (other than temporarily) to perform the required duties.
- The employee is absent on account of illness for six continuous weeks or for a total of twelve weeks in any twenty-six-week period.
- The employee presents a report from a registered medical practitioner indicating they are unfit for duty and the prognosis is unfavourable;

- The Office believes the employee may be suffering from a medical condition that is having an impact on his/her work performance or on the safety of himself/herself or to others; or
- The employee's state of health is considered to be a danger to the employee or has caused or may cause the employee to be a danger to other employees or members of the public.

Where a supervisor is concerned about the health of one of their staff the supervisor should immediately notify the Manager HR for consideration of circumstances.

The Office may also seek an independent medical assessment by a LQMP:

- If the Office is not satisfied with the medical certificates or other material provided by the treating doctor or other legally qualified practitioner(s).
- To seek specialist advice relevant to the certified medical condition.
- To assess the employee's capacity to return to work; or
- To assess any medical restrictions recommended by the employee's treating practitioner in relation to the requirements of the employee's position.

## **7.2 Supply of Information to the LQMP**

The Office will give an employee written notice in advance of any examination by a LQMP and inform them of:

- The time and place of the examination
- The purpose of the examination and reasons for arranging it
- The employee's right to be provided with the information the Office furnishes to the LQMP
- The employee's right to submit supporting material for the LQMP to consider.

The Office will provide the LQMP with:

- Details of the employee's duties, factors associated with the duties or physical working environment that the Office considers relevant, and details of the employee's work performance
- Relevant medical reports and certificates and supporting material that the employee wishes the LQMP to consider
- Advice as to which of the above material has been given to the employee.

## **7.3 Legally Qualified Medical Practitioner's Report**

The LQMP's report to the Office on the employee's medical condition must indicate whether the employee is

- Fit to perform their current duties;
- Any reasonable adjustments that may be required
- Temporarily incapacitated and further leave should be approved;
- Unfit to perform their current duties, but able to perform alternative suitable duties; or
- Likely to be permanently and totally incapacitated.

## **7.4 Unfit to Perform Duties**

When the report indicates the employee is unfit to perform their duties, or is unfit to undertake any duties, the report must state the employee's medical prognosis and the reasons for the prognosis.

### **7.5 Further Review Period**

When the report indicates the employee should be granted further sick leave, the report should state when the employee's health situation should be reviewed again.

At the end of the review period, or at an earlier time if the Office considers it appropriate, the Office will:

- Arrange for a further medical examination by an LQMP, and advise the employee accordingly
- Update the information provided to the LQMP, including any further supporting material the employee submits.

### **7.6 Feedback to the Employee**

On receipt of the LQMP report, the Office will discuss with the employee the report and any recommendations of the LQMP and the available options as a result of the health assessment. The employee's supervisor may be present at the meeting.

The Office will also advise the employee, in writing, of the findings of the medical examination, any recommendation in the report; and any action the Office proposes to take, arising from the report.

The employee must be given the opportunity to:

- In accordance with Clause 4.1 of the Enterprise Agreement have a representative of their choice present at any meetings or discussions.
- Discuss with their manager the recommendation(s) and any proposed action to be taken
- Submit written comments to the Office within 14 days of the Office providing feedback.

### **7.7 Medical Information**

The Office must provide the LQMP's findings and recommendation directly to the employee, unless the LQMP advises that the findings be withheld.

If the Office is required to provide, or make available to an employee, medical or other information, but is advised that disclosing the information directly to the employee might be prejudicial to their health or wellbeing, the Office may provide, or make available, the information to a medical practitioner nominated by the employee. When this happens, the employee should be informed accordingly.

It is essential that the Office makes arrangements to ensure the confidentiality of medical reports relating to staff—especially psychiatric reports.

The Office must ensure medical reports are kept securely and that access to them is on a strict need-to-know basis.

### **7.8 Where a direction to return to work is disputed.**

Where an employee disputes a direction to return to work, they must provide new or more detailed medical evidence that they are not fit to return to work. This information must be provided within 7 days of the employee receiving the direction to return to work. A medical certificate is not considered sufficient evidence in these circumstances.

Where the Official Secretary is satisfied that it is not possible for good reason for the employee to produce further medical evidence within 7 days, further personal leave may be granted as is considered reasonable.

If no new evidence is provided within the 7 days, the employee will again be directed to return to work; if the employee does not return to work, procedures in relation to the Office's Code of Conduct will be commenced.

If medical evidence is provided which is a repetition of material which has already been considered, the employee will be directed to return to work; if the employee does not return to work, procedures in relation to the Office's Code of Conduct will be commenced.

Where new or more detailed evidence is provided, this will be referred to the medical practitioner who prepared the medical report. If the medical practitioner remains of the opinion that the employee is fit to return to work, the employee will be directed to return to work; if the employee does not return to work, procedures in relation to the Office's Code of Conduct will be commenced.

Where the procedures in relation to the Code of Conduct have been commenced, no further personal leave, with or without pay will be granted.

## **7.9 Separation on Medical Grounds**

When an injured or ill employee is unable to return to their pre-injury duties and redeployment and/or reduction in classification are not possible, the Office will consider the options to separate the employee on medical grounds through:

- Separation on medical grounds, including partial or full invalidity retirement. In exercising this option the Office must abide by the conditions of the employee's employer-funded superannuation scheme.
- Negotiation of an age retirement option with the employee where applicable; or
- Separation on the grounds that the employee does not have the capacity to meet the inherent requirements of the position.

The application for separation on medical grounds should be the final step in the management of an injured or ill employee. It should not be undertaken unless a concerted effort has been made to maintain the employee in some working capacity.

## **7.10 Total and Permanent Incapacity**

Total and permanent incapacity means that the employee is unlikely to ever be able to work again:

- For which he/she is reasonably qualified for, (or could be reasonably qualified after re-training).
- Where he/she is unable to participate in any other employment with a government department.
- Is unable to participate in any other employment with a non-government employer.

*Total and permanent incapacity will usually result in an application for invalidity retirement*

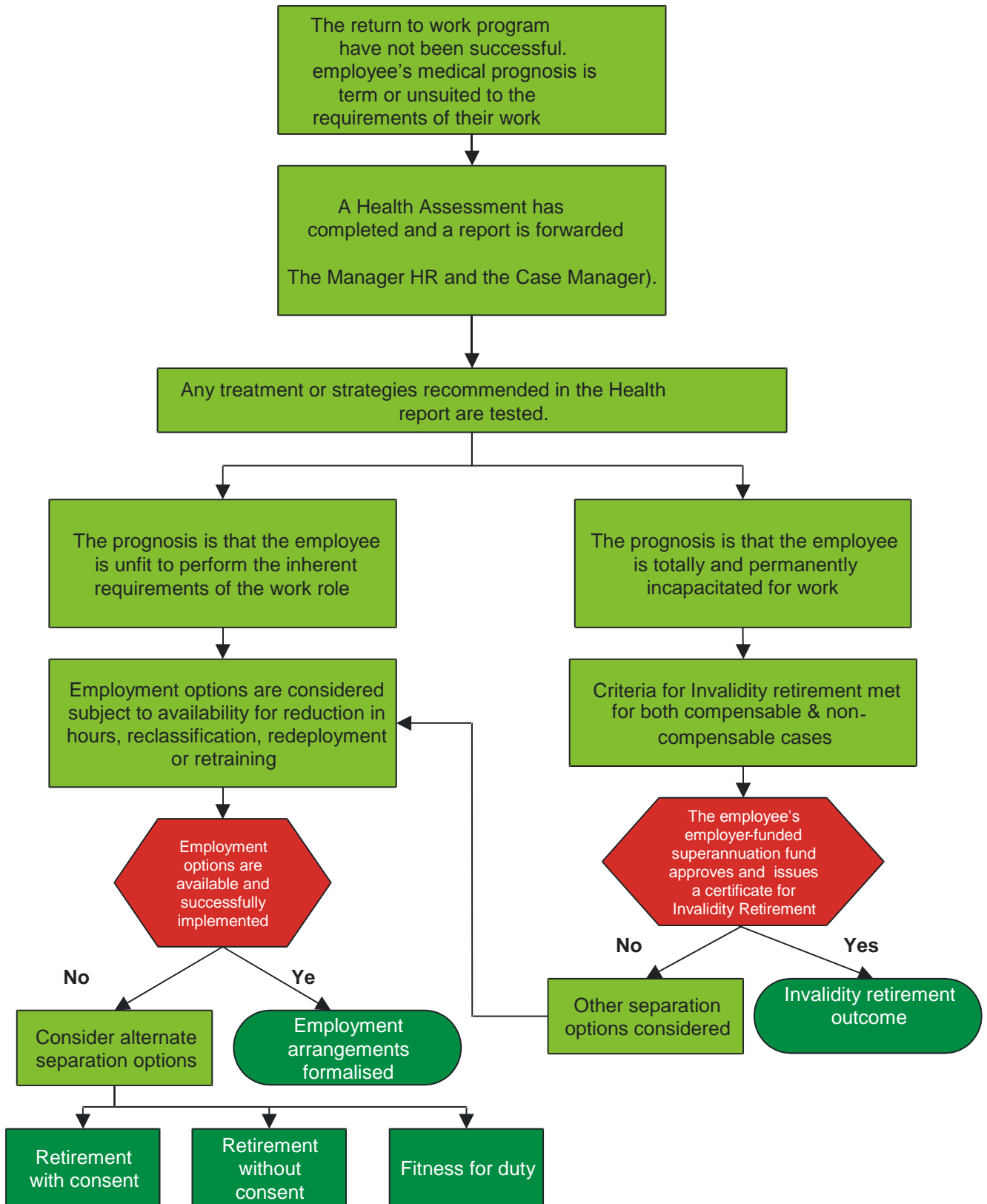
## **7.11 Pre-Application Strategies**

It is imperative that prior to separation all pre-application strategies have been attempted including but not limited to:

- Health assessments have been completed;
- Appropriate leave to allow adequate time to recover from the injury or illness has been granted;
- Any treatment or strategies recommended by Health Professionals have been tested;
- Comprehensive rehabilitation assessment and program provisions have been adhered to;
- Graduated Return-to-work program has been attempted;
- Reduction in hours has been tested;

- Redeployment options have been tested; or
- Any other treatment, as far as reasonably practicable, as recommended.

**Flowchart for Separation on Medical Grounds**





## **8. Retirement**

### **8.1 *Invalidity Retirement***

The application for invalidity retirement should be the final step in the management of an injured employee. It is only available to employees who are medically unfit to work. When the Office proposes to retire an employee on medical grounds, in accordance with the requirements of the employee's employer-funded superannuation fund, the Office must advise the employee of the proposal in writing, stating:

The restrictions on further personal leave

The date on which the employee's maximum periods of personal leave expires

Advice that the employee should obtain written advice from their Superannuation Scheme about their superannuation entitlements, if this has not already been done

That if the employee consents to being retired, the employee should:

Confirm this in writing

Acknowledge they understand that they forgo their right to request review in accordance with the Office's Review of Decision processes

Advise the Office of their preferred retirement date if they consent to the retirement.

The employee has 14 days to respond, although this may be extended by the Office if, for example, it is necessary to obtain further information from their Superannuation Scheme.

The Office may then give the employee formal notice of retirement.

### **8.2 *Retirement Notice***

The notice of retirement must include, or be accompanied by, a statement giving:

- The reasons for the notice
- Advice of the employee's right to request a review under the Office Review of Decision processes, unless the employee gives prior written consent to the Office giving notice.

### **8.3 *Retirement with the Employee's Consent***

When an employee gives prior written consent to retirement, the notice takes effect on any day agreed between the employee and the Office.

In setting the retirement date, the Office and the employee should consider the following:

- An employee's entitlement to personal leave credits.
- The Office can, with the employee's agreement, backdate the retirement when the employee is on Sick Leave Without Pay for a continuous period immediately preceding the Office giving notice of retirement. The date must be no earlier than the day the LQMP found the employee to be permanently unfit for their duties.

### **8.4 *Retirement without the Employee's Consent***

When the employee does not give prior written consent to the Office giving notice of retirement or does not agree to the effective date of retirement, the notice takes effect on the later of the following dates:

- One month after the Office gives the Notice of Retirement to the employee; or
- The day on which the original decision is affirmed or a request for review of decision withdrawn by the employee, if the employee requests such a review under the Office's Review of Decisions processes.

**Retirement cannot occur prior to one month after the Office gives notice.**

### **8.5 *Age Retirement***

Where, an employee is not eligible to separate on medical grounds (due to restrictions within the conditions of the employee's employer-funded superannuation scheme), but is of an age allowing age retirement, the Office may propose that the employee exercise their option for age retirement.

Where the Office enters into a negotiation with the employee to determine a date for age retirement, the Office will:

- Advise the employee of their full entitlements in accordance their conditions of employment with the Office
- Advise the employee to obtain written advice from their Superannuation Scheme about their superannuation entitlements, if this has not already been done
- Provide the employee with the necessary documentation to confirm that the primary reason for age retirement is on medical grounds.

### **8.6 Separation, Other Than Retirement, on Medical Grounds**

Where an employee is deemed not eligible for invalidity or age retirement, or chooses not to exercise an eligible option for age retirement; the Office may consider separation on the grounds that the employee does not have the capacity to meet the inherent requirements of the work role.

In seeking to exercise this option the Office must:

- Have exhausted, or have dismissed on grounds of ineligibility, including taking all reasonable steps to redeploy the employee
- Have actively pursued any medical advice that the incapacity to meet the inherent requirements of the job is not of a short term nature, including allowing the employee to exhaust paid personal leave credits in accordance with the employee's employment conditions with the Office.

Where these requirements have been met, the Official Secretary may issue a Notice of Intention to terminate the employee's employment with the Office Under section 15 of the Governor-General Act 1974. The reasons for termination include termination on invalidity grounds where an employee is unable to perform duties because of physical or mental incapacity. Such termination would only be considered following advice from a Medical Advisor and after actions elsewhere outlined in this policy are attempted.

This notice should contain:

- The detailed reason for the proposed termination
- The proposed termination date.

In setting the termination date, the Office should have regard to the employee's entitlement to personal leave credits.

The employee has 14 days to respond to the Notice of Intention to Terminate, although this may be extended by the Office at the employee's request to allow the employee to obtain further medical evidence where the employee advises that such medical evidence may be material to the Office's decision.

On expiry of the response period, and after due consideration of any further information the employee has provided, the Office may terminate the employee's employment in accordance with the termination provisions of the employee's employment conditions.

## **9. Non-compliance**

The Return to Work Plan is the agreed rehabilitation plan that is established following consultation with all stakeholders. Should an employee have any concern regarding the agreed plan they should contact either the Case Manager or the Rehabilitation Provider.

If an employee unreasonably refuses to participate in a rehabilitation assessment (including a Section 36 assessment which has been initiated by the Office) or a rehabilitation program, Comcare may suspend all compensable entitlements in accordance with the Safety, Rehabilitation and Compensation Act 1998. This includes incapacity payments. On resuming the rehabilitation program, benefits may be re-instated but there is no retrospective payment of benefits for the suspension period.

## **10. Non-compensable injuries**

Where appropriate and reasonable, non-compensable injuries or illnesses will be treated in a similar manner as compensable injuries or illnesses and in accordance with this policy.

## **11. Making a workers' compensation claim**

### **11.1 Eligibility to make a claim**

#### **Current Employees**

Office employees may claim for worker's compensation if the injury or illness occurred while:

- The employee was at work or conducting a work-related activity at another site; or
- Travelling on an approved work activity

Compensation may also be claimed for a disease if it was caused or contributed to by work.

#### **Former Employees**

Former employees may claim compensation for an injury or disease resulting from their employment with the Office. It is important that former employees who believe they are suffering from an injury or disease give notice of that injury or disease as soon as is practicable either to Comcare or the Office.

### **11.2 Worker's Compensation Coverage**

Comcare's Safety, Rehabilitation and Compensation scheme may cover eligible employees with the following assistance or benefits:

- Cost of medical opinions and assessments
- Cost of medical treatment
- Income support during periods of incapacity
- Costs associated with rehabilitation programs and formal Return-To-Work Program
- Medication and medical aids
- Ancillary services such as home support
- Death and permanent impairment benefits.

Employee benefits are documented in the Comcare publication [All About Workers' Compensation – A Guide For Employees Injured At Work On Or After 13 April 2007](#)

### **11.3 How to Claim Workers Compensation**

#### **The process for an employee**

- Employees should inform their manager/supervisor as soon as possible that an injury or illness has occurred and it is work-related. The manager/supervisor will notify the Manager HR.
- HR may send the employee a Compensation Claim Kit. The employee can use the tools in this kit to claim for workers compensation. Lodging a claim is an employee's right; however it is not a compulsory or essential requirement.
- Return the completed forms, with attachments, to HR.
- If the employee is likely to have ten or more days off work they should contact the Manager HR so that they can assist the employee in returning to work.

### **The process for the Manager / Supervisor**

In the event that a manager/supervisor becomes aware of an injury or illness of an employee, they should ensure the following:

- That the employee seeks medical treatment
- Remind the employee of the Employee Assistance Program for additional support
- Contact the Manager HR as soon as possible.
- Complete a [Hazard and Injury Report Form](#)
- Request up-to-date medical certificates from the employee and ensure applications for leave are processed.
- Arrange and encourage communication with the injured or ill employee to identify options to return the employee to work.
- Identify and assist in sourcing suitable alternative duties if required.
- Be involved and support the return-to-work program.
- Identify the impact within the work team of the case of the injured or ill employee and liaise with the HR team as required.
- Liaise with the rehabilitation provider, employee and the Manager HR and the Case Manager to ensure that concerns are addressed promptly.
- Review and monitor the employee after all goals are achieved to prevent re-injury.
- Provide a supportive environment for an injured or ill employee to return to work and/or continue working during the rehabilitation phase.

#### **11.4 What Happens Once an Employee Makes a Claim?**

When an employee makes a claim, Comcare will provide a written response to the employee/claimant within a reasonable time frame, and will also provide copies and advices to the Office.

#### **Privacy**

Comcare undertakes the collection, storage and release of information in accordance with the privacy principles set out in the Commonwealth *Privacy Act 1988*.

A copy of Comcare's privacy policy is available on their website, [www.comcare.gov.au](http://www.comcare.gov.au)

#### **Access to Comcare Records**

Employees may, on request, be given any documents that relates to their claim.

## **12. Measurement and Evaluation**

### **12.1 Monitoring**

The Rehabilitation Provider should, in consultation with appropriate stakeholders such as: the Manager HR, the Case Manager, treating health professionals, supervisors and the injured employee, monitor and ensure the RTW plan is current and appropriate to facilitate early and safe return to work.

Formal review should occur when medical assessments indicate the need for changes to the program, or its closure. Formal reviews should incorporate reports from:

- The Employee

- The Supervisor / Manager
- The Manager HR and/or the Case Manager
- The Treating Medical Practitioner
- The Rehabilitation Provider

The Manager HR will conduct regular reviews of all current rehabilitation cases to ensure all possible and appropriate action is being taken to support employees and achieve an early return to work.

## **13. Auditing and Reporting**

### **13.1 Service Delivery and Evaluation**

Once an outcome for return to work has been achieved, the Manager HR and the Case Manager will close the Return to Work Program in consultation with the employee, the manager, the Rehabilitation Provider and other relevant stakeholders.

The manager/supervisor and the Case Manager may review the employee's return-to-work program approximately four weeks after the closure of the plan and again at three months to ensure the injured employee's return to work is durable.

The Manager HR and the Case Manager are responsible for reporting all outcomes of injury and illness management processes and compensable and non-compensable conditions to Management Committee on a regular basis.

Information should include:

- the effectiveness and efficiency of the agency's rehabilitation programs;
- identification of any factors which impacted upon the program positively or adversely.

## **14. Dispute resolution**

Any disputes regarding a rehabilitation program will be dealt with in accordance with the Safety, Rehabilitation and Compensation Act 1998.

## **15. Review of this policy**

This policy shall be reviewed periodically through established consultative processes.

## **16. Further information**

Further information may be obtained by contacting the Manager Human Resources on 62833624.

## **17. Relevant document/links**

The following documents relate to these procedures:

- [Enterprise Agreement 2011-2014](#)
- [Work Health & Safety Management Arrangements & Policy](#)
- [Office Work Health and Safety Policy Statement](#)
- [Rehabilitation Handbook – Comcare](#)
- [Employees Rights & Responsibilities](#)
- [What do I do if I disagree with a determination or a reviewable decision made by Comcare?](#)
- [Comcare Website](#)
- [Non-Compliance with Rehabilitation](#)

- i. [Comcare approved Rehabilitation Providers](#)
- j. [Comcare Reasonable Adjustments](#)
- k. [All About Workers' Compensation – A Guide For Employees Injured At Work On Or After 13 April 2007](#)

A handwritten signature in blue ink that reads "Stephen Brady". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Stephen Brady  
Official Secretary  
to the Governor-General

30 January 2014