



# REHABILITATION MANAGEMENT SYSTEM

A handwritten signature in black ink, appearing to read "Daryl Karp".

**Daryl Karp**  
Director

**June 2021**

*Due for review June 2023*

# **Contents**

Contents .....	2
1. General information .....	1
2. Scope .....	1
3. Legislative compliance.....	1
4. Statement of commitment.....	1
5. Employees with non-work related injury or disease.....	2
6. Principles underlying the RMS .....	2
7. Objectives of the RMS .....	2
8. Provision of rehabilitation.....	3
9. Rehabilitation roles and responsibilities .....	3
10. Injury notification procedures.....	7
11. Consultative forum for discussing the operation of the RMS.....	7
12. RMS governance arrangements.....	7
13. Privacy and confidentiality of employees' personal information .....	9
14. Dictionary of rehabilitation terms .....	9
15. Comcare forms.....	10
16. Review of the RMS .....	10
Supporting documentation .....	10

# **Appendices**

<b>A</b> The Comcare Scheme – Overview	12
<b>B</b> Functions, Powers & Duties of Rehabilitation Authorities	14
<b>C</b> Rehabilitation Procedures	17
<b>D</b> Responsibilities of the Employer	36
<b>E</b> Case Management Delegations	38
<b>F</b> Role of Rehabilitation Case Managers	41
<b>G</b> Role of Workplace Rehabilitation Providers	45
<b>H</b> Rights and Responsibilities of Employees/Former Employees	49
<b>I</b> Responsibilities of Relevant Managers	56
<b>J</b> Frequently asked questions	58
<b>K</b> Recordkeeping – Rehabilitation Case Files	62
<b>L</b> Privacy & Confidentiality	65
<b>M</b> Dictionary of Rehabilitation Terms	67
<b>N</b> RMS References	75
<b>O</b> Comcare Forms	78

## **Version control**

Version	Date	Author/Reviewer	Summary of changes	Status
V1.0	March 2014	People and Strategy	New policy	Final
V2.0	March 2021	People and Strategy	Review	Draft
V2.1	April 2021	All Staff	Review & Comment	Draft
V2.2	June 2021	EMG	Review & Comment	Draft
V2.3	June 2021	Director	Endorse/signature	Final

Team responsible for overview and updates of the policy:

People & Strategy Team

[hr.helpdesk@moadoph.gov.au](mailto:hr.helpdesk@moadoph.gov.au)

## **1. General information**

The Rehabilitation Management System (the RMS) provides a framework to assist injured or ill employees to safely return to work and to minimise the incidence and severity of compensable injury and disease at work through:

- provision of early intervention programs to support injured employees to remain at work
- where injured employees are incapacitated from work, provision of rehabilitation to assist with the timely, safe, durable return to work.

## **2. Scope**

The RMS applies to all SES and non-SES employees (ongoing, non-ongoing and casual / intermittent) of the Museum of Australian Democracy at Old Parliament House (MoAD).

The RMS supplements, and should be read in conjunction with, MoAD's *Work Health and Safety Strategy*.

Provision of rehabilitation to employees whose injury is not work related, or where liability for a claim for compensation has been denied by Comcare, should refer to the *Fitness for Duty Guideline*.

## **3. Legislative compliance**

The RMS provides a framework to assist MoAD to meet its statutory and moral obligations to prevent workplace injuries, and to provide rehabilitation to employees who experience impairment or incapacity, arising out of or in the course of employment, under:

- *Work Health and Safety Act 2011* (WHS Act)
- *Work Health and Safety Regulations 2011* (WHS Regulations)
- *Work Health and Safety Codes of Practice 2011 and 2012* (WHS Codes)
- *Safety, Rehabilitation and Compensation Act 1988* (SRC Act)
- *Guidelines for Rehabilitation Authorities 2019* (Rehabilitation Guidelines) issued under section 41 of the SRC Act
- *Public Service Act 1999* (PS Act)
- *Public Service Regulations 1999* (PS Regulations)
- *Privacy Act 1988* (Privacy Act)
- *Privacy Amendment (Enhancing Privacy Protection) Act 2012* (Privacy Amendment Act)

## **4. Statement of commitment**

MoAD is committed to providing all employees with a safe and healthy workplace and minimising the risk of workplace injury by taking all reasonably practicable steps to identify, assess, and eliminate or control, hazards under the WHS Act, the WHS Regulations and the WHS Codes. This duty of care commitment extends to providing assistance to employees experiencing impairment or incapacity, arising out of or in the course of employment, through the timely provision of early intervention and/or rehabilitation programs under the SRC Act.

Further information regarding the SRC Act and the Comcare Scheme is provided at [Appendix A](#).

## **5. Employees with non-work related injury or disease**

Provision of assistance for employees whose injury is not work related, or where liability for a claim for compensation has been denied by Comcare, should refer to the *Fitness for Duty Guideline*.

Employees who have sustained a non-work related injury may be given the opportunity on a voluntary basis, or under prescribed circumstances under the PS Act and (PS Regulations) on a directed basis, to undertake an agency sponsored rehabilitation program. Where such rehabilitation is provided, similar processes to the rehabilitation assessment, rehabilitation program and suitable employment described in the RMS may be followed. However, decisions regarding provision of rehabilitation in such circumstances do not equate to determinations under the SRC Act, are not reviewable by Comcare and the costs incurred by the employee's work area cannot be recouped under compensation arrangements.

## **6. Principles underlying the RMS**

The RMS is based on the following principles:

- provision of early intervention programs to support injured employees remain at work is in the best interests of employees' health, safety and wellbeing
- employers have statutory responsibility and financial accountability for provision of rehabilitation to injured employees
- provision of rehabilitation within the workplace is more effective than rehabilitation provided in isolation of the workplace
- provision of rehabilitation commences as soon as possible following a notification of work injury
- provision of rehabilitation is not dependent on submission of a claim for compensation and/or determination of liability by Comcare, and will not prejudice or otherwise disadvantage an injured employee
- successful rehabilitation outcomes are reliant upon clear and timely communication, ongoing consultation and active cooperation between all stakeholders (the injured employee, the relevant manager, the rehabilitation case manager and external stakeholders such as the treating legally qualified medical practitioner and any workplace rehabilitation provider engaged by MoAD)
- return to pre-injury duties is the norm and not the exception
- where practicable, the provision of suitable employment is an integral step in return to pre-injury duties.

## **7. Objectives of the RMS**

The RMS aims to provide the best possible response to the management of workplace injury to assist employees remain at, or return to, work at the earliest appropriate time, through:

- acknowledgment of, and the Director's and Executive Management Group's (EMG) commitment to, statutory obligations under the WHS Act and the SRC Act
- encouragement for the early reporting of symptoms of discomfort experienced at work before symptoms exacerbate into injury
- encouragement of the prompt reporting of injury arising out of or in the course of employment
- provision of early intervention programs to support injured employees remain at work

- early identification of the need for rehabilitation to assist with the return to work process, and where a return to pre-injury duties is not expediently achievable, provision of suitable employment
- respect for the confidential nature of medical and rehabilitation information pertaining to individual employees
- continuous improvement in the provision of rehabilitation through case conferences, annual auditing of the RMS (to facilitate development of systems improvement plans) and associated reporting to:
  - the Director and EMG
  - the Work Health and Safety Committee.

## **8. Provision of rehabilitation**

Under the SRC Act, the employer (as the rehabilitation authority) is responsible for providing rehabilitation to employees where an injury arises out of or in the course of employment.

MoAD, through People and Strategy, will confidentially assess the need to provide rehabilitation to an employee upon:

- an employee indicating by way of an internal incident report:
  - a workplace injury
  - symptoms of discomfort at work which provides an early indication of heightened risk of injury
- an employee and/or the relevant manager providing notification of unscheduled absence(s) from work directly to People and Strategy
- the receipt of a medical certificate or other supporting evidence from the employee's legally qualified medical practitioner detailing a workplace injury or susceptibility to injury, and any medical restrictions, specified need for rehabilitation or other workplace adjustment.

MoAD will provide rehabilitation on a case management basis, which may entail:

- a determination that an employee experiencing impairment or incapacity undergo a rehabilitation assessment of capability to undertake a rehabilitation program by a MoAD nominated legally qualified medical practitioner, other suitably qualified person or a panel
- provision of an early intervention program to support an employee remaining at work, directly by MoAD or with the assistance of a workplace rehabilitation provider, and / or other suitably qualified individual or organisation such as a workplace ergonomic assessor
- provision of a rehabilitation program for an employee experiencing impairment or incapacity, directly by MoAD or with the assistance of a workplace rehabilitation provider
- provision of suitable employment or assistance to find such employment.

## **9. Rehabilitation roles and responsibilities**

MoAD recognises that successful rehabilitation outcomes are often dependent upon timely communication, consultation and cooperation between all stakeholders. MoAD's primary stakeholders for the provision of rehabilitation are:

- the rehabilitation authority with statutory obligations to provide rehabilitation
- rehabilitation case managers, as delegates of the rehabilitation authority, with responsibility for initiating, coordinating, monitoring and making decisions about provision of rehabilitation

- employees who experience impairment or incapacity, arising out of or in the course of employment
- relevant managers who support the rehabilitation process through identifying suitable employment to facilitate an injured employee remaining at or returning to work.

## **The Rehabilitation Authority**

The rehabilitation authority (MoAD) has the statutory functions, powers and duties under Part III - Rehabilitation, of the SRC Act to provide rehabilitation to employees who experience impairment or incapacity, arising out of or in the course of employment. MoAD's rehabilitation case managers exercise delegations on behalf of the Director regarding provision under the SRC Act of rehabilitation assessments, early intervention programs, rehabilitation programs and suitable employment for employees injured at work.

Further information regarding the functions, powers and duties under the SRC Act of rehabilitation authorities is provided at [Appendix B](#).

Detailed explanation of rehabilitation procedures is provided at [Appendix C](#).

The responsibilities of employers under the SRC Act are detailed at [Appendix D](#).

Further explanation regarding the exercising of the Director's delegations under the SRC Act is provided at [Appendix E](#).

## **Rehabilitation Case Managers**

The roles and obligations of rehabilitation case managers are broad and include:

- educating employees and relevant managers about rehabilitation options MoAD provides to employees injured at work and their respective roles and responsibilities
- arranging early assessment of an employee's capability to undertake rehabilitation, in particular when an employee has sustained an injury and is likely to be away from work for an extended period
- developing, monitoring and closing of rehabilitation programs
- engaging, monitoring and reporting on the provision of rehabilitation by workplace rehabilitation providers
- ensuring rehabilitation programs are formulated with consideration of the return to work hierarchy
- ensuring ongoing consultation with the injured employee and other stakeholders including the employee's legally qualified medical practitioner and relevant manager(s)
- coordinating, in conjunction with relevant managers, workplace trials, placements, graduated return to work arrangements, suitable employment and redeployment
- maintaining records for each employee undertaking rehabilitation, inclusive of documents, forms, correspondence, telephone discussions, case notes, medical certificates and reports, determinations and financial accounts
- ensuring the confidentiality and safe keeping of medical and rehabilitation information pertaining to each employee, and securing against the loss, unauthorised access and use, modification or disclosure, and misuse of information.

Further information regarding the roles and responsibilities of rehabilitation case managers is provided at [Appendix F](#).

## Employees

The roles and obligations of employees experiencing impairment or incapacity, arising out of or in the course of employment, include:

- exercising reasonable care in the performance of work to:
  - prevent aggravation of injury
  - minimise the extent and duration of impairment, or the duration of incapacity
- providing immediate (as soon as practicable) initial verbal notification of impairment or incapacity to their relevant manager(s)
- cooperating with any enquiries or investigations required to ascertain how an injury occurred
- seeking prompt treatment, or referral for any necessary treatment, from a legally qualified medical practitioner of the employee's choice
- providing to the legally qualified medical practitioner consulted, and/or other party on referral, an accurate description of how the injury occurred or of the circumstances in which the condition became apparent
- complying with any medical restrictions imposed by the legally qualified medical practitioner
- obtaining from the legally qualified medical practitioner consulted, a medical certificate covering any absence(s) from work, and/or medical report detailing the need for rehabilitation and any medical restrictions
- providing documented notification of injury to MoAD via submission of an *Incident Notification form*, and providing original medical certificate(s) and/or report(s) prepared by the legally qualified medical practitioner, as soon as reasonable practicable
- attending any appointment arranged by a rehabilitation case manager which relates to provision of rehabilitation (e.g. a rehabilitation assessment, an early intervention program, a rehabilitation program and/or suitable employment case conference)
- providing to any assessor engaged by MoAD to conduct a rehabilitation assessment, an accurate description of how the injury occurred or of the circumstances in which the condition became apparent
- actively participating in the development of a rehabilitation program and undertaking the rehabilitation program provided by the rehabilitation authority, unless there is a reasonable excuse not to comply, which must be clearly conveyed in writing to the rehabilitation case manager without undue delay
- cooperating with requests for information from the rehabilitation case manager, other relevant parties (e.g. workplace rehabilitation providers) and Comcare (when a claim for compensation has been submitted), and promptly providing and/or completing any documentation required by the rehabilitation authority to facilitate the timely provision of rehabilitation
- complying with the rehabilitation case manager's determinations and recommendations to facilitate a return to work as soon as possible, inclusive of actively undertaking suitable employment specified in an agreed rehabilitation program
- actively communicating with the rehabilitation case manager, relevant manager and any appointed workplace rehabilitation provider regarding any barriers that may impede or delay a return to pre-injury duties.

The roles of agency engaged workplace rehabilitation providers are detailed at [Appendix G](#).

Additional information addressing the responsibilities of employees (and ex-employees) is provided at [Appendix H](#).

## Relevant Managers

The roles and obligations of relevant managers in provision of rehabilitation involve working in partnership with the rehabilitation case manager, the employee's legally qualified medical practitioner and any other relevant party (e.g. an independent legally qualified medical practitioner and/or workplace rehabilitation providers engaged by MoAD) to identify suitable employment to facilitate an injured employee remaining at, or returning to, work, which may necessitate:

- temporary or ongoing adjustments to attendance requirements and hours worked, and/or work allocation and workflows
- modification to work duties or how work is performed
- purchase of specialist equipment, such as ergonomic aids and information communication technology solutions
- supervising, and offering support and encouragement, to the employee
- with consideration of an injured employee's privacy, explaining to co-workers the purpose of suitable employment to support an injured employee remaining at or returning to work
- participating in case conferences convened by the rehabilitation case manager.

Additional information addressing the responsibilities of relevant managers is provided at [Appendix I](#).

## Comcare training

Comcare provides a number of free and fee-based courses, delivered in-house or online. Free online courses include:

- Rehabilitation case management—first steps
- Return to work case conferencing
- SRC Act and Comcare scheme overview
- Workplace rehabilitation provider

Further information is available from [Comcare](#).

## Rehabilitation Case Managers

Rehabilitation case managers may be eligible to undertake an accredited training program related to injury rehabilitation (e.g. [Certificate IV in Government](#), Injury Rehabilitation Management specialisation). Further information is available from People and Strategy.

Rehabilitation case managers are encouraged to attend and participate in professional development opportunities for rehabilitation case managers, such as Comcare's [Rehabilitation Case Manager Forums](#), with the objectives of:

- examining contemporary issues and exploring continuous improvement opportunities in the provision of rehabilitation, and
- facilitating networking of rehabilitation case managers working within the Commonwealth jurisdiction

## Frequently asked questions

Frequently asked questions detailing the purpose and operation of the RMS, training considerations and introducing key stakeholder roles and responsibilities, are provided at [Appendix J](#).

## **10. Injury notification procedures**

All employees, whether personally injured or a witness to an incident within the workplace, are required to submit an Incident Notification Form on the Intranet. As witness details can be captured within the report template, a single incident report will normally be sufficient (i.e. it is seldom necessary or appropriate for every witness to an incident to submit separate incident reports). This reporting mechanism is the primary mechanism for formally reporting incidents to employees' relevant managers and People and Strategy.

Incident reports can be supplemented by provision of further information directly to the relevant managers and / or People and Strategy, in particular when an injury is of a personal or sensitive nature, and an employee has concerns regarding the confidentiality of reported information.

## **11. Consultative forum for discussing the operation of the RMS**

The functions of the Work Health and Safety Committee include assisting in developing, implementing, reviewing and updating standards, rules and procedures protecting the WHS of workers. Accordingly, the Committee is MoAD consultative forum regarding the development, implementation, maintenance and improvement of the RMS. However, the Committee is not authorised to discuss or review:

- personal (including medical) information relating to provision of rehabilitation to an injured employee
- determination(s) made by a rehabilitation case manager in regards to injured employees (under the SRC Act, reconsideration of a determination made by a rehabilitation case manager is undertaken by Comcare as the determining authority).

## **12. RMS governance arrangements**

### **Performance standards and measures**

The performance standards and measures which apply to the provision of rehabilitation to injured employees require an ongoing commitment by MoAD to review and continuous improvement in the provision of rehabilitation.

The RMS core governance arrangements are:

- this RMS
- recordkeeping arrangements (refer Appendix K)
- an auditing program coordinated by People and Strategy
- internal reporting of audit findings, inclusive of KPIs and targets to:
  - the Director and EMG
  - the WHS Committee

### **Continuous Improvement**

The RMS adopts the five interactive elements of continuous improvement adopted by Comcare, and which are common to Australian/New Zealand Standards.

The five elements of continuous improvement are listed and illustrated below:

- 1 – commitment and corporate governance
- 2 – planning
- 3 – implementation
- 4 – measurement and evaluation
- 5 – review and continuous improvement.

Each of the five elements are individually summarised in the Comcare factsheet [Rehabilitation Management Systems – What is a Rehabilitation Management System?](#)

## **KPIs and Targets**

In addition, performance of the RMS (and general work health and safety performance) will be measured against a number of KPIs and targets as developed by MoAD.

Progressive targets linked to KPIs have been adopted in recognition that implementation of the RMS should deliver measurable improvements in injury management in the medium term (i.e. over a three year period).

## **RMS Auditing and compliance**

### **Rehabilitation management system audits and compliance**

Rehabilitation management system (RMS) audits and certification of compliance are no longer mandatory under the new Guidelines. However, it remains mandatory for employers to comply with the Guidelines for Rehabilitation Authorities 2019 (the Guidelines). These requirements include effectively managing rehabilitation, consultation with key stakeholders, ensuring appropriately skilled and capable rehabilitation case managers, monitoring workplace rehabilitation provider services and the monitoring of rehabilitation by the organisation's Principal Officer. The implementation and maintenance of a rehabilitation management system supports an organisation to meet these requirements.

### **Audit tool**

Comcare's [Rehabilitation Management System audit tool](#) includes the key parts of a rehabilitation management system in the Comcare scheme.

This tool is used to assess rehabilitation management systems and to identify areas to improve.

### **Who conducts an audit?**

Audits can be completed by an internal auditor. They can also be completed by an external auditor.

Auditors should:

- be independent of the rehabilitation area
- know the Safety, Rehabilitation and Compensation Act 1988 (SRC Act)
- have relevant experience, which includes appropriate audit training, qualifications and experience.

Guidance on how to assess the competence of an auditor can be found in Section 7 – Competence and evaluation of auditors, [International Standard ISO 19011 – Guidelines for auditing management systems](#)

### **Frequency of audits**

To determine how often audits should be carried out and the scope of audits, carry out a risk assessment.

The risk assessment should consider MoAD's:

- rehabilitation and return to work outcomes
- size
- average number of rehabilitation cases managed and how complex they are
- level of compliance in previous findings
- capability and the experience of staff managing and delivering rehabilitation and return to work.

Comcare recommends that employers audit at least once every three years.

## **13. Privacy and confidentiality of employees' personal information**

MoAD has a number of obligations concerning the collection, storage, use and disclosure of employees' personal information under the Privacy Act and the Privacy Amendment Act, in particular under the Australian Privacy Principles contained in the Privacy Act regarding:

- informing employees of the purpose that personal information is sought (Principle 2)
- protecting personal information from unauthorised use or disclosure (Principle 4)
- implementing arrangements for employees to view or request their personal information held by MoAD (Principle 6)
- utilising an employee's personal information for the purpose it was obtained (Principle 9)
- preventing disclosure of personal information about an employee to another party (Principle 11) unless:
  - the employee has consented to the disclosure
  - the disclosure is required or authorised under law
  - the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the employee or of another person
  - disclosure is reasonably necessary (e.g. enforcement of criminal law).

Further information regarding the personal information potentially collected, used and/or disclosed by MoAD, is provided at [Appendix L](#).

## **14. Dictionary of rehabilitation terms**

A dictionary of rehabilitation terms applicable to the RMS is provided at Appendix N. In the event of inadvertent discrepancy between the provided definition, the Rehabilitation Guidelines and/or the SRC Act, the:

- definition under the SRC Act will prevail over the definition under the Rehabilitation Guideline, which in turn will prevail over the definition under the RMS
- reference to applicable interpretative rulings issued by the Administrative Appeals Tribunal, Federal Court of Australia and/or High Court of Australia, or jurisdictional policy advices as periodically issued by Comcare, may be required to ascertain the presiding legal interpretation of a definition as tested by the Tribunal or Courts (readers

should be cautious with relying on rehabilitation definitions obtained via Internet search engine which may be applicable to state and territory legislation and regulations).

## 15. Comcare forms

Provision of rehabilitation and claims for compensation are forms administered processes. A description of frequently utilised Comcare forms, summary instructions regarding completion of each form and hyperlinks to online versions of the forms, are provided at Appendix O and include:

### Rehabilitation Forms

- *Rehabilitation Assessment Examination*
- *Suitable Duties*
- *Rehabilitation Program*
- *Rehabilitation Program Alteration*
- *Rehabilitation Program Cessation*

### Compensation Forms

- *Claim for Workers' Compensation*
- *Medical Certificate for Compensation*
- *Authority and Consent for the Collection and Release of Medical Information pertaining to my Claim*
- *Medical Services Claim*
- *Claim for Time-Off Work/Period of Reduced Earning*
- *Access to Leave and Release of Comcare Payments*

## 16. Review of the RMS

Operation of the RMS will be reviewed regularly. Additionally, review will occur in the event of amendment to the SRC Act, Rehabilitation Guidelines and any significant Administrative Appeals Tribunal, Federal Court of Australia and/or High Court of Australia ruling affecting the provision of rehabilitation to injured employees by rehabilitation authorities within the Comcare Scheme.

## Supporting documentation

Supporting documentation referenced in drafting the RMS are provided at Appendix N and include applicable:

- legislation
- regulation
- Australian Standards
- guidance material and auditing tools published by Comcare
- research published by Safe Work Australia.

[Return to Contents Page](#)

## A1 Introduction to the SRC Act

1.1 The SRC Act provides a rehabilitation and compensation scheme for employees of:

- Australian government departments and statutory authorities
- the ACT government
- corporations which have been granted a licence to self-insure.

1.2 Under the scheme, if an employee is injured at work, the employer is responsible for provision of individually tailored rehabilitation program(s):

- to assist the employee remain at work
- where the employee experiences incapacity, to return to pre-injury work as soon as reasonably practicable
- where a return to pre-injury duties is not appropriate, to return to suitable duties as soon as reasonably practicable.

1.3 The scheme is administered by [Comcare](#) and is commonly referred to as the ‘Comcare Scheme’.

## A2 Principles which underpin the SRC Act

2.1 The principles that underpin the SRC Act, as cited in Comcare’s [Rehabilitation case manager handbook](#), include:

- a focus on returning employees to the workforce
- the rehabilitation authority (generally the employer) has a statutory responsibility for workplace rehabilitation of employees and the provision of suitable duties
- the employer is financially accountable for the cost of workplace injuries under *premium and licensing arrangements*
- *employers have access to skilled and efficient workplace rehabilitation providers*
- *entitlement to payments for rehabilitation and other related costs associated with work-related injuries*
- *fair decision making*
- *the capacity to suspend benefits when an employee does not comply with rehabilitation.*

## A3 Comcare’s Role under the SRC Act

3.1 Comcare’s role under the SRC Act includes:

- determining the criteria for approval of workplace rehabilitation providers and the *Operational Standards for Rehabilitation Program Providers Determination*
- approving, renewing and revoking approval of workplace rehabilitation providers

- preparing and issuing guidelines (i.e. the Rehabilitation Guidelines) in relation to the performance and exercise by rehabilitation authorities of their functions, powers and duties under the SRC Act (refer [Appendix B](#))
- determining liability for claims for compensation
- where liability is accepted, determining benefits payable and where applicable, pursuing third party recovery
- ongoing claims management, including fraud investigation
- managing requests for reconsideration of determinations made by:
  - the rehabilitation authority or delegate (usually a rehabilitation case manager), or
  - a Comcare claim services officer
- responding to appeals regarding denied liability to the Administrative Appeals Tribunal, Federal Court of Australia and High Court of Australia.

Further information about the [Comcare scheme](#) and [Comcare's role under the SRC Act](#) is available from Comcare.

[Return to Contents Page](#)

**B1 Part III (Rehabilitation) of the SRC Act**

- 1.1 Under Part III (Rehabilitation) of the SRC Act, and the Rehabilitation Guidelines, rehabilitation authorities have the functions, powers and duties detailed below.

**B2 Complying with guidelines issued by Comcare**

- 2.1. Under section 41(2) of the SRC Act, rehabilitation authorities must comply with any guidelines (i.e. the Rehabilitation Guidelines) issued by Comcare.

**B3 Assessment of an employee's capability to undertake, or continue to undertake, a rehabilitation program**

- 3.1 Under section 36(1) of the SRC Act, rehabilitation authorities are empowered to make a determination that an employee suffering a workplace injury resulting in impairment or incapacity, shall undergo a rehabilitation assessment of capability to undertake a rehabilitation program (if an injured employee requests a rehabilitation assessment in writing, the rehabilitation authority must arrange for a formal assessment).
- 3.2 Under section 36(2) and (3) of the SRC Act, rehabilitation authorities are empowered to nominate a legally qualified medical practitioner, other suitably qualified person or a panel, to conduct a rehabilitation assessment of an injured employee's capability to undertake a rehabilitation program.

**B4 Payment of assessment costs**

- 4.1 Under section 36(5) and (6) of the SRC Act, rehabilitation authorities are responsible for the payment of costs of conducting any rehabilitation assessment of an employee's capability to undertake a rehabilitation program, and reimbursement of the employee's expenditure reasonably incurred in attending the assessment. Also refer B12 below.

**B5 Suspension of an employee's incapacity payments – refusal to undertake a rehabilitation assessment**

- 5.1 Under section 36(4) of the SRC Act, rehabilitation authorities are empowered to make a determination about suspension of incapacity payments (but not the cost of medical treatment) where an employee refuses or fails, without reasonable excuse, to undergo a rehabilitation assessment, or in any way obstructs such an assessment.

**B6 Determining an employee should undertake, or cease to undertake, a rehabilitation program, or to alter the contents of a rehabilitation program**

- 6.1 Under sections 37(1) and 37(3) of the SRC Act, rehabilitation authorities are empowered to make a determination that an employee suffering a workplace injury resulting in impairment or incapacity should undertake, or cease to undertake, a rehabilitation program, or making a determination to alter the contents of a rehabilitation program.

**B7 Provision of a rehabilitation program**

- 7.1 Under section 37(2) of the SRC Act, rehabilitation authorities are responsible for providing a rehabilitation program for an employee suffering a workplace injury resulting in impairment or incapacity, or making arrangements with a workplace rehabilitation provider for provision of a program for the employee.

**B8 Payment of rehabilitation costs**

- 8.1 Under section 37(4) of the SRC Act, rehabilitation authorities are responsible for the payment of costs of the rehabilitation program. Also refer B12 below.

**B9 Suspension of an employee's incapacity payments – refusal to undertake a rehabilitation program**

- 9.1 Under section 37(7) of the SRC Act, rehabilitation authorities are empowered to make a determination about suspension of incapacity payments (but not the cost of medical treatment) where an employee refuses or fails, without reasonable excuse, to undertake a rehabilitation program.

**B10 Advising the employee in writing of decisions**

- 10.1 Under section 38(1) of the SRC Act, rehabilitation authorities are responsible for advising the injured employee in writing of any determinations made under section 36 and 37 of the SRC Act.

**B11 Duty to provide suitable employment**

- 11.1 Under section 40(1) of the SRC Act, rehabilitation authorities are responsible for taking all reasonable steps to provide an employee undertaking or who has completed a rehabilitation program, with suitable employment or assistance to find such employment.

**B12 Payment of Section 36 and 37 Rehabilitation Costs prior to Comcare issuing of a determination of liability**

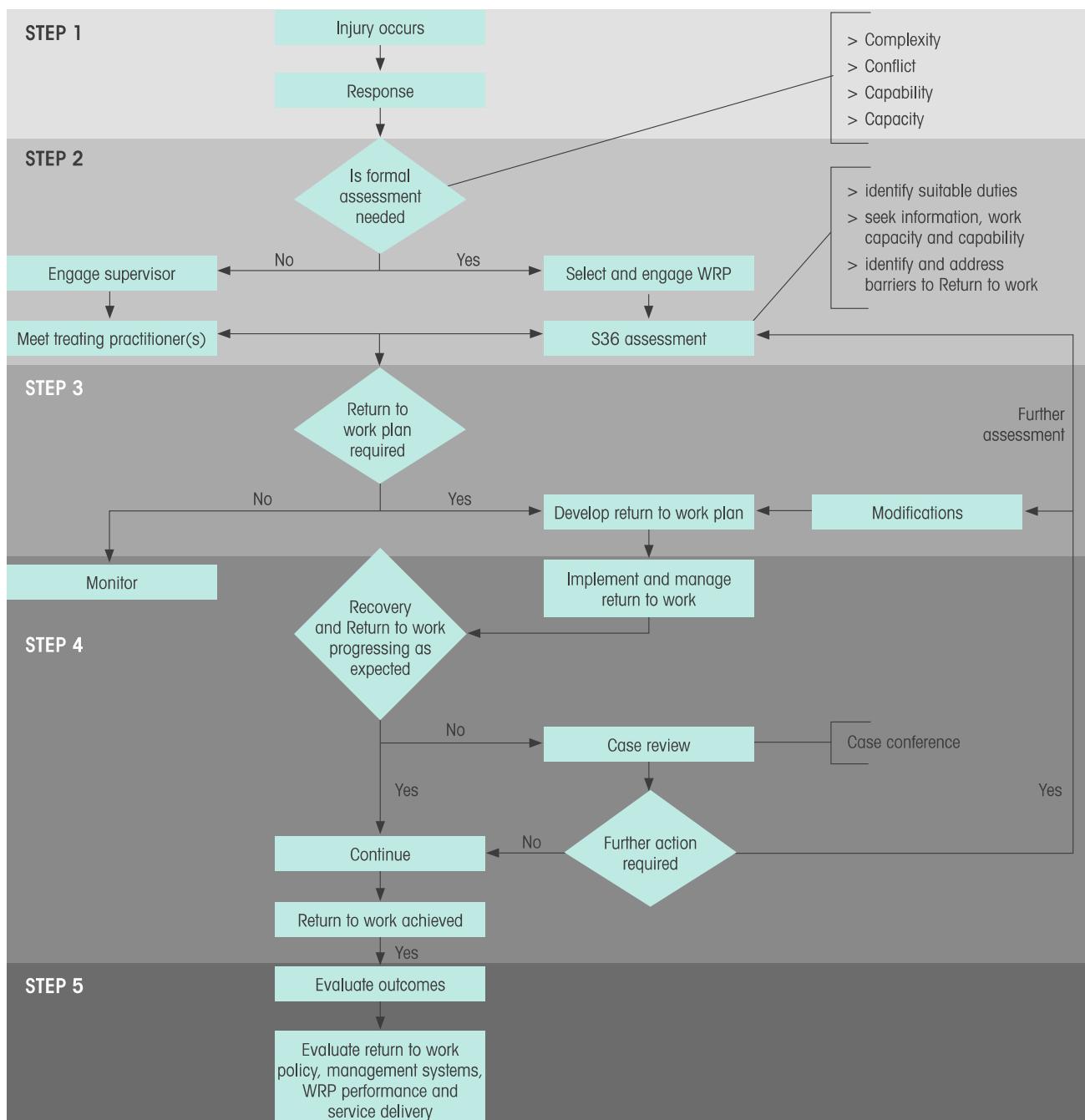
- 12.1 During 2011 Comcare introduced new arrangements for the payment of costs incurred by rehabilitation authorities in discharging the employer's duties under section 36 and 37 of the SRC Act. The arrangements are intended to encourage the provision of early rehabilitation when a claim for compensation has been submitted by an employee and the employer 'in good faith' supports that the claim has arisen out of or in the course of employment. Comcare will pay certain costs incurred by the employer in the provision of early rehabilitation prior to the issuing of determination of liability under section 14 of the SRC Act, even when liability is subsequently declined.

- 12.2 In order for the rehabilitation authority (for purpose of simplicity, hereafter within this appendix referred to as MoAD) to take advantage of this arrangement, three primary criteria must be fully satisfied:

- the employee has promptly notified MoAD of an injury (refer [Section 12](#) of the RMS)

- the employee has submitted a written claim for compensation on the prescribed form (refer Appendix O), accompanied by an original compensation medical certificate completed by a legally qualified medical practitioner
- MoAD has considered and is satisfied that:
  - the injured person is an employee within the meaning of the SRC Act
  - the injury appears to have arisen out of or in the course of employment
  - the injury appears to have resulted in impairment or incapacity
  - the exclusionary provisions (i.e. reasonable administrative action), as stipulated in section 5A (2) of the SRC Act, do not appear to apply.

[Return to Contents Page](#)

**Table 1: Overview of Rehabilitation under the SRC Act****Steps in supporting recovery and returning someone to work**

1. Notification of injury
2. Early contact with the employee
3. Identification and management of risk factors for a successful return to work
4. Assessment of need for rehabilitation services
5. Return to work planning
6. Implementing a rehabilitation program

7. Monitoring the progress of the return to work/rehabilitation program
8. Review and evaluation of the return to work/rehabilitation program

**Table 2: Rehabilitation Case Managers' Injury Management Checklist**

<b>Questions/Prompts</b>	<b>Y/N or NA</b>	<b>Dates and Comments</b>
Notification of injury received?		
Medical certificate and/or report received?		
Initial liaison with employee and discussion of rights and obligations under the RMS		
Initial liaison with employee's legally qualified medical practitioner regarding injury, incapacity and/or suitable duties		
Initial liaison with the relevant manager and discussion of roles and responsibilities under the RMS		
Referral to a workplace rehabilitation provider (WRP)		
Early intervention requested/required?		
Rehabilitation assessment requested/required?		
Appointment of assessor		
Rehabilitation assessment examination		
Rehabilitation assessment received?		
Notification of outcomes of rehabilitation assessment		
Rehabilitation program requested/required?		
Who provided rehabilitation program?		
Rehabilitation program notification		
Case conference(s)		
Altering/closing rehabilitation program		
Copy of signed determinations and case conference minutes to stakeholders/case file		
Copy of all medical certificates, reports, Comcare forms and any other correspondence to case file		
Other (e.g. employee non-compliance, reconsideration request and WRP performance)		
Case file contents folioed and closed		

**C1 Rehabilitation Assessment under section 36 of the SRC Act**

- 1.1 A rehabilitation assessment is intended to evaluate an employee's capacity to undertake, or continue to undertake, a rehabilitation program, and provides recommendations (inclusive of identification of suitable duties) to enable preparation of a rehabilitation program catered to an employee's specific circumstances. Accordingly, while provision of rehabilitation under the SRC Act is structured as a series of interrelated steps (i.e. rehabilitation assessment followed by consultation to develop a rehabilitation program; implementation and monitoring of the program; review of program outcomes; and supplementary rehabilitation assessment when outcomes have not been achieved), provision of rehabilitation can also be viewed as a unified process focused on outcomes. A rehabilitation assessment can be conducted by a legally qualified medical practitioner, a workplace rehabilitation provider or a panel, as engaged by the rehabilitation case manager on behalf of MoAD.
- 1.2 The rehabilitation authority, as represented by the rehabilitation case manager, can initiate a rehabilitation assessment(s) under the SRC Act in a variety of circumstances which include, but are not limited to:
  - receipt of an *Incident Notification form* from an employee and/or the employee's relevant manager indicating:
    - a workplace injury
    - symptoms of discomfort at work which provides an early indication of heightened risk of injury
  - receipt of advice from an employee and/or the employee's relevant manager of an unscheduled absence from work of 10 or more working days, and/or likelihood of ongoing absence(s), inclusive of absences of consecutive working days and/or a pattern of absences of non-consecutive working days
  - receipt of a medical certificate or report from the employee's legally qualified medical practitioner detailing a workplace injury or susceptibility to injury, and any medical restrictions, specified need for rehabilitation and/or other workplace adjustment
  - receipt of a claim for workers' compensation
  - progress of a rehabilitation program following a previous rehabilitation assessment is not as expected
  - receipt of advice from an employee of aggravation of a previous compensable injury
  - identified concern within the workplace that a work practice may be predisposing an employee(s) to risk of injury.
- 1.3 The rehabilitation case manager will normally initiate a discussion(s) with the employee and the relevant manager before referring the employee for a rehabilitation assessment. However, should the rehabilitation case manager be provided with sufficient documentary information regarding an employee's injury (e.g. provision of a comprehensive medical report from the employee's legally qualified medical practitioner or availability of a previous rehabilitation assessment and/or a fitness for continued duty report), it may be possible and appropriate to document a rehabilitation program without need for a separate or additional rehabilitation assessment.
- 1.4 During initial discussions, the key matters generally addressed by the rehabilitation case manager include:

- the purpose of the rehabilitation assessment
  - who will be conducting the rehabilitation assessment (i.e. an agency engaged legally qualified medical practitioner, a workplace rehabilitation provider or a panel)
  - where the assessment will be conducted
  - what the rehabilitation assessment will entail (the nature of an assessment will vary depending upon whether an injury is of a physical and/or psychological nature, what is known about the injury, and whether an injury is novel or an aggravation)
  - what information the assessor will require from the employee and the relevant manager
  - the employee's rights and obligations
  - confidentiality of information
  - responsibility for costs and reimbursement of authorised out-of-pocket expenses.
- 1.5 The *Rehabilitation Assessment/Examination* form (refer Appendix O) is completed by the rehabilitation case manager, and is provided to the assessor(s) engaged by MoAD and the employee, for the purpose of actioning a rehabilitation assessment.
- 1.6 The actual rehabilitation assessment usually entails an initial needs assessment which, subject to whether an injury is of a physical and/or psychological nature, may involve discussion and consideration of matters such as, but not limited to:
- pre-injury duties
  - what tasks were being performed when an injury occurred or symptoms of discomfort first arose
  - work practices and ergonomics
  - medical diagnosis and prognosis, in particular in the context of any known medical restrictions on work which can be performed, and work capacity and possible barriers to performance of duties
  - need for and identification of suitable duties.
- 1.7 The assessor may hold separate discussions or otherwise liaise (telephone, correspondence and/or meet) with the rehabilitation case manager, the employee, the employee's relevant manager and the employee's legally qualified medical practitioner, to enable preparation of a report for the rehabilitation case manager addressing an employee's capacity to participate in a rehabilitation program, and where indicated, the recommended structure and content of a rehabilitation program.
- 1.8 As each assessment is unique to an individual employee's circumstances, the assessment may entail one or more of the following:
- a functional capacity assessment
  - an ergonomic assessment
  - work tolerance assessment

- transferable skills analysis
- proposed suitable duties assessment
- vocational assessment
- a medical examination – such examination is mandated when an injury results in incapacity and:
  - the nature of an injury is unclear
  - the injury is not supported by medical evidence (e.g. no report has been prepared or provided by the employee's legally qualified medical practitioner) or the medical evidence is inconclusive (e.g. the practitioner provides a general medical certificate stating 'unfit for work' or similar ,which is not supported by diagnosis, prognosis and evidence of a treatment plan)
  - further objective evidence is needed which necessitates examination by an independent assessor (the need for objective evidence is often required when an employee's condition shows no or negligible improvement or deteriorates, as evident by ongoing incapacity), and/or
  - the injury is psychological in nature or is complex (e.g. manifestations of both physical and psychological injuries exist).

**C2 Provision of Rehabilitation Programs under section 37 of the SRC Act****Rehabilitation Program**

- 2.1 A rehabilitation program (commonly referred to as a return to work plan) is usually developed by the rehabilitation case manager following a rehabilitation assessment, and essentially documents via the *Rehabilitation Program* form (refer Appendix O), the planned activities to facilitate an injured employee's return and maintenance at work.
- 2.2 From a procedural perspective, a rehabilitation program is developed with consideration of the return to work hierarchy and in consultation with relevant stakeholders (the injured employee and the relevant manager, as well as external stakeholders such as the treating legally qualified medical practitioner and any agency engaged workplace rehabilitation provider), and documents:
  - interim and final rehabilitation goals
  - responsibilities of stakeholders
  - duties to be performed and working hours
  - expected outcomes and timeframes
  - when applicable, workplace rehabilitation provider services and agreed costs.
- 2.3 In exercising a determination in regards to the provision and content of a rehabilitation program, the rehabilitation case manager must consider the following matters.:
  - recommendations provided by an assessor following a rehabilitation assessment

- any reduction in the future liability to pay compensation if the program is undertaken
  - the cost of the program
  - any improvement in the employee's opportunity to be employed after completing the program
  - the likely psychological effect on the employee of not providing the program
  - the employee's attitude to the program
  - the relative merits of any alternative and appropriate rehabilitation program
  - any other relevant matter.
- 2.4 While the rehabilitation case manager can directly provide a rehabilitation program to an employee, in certain circumstances it is mandatory or at least recommended best practice to engage a workplace rehabilitation provider to assist with design and delivery of the program (refer [Appendix G](#)).
- 2.5 As the rehabilitation program is signed by the key stakeholders, a draft documented program must be provided to stakeholders and reasonable opportunity provided (while the SRC Act does not prescribe a timeframe, normally seven (7) Calendar days but no more than 14 Calendar days) for consideration and provision of comments, before the rehabilitation case manager makes a written determination that the rehabilitation program be implemented on an agreed date (the date cannot be retrospective). Copies of the written determination must then be provided to:
- the employee
  - the employee's relevant manager
  - where engaged, the workplace rehabilitation provider
  - the treating legally qualified medical practitioner
  - Comcare
  - where the liable employer is not MoAD, that employer (this circumstance occasionally arises when an injured employee transfers between agencies).
- 2.6 Rehabilitation programs are reviewed via case conference (refer [Rehabilitation Procedure C 7](#)) to ensure effectiveness of the agreed program.

### **Rehabilitation Program Alteration**

- 2.7 In the event that a rehabilitation program needs to be altered or otherwise modified (e.g. change to working hour arrangements, suitable duties, program goals and/or program end date), prior to the rehabilitation case manager issuing a determination under section 37(1) of the SRC Act to alter the rehabilitation program using the *Rehabilitation Program Alteration* form (refer [Appendix O](#)), it is necessary to:
- consider the need for a supplementary rehabilitation assessment
  - consult with stakeholders regarding proposed changes

- provide stakeholders with a draft documented program alteration
  - provide stakeholders with a reasonable opportunity for consideration and provision of comments (as noted at 2.5 above, no timeframe is prescribed within the SRC Act).
- 2.8 Copies of the written determination must then be provided to all stakeholders as listed at 2.5 above.

### **Rehabilitation Program Closure**

- 2.9 The rehabilitation case manager may issue a determination, using the *Rehabilitation Program Closure Record* form (refer Appendix O), to close a rehabilitation program at any time. Ideally closure of a rehabilitation program will coincide with achievement of program goals and marks the completion of consultations with stakeholders. However, the form is also used when the goals of a rehabilitation program have not or are unlikely to be achieved, which would indicate a potential need for a supplementary rehabilitation assessment and/or a new rehabilitation program, and requisite stakeholder consultations. Copies of the written determination must be provided to all stakeholders as listed at 2.5 above.

### **C3 Reasonable Adjustments – Purchase and Provision of Specialist Equipment (including ICT Solutions)**

#### **What is ‘reasonable adjustments’?**

- 3.1 In a general employment context, reasonable adjustments refer to modifications to selection processes, workplaces, work methods and/or working hour arrangements (i.e. flexible working arrangements), to overcome equal opportunity, equal participation and/or equal performance barriers by persons with disability. Within the rehabilitation context, reasonable adjustments recognise that workplace injury and work related disease can result in disability necessitating provision of reasonable adjustments to achieve a successful rehabilitation outcome.
- 3.2 Subject to assessment by a suitably qualified person (e.g. occupational therapists, psychologists, physiotherapists, rehabilitation specialists or other professionals) of an employee's workplace injury or work related disease which results in disability, reasonable adjustment within a rehabilitation context can include:
- physical adjustments to the workplace, equipment or facilities such as:
    - provision of wheelchair access ramps and handrails
    - provision of automated doorways
    - equipping lifts with Braille buttons and audio announcements
    - symbol-based signs and tactile ground indicators
    - modified or purpose built amenities for the disabled
    - dedicated disabled car parking at the workplace
  - job redesign such as the exchange of some duties or responsibilities assigned to a position (e.g. manual handling tasks) for other duties or responsibilities assigned to a different position (e.g. administrative tasks)

- adjustments to work-related communications or information provision such as voice-activated software and other adaptive technologies
  - adjustments to work methods (how, when and/or where work is performed)
  - adjustments to work arrangements (e.g. hours of work, flexible working arrangements, access to and use of leave entitlements, additional purchased leave arrangements, job sharing, part time work and tele-working)
  - adjustments to methods used for testing, assessment or selection during recruitment/promotional processes
  - adjustments to work-related rules or other adjustments to enable a person to comply with rules as they exist, such as:
    - permitting persons with disability affecting mobility to ‘attend’ a compulsory training course or meeting via tele-conferencing or video-conferencing
    - the provision of tactile prompts and/or automated audio messages to supplement safety signs and/or posters, to reinforce safety rules for the vision impaired who might otherwise be prohibited from entering a workplace because of inability to read and comply with the safety rules
  - access to training, transfer, acting, trial or higher duties positions, traineeships, or other forms of opportunity to demonstrate or develop capacity in a position
  - provision of interpreters, readers, attendants or other work-related assistance
  - permitting or facilitating a person to use equipment or assistance provided by the person with disability or by another person or organisation
  - providing training to co-workers or managers
  - other work-related adjustments.
- 3.3 As provision of reasonable adjustments is unique to an individual’s circumstances, the rehabilitation case manager will coordinate confidential discussions and requisite assessment(s) (refer 1.6 above) to enable identification of specialised equipment to be provided to an injured employee in a reasonable adjustment(s) package.

#### C4 Provision of Suitable Employment under section 40 of the SRC Act

- 4.1 Identification of suitable duties is often of integral importance to assisting incapacitated employees achieve a timely and sustained return to work. Consideration of suitable duties occurs as a key component of the rehabilitation assessment and is documented into the agreed rehabilitation program. The *Suitable Duties* form (refer Appendix O) is utilised to assist with identification of duties which can be performed during consultations coordinated by the rehabilitation manager (and where engaged, a workplace rehabilitation provider on behalf of MoAD and the employee, the employee’s relevant manager and relevant external stakeholders (e.g. the employee’s legally qualified medical practitioner)).
- 4.2 Provision of suitable duties normally involves modification to the duties normally performed by the employee, which may necessitate modified duties, alternative duties and/or modified working hours.

- 4.3 An injured employee's relevant manager is required to provide and supervise the actual work the employee is to perform under suitable duties arrangements. When required, it is the responsibility of the employee's relevant manager to identify suitable duties external to the employee's section. The rehabilitation case manager, and when engaged a workplace rehabilitation provider, will actively liaise with the relevant manager regarding what constitutes, and importantly what doesn't constitute, suitable duties.

**C5 Employee Non-Compliance with section 36 or 37 of the SRC Act**

- 5.1 An employee who:
- refuses or fails, without reasonable excuse, to undergo a rehabilitation assessment, or in any way obstructs such an assessment
  - refuses or fails, without reasonable excuse, to undertake a rehabilitation program, can have incapacity payments suspended by written determination issued by a suspension delegate (refer [Appendix E](#)) under section 36(4) and 37(7) of the SRC Act.
- 5.2 Employees should therefore be highly mindful that non-compliance with the employer's endeavours to assess the need for rehabilitation under section 36 of the SRC Act and/or endeavours to provide a rehabilitation program under section 37 of the SRC Act, can result in direct financial consequences (i.e. non-payment of salary).
- 5.3 In the event that a designated officer intends to exercise suspension delegations, it is recommended that the delegate:
- observe exercise of suspension delegations is a last resort which should only be considered when an employee's non-compliance impedes the rehabilitation authority from fulfilling its statutory rehabilitation obligations
  - review Comcare [Jurisdictional Policy Advice No. 2005/2 Suspension of Compensation under Subsections 36\(4\) and 37\(7\)](#)
  - confidentially consult with Comcare's [Injury Management and Advisory Services](#).

**C6 Request for Reconsideration under section 38 of the SRC Act**

- 6.1 Reconsideration under section 38 of the SRC Act refers to a review of a determination made by the rehabilitation authority or more commonly, the rehabilitation case manager as a delegate of the rehabilitation authority. The reconsideration process entails requesting Comcare to review one or more written determinations issued by MoAD regarding the following matters:
- the requirement to attend an examination for the purpose of a rehabilitation assessment under section 37 of the SRC Act
  - the decision regarding who MoAD has appointed to undertake the rehabilitation assessment

- the decision following a rehabilitation assessment that a rehabilitation program is not required and/or will not be provided by MoAD
  - the requirement to undertake a rehabilitation program under section 38 of the SRC Act
  - the decision to alter or close a rehabilitation program
  - the decision to suspend an employee's incapacity payments for non-compliance with section 36 and/or section 37 of the SRC Act.
- 6.2 An employee considering lodging a request for reconsideration should note that the reconsideration process is administered by Comcare and not MoAD. Employees should consider the information addressing reconsideration contained within the Comcare form applicable to the determination made by the rehabilitation case manager under the SRC Act, and the general information addressing employee's rights and obligations at [Appendix H](#). Upon election to pursue a request for reconsideration, an employee should refer to the [\*If you disagree with a claim determination\*](#) information available from Comcare.
- 6.3 Reconsideration of determinations made by Comcare under the SRC Act is also a Comcare process. Accordingly, employees considering appealing a decision made by Comcare, inclusive of Comcare internal review and/or appeal to the Administrative Appeals Tribunal, should refer to the Comcare If you disagree with a claim determination information.

### **Rejected Claims**

- 6.2 In the event that Comcare declines liability for a workers' compensation claim, the rehabilitation authority's responsibilities under the SRC Act cease. The effect of declined liability has the effect of preventing the rehabilitation case manager from exercising any delegations to arrange a rehabilitation assessment and/or provide a rehabilitation program.
- 6.3 Lodgement of an appeal of a Comcare decision via the reconsideration process does not have the effect of reinstating the rehabilitation case manager's delegations nor otherwise enabling the rehabilitation authority to provide rehabilitation under the SRC Act, pending the outcome of the reconsideration process. However, MoAD may provide support to an employee under fitness for continued duty provisions as detailed at [Section 5](#) of this RMS.

### **C7 Case Conferences**

#### **What is a case conference?**

- 7.1 A case conference refers to a coordinated conversation regarding the provision of rehabilitation, involving the rehabilitation case manager and one or more of the following stakeholders:
- the injured employee and potentially his/her nominated representative or support person
  - the employee's legally certified medical practitioner
  - a workplace rehabilitation provider engaged by MoAD
  - the employee's relevant manager(s)
  - a People and Strategy representative, and

- in the event of a compensation claim, a Comcare claims service officer and, for complex claims, a Comcare injury management advisor.

**Objectives of Case Conferences**

7.2 Case conferences are conducted with one or more of the following objectives:

- to clarify information regarding an injured employee, in particular:
  - how an injury occurred or of the circumstances in which the condition became apparent
  - medical certification of incapacity and any restriction on work which can be safely performed
- to provide an overview of the rehabilitation process
- to explain to stakeholders their respective:
  - roles and responsibilities
  - rights and obligations
- to map provision of rehabilitation in terms of:
  - the need for a rehabilitation assessment
  - the rehabilitation goals and timeframes for the goals to be achieved
  - potential barriers to achievement of rehabilitation goals
  - suitable duties
- to develop and monitor progress of a rehabilitation program
- to discuss and resolve any grievance regarding:
  - a rehabilitation program
  - a determination made by the rehabilitation case manager
- to close a rehabilitation program.

**Who can request a case conference?**

7.3 Any stakeholder can proactively request the rehabilitation case manager schedule a case conference when a matter affecting the provision of rehabilitation arises. However, in most circumstances the rehabilitation case manager will be the instigator of case conferences as a process routinely supporting the provision of rehabilitation.

**Frequency and duration of case conferences**

7.4 As provision of rehabilitation is unique to each individual, there is no prescriptive requirement governing the frequency or duration of case conferences. Understandably, where provision of rehabilitation is multifaceted, the frequency and duration of case conferences will be greater than where provision of rehabilitation is straightforward.

### **Case conference indicators**

- 7.5 The following indicators are intended to provide guidance as to when convening of a case conference might be considered:
- on receipt of:
    - notice of injury arising out of or in the course of employment
    - advice of impairment or incapacity for work by the employee's legally qualified medical practitioner (in particular, when incapacity equates to or exceeds 10 consecutive working days, or a pattern of absences equating to or exceeding 10 non-consecutive working days, or a return to work date is unknown or uncertain)
  - provision of rehabilitation is:
    - requested by the employee's legally qualified medical practitioner
    - warranted by the nature of the injury
    - a prescriptive requirement under the SRC Act
  - rehabilitation is not progressing due to identified barriers or complex issues necessitating coordinated discussions amongst stakeholders
  - one or more rehabilitation programs have been provided without rehabilitation goals being achieved
  - suitable duties (i.e. modified duties, alternative duties and/or modified working hours) need to be identified or reviewed
  - a grievance has arisen which potentially compromises the provision of rehabilitation.

### **Case conferences attendance**

- 7.6 Subject to the objective(s) of a case conference, it is not always necessary or appropriate for all stakeholders to participate in every case conference. For the purpose of guidance, the following non-exhaustive examples detail some circumstances when a stakeholder may be reasonably omitted from, or conversely expected to participate in, a case conference:
- when there is no ambiguity or absence of understanding regarding the nature of an injury, and associated impairment or incapacity, participation by the employee's legally qualified medical practitioner would be an unnecessary impost on the practitioner's time; conversely, when ambiguity is present, it may be appropriate for:
    - the practitioner to participate in a case conference
    - the rehabilitation case manager to converse directly with the practitioner, or alternatively engage a workplace rehabilitation provider to meet with the practitioner, prior to or following the case conference
    - an independent medical assessment
  - when provision of rehabilitation is straightforward and within the expertise of the rehabilitation case manager, the engagement and participation of a workplace rehabilitation provider would be an unnecessary expense; conversely, when provision

of rehabilitation is complex and beyond the expertise of the rehabilitation case manager, the engagement and participation of a provider is clearly necessary

- when there is no or negligible period of incapacity and no identified need to provide suitable duties or other workplace adjustment, participation by the employee's relevant manager may be optional; conversely, when incapacity is a significant factor and discussion regarding a graduated return to work and suitable duties is indicated, the relevant manager's participation would be essential
  - when there is no claim for workers' compensation, participation by a Comcare claims services officer and/or injury management advisor would be inappropriate; conversely, when there is a claim of a complex nature, Comcare may directly request to be included in a case conference.
- 7.7 Case conferences are preferably conducted 'in-person', however teleconference or videoconference may be appropriate and expedient for one or more stakeholders:
- when provision of rehabilitation is straightforward and the nature of the conference is primarily to:
    - communicate information
    - provide progress reports
    - provide a question and answer opportunity
  - where a stakeholder cannot reasonably attend a conference in-person due to:
    - residing interstate or overseas
    - impairment or disability impeding mobility.
- 7.8 Case conferences cannot be substituted with correspondence only based exchanges (i.e. letters and/or emails) as communication tends to be unnecessarily protracted and compromises:
- the timely exchange of views in a constructive manner, and in turn
  - rehabilitation outcomes.

Case conference attendees and their roles

- 7.9 The following table provides general advice addressing potential attendees at a case conference and their respective roles:

**Table 3: Case Conferences – Potential Attendees and their Roles**

Attendee	When to attend	Role
rehabilitation case manager	required at all case conferences	to provide information about the case management aspect of the claim from the employer's perspective and raise issues that need to be resolved
injured employee	required at all case conferences except when indicated otherwise	to participate and contribute to discussions regarding rehabilitation, and to engage and empower the injured employee
injured employee's representative	when the injured employee requests a representative	as support for, and to provide the perspective of, the injured employee
workplace rehabilitation provider	complex or sensitive cases	to provide information about an injured employee's return to work and any potential or actual barriers to return to work
employee's relevant relevant manager	complex or sensitive cases	to assist in identifying suitable duties or raise particular concerns increase the relevant manager's knowledge of the return to work model and how to support the employee
HR manager	complex or sensitive cases	may attend if the claim is complex or sensitive, for example, if there are disciplinary or performance issues
treating legally qualified medical practitioner	complex or sensitive cases	to provide treatment options to facilitate a positive outcome, outline medical restrictions and provide the treating medical practitioner with greater understanding of the workplace
Comcare injury management advisor	complex or sensitive cases	to provide advice on rehabilitation and injury management, and information about relevant policy or legislation
other stakeholders the rehabilitation case manager invites	when the rehabilitation case manager requests their inclusion	to provide additional information that may be relevant
Comcare claims services officer	as required	to provide detailed information about the claim and relevant policy or legislative advice

### Case conference minutes

- 7.10 From a procedural perspective, the rehabilitation case manager is required to document the following matters regarding case conferences:

- the objective(s) of the case conference

- when and where the case conference was held
- participating stakeholders, inclusive of any support person accompanying the employee
- a summary of the key matters discussed, inclusive of any:
  - matters agreed/resolved and disagreed/unresolved, and
  - any actions arising
- where appropriate and known, when a subsequent case conference will be convened and the matter(s) to be discussed.

7.11 Case conference minutes should be circulated to all attendees and provide an opportunity for correction prior to the minutes being formally recording in the employee's case file (refer [Appendix K](#)).

7.12 It is seldom necessary for case conference minutes to equate to detailed transcripts of discussions (nor appropriate for case conferences to be taped), however minutes do need to be sufficiently detailed to accurately capture the essence of discussions, noting the minutes can be:

- requested by or submitted to Comcare for claims determination and reconsideration purposes
- be included in material considered under appeal by the Administrative Appeals Tribunal or Federal Court of Australia.

## **C8 Provision of Notice of Employee Rights and Responsibilities**

- 8.1 Employees have both rights and obligations under the SRC Act as overviewed at [Section 9](#), of this RMS.
- 8.2 To assist the rehabilitation case manager convey to an injured employee his/her rights and responsibilities, the rehabilitation case manager will provide to the employee at various stages during the rehabilitation process a written determination, utilising Comcare pro-forma, which detail the employee's rights and responsibilities applicable to that determination. It is important that the employee reads and understands his/her rights and obligations. Should ambiguity arise, the employee should promptly seek clarification from the rehabilitation case manager.
- 8.3 The following Comcare forms (refer Appendix O) are the determinations made by the rehabilitation case manager:
- *Rehabilitation Assessment/Examination*
  - *Rehabilitation Program \**
  - *Rehabilitation Program Alteration \** (will only apply when an agreed rehabilitation program is altered)
  - *Rehabilitation Program Closure Record \**

- *Suitable Duties* \* (will only apply when suitable duties are a component of a rehabilitation program), and
- *Work Trial Agreement* \* (will only apply when a work trial is a component of a rehabilitation program).

\* The employee is required to sign these forms to, in part, acknowledge their rights and obligations applicable to the determination.

- 8.4 To assist the rehabilitation case manager with conveying rights and responsibilities under this RMS, the RMS is available to employees 24/7 online via MoAD's Intranet.

## C9 Redundancy

- 9.1 Employees occupying positions identified as 'potentially excess' or 'excess', who have or intend to submit a compensation claim for workplace injury, are strongly advised to seek information from Comcare about the potential effect of [redundancy and Comcare benefits](#).
- 9.2 It is of critical importance that injured employees and their relevant managers understand that cessation of employment via redundancy arrangements does not have the effect of ceasing entitlements under the SRC Act to:
- Comcare approved medical expenses
  - Comcare approved non-medical benefits (e.g. household and attendant care services; aids, appliances and modifications; and travel costs)
  - incapacity payments when medical certified incapacity continues post separation
  - suitable employment (upon cessation of employment, 'suitable duties' equates to any employment with any employer).
- 9.3 Consequently, the rehabilitation authority's responsibilities and financial accountabilities towards injured employees do not automatically cease upon the date of effect of redundancy, which with consideration of an employee's injury and capacity to work, may necessitate post separation provision by the rehabilitation authority of:
- rehabilitation assessment(s) under section 36 of the SRC Act
  - rehabilitation program(s) under section 37 of the SRC Act
  - assistance to an employee to find suitable employment under section 40 of the SRC Act.
- 9.4 Employees should note that the suspension provisions as detailed at C5 above and [Appendix E](#) can be applied post separation.
- 9.5 Accordingly, it is a general recommendation that redundancy not be offered or take effect until after an employee has demonstrated a sustained and durable return to work post injury, and the rehabilitation case is 'closed' (i.e. active provision and monitoring of work-based rehabilitation has concluded, with the employee maintaining normal working arrangements for a period of at least twelve months).

**C10 Invalidity Retirement**

- 10.1 Invalidity retirement is the final process available when injury and/or illness is enduring, and is prerequisite upon independent medical certification of likely inability to ever work again. Invalidity retirement is ultimately a process for determining eligibility under superannuation rules (refer *Superannuation Acts 1976* – CSS members; 1990 – PSS defined benefit members; and 2005 – PSS accumulation plan members) for retirement on medical grounds, and although Comcare and the rehabilitation authority are required to supply written support for or against an application for invalidity retirement when incapacity is compensable under the SRC Act, determination of invalidity is ultimately made by the applicable superannuation fund administrator, and not Comcare nor MoAD.
- 10.2 'Likely inability to ever work again' should not be misinterpreted as having the same meaning as 'suitable employment' under this RMS, which in the context of invalidity retirement under superannuation rules, refers to total and permanent incapacity to perform any work with any employer (i.e. MoAD, other agencies and any non-government employer), inclusive of work an employee could reasonably be qualified to perform following retraining.
- 10.3 In the unfortunate event that invalidity retirement needs to be considered, it is highly recommended that the employee, and/or the employee's nominated representative, obtain and review:
- the Comcare publication *[Invalidity Retirement](#)*
  - the invalidity retirement guidelines published by the relevant superannuation fund.
- 10.4 Additionally, an employee potentially eligible for invalidity retirement should seek personal professional advice from his/her:
- legally qualified medical practitioner
  - a registered taxation advisor
  - an accredited financial planner
  - the applicable superannuation fund administrator.
- 10.5 Prior to consideration of invalidity retirement, it must be demonstrated that the rehabilitation authority has made a concerted effort and taken all reasonably practicable steps to maintain the injured employee at work, inclusive of:
- obtaining a rehabilitation assessment(s) of suitability to participate in a rehabilitation program, supported by functional and vocational assessments, to objectively establish work capacity
  - providing rehabilitation program(s)
  - considering flexible working conditions, reduced working hours, suitable employment, reasonable adjustments, and retraining and/or redeployment
  - investigating, by way of referral to a legally qualified medical practitioner(s) and specialist(s), all medical treatment options

- obtaining an independent fitness for continued duty assessment which certifies likely inability to ever work again.
- 10.6 The rehabilitation case manager, on behalf of the rehabilitation authority, can initiate an assessment for invalidity retirement when an employee has been absent from work for at least six months, and independent medical advice confirms the employee's medical condition is unlikely to improve and a return to work is unlikely to be feasible. Extensive consultations during the rehabilitation process with the employee and/or the employee's representative, a workplace rehabilitation provider(s), the treating legally qualified medical practitioner(s), Comcare and an independent legally qualified medical practitioner will mean referral to the relevant superannuation fund administrator for an assessment of fitness for continued duty should not be a surprise.
- 10.7 Referral of an employee for assessment of fitness must be accompanied by a case summary. The case summary documents all actions taken by the employer (as summarised at clause 10.4 above) and must be accompanied by a current detailed medical report prepared by MoAD engaged independent legally qualified medical practitioner. Accordingly, an application for invalidity retirement involving compensable incapacity is normally initiated by an employer on behalf of the employee.
- 10.8 An employee who is receiving incapacity payments from Comcare for the hours they are unable to work, is not eligible for partial invalidity retirement. However, should a compensable injury worsen, eligibility for total and permanent incapacity may arise but only upon likely inability to never work again. For purpose of clarity, any capacity to perform any work prohibits Comcare and the rehabilitation authority from supporting an application for invalidity retirement. Should an employee cease employment with MoAD and total and permanent incapacity as a result of a compensable condition became apparent after cessation, the employee should contact both Comcare and the rehabilitation case manager regarding a retrospective application for invalidity retirement. However, difficulty in obtaining work because of impairment does not in itself qualify for invalidity retirement.
- 10.9 In the event that a rehabilitation case manager believes that assessment for invalidity retirement is indicated, the rehabilitation case manager should refer to and follow the invalidity retirement procedures as published by:
- Comcare – refer [Invalidity Retirement factsheet](#)
  - Commonwealth Superannuation Corporation - refer [Employer quick guide - Applying for a CSS or PSS invalidity retirement certificate](#)
- 10.10 The following prompting questions are provided to assist a rehabilitation case manager in considering whether an employee may be eligible for invalidity retirement:
- What is the age of the employee (employees less than fifty years of age or with greater than fifteen years to retirement age generally have a greater capacity for retraining and deployment)?
  - Has there been any recent (no longer than six months old) comprehensive rehabilitation assessment or rehabilitation program provided in relevant with medical recommendations?

- Has a graduated return to work program been attempted and when was the last attempt?
- Has the employer offered a range of suitable duties?
- Has redeployment to another employer (both government and private) been considered?
- How long has the employee been off work (a minimum six month period normally applies before assessment for invalidity retirement can be considered)?
- What are the recommendations from the treating legally qualified medical practitioner(s) regarding the employee's capacity for work?
- Is there any potential for improvement in work capacity if the employee undertakes further medical treatment?
- What are the recommendations from an independent medical examiner regarding the employee's capacity for work?
- Does the engaged workplace rehabilitation provider(s) believe all vocational options have been explored?

### **Disability or Terminal Medical Condition**

10.11 Employees who are affected by disability or terminal medical condition which is not compensable under the SRC Act, should contact the rehabilitation case manager and their superannuation fund administrator regarding potential early release/payment of superannuation benefits on specified compassionate grounds and/or severe financial hardship. Early release/payment of benefits may be available for deliberating ill health necessitating medical treatment and transport, home modification, palliative care and funeral. Early release/payment of superannuation benefits in such circumstances can be expeditious when compared with timeframes for the invalidity retirement processes.

[Return to Contents Page](#)

**D1 Overview**

- 1.1 The Rehabilitation Guidelines differentiate between the role of the employer and that of the rehabilitation authority (refer [Appendix B](#)). In support of the functions, powers and duties of the rehabilitation authority exercised by the principal officer and/or delegate(s), employers have the legislative responsibility under Chapter 3, Clause 13 of the Rehabilitation Guidelines for:
- providing prompt and effective rehabilitation to injured employees, by providing adequate and timely support to the rehabilitation authority and rehabilitation case manager(s), through
    - resourcing and training of rehabilitation case managers and relevant managers in their roles and responsibilities under the RMS (refer [Appendix J](#))
    - prompt identification and referral of employees who require rehabilitation, and
    - arrangements for the provision of rehabilitation by one or more workplace rehabilitation providers that meet the [\*Operational Standards for Rehabilitation Program Providers\*](#), or by the employer's rehabilitation authority where external assistance is not required
  - providing, or assisting injured employees to obtain, suitable employment
  - the development and maintenance of a system for managing rehabilitation that meets:
    - Comcare's rehabilitation performance standards and performance measures
    - the employer's need to deliver effective rehabilitation to injured employees and the employer's rehabilitation performance reporting requirements.

**D2 Engaging Workplace Rehabilitation Providers**

- 2.1 If using a providers, the Rehabilitation Guidelines stipulates that the rehabilitation authority must:
- effectively monitor the performance of the workplace rehabilitation provider
  - inform Comcare of any concerns regarding the service delivery of the workplace rehabilitation provider.
- 2.2 MoAD will ensure
- providers hold current accreditation under the SRC Act
  - providers have adequate resources and appropriate expertise to deliver in a professional and timely manner the rehabilitation services which the employer's injured employees require
  - provider services are acquired through written agreement
  - providers commit to comply with the [\*Operational Standards for Rehabilitation Program Providers\*](#) and any associated service standards developed by the employer
  - service delivery is monitored and Comcare is immediately informed of any significant failure by providers to comply with required service standards.

- 2.3 Information regarding when MoAD must engage a workplace rehabilitation provider is addressed at [Appendix G](#).

**D3 Provision of Suitable Employment**

- 3.1 When an employee is undertaking or has completed a rehabilitation program, employers have a legal duty to provide, or assist injured employees to obtain, suitable employment. Further information on MoAD's processes for providing suitable duties to injured employees is provided at [Appendix C – Rehabilitation Procedure C4](#).

[Return to Contents Page](#)

**E1 Scope**

- 1.1 Under section 41A of the SRC Act and Chapter 2, Clause 7 of the Rehabilitation Guidelines, a rehabilitation authority can delegate by written instrument to one or more officers of the employer (but not to an external contracted claims manager, another agency under a shared-services agreement, a workplace rehabilitation provider, a consultant or any other non-employee), all or any of the powers and functions of the rehabilitation authority and in particular, the authority to make determinations.
- 1.2 The Director (who by definition is the rehabilitation authority) does not require any delegations, as the SRC Act confers directly all powers and functions on the rehabilitation authority.

**E2 Rehabilitation Delegates**

- 2.1 The Director has delegated rehabilitation powers and functions to employees occupying or performing the duties of:
  - Deputy Director
  - Manager, People and Strategy
  - any other employee listed in the HR Delegations
- 2.2 Rehabilitation delegates are authorised to:
  - under section 36(1) of the SRC Act, make a determination that an employee suffering a workplace injury resulting in impairment or incapacity, shall undergo a rehabilitation assessment of capability to undertake a rehabilitation program
  - under section 36(2) and (3) of the SRC Act, nominate a legally qualified medical practitioner, other suitably qualified person or a panel to conduct a rehabilitation assessment of capability to undertake a rehabilitation program
  - under section 36(5) and (6) of the SRC Act, authorise the payment of costs of conducting any rehabilitation assessment of an employee's capability to undertake a rehabilitation program, and reimbursement of the employee's expenditure reasonably incurred in attending the assessment
  - under section 37(1) and 37(3) of the SRC Act, make a determination that an employee suffering a workplace injury resulting in impairment or incapacity should undertake, or cease to undertake, a rehabilitation program, or make a determination to alter the contents of a rehabilitation program
  - under section 37(2) of the SRC Act, provide a rehabilitation program for an employee suffering a workplace injury resulting in impairment or incapacity, or make arrangements with a workplace rehabilitation provider for provision of a program for the employee
  - under section 37(4) of the SRC Act, authorise the payment of costs of the rehabilitation program
  - under section 38(1) of the SRC Act, advise the injured employee in writing of any determination made as a rehabilitation delegate, setting out:

- the terms of the determination(s)
- the reasons for the determination(s)
- a statement to the effect that the employee may, if dissatisfied with a determination(s), request Comcare review the determination(s)
- under section 40(1) of the SRC Act, take all reasonable steps to provide an employee undertaking, or who has completed a rehabilitation program, with suitable employment or assistance to find such employment.

**E3 Suspension Delegates**

- 3.1 The Director has delegated suspension powers and functions to the Deputy Director. For clarity, the person(s) responsible for day-to-day rehabilitation management of injured employees (i.e. the Rehabilitation Case Manager) is not the person(s) responsible for issuing suspension determinations.
- 3.2 Suspension delegates are authorised to:
- under section 36(4) of the SRC Act, make a determination about suspension of incapacity payments (but not the cost of medical treatment) where an employee refuses or fails, without reasonable excuse, to undergo a rehabilitation assessment, or in any way obstructs such an assessment
  - under section 37(7) of the SRC Act, make a determination about suspension of incapacity payments (but not the cost of medical treatment) where an employee refuses or fails, without reasonable excuse, to undertake a rehabilitation program
  - under section 38 of the SRC Act, advise the injured employee in writing of any determination made as a suspension delegate, setting out:
    - the terms of the determination(s)
    - the date of effect of the determination(s)
    - the reasons for the determination(s)
    - a statement to the effect that the employee may, if dissatisfied with a determination(s), request Comcare review the determination.
- 3.3 A copy of the written suspension determination must be provided to Comcare to give effect to the determination by withholding payment of incapacity benefits (i.e. salary maintenance payments) under the SRC Act. A copy of the suspension determination must also be provided to Payroll for the purpose of salary reconciliation and filing on the employee's personal records.

**E4 Exercising Delegations**

- 4.1 Summaries of the rehabilitation procedures and the exercising of delegations are provided at [Appendix C](#) and address:
- rehabilitation assessment under section 36 of the SRC Act

- provision of rehabilitation programs under section 37 of the SRC Act
  - provision of suitable employment under section 40 of the SRC Act
  - employee non-compliance under section 36 or 37 of the SRC Act
  - request for reconsideration under section 38 of the SRC Act.
- 4.2 Delegates are subject to all the laws that apply to the rehabilitation authority. However, a failure by a delegate to comply with any law that applies to the rehabilitation authority is taken as a failure by the rehabilitation authority (Rehabilitation Guidelines). For this reason the rehabilitation authority must:
- ensure that delegates comply with the Rehabilitation Guidelines
  - take prompt and appropriate action to remedy any non-compliance.
- 4.3 All determinations must be documented, conveyed to the injured employee and accompanied by a Notice of Rights and Responsibilities (refer [Appendix C – Rehabilitation Procedure C8](#)).

## **5 Delegations Instrument**

- 5.1 The *Old Parliament House Instrument of Human Resources Delegation* is maintained by the People and Strategy and is available to all employees on the Intranet.

[Return to Contents Page](#)

## F1 The Role of Rehabilitation Case Managers

### 1.1 Rehabilitation case managers:

- Help to plan, organise, coordinate, monitor and evaluate services and resources for employees with an injury or illness.
  - Actively manage the rehabilitation process to achieve return to work outcomes.
- 1.2 The rehabilitation authority, is responsible for assigning a rehabilitation case manager to an injured employee. In many workplaces, this happens at the time an employee makes a [claim for workers' compensation](#).
- 1.3 In some circumstances, the employer an external case manager may be engaged to work with the employee throughout their rehabilitation
- 1.4 The delegations exercised by rehabilitation case managers are detailed at [Appendix E](#).

## F2 Role of the Assistant Manager, HR

### 2.1 The Assistant Manager, People and Strategy, is responsible for the coordination of delivery of rehabilitation to injured employees. Key responsibilities include:

- ensuring all employees performing the duties of a rehabilitation case manager have received, read and understand their roles and responsibilities as detailed in:
  - the Rehabilitation Guidelines
  - the RMS
  - Comcare's Rehabilitation Handbook
- allocating a rehabilitation case manager to an injured employee with consideration of individual rehabilitation case manager's skill-set, experience and existing case load (refer F4 below), and the employee's needs
- mentoring other members of People and Strategy to develop their skill-sets in managing sensitive and complex cases
- supporting other rehabilitation case managers identify and overcome barriers to an injured employee's timely and sustained return to work
- coordinating regular (e.g. weekly or fortnightly) case management reviews in conjunction with:
  - the Manager, People and Strategy
  - the Deputy Director
- identifying injury trends regarding strategic and operational risk management initiatives to prevent injury or, where the risk of injury cannot be eliminated, to minimise the occurrence and severity of such injury
- reviewing the service provision of workplace rehabilitation providers engaged by MoAD on a case-by-case basis (refer [Appendix G](#) – G6 Guidance on Assessing WRP Performance) in terms of:

- standards and appropriateness of treatment against the *Operational Standards for Rehabilitation Program Providers*
  - timely and sustained return to work outcomes
  - minimisation of impairment and incapacity from work
  - cost effectiveness
  - any positive performance indicators relevant to specific cases
- in the event of claim for compensation or review of a rehabilitation determination made by a rehabilitation case manager, representing MoAD during liaison with Comcare's claim services officers regarding:
    - submission of the employer's statement and any supplementary requests for information
    - any requests for reconsideration of a rehabilitation determination made by a rehabilitation case manager
    - Comcare's determination of threshold liability
    - agency request for reconsideration of a determination made by a Comcare claim services officer
    - agency representation in the Administrative Appeals Tribunal and / or Federal Court of Australia as requested by Comcare
  - reporting to EMG and the Work Health and Safety Committee regarding, as appropriate for each forum:
    - mechanism of injury trends
    - compensation claims data
    - MoAD's Comcare premium
    - RMS auditing and compliance reporting.

### F3 Considerations for Case Managers – Early Intervention and Rehabilitation Programs

3.1 Matters to be considered by rehabilitation case managers when identifying the potential for an early intervention program involving an injured employee, whose injury appears to be work-related, and there is a risk or realisation of impairment or incapacity, prior to submission of a claim for compensation and/or claims determination by Comcare are:

- any notification of a workplace injury
- any request by an employee for a rehabilitation assessment
- any report or notification of an employee being unable to perform his or her normal duties or reporting symptoms or discomfort
- any workplace absences, especially any unplanned absence of 3 or more days

This RMS adopts a 10 day, rather than a 3 day, unplanned absence threshold for assessing the need for an early intervention/rehabilitation program, in recognition that:

- employees will often not recognise within the first 3 days of an unplanned absence from work that an early intervention / rehabilitation program is an appropriate course of action
  - the legally qualified medical practitioners initially consulted by employees may be unable to provide a definitive medical certificate or report detailing the need for early intervention/workplace rehabilitation upon a first consultation, and a subsequent consultation or referral to a specialist may be required before determination of medical restrictions which will directly affect the content of an early intervention/rehabilitation program
- identification of any barriers to successful rehabilitation or return to work
  - other factors, such as previous injury, complex medical diagnosis or severe injury
  - any medical evidence or prognosis suggesting a possibility of re-injury at work
  - factors in the work environment, including any perceived or actual adverse relationship with relevant managers or co-workers.
- 3.2 In providing rehabilitation programs, rehabilitation case managers must, in addition to the preceding, consider:
- the statutory functions, powers and duties of the rehabilitation authority, as detailed at [Appendix B](#)
  - the recommendations (if any) provided by:
    - the employee's legally qualified medical practitioner
    - an assessor engaged to conduct a rehabilitation assessment.
- F4 Effect of Denial of Liability on Power to arrange a Rehabilitation Assessment and the Provision of Rehabilitation**
- 4.1 When Comcare declines liability for a compensation claim, the rehabilitation case manager can no longer:
- arrange a rehabilitation assessment under the SRC Act
  - provide a rehabilitation program under the SRC Act
- even when the question of liability is subject to reconsideration or application to the Administrative Appeals Tribunal, or subsequently to the Federal Court of Australia.
- 4.2 Where denial of liability has been occurred, MoAD can at its discretion (refer [Section 5](#) of the RMS):
- seek an independent medical assessment of an employee's fitness for continued duty under the PS Regulations, and
  - provide the equivalent of a rehabilitation program, but not as a determination under the SRC Act.

**F5 Review of Caseloads**

- 5.1 In recognition that the rehabilitation needs of injured employees vary considerably over time and from employee to employee, there is no universal benchmark of what constitutes a manageable rehabilitation caseload. As caseloads increase, the capacity of individual rehabilitation case managers to provide intensive and personalised rehabilitation to injured employees will understandably diminish. Accordingly, caseloads need to be regularly reviewed and when necessary, consideration given towards:
- reallocation of cases between rehabilitation case managers
  - temporarily putting aside other non-rehabilitation work normally undertaken by individual rehabilitation case managers
  - temporarily increasing a part-time rehabilitation case manager's working hours
  - engagement of additional non-ongoing or ongoing rehabilitation case managers
  - greater utilisation of workplace rehabilitation providers.
- 5.2 Monitoring and review of caseloads is a responsibility shared by the Manager, People and Strategy.
- 5.3 To support MoAD's rehabilitation case manager during periods of increased demand for early intervention programs and rehabilitation, and during periods of leave, a number of alternative positions have been designated rehabilitation delegations (refer [Appendix E](#)).

[Return to Contents Page](#)

## G1 About Workplace Rehabilitation Providers

- 1.1 Workplace Rehabilitation Providers (WRPs) assist employers with managing workplace injury by developing:
  - early intervention programs to support injured employees remain at work
  - providing rehabilitation to assist incapacitated employees return to work.
- 1.2 WRPs are engaged by a rehabilitation case manager to liaise with an injured employee, his/her relevant manager(s), the employee's legally qualified medical practitioner and others stakeholders (e.g. the treating clinical psychologist, physiotherapist or chiropractor), to improve the prospects of:
  - the injured employee remaining at work with no or minimal time off work
  - if incapacitated, the employee achieving a timely and sustained return to work.
- 1.3 The online [Directory of WRPs](#) is maintained by Comcare.

## G2 The Role of WRPs

- 2.1 WRPs assist rehabilitation case managers by:
  - communicating, with the permission of an employee, with his/her legally qualified medical practitioner, to clearly ascertain medical restrictions impacting upon the duties which can be performed
  - communicating with the employee's relevant manager(s), to identify suitable duties (and to rule out unsuitable duties) which the employee can safely undertake
  - identifying interim and final rehabilitation goals such as:
    - date of return to work on a graduated program and date of return to pre-injury duties
    - working hours
    - duties to be performed
  - formulating rehabilitation strategies such as graduated return to work initiatives potentially involving:
    - a progressive increase in working hours and/or days per week
    - alternating between different duties
    - analysis of and modification to the way work is normally performed, including use of ergonomic equipment and information communication technological solutions
    - assistance with career change via, for example, career counselling
  - implementing and monitoring rehabilitation programs, inclusive of:
    - reassessing the success, and potentially redesigning, implemented rehabilitation programs to ensure rehabilitation goals are achieved

- identifying retraining needs
  - identifying suitable employment when a return to pre-injury duties is not achievable.
- 2.2 Importantly, the role of WRPs does not include advocacy on behalf of the employer or injured employees, in particular in the context of claims for compensation and determination of liability by Comcare.

### G3 When MoAD should consider engaging a WRP

- 3.1 MoAD has established the following circumstances as indicators for when rehabilitation authorities shall engage WRPs:
- the nature of an employee's injury or employment requires the provision of rehabilitation
  - biopsychosocial (biological, psychological and social) obstacles for recovery and return to work have been identified that require the provision of rehabilitation
  - where an injured employee is no longer employed by MoAD and the employee requires assistance to obtain suitable employment
  - where an injured employee's condition significantly deteriorates, potentially impacting on the success of a rehabilitation program
  - where an injured employee requires a rehabilitation program but the rehabilitation case manager is based in a different geographical location
  - an employee's injury results, in whole or part, from any perceived or actual conflict in the workplace
  - the employee has previously unreasonably failed to undertake or complete a rehabilitation program.

### G4 When MoAD need not engage a WRP

- 4.1 The decision to engage a WRP rest with the rehabilitation authority. The rehabilitation authority needs not engage WRPs when:
- a rehabilitation case manager has received sufficiently clear medical guidance (from an employee's legally qualified medical practitioner or specialist, or an agency engaged legally qualified medical practitioner or specialist) regarding the required content of a rehabilitation program
  - the circumstances summarised at Clause 3.1 above do not apply.

### G5 Panel of WRPs

- 5.1 MoAD may from time to time appoint a panel of WRPs when:
- provision of rehabilitation to injured employees can be enhanced by formalising one or more partnerships with specific WRPs to:

- expedite early intervention programs
  - enable consistent delivery of injury management services
  - facilitate delivery of injury management services at interstate and/or international localities where MoAD posts employees
- electing to negotiate a fee structure via fixed term service agreement(s) with individual WRPs
  - required under *Commonwealth Procurement Rules* due to expenditure beyond financial thresholds necessitating an open tender process.

## G6 Guidance on Assessing WRP Performance

- 6.1 The *Operational Standards for Rehabilitation Program Providers* provides guidance on assessing WRP performance based on the following broad criteria:
- timeliness of delivery of services
  - communication with stakeholders (the rehabilitation case manager, the employee, the relevant manager and when indicated, the employee's legally qualified medical practitioner and any other identified stakeholder), and
  - immediate and ongoing rehabilitation outcomes.
- 6.2 Timeliness of delivery of services refers to timeframes as agreed between the rehabilitation case manager and the WRP on matters such as:
- first and programmed contact with an injured employee, the relevant manager and when indicated, the employee's legally qualified medical practitioner and any other identified stakeholder, and
  - conducting of required assessment(s) to facilitate delivery to the rehabilitation case manager of an initial needs report, a proposed return to work plan, progress reports, a proposed work trial and/or closure report.
- 6.3 Communication with stakeholders is more than the simple exchange of information and involves the WRP fostering relationships based on trust and respect to maximise stakeholder cooperation and engagement. The primary purpose for engagement of a WRP is often to reconnect an injured employee with the workplace and/or the workplace with the incapacitated employee, therefore assessment of the regularity of contact made by a WRP is just as important as assessment of other WRP services (e.g. provision of a return to work plan).
- 6.4 Immediate and ongoing rehabilitation outcomes assess whether recommendations contained within WRP reports were practicable and workable, and ultimately whether rehabilitation outcomes met or exceeded expectations. Of course the cost of engaging a WRP must be considered against delivered outcomes (i.e. WRP costs will ideally be offset by incapacitated employees' early and sustained return to work, and in turn lower workers' compensation costs).

- 6.6 WRP performance assessment ultimately serve to assist with determining whether a particular provider consistently delivers against the preceding criteria and whether MoAD continues to utilise a provider on ongoing basis.

[Return to Contents Page](#)

**H1 Employees' Rights and Responsibilities**

- 1.1 The rights and responsibilities of employees (and former employees), based on specific provisions within the SRC Act, are summarised at [Section 10](#), Clause 10.9 of the RMS and detailed at Part 3, Section 7 of the Rehabilitation Handbook.
- 1.2 All Comcare forms (refer [Appendix R](#)) governing the provision of rehabilitation and claims for compensation include information addressing employees' entitlements, rights and responsibilities.

**H2 Injury Notification**

- 2.1 All employees, whether personally injured or a witness to an accident or 'near miss' within the workplace, are required to submit an Incident Notification Form. As witness details can be captured within the report template, a single incident report will normally be sufficient (i.e. it is seldom necessary or appropriate for every witness to an incident to submit separate incident reports). This reporting mechanism is the primary mechanism for formally reporting incidents.
- 2.2 Incident reports can be supplemented by provision of further information directly to the relevant managers and / or People and Strategy, in particular when an injury is of a personal or sensitive nature, and an employee has concerns regarding the confidentiality of reported information (also refer Appendix L regarding Privacy and Confidentiality of personal information).

**H3 Cooperation with Rehabilitation Processes**

- 3.1 MoAD's ability to assist an employee achieve an early, safe and sustainable return to work is significantly dependent upon the employee:
  - understanding his/her rights and fulfilling with his/her obligations under the RMS
  - providing immediate initial verbal notification of impairment or incapacity to the relevant manager(s)
  - seeking prompt treatment, or referral for any necessary treatment, from a legally qualified medical practitioner of the employee's choice
  - providing to the legally qualified medical practitioner consulted, and/or other party on referral, an accurate description of how the injury occurred or of the circumstances in which the condition became apparent
  - complying with any medical restrictions imposed by the legally qualified medical practitioner
  - obtaining from the legally qualified medical practitioner consulted, a medical certificate covering any absence(s) from work, and/or medical report detailing the need for rehabilitation and any medical restrictions (refer [Section 9](#), Clause 9.2 of the RMS)
  - providing documented notification of injury to MoAD via submission of an Incident Notification form and providing original medical certificate(s) and/or report(s) prepared by the legally qualified medical practitioner, as soon as reasonable practicable

- attending any appointment arranged by a rehabilitation case manager which relates to provision of rehabilitation (i.e. a rehabilitation assessment, an early intervention program, a rehabilitation program and/or suitable employment)
- providing to any assessor engaged by MoAD to conduct a rehabilitation assessment, an accurate description of how the injury occurred or of the circumstances in which the condition became apparent
- participating in the development of and undertaking any rehabilitation program provided by the rehabilitation authority, unless there is a reasonable excuse not to comply, which must be clearly conveyed in writing to the rehabilitation case manager without undue delay
- cooperating with requests for information from the rehabilitation case manager, other relevant parties (e.g. any agency engaged workplace rehabilitation providers) and Comcare (when a claim for compensation has been submitted), and promptly providing, and/or completing and returning, any documentation required by the rehabilitation authority to facilitate the timely provision of rehabilitation
- actively communicating with the rehabilitation case manager and relevant manager regarding any barriers that may impede or delay a return to pre-injury duties
- in the event of a change in medical status and/or personal circumstances which might impact on desired rehabilitation outcomes (e.g. inability to remain at, or return to, work), initiating and remaining in regular contact with all stakeholders (in particular, the rehabilitation case manager).

#### **H4 Failure to Cooperate**

- 4.1 Should an employee with potential or actual injury arising out of or in the course of employment:
- refuse or fail without reasonable excuse to substantiate an unplanned absence or absences from work (e.g. fail to supply a medical certificate, or on request a medical report, from a legally qualified medical practitioner of the employee's choice)
  - fail to attend an appointment with an assessor engaged by MoAD to conduct a rehabilitation assessment
  - refuse to cooperate with development or implementation of an early intervention program or a rehabilitation program coordinated by MoAD
  - unscheduled absences from work can be deemed 'unauthorised' and payment of salary and associated entitlements (e.g. allowances, paid leave arrangements and access to flexible working arrangements) may be suspended.
- 4.2 To avoid suspension of salary and associated entitlements, it is critical that employees ensure their relevant manager(s) and People and Strategy are fully informed in a timely manner that:
- a workplace injury has, or appears to have, occurred
  - medical diagnosis of injury and reasonable treatment have been sought

- a legally qualified medical practitioner has certified the initial need, and any extended or continuing need, for time off work
  - workplace rehabilitation is, or may be, required (e.g. graduated return to work or workplace adjustments) to facilitate a safe and durable return to work
  - the anticipated return to work date
  - any change in circumstances.
- 4.3 Where an employee has submitted a claim for compensation and fails to comply with the direction to attending an assessment or independent medical examination, Comcare may suspend the payment of compensation benefits and entitlements (retrospective payment of benefits is not available for the suspension period unless an original suspension is lifted on review by Comcare, or on appeal to the Administrative Appeals Tribunal or Federal Court of Australia) and/or deny liability. It is therefore in the best interests of the employee to:
- communicate clearly and cooperate with MoAD and in particular, the rehabilitation case manager and other relevant parties (e.g. an agency engaged legally qualified medical practitioner and/or workplace rehabilitation providers)
  - promptly convey and document any grievance regarding rehabilitation assessment, an early intervention program or a rehabilitation program, and/or rehabilitation determination made by the rehabilitation case manager.
- 4.4 Written grievances should be addressed to the Deputy Director, or in the case of suspension of incapacity payments associated with a compensation claim, to the Comcare claims services officer.

## **H5 Employees' Rights and Responsibilities in Detail**

- 5.1 The following tabular summaries detail employees' rights and responsibilities in regards to access to rehabilitation and compensation under the SRC Act.

**Table 4: Employee Rights**

<b>Employee Right</b>	<b>SRC Act Provision</b>	<b>Explanation</b>
The right to receive appropriate entitlements under the SRC Act	Section 14	Determination of entitlements such as incapacity payments, medical expenses and household services is made by Comcare, not MoAD, and is prerequisite on a claim for workers' compensation (refer Appendix O).
The right to request a rehabilitation assessment of capability to undertake a rehabilitation program	Section 36(1)	An incapacitated employee can proactively request a rehabilitation assessment of his/her capacity to undertake a rehabilitation program.
The right to request reasonable practicable adjustments to the workplace, to minimise the chance of further injury and	Sections 39 & 40	An injured employee can proactively request consideration of workplace adjustments such as: <ul style="list-style-type: none"> <li>• type or amount of work</li> <li>• flow of work, and/or</li> </ul>

## RIGHTS & RESPONSIBILITIES OF EMPLOYEES/FORMER EMPLOYEES Appendix H

to assist remain at, or return to, work		<ul style="list-style-type: none"> <li>• physical aspects of the workplace.</li> </ul>
The right to fair decision-making in accordance with the principles of natural justice	Sections 38, 61, 62, 63 & 72	<p>The general principle of fair decision-making is based upon:</p> <ul style="list-style-type: none"> <li>• natural justice</li> <li>• lawfulness, and</li> <li>• decision-making based on facts.</li> </ul>
The right to request reconsideration of decisions made by the employer and Comcare	Section 38	<p>An injured employee can request reconsideration of a decision made by the rehabilitation case manager regarding:</p> <ul style="list-style-type: none"> <li>• rehabilitation assessment of capacity to undertake a rehabilitation program, and</li> <li>• provision and content of a rehabilitation program.</li> </ul> <p>An injured employee can also request reconsideration of a decision made by a Comcare claim services officer</p>
The right to access documents relating to a workers' compensation claim	Section 59	Injured employees who have lodged a claim for workers' compensation can access documents relating to the claim maintained by the relevant Comcare claim services officer.

**Table 5: Employee Responsibilities**

<b>Employee Responsibilities</b>	<b>SRC Act Provision</b>	<b>Explanation</b>
The general obligation to cooperate with the rehabilitation case manager and any appointed workplace rehabilitation provider	Sections 36 & 37	Refer H3 above.
The obligation to attend a rehabilitation assessment or medical examination arranged by the rehabilitation case manager or Comcare claim services officer	Sections 36 and 57	Rehabilitation assessments and independent medical examinations are critical to the employer's provision of rehabilitation and Comcare's determination of liability. Failure to attend or obstruct a rehabilitation assessment or medical examination may result in suspension of wages or incapacity payments, or compensation benefits and entitlements (refer H4 above).
The obligation to undertake the rehabilitation program provided by the employer	Section 37	Active participation in a rehabilitation program is crucial to a safe and early return to work, and a requirement to receiving salary and allowances, or in the case of compensation claim, benefits and entitlements.
The obligation to report any changes in circumstance	Sections 114, 116 & 120	<p>Both MoAD and, in the case of a compensation claim, the Comcare claim services officer, must be kept fully informed in a timely manner of a change in circumstances which may affect the provision of rehabilitation, and benefits and entitlements, such as:</p> <ul style="list-style-type: none"> <li>• change in medical condition or injury status (including aggravation of injury, and/or onset of or exacerbation of other medical condition)</li> <li>• change to home circumstances</li> <li>• change in financial circumstances, or</li> <li>• interstate or overseas travel intentions (granting of leave for recreational purposes while in receipt of compensation benefits will seldom be appropriate or supported).</li> </ul>

**H6 Salary Maintenance Arrangements**

- 6.1 All absences from work attributable to workplace injury are initially deemed as personal leave. Pending submission of a claim for compensation and determination of liability by Comcare, available personal leave, annual leave and long serve leave credits can be utilised on the employee's application for the purpose of salary maintenance. Where leave credits have been exhausted, a rehabilitation case manager should be consulted.
- 6.2 Where a workers' compensation claim has been submitted and liability accepted by Comcare, arrangement will be made between MoAD and Comcare for re-crediting leave entitlements utilised pre-claim determination.

**H7 Normal Weekly Earnings and Higher Duties Allowance**

- 7.1 Normal weekly earnings refer to the remuneration an employee was receiving at the time of injury and is utilised for calculation of incapacity benefits under the SRC Act. Further information is available from [Comcare](#).
- 7.2 As a general principle, an employee performing higher duties at the time of injury continues to receive the higher duties allowance during periods of incapacity, up to the end date of the higher duties arrangement as pre-approved by the relevant manager and recorded in Employee Self Service. Higher duties allowance is only payable for the entirety of a period of incapacity if the relevant manager advises the rehabilitation case manager that the higher duties would have continued, or be extended, if not for injury resulting in incapacity. Accordingly, the payment of higher duties to an incapacitated employee will cease upon any one of the following events which marks the end of a period of higher duties:
  - the return from temporary transfer or leave to the substantive position by the employee whose absence created a higher duties opportunity
  - the programmed assignment of another employee to the higher duties position on a planned rotational basis, as determined by the relevant manager
  - the permanent filling of the vacant position
  - annulling of the higher duties position attributable to organisational restructure (i.e. the position temporarily filled on a higher duties basis no longer exists).

**H8 Why liability of a claim for compensation may be denied by Comcare**

- 8.1 The circumstances where liability for a claim under the SRC Act may not be accepted by Comcare include, but are not limited to:
  - there is a lack of, or no, medical evidence linking an injury (or disease) to the workplace
  - employment was not a significant contributing factor to development of a disease
  - the injury occurred as a result of reasonable administrative action taken in a reasonable manner

- an injury arose as a consequence of serious and wilful misconduct (an exception to this statutory provision can arise where the serious and wilful misconduct resulted in death, or serious and permanent injury)
- the injury was self-inflicted
- the injury occurred while travelling between home and work.

[Return to Contents Page](#)

**I1 Responsibilities – the ‘Position of Most Influence’**

- 1.1 The role of the relevant manager is summarised at [Section 9](#), Clause 9.12 of the RMS and Page 30 of the Rehabilitation Handbook.
- 1.2 Relevant managers are directly responsible for supporting their employees who are experiencing impairment or incapacity remain at, or return to, work. While rehabilitation case managers and others have corresponding roles to discharge in the provision of rehabilitation, relevant managers are often in the ‘position of most influence’ regarding the likelihood of an early intervention program or rehabilitation program succeeding.
- 1.3 Relevant managers’ key responsibilities include:
  - identifying and supporting employees at risk of injury
  - timely reporting to People and Strategy of unplanned or unscheduled employee absences (refer I2 below) which indicate the potential need for an early intervention program
  - embedding a culture of prompt reporting of workplaces accidents and incidents
  - managing the attendance requirements and performance expectations of injured employees with consideration of the impact medical treatment and restrictions certified by a legally qualified medical practitioner might have
  - participating in the development of, and implementing in conjunction with the rehabilitation case manager and any engaged workplace rehabilitation providers, a rehabilitation program to facilitate an employee’s return to work, in particular through identification of suitable duties
  - in the event of an employee’s incapacity and the need to provide suitable duties to facilitate a return to work, identifying and providing suitable duties within the employee’s Branch; while the rehabilitation case manager and/or a workplace rehabilitation provider can assist with determining what does and critically what doesn’t constitute suitable duties, the relevant manager is required to provide and supervise the actual work the employee is to perform (when required, this includes identifying duties external to the employee’s section but within the employee’s branch)
  - in the event of a workers’ compensation claim, preparing in consultation with the rehabilitation case manager and for endorsement by the relevant Deputy Director, the employer’s statement (refer I3)
  - participating in case conferences convened by the rehabilitation case manager to ensure provision of rehabilitation meets or exceeds goals.

**I2 Reporting of unplanned or unscheduled absences of 10 days or longer**

- 2.1 Relevant managers are required to inform People and Strategy of any unplanned or unscheduled employee absence of 10 consecutive working days or longer, or a pattern of absences entailing 10 non-consecutive working days or longer, where:
  - an employee’s return to work date is unknown or uncertain

- there is an indication that unplanned absences will continue for an extended or indefinite period
- a graduated return to work arrangement is specifically requested by the employee's legally qualified medical practitioner or is likely to be beneficial in minimising further absences from work.

### I3 Completion of the Employer's Statement

- 3.1 MoAD is required to provide prescribed information to assist Comcare with determination of liability for workers' compensation claims under the SRC Act. While certain information is supplied via the employer's section of the claim for workers' compensation form, a separate employer's statement is utilised to provide additional information and supporting documentation (in particular, information pertaining to complex physical injury claims which have developed over time, and psychological injury claims preceded by administrative action on matters such as attendance management, performance counselling and behaviour).
- 3.2 An employer's statement is preferably submitted to Comcare with the completed compensation form, however time taken to prepare the employer's statement cannot be utilised for the purpose of unduly delaying submission of a completed claim form. When an employer's statement is not submitted with a claim form, employers can provide a statement at a later time as agreed with Comcare, or Comcare can at any time request provision of a statement of facts and relevant supporting information under section 71 of the SRC Act.
- 3.3 Information provided in an employer's statement should be factual and objective (not conjecture or opinion), and specifically relevant to the compensation claim. Whenever possible, the statement should be supported by documentary evidence (e.g. incident report forms, accident/incident investigation reports, minutes of meetings, witness statements, correspondence between the employer and the employee, and notes of telephone conversations).
- 3.4 Relevant managers should note that unless previously supplied by the employer directly to the employee, the employer's statement submitted to Comcare will in turn be released to the employee under section 59 of the SRC Act. When the employer's statement contains information that an employee may find confronting and distressing, it is preferable and recommended practice for the employer to arrange for the employee to receive and read the statement in a supportive environment (e.g. in the presence of a workplace rehabilitation provider and/or the employee's legally qualified medical practitioner).
- 3.5 Further information on preparation of the employer's statement, inclusive of a template, is provided in the Comcare publication [Guide to submission of employer statements](#) (refer I4).

[Return to Contents Page](#)

## J1 RMS Frequently Asked Questions

- 1.1 The following tabular summary captures the key messages to be conveyed during delivery of RMS information sessions:

**Table 5: FAQs**

FAQs	Target Audience	Key Messages	Comments
<b>1.</b> <b>Why does MoAD have a Rehabilitation Management System (RMS)?</b>	All employees	The RMS provides a framework for minimising the incidence and severity of injury and disease at work, and associated incapacity (time off work) and lost productivity.	<p>The ability to return to work as soon as practicable following injury:</p> <ul style="list-style-type: none"> <li>• assists with promoting recovery and leads to better health outcomes</li> <li>• minimises the harmful physical, mental and psychosocial effects of long-term absences</li> <li>• promotes: <ul style="list-style-type: none"> <li>- full participation in society</li> <li>- independence, and</li> <li>- human rights</li> </ul> </li> <li>• improves quality of life and general wellbeing.</li> </ul> <p>As injury-related incapacity lengthens, injured employees' morale and the likelihood of a sustained return to work diminishes:</p> <ul style="list-style-type: none"> <li>• 20 days off work equates to a 70% chance of returning</li> <li>• 45 days off work equates to a 50% chance of returning, and</li> <li>• 70 days off work equates to a 35% chance of returning.</li> </ul> <p>The RMS also addresses a legal requirement for all employers with the Commonwealth jurisdiction to develop and implement a documented and auditable RMS.</p>
<b>2.</b> <b>Where can I obtain a copy of the RMS?</b>	All employees	The RMS is available electronically to all employees via MoAD's Intranet.	Where a workplace cannot access MoAD's Intranet, a printed copy of the RMS can be obtained by contacting HR.
<b>3.</b>	All employees	Upon the first signs of discomfort, inform	The most common forms of discomfort at work are:

<p><b>What should I do if experiencing physical discomfort at work?</b></p> <p><b>Discomfort often serves as an early warning of potential injury.</b></p>		<p>the relevant manager.</p>	<ul style="list-style-type: none"> <li>• a sore neck or shoulders, and/or</li> <li>• an aching sensation in the fingers or wrists, associated with:</li> <li>• repetitive keyboarding tasks, and/or</li> <li>• sedentary work practices and lifestyle (i.e. prolonged sitting, not alternating work duties, failing to take adequate breaks and inadequate exercise).</li> </ul>
	<p>Relevant managers</p>	<p>Acknowledge the employee's discomfort and discuss what can be done to help.</p>	<p>In the instance of discomfort associated with office ergonomics, a low cost solution is an ergonomic assessment conducted by one of MoAD's panel providers.</p> <p>Subject to the nature of an employee's discomfort, an early intervention program may be appropriate/recommended.</p>
<p><b>4. What is an early intervention program?</b></p>	<p>All employees</p>	<p>An early intervention program is designed to prevent discomfort becoming an injury or an injury being aggravated.</p>	<p>An early intervention program may prevent, and should at least minimise, the need for time off work, and aims to keep an employee healthy and happy at work.</p>
<p><b>5. What should I do if injured at work?</b></p>	<p>All employees</p>	<p>Provide immediate (as soon as practicable) initial verbal notification of injury to the relevant manager.</p> <p>Seeking prompt treatment, or referral for any necessary treatment, from a legally qualified medical practitioner of your choice.</p>	<p>ASAP provide documented notification of injury to MoAD via submission of an <i>Incident Notification</i> form (accessed electronically via the 'Forms' page on MoAD's Intranet).</p> <p>Also provide an original medical certificate(s) and/or report(s) prepared by your choice of legally qualified medical practitioner.</p>

	Relevant managers	ASAP contact People and Strategy to advise of a workplace injury and to seek guidance regarding the 'next steps'.	The People and Strategy Team will provide advice tailored to an employee's specific needs, in particular when an employee has been off work for 10 working days and continuing unscheduled absences appear likely.
<b>6. What is rehabilitation?</b>	Injured employees	Rehabilitation is the process of assisting an injured employee to return to his/her pre-injury duties as soon as possible following a workplace injury or, where a return to pre-injury duties is not appropriate or feasible, to return to suitable employment.	Rehabilitation is tailored to an injured employee's personal needs, in particular with consideration of medical advice, and may include: <ul style="list-style-type: none"> <li>• a rehabilitation assessment (as assessment of an injured employee's capacity to undertake rehabilitation)</li> <li>• a rehabilitation program (commonly referred to as a return to work program), and</li> <li>• modification of working duties or hours, or modifications to the working environment, to assist with the return work.</li> </ul>
<b>7. As an injured employee, what are my rights and responsibilities?</b>	Injured employees	The rights and responsibilities of injured employees are extensively detailed at <a href="#">Section 9</a> of the RMS and <a href="#">Appendix H</a> .	Employees undertaking rehabilitation are strongly encouraged to read the noted sections of the RMS and to discuss their rights and obligations with a Rehabilitation Case Manager.
<b>8. As the relevant manager of an injured employee, what are my roles and responsibilities?</b>	Relevant managers of injured employees	The roles and responsibilities of relevant managers are extensively detailed at <a href="#">Section 8</a> of the RMS and <a href="#">Appendix I</a> .	Relevant managers are strongly encouraged to read the noted sections of the RMS and to discuss their roles and responsibilities with a Rehabilitation Case Manager.
<b>9. Is access to an early intervention program or rehabilitation contingent on a</b>	Injured employees	No.	Provision of an early intervention program is designed to prevent injury or minimise the aggravation of injury, upon the first signs of discomfort, and often prevents or minimises incapacity and the associated need for compensation.

<b>claim for compensation?</b>			Provision of rehabilitation is also non contingent on a claim for compensation and can usually result in a return to work before liability for a claim is determined by Comcare.
<b>10. Where can I obtain further advice and assistance?</b>	All employees	People and Strategy Team	Contact <a href="#">People and Strategy</a> .

[Return to Contents Page](#)

## **K1 Records maintained by the Rehabilitation Case Manager**

- 1.1 The roles and responsibilities of rehabilitation case managers, as introduced at [Section 9](#), Clause 9.7 of the RMS (and further detailed at [Appendix F](#)), include maintaining records for each employee undertaking rehabilitation, inclusive of documents, forms, correspondence, telephone discussions, case notes, medical certificates and reports, determinations, and financial accounts.
- 1.2 A record containing such information specific to an employee is known as a ‘rehabilitation case file’.
- 1.3 The *Rehabilitation Case Managers’ Injury Management Checklist* (refer [Appendix C, Table 2](#)) is provided for the use by rehabilitation case managers for quality assurances purposes and when used must be included in the employee’s rehabilitation case file.

## **K2 Electronic Record Management System**

- 2.1 MoAD’s Electronic Record Management System (EDMS) provides both an electronic and paper-based system for the creation of rehabilitation case files, and is supported by ‘access controls’ to:
  - maintain the integrity of information contained within rehabilitation case files
  - limit unauthorised and inappropriate access to rehabilitation case files.
- 2.2 Rehabilitation case files are created and maintained by rehabilitation case managers, not relevant managers, on behalf of MoAD.

## **K3 Storage of Hardcopy Rehabilitation Case Files**

- 3.1 Physical rehabilitation case files are to be stored under ‘lock and key’ by People and Strategy, which may equate to use of ‘C’ class containers, a compactus and/or lockable filing cabinet. Access to storage containers is strictly limited to rehabilitation and suspension delegates of the Director listed at [Appendix E](#).

## **K4 Use of Rehabilitation Case Files for Auditing Purposes**

- 4.1 Rehabilitation case files pertaining to an individual employee may be examined during an audit of the RMS.
- 4.2 Examination of rehabilitation case files for auditing purposes is primarily intended to:
  - establish whether the objectives of the RMS, as detailed at [Section 7](#) of the RMS, are being achieved
  - establish whether the rehabilitation procedures, as detailed at [Appendix C](#):
    - have been complied with
    - continue to facilitate the timely provision of rehabilitation

- to continuously improve the operation of the RMS.

## K5 Retention of Rehabilitation Case Files

- 5.1 All rehabilitation case files are official corporate records subject to retention and preservation rules imposed under the *Archives Act 1983*.
- 5.2 The following extract from the [\*Administrative Functions Disposal Authority\*](#) details the retention and preservation rule that apply to rehabilitation case files:

**Table 8: Case File – Retention Rules**

<b>Cases</b>		
<b>Class</b>	<b>Description of records</b>	<b>Disposal action</b>
<b>No</b>		
20926	<p>Cases where a compensation claim has been submitted for personal injury, death, or loss or damage to personal property of the employee. Covers claims made under safety, rehabilitation and compensation legislation.</p> <p>Includes:</p> <ul style="list-style-type: none"> <li>• accident reports and associated papers such as witness statements</li> <li>• claims</li> <li>• determinations</li> <li>• correspondence and notes of meeting and conversations with the lead agency (currently Comcare)</li> <li>• correspondence and notes on meetings or conversations with claimant</li> <li>• appointment of a case manager or rehabilitation provider</li> <li>• return to work plan</li> <li>• progress reports</li> <li>• assessment reports</li> <li>• medical reports and certificates</li> <li>• claim reviews</li> <li>• appeal records (including reconsideration and appeals to Administrative Appeals Tribunal)</li> <li>• agreements entered into by the parties, and</li> <li>• legal records documenting any legal advice received and action taken in relation to the case.</li> </ul>	Destroy 75 years after date of birth of employee or 7 years after last action, whichever is longest. If date of birth is unknown assume the person was 15 at the time of the accident

- 5.3 For the purpose of clarity, there is no provision within the RMS for any information relevant to the provision of rehabilitation (in particular, information considered by rehabilitation case

managers when making determinations), to be maintained separately from a rehabilitation case file as a ‘private file’, on the mistaken belief that:

- material contained within a private file constitutes ‘exempt material’ under the Archive Act that can be deleted, destroyed or de-identified when a rehabilitation case file is closed, or
- a private file can be destroyed as a normal administrative action/procedure under section 24 of the Archive Act when a rehabilitation case manager ceases employment with MoAD.

## **K6 Provision of Records to Comcare**

- 6.1 In certain circumstances, information contained within a rehabilitation case file may in whole or part be examined, copied and/or otherwise provided to Comcare when:
- an employee lodges a claim for compensation
  - an employee seeks reconsideration by Comcare of a determination made by a rehabilitation case manager
  - liability for a claim is denied, and appeal is subsequently made to the Administrative Appeals Tribunal and/or Federal Court of Australia.

## **K7 Privacy and Confidentiality – Access to Rehabilitation Case Files**

- 7.1 Information regarding the privacy and confidentiality of personal information contained in rehabilitation case files, and procedures for employees to access their rehabilitation case files, is provided at Appendix L.

[Return to Contents Page](#)

## L1 The Privacy Act

- 1.1 MoAD has a number of obligations concerning the collection, storage, use and disclosure of employees' personal information under the Privacy Act and the Privacy Amendment Act) and in particular under the Australian Privacy Principles:

### Australian Privacy Principles

1. Open and transparent management of personal information
2. Anonymity and pseudonymity
3. Collection of solicited personal information
4. Dealing with unsolicited personal information
5. Notification of the collection of personal information
6. Use or disclosure of personal information
7. Direct marketing
8. Cross-border disclosure of personal information
9. Adoption, use or disclosure of government related identifiers
10. Quality of personal information
11. Security of personal information
12. Access to personal information, and
13. Correction of personal information.

- 1.2 Further information regarding privacy and the Australian Privacy Principles, is available from the [Office of the Australian Information Commissioner](#).

## L2 Personal Information and Employee Records

- 2.1 The Privacy Act defines

- **personal information** as information or an opinion about an identified individual, or an individual who is reasonably identifiable:
  - whether the information or opinion is true or not; and
  - whether the information or opinion is recorded in a material form or not.
- **employee record**, in relation to an employee, as a record of personal information relating to the employment of the employee. Examples of personal information relating to the employment of the employee are health information about the employee and personal information about all or any of the following:
  - the engagement, training, disciplining or resignation of the employee;
  - the termination of the employment of the employee;
  - the terms and conditions of employment of the employee;
  - the employee's personal and emergency contact details;
  - the employee's performance or conduct;
  - the employee's hours of employment;
  - the employee's salary or wages;
  - the employee's membership of a professional or trade association;
  - the employee's trade union membership;
  - the employee's recreation, long service, sick, personal, maternity, paternity or other leave;

- the employee's taxation, banking or superannuation affairs.
- 2.3 Information collected by MoAD about an employee relating to impairment or incapacity, injury, aggravation, medical treatment, engagement of an assessor (a legally qualified medical practitioner and/or workplace rehabilitation providers), rehabilitation, rehabilitation assessments, early intervention programs, rehabilitation programs, rehabilitation determinations, suitable employment, redeployment, compensation and invalidity retirement, is classed as personal information.
- 2.4 Legitimate use of information relevant to rehabilitation collected by MoAD includes disclosure of an employee's personal information to other parties involved with the provision of rehabilitation and assessment of compensation (in particular, an assessor and Comcare).
- 2.5 Employees' participation in rehabilitation, whether independent of or related to compensation, will observe that provision of rehabilitation and/or access to compensation is prerequisite on obtaining written consent for the collection, use and/or disclosure of personal information. Failure to provide consent may, with consideration of the reasonableness of the circumstances, impede or prevent MoAD from providing rehabilitation assistance and/or prevent Comcare from determining liability for a claim for compensation.

### L3 Provision of Medical Report(s) about an Employee

- 3.1 Where an employee requests to view his/her rehabilitation case file which contains a medical report of a sensitive and/or contentious nature, MoAD may decline to provide the medical report directly to the employee where the information contained in the report:
- may potentially be misinterpreted by the layperson due to, for example, use of medical terminology
  - recommends further medical investigation or referral necessitating, for example, diagnostic testing in a clinical setting
  - might be prejudicial to the employee's health and welfare due to, for example, diagnosis of an acute or chronic physical and/or psychological illness which the employee appears to be unaware of, where explanation regarding the diagnosis and discussion regarding treatments necessitates a medical consultation.
- 3.2 Where a report is withheld from an employee for any of the preceding reasons, the rehabilitation case manager will either:
- schedule an appointment between the report's author and the employee
  - provide on request a copy of the report directly to a legally qualified medical practitioner and/or specialist nominated by the employee, on the basis that the employee will make an appointment with the practitioner/specialist specifically for the purpose of reviewing and discussing the report.

[Return to Contents Page](#)

**M1 Definitions**

1.1 The SRC Act provides a listing of definitions applicable to provision of rehabilitation. The following definitions, in alphabetical order, have particular relevance to this RMS:

- **activities of daily living** – activities that an employee needs to perform to function at work and home, including ability for self-care and mobility
- **Administrative Appeals Tribunal (AAT)** – the external authority that reviews determinations made by Comcare
- **aggravation** – an increase in intensity or severity, or acceleration or recurrence, of a pre-existing condition; aggravation can also be related to an underlying or degenerative condition
- **arising out of or in the course of employment**; has qualified meaning under section 6 and 6A of the SRC Act (i.e. meaning that is subject to consideration of date of onset of symptoms, application of statutory compliance and exclusion provisions, and case law interpretation); an abridged definition of this phrase follows (the SRC Act should be referenced for the complete definition) – a causal or consequential relationship between an employee's injury and the work the employee carries out at the direction or request of MoAD, where the injury is sustained:
  - at work, for the purposes of employment or during an ordinary work recess such as a lunch break
  - as a result of an act of violence that would not have occurred but for the employment
  - whilst travelling for work
  - on an approved educational course or while travelling to and from the course, or
  - whilst at a place, or travelling, for a specified purpose in the SRC Act (e.g. to receive medical treatment for a compensable injury)
- **assessor** – a legally qualified medical practitioner, or a suitably qualified person other than a legally qualified medical practitioner (e.g. a workplace rehabilitation provider), or a panel consisting of legally qualified medical practitioner(s) and/or suitably qualified person(s), engaged by MoAD to undertake a rehabilitation assessment
- **at work** – refer 'arising out of or in the course of employment'
- **biopsychosocial** – the relationship between biological, psychological and social factors of illness and disease, incapacity for/from work, and barriers to a successful and timely return to work:
  - biological refers to physical and/or mental health condition(s)
  - psychological refers to personal and psychological factors influencing functioning, and
  - social refers to social context, pressures and constraints on functioning
- **case manager** – refer 'rehabilitation case manager'

- **claim** – a claim for compensation under the SRC Act (also refer ‘compensation/compensable injury’)
- **Comcare** – the Commonwealth statutory authority which administers the compensation Scheme (the Comcare Scheme) for Australian government departments and statutory authorities, ACT government and corporations which have been granted a licence to self-insure
- **compensation/compensable injury** – an injury to an employee which is determined by Comcare to have arisen out of or in the course of employment, and for which threshold liability has been accepted with consideration of medical evidence, and the application of compliance and exclusionary provisions under the SRC Act
- **compensation leave** – a period(s) of absence from work due to an injury where liability has been determined by Comcare
- **consultation** – the process of approved sharing of personal information about an injured employee by the employee, the relevant manager(s), the rehabilitation case manager, the employee’s legally qualified medical practitioner, an assessor (e.g. legally qualified medical practitioner and/or workplace rehabilitation provider) and others (e.g. in the case of a claim for compensation, Comcare) to enable the rehabilitation authority to discharge its statutory responsibility to provide rehabilitation
- **delegate** – refer ‘rehabilitation case manager’
- **disability** – an injury constituting a disability as defined by the *Disability Discrimination Act 1992*
- **determining authority** – the organisation which reviews rehabilitation determinations made by the rehabilitation authority or delegate (i.e. rehabilitation case manager); in terms of MoAD, the determining authority is Comcare (also refer ‘reconsideration’)
- **early intervention program(s)** – support, in the form of a rehabilitation assessment and/or rehabilitation program, provided to injured employees as soon as possible after workplace injury has occurred; provision of an early intervention program is not contingent upon an injured employee seeking to claim compensation or on Comcare determining liability for a claim
- **employee(s)** – has qualified meaning under section 5 of the SRC Act; an abridged definition of this term follows (section 4 the SRC Act should be referenced for the complete definition):
  - an injured worker who was employed by a rehabilitation authority at the time of injury and who continues to be employed by that rehabilitation authority, or
  - an injured worker formerly employed by a rehabilitation authority at the time of injury (i.e. an ex-employee)
- **ex-employee** – a former employee of MoAD who has ceased employment due to:
  - completion of a fixed-term or casual/intermittent engagement
  - ongoing transfer/promotion to another APS agency
  - resignation from MoAD / the Australian Public Service

- voluntary or involuntary redundancy
- termination of employment (e.g. as a sanction for breach of the code of conduct)
- invalidity retirement
- death
- **fitness for continued duty assessment** – the direction given to an employee to attend an independent medical assessment (i.e. a medical examination conducted by a legally qualified medical practitioner or specialist engaged by MoAD) where there is the belief that an employee's state of physical and/or mental health may be significantly affecting the employee's capacity to perform his/her duties for an extended period of time; such an assessment is conducted under Regulation 3.2 of the *Public Service Regulations 1999* (i.e. not the SRC Act) and generally is in relation to non-compensable health matters (i.e. Fitness for Continued Duty assessments are not 'rehabilitation assessments'); however, a Fitness for Continued Duty Report may be requested by Comcare under section 71 of the SRC Act, or provided to Comcare by the rehabilitation authority, to assist with making a determination of liability under the SRC Act
- **impairment** – the loss, the loss of the use, or the damage or malfunction, of any part of the body or of any bodily system or function or part of such system or function
- **incapacity for/from work** – an inability to engage in any work (total incapacity – refer 'total and permanent incapacity'), or an inability to engage in work at the same level and hours (partial incapacity), as a result of workplace injury
- **initial needs assessment** – refer 'rehabilitation assessment'
- **injury (and disease)** – has qualified meaning under section 5A and 5B of the SRC Act (i.e. meaning that is subject to consideration of date of onset of symptoms, application of statutory compliance and exclusion provisions, and case law interpretation); an abridged definition of these terms follows (the SRC Act should be referenced for the complete definition):
  - injury refers to a disease suffered by an employee, or a physical or mental injury suffered or aggravated by an employee, arising out of or in the course of employment, and
  - disease refers to an ailment suffered by an employee, or an aggravation of such an ailment, that was contributed to, to a significant degree, by the employee's employment by a rehabilitation authority;

for the purpose of interpretation of this RMS, a reference to 'injury' is intended to capture the general meaning of both 'injury' and 'disease' as defined by the SRC Act and case law interpretation
- **invalidity retirement** – retirement from the workforce due to independent medical certification of total and permanent incapacity under section 54B of the *Superannuation Act 1996*; a determination of invalidity retirement is made by the relevant superannuation fund trustee / administrator (i.e. not Comcare or MoAD agency) on the basis of an employee's inability to work again in a job which they are reasonably qualified for or could be reasonably qualified for after retraining

- **legally qualified medical practitioner** (also commonly referred to as the nominated treating doctor) – persons legally qualified, registered and licensed to practice medicine such as general practitioners, surgeons, occupational physicians and psychiatrists; allied health professionals such as psychologists, physiotherapists or chiropractors are not legally qualified medical practitioners
- **liability** – an obligation to compensate in accordance with section 14 of the SRC Act (Comcare, not MoAD, determines liability for compensation claims submitted by MoAD's employees)
- **malingering** – the pretence to be injured or otherwise incapacitated to avoid work; in terms of claims for compensation, the pretence to be injured or otherwise incapacitated in the endeavour to secure compensation benefits and entitlements is considered fraud
- **mechanism of injury** – refers to the [\*Types of Occurrence Classification System\*](#) used by Safe Work Australia, which codes injuries in terms of the following mechanisms:
  - falls, trips and slips of a person
  - hitting objects with a part of the body
  - being hit by moving objects
  - sound and pressure
  - body stressing
  - heat, electricity and other environmental factors
  - chemicals and other substances
  - biological factors
  - mental stress, and
  - vehicle incidents and other
- **medical treatment** – commonly refers to, but is not limited to:
  - medical, surgical or therapeutic treatment by, or under the supervision of, a legally qualified medical practitioner
  - dental treatment by, or under the supervision of, a legally qualified dentist
  - an examination, test or analysis carried out by a legally qualified medical practitioner or dentist, and the provision of a report in respect of such examination, test or analysis
  - treatment as a patient at a hospital (whether on an in-patient or out-patient basis), and
  - nursing care and provision of medicines, medical and surgical care
- **place of work** – in relation to an employee, includes any place at which the employee is required to attend for the purpose of carrying out the duties of employment
- **reasonable administrative action** – provisions under section 5A of the SRC Act which exclude injury arising in prescribed circumstances (i.e. injury or aggravation suffered as a result of reasonable administrative action taken in a reasonable manner)

from compensation; reasonable administrative action is taken to include, but is not limited to, the following:

- a reasonable appraisal of the employee's performance
  - a reasonable counselling action (whether formal or informal) taken in respect of the employee's employment
  - a reasonable suspension action in respect of the employee's employment
  - a reasonable disciplinary action (whether formal or informal) taken in respect of the employee's employment
  - anything reasonable done in connection with the preceding four matters, or
  - anything reasonable done in connection with the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in connection with his or her employment
- **reconsideration** – the process of an employee seeking reconsideration of a determination made by:
    - the rehabilitation authority or delegate (the reviewer for such reconsideration is Comcare as the 'determining authority'), or
    - Comcare (the reviewer for such reconsideration is an officer other than the original decision maker);
- reconsideration also refers to MoAD seeking reconsideration of a determination made by Comcare
- **redeployment** – the durable placement of an injured employee into a new job (also refer 'return to work hierarchy')
  - **rehabilitation** (also referred to as occupational rehabilitation) – the process of assisting an injured employee remain at or to return to his/her pre-injury duties as soon as possible following a workplace injury or, where a return to pre-injury duties is not appropriate or feasible, to return to suitable employment
  - **rehabilitation assessment(s)** (also referred to as an initial needs assessment) – an assessment under section 36(3) of the SRC Act of an employee's capability of undertaking, or continuing to undertake, a rehabilitation program, conducted by an assessor; a rehabilitation assessment can also comprise a functional assessment of capabilities, a workplace assessment (e.g. ergonomic assessment and job analysis of tasks performed at work) and interview(s) with the employee, relevant managers and others, with the intent of identifying:
    - medical restrictions and physical, psychosocial and/or workplace barriers to remaining at, or returning to, work, and/or
    - transferable skills and suitable employment
  - **rehabilitation authority** – the principal officer of a licensed authority, licensed corporation, entity or Commonwealth authority as defined by section 4(1) of the SRC Act (by definition, the Director)

- **rehabilitation case manager(s)** (commonly referred to as case managers and occasionally as delegates) – one or more workplace-based employees of MoAD with responsibility for initiating, coordinating, monitoring and making decisions about rehabilitation programs on behalf of the rehabilitation authority; rehabilitation case managers exercise all or specific powers and functions of the rehabilitation authority via written delegation under section 41A of the SRC Act
- **rehabilitation determination** – a decision made by a rehabilitation authority or by a rehabilitation case manager in respect to any of the following:
  - a requirement under section 36(3) of the SRC Act that an employee attend an examination for a rehabilitation assessment
  - a decision under section 36(4) of the SRC Act that an employee did not have a reasonable excuse for failing to attend or cooperate at an examination for a rehabilitation assessment
  - a decision under section 37(1) of the SRC Act as to whether an employee should undertake a rehabilitation program including, where relevant, a decision as to who should provide that rehabilitation program in accordance with section 37(2) of the SRC Act
  - a decision under section 37(1) to alter the contents of a rehabilitation program
  - a decision under section 37(1) of the SRC Act that the employee cease to undertake a rehabilitation program
  - a decision under section 37(7) of the SRC Act that an employee did not have a reasonable excuse for not undertaking or completing a rehabilitation program
- **rehabilitation program(s)** – has qualified meaning under section 4(1) of the SRC Act and includes medical, dental, psychiatric and hospital services (whether on an in-patient or out-patient basis), physical training and exercise, physiotherapy, occupational therapy and vocational training to assist employees with workplace injury remain, at or return to, work; a documented rehabilitation program tailored to an incapacitated employee is commonly referred to as a return to work plan
- **rehabilitation program provider** – refer ‘workplace rehabilitation provider’
- **rehabilitation management system (RMS)** – the documented processes, and performance standards and performance measures, for continuous improvement to provision of rehabilitation for injured employees; the structure of the RMS adopts the five elements of continuous improvement common to Australian/New Zealand Standards (in particular 4801:2001 and 4804:2001 *Occupational health and safety management systems*):
  - commitment and governance arrangements
  - planning
  - implementation
  - measurement and evaluation
  - management systems review and improvement

- **return to work hierarchy** – the hierarchy of preferences for return to work outcomes, commencing with the aim to return an employee injured at work to pre-injury duties as follows:
    - same job, same employer (the principal goal of rehabilitation)
    - similar job, same employer (the 1<sup>st</sup> alternative goal – applicable only when the principal goal is not appropriate or feasible)
    - new job, same employer (the 2<sup>nd</sup> alternative goal – applicable only when the principal goal and 1<sup>st</sup> alternative goal are not appropriate or feasible)
    - same job, new employer\*
    - similar job, new employer\*
    - different job, new employer\*
  - \* per the hierarchy of preferences, redeployment to new employer (e.g. another agency) will only be considered after all possibilities of returning an injured employee to the same employer have been exhausted
  - **suitable employment** – provision of modified duties, alternative duties and/or modified working hours to an injured employee having regard to:
    - medically certified limitations and restrictions, and the return to work hierarchy
    - the employee's age, experience, training, language and other skills
    - the employee's suitability for rehabilitation or vocational training
    - where employment is available
    - any other relevant matter (including whether the employee is an ongoing or non-ongoing employee, and whether the employee has left the employment of the employer)
  - **suspension** – where an employee does not comply or cooperate with a direction of the rehabilitation authority or Comcare in relation to a rehabilitation assessment, rehabilitation program or independent medical examination, the employee's right to compensation under the SRC Act may be suspended:
    - Comcare has the authority to suspend an employee's compensation when that employee refuses, fails to attend or obstructs a medical examination arranged under section 57(2) of the SRC Act, without a reasonable excuse
    - the rehabilitation authority has the authority to determine whether an employee has refused or failed to attend a rehabilitation assessment without reasonable excuse, or obstructed a rehabilitation assessment under section 36(4) of the SRC Act, or has refused or failed to undergo a rehabilitation program under section 37(7) of the SRC Act, without a reasonable excuse (such a determination may result in suspension of an employee's compensation by Comcare)
- a suspension remains in place until the employee complies with the request from Comcare or the rehabilitation authority; once the suspension is lifted, an employee

cannot recover any monies for salary maintenance that relate to the period of suspension unless:

- a suspension under section 57(2) of the SRC Act was revoked on application to the Federal Court of Australia
- a suspension under section 36(4) or 37(7) of the SRC Act was revoked on reconsideration to Comcare or subsequent review by the Administrative Appeals Tribunal
- **total and permanent incapacity** – independent medical certification that an injured employee is unlikely to ever work again in a job:
  - for which he/she is reasonably qualified for (or could be reasonably qualified for after retraining)
  - is unable to participate in any other employment with a government agency, or
  - is unable to participate in any other employment with a non-government employer
- **the SRC Act** – *the Safety, Rehabilitation and Compensation Act 1988* is a premium based system for the compensation and rehabilitation of employees injured as a result of, or in the course of, employment with Australian government departments and statutory authorities, ACT government and corporations which have been granted a licence to self-insure
- **work/workplace** – refer ‘arising out of or in the course of employment’
- **workplace ergonomic assessor** – an ergonomist, occupational therapist, physiotherapist or other trained person who assesses posture, workplace design, equipment, work flows, lighting, thermal comfort and/or noise, with the intent of increasing productivity and reducing fatigue; assessments can be proactive (as an injury prevention initiative) or reactive (as an injury management response to minimise the risk of aggravation)
- **workplace rehabilitation provider(s) (WRP)**; also commonly referred to as rehabilitation program providers and often abbreviated to ‘providers’ – professionals (both individuals and organisations) approved by Comcare under section 34 of the SRC Act and engaged by MoAD agency to conduct rehabilitation assessments, develop rehabilitation programs and provide specialist rehabilitation advice, and include, but are not limited to:
  - occupational therapists
  - rehabilitation counsellors
  - psychologists
  - physiotherapists
  - social workers
  - speech pathologists
  - accredited exercise physiologists
  - nurses.

[Return to Contents Page](#)

**N1 Legislation, Regulation and Legislative Instruments**

1.1 The following legislation, regulations and legislative instruments, available at the [Federal Register of Legislation](#), were referenced in drafting of the RMS:

*Disability Discrimination Act 1992*

*Fair Work Act 2009*

*Freedom of Information Act 1982*

*Guidelines for Rehabilitation Authorities 2019* issued under section 41 of the SRC Act, and *Explanatory Statement*

*Safety, Rehabilitation and Compensation Act (Operational Standards for Rehabilitation Program Providers) Determination 2020* issued under section 34E of the SRC Act

*Public Service Act 1999*

*Public Service Regulations 1999*

*Privacy Act 1988*

*Privacy Amendment (Enhancing Privacy Protection) Act 2012*

*Safety, Rehabilitation and Compensation Act 1988*

*Superannuation Acts 1976, 1990 and 2005*

*Work Health and Safety Act 2011*

*Work Health and Safety Regulations 2011*

**N2 Australian Standards**

2.1 The following Australian Standards, available on a fee or subscription basis at [Standards Australia](#), were referenced in drafting of the RMS:

*Australian/New Zealand Standard 4801:2001 Occupational health and safety management systems – Specifications with guidance for use* (superseded by [AS/NZS ISO 45001:2018](#))

[Australian/New Zealand Standard 4804:2001 REC: 2020 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques.](#)

*Australian/New Zealand Standard AS/NZS ISO 19011: 2019 and 2018 Guidelines for auditing management systems*

**N3 Comcare Publications**

2.1 The following publications, available from Comcare, in drafting of the RMS:

Your role

- Employees and other workers
- Middle managers and supervisors
- Rehabilitation and case managers
- Senior managers and executives

**Claims and rehabilitation**

- Assessing claims
  - How a claim is assessed
- Auditing tools and system management information
  - Audit tool
- Return to work processes for employers

**Service providers**

- Finding a rehabilitation provider

**Scheme and legislation**

- About the Comcare scheme

**About us**

- Forms / publications
  - Forms
  - Corporate publications

**N4 MoAD documentation**

- *Fitness for duty guidelines*
- *Old Parliament House Instrument of Human Resources Delegation*

[Return to Contents Page](#)

## O1 Accessing Online Forms

- 1.1 The provision of rehabilitation and application for compensation are 'forms' administered processes. Below are descriptions and hyperlinks to the primary rehabilitation and compensation forms.
- 1.2 As provision of rehabilitation is not dependent upon submission of a claim for compensation, employees should not be hesitant to enquire about rehabilitation based on a negative perception or stigma occasionally associated with claiming compensation and the necessary intrusiveness of the claims determination process (i.e. rehabilitation can often be provided without the need to pursue compensation).
- 1.3 Additional injury management, claims and other associated [forms](#) are available from Comcare.

## O2 Rehabilitation Forms

- 2.1 *Rehabilitation Assessment Examination* form – this form is completed by a rehabilitation case manager when making a determination under section 36(3) of the SRC Act to engage:
  - a legally qualified medical practitioner
  - a suitably qualified person other than a legally qualified medical practitioner (e.g. a workplace rehabilitation provider)
  - a panel consisting of legally qualified medical practitioner(s) and/or suitably qualified person(s)to conduct a rehabilitation assessment of an employee who has suffered an injury resulting in impairment or incapacity for work
- 2.2 *Suitable Duties* form – this form is utilised by a rehabilitation case manager and workplace rehabilitation provider to identify suitable duties which an injured employee can undertake, with consideration of medical restrictions identified by a legally qualified medical practitioner and other barriers to the employee remaining at, or returning, to work
- 2.3 *Rehabilitation Program* form – this form is completed by a rehabilitation case manager when making a determination under sections 37(1) and 37(3) of the SRC Act to an agreed rehabilitation program for an employee who has suffered an injury resulting in impairment or incapacity for work
- 2.4 *Rehabilitation Program Alteration* form – this form is completed by a rehabilitation case manager when making a determination under sections 37(1) and 37(3) of the SRC Act to change an agreed rehabilitation program (e.g. alter timeframes or include additional costs and services) for an employee who has suffered an injury resulting in impairment or incapacity for work
- 2.5 *Rehabilitation Program Closure Record* – this form is completed by a rehabilitation case manager when making a determination under sections 37(1) and 37(3) of the SRC Act to cease a rehabilitation program for an employee who has suffered an injury resulting in

impairment or incapacity for work, prior to the planned completion date and/or achievement of goals. Cessation is also required where a determination is made to replace or supersede a rehabilitation program with another program

- 2.6 *Work Trial Agreement* form – this form is completed by the rehabilitation case manager in consultation with the injured employee, the relevant legally qualified medical practitioner, a workplace rehabilitation provider and host employer, to document a work trial with another employer.

### O3 Workers' Compensation Forms

- 3.1 *Claim for Workers' Compensation* form – part 1 of this form is completed by the employee, and subsequently submitted by the employee to the employer (accompanied by an original Certificate for Compensation completed by a legally qualified medical practitioner), when seeking compensation under the SRC Act; part 2 of the form is completed by the employer before the form, the Certificate for Compensation and any other relevant documents are forwarded to Comcare.
- 3.2 *Certificate for Compensation* – this form is completed by a legally qualified medical practitioner and is attached to the Claim for Workers' Compensation Form by the employee, and subsequently provided to the employer. Any additional Certificate(s) for Compensation subsequently completed by a legally qualified medical practitioner are normally provided to the employer, either directly by the legally qualified medical practitioner or by the employee.
- 3.3 *Authority and Consent for the Collection and Release of Medical Information pertaining to my Claim* – this form is provided to the employee by Comcare, completed by the employee and returned to Comcare, and authorises Comcare collecting and releasing personal and medical information for the purpose of determining a claim for compensation. Delay or refusal to provide written authority and consent will normally impede Comcare's capacity to determine a claim for compensation, and in the absence of a reasonable excuse, is likely to result in liability being denied under section 14 of the SRC Act.
- 3.4 *Medical Services Claim* form – this form is provided to the employee by Comcare, completed by the employee and returned to Comcare, to claim the cost of medical treatment and associated travel.
- 3.5 *Claim for Time-Off Work/Period of Reduced Earning* – this form is completed by the employer (People and Strategy) to claim from Comcare an incapacitated employee's time off work and/or reduced earnings.
- 3.6 *Access to Leave and Release of Comcare Payments* – this form is provided to the employee by Comcare, completed by the employee and returned to Comcare, to authorise their employer to re-credit their leave and recover any salary that has been advanced from compensation payments received from Comcare, when liability is accepted under section 14 of the SRC Act.

**O4 Reconsideration form**

- 3.1 *Reconsideration request* – this form is utilised by an injured employee or an employer who disagrees with a determination made by Comcare under the SRC Act.