

Draft guidelines for workplace return to work programs

These guidelines are made under section 52
of the *Workplace Injury Management and
Workers Compensation Act 1998*.

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State Insurance
Regulatory Authority

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About these guidelines

1 The State Insurance Regulatory Authority (SIRA) is the New South Wales government
2 organisation that regulates and administers the state's workers compensation system.

3 SIRA has developed these Guidelines for workplace return to work programs
4 (guidelines) in line with the legislation to support, inform and guide employers, workers
5 and other stakeholders in developing a return to work program for their workplace.

6 A return to work program is the foundation supporting an organisational culture of
7 recovery at work. These guidelines give SIRA's requirements and expectations for
8 employers' return to work programs and coordinators under the following NSW laws:

- 9 • Workers Compensation Act 1987 (the 1987 Act)
- 10 • Workplace Injury Management and Workers Compensation Act 1998 (the 1998 Act)
- 11 • Workers Compensation Regulation 2016 (the 2016 Regulation).

12 SIRA issues these guidelines under section 52 of the 1998 Act and they operate by force
13 of law as delegated legislation. Specific sections of the workers compensation
14 legislation that place obligations on employers and provide guideline-making powers
15 are referenced throughout the document. Where these obligations and powers are
16 referenced, the term 'must' has been adopted.

17 These guidelines also outline SIRA's expectation of best practice workplace
18 rehabilitation. Where these guidelines express SIRA's expectations but there is no
19 specific legislative obligation, the term 'should' has been adopted.

20 Scope

21 All NSW employers must have a return to work program in place within 12 months of
22 starting a business, and it must be consistent with the insurer's injury management
23 program.

24  [Clause 15 of the 2016 Regulation and section 52\(1\) of the 1998 Act](#)

25 These guidelines cover Category 1 employers (see [page 3](#)) and Category 2 employers
 26 (see [page 12](#)), as defined in the 1998 Act and 2016 Regulation. The categories are based
 27 on the following criteria:

Category	Criteria	Return to work program requirements
1	<ul style="list-style-type: none"> • Basic tariff premium over \$50,000 a year. • Self-insured. • Insured by a specialised insurer and has over 20 employees. 	<p>Must follow the four steps in these guidelines and comply with the regulations.</p> <p>▀ Clauses 18 and 23(1) and (5) of the 2016 Regulation and section 52(1) of the 1998 Act</p>
2	<ul style="list-style-type: none"> • Basic tariff premium of \$50,000 a year or less. • Insured by a specialised insurer and has under 20 employees. 	<p>Can adopt SIRA's standard return to work program in these guidelines or develop their own program based on this.</p> <p>▀ Clause 17 of the 2016 Regulation</p>

28 These guidelines do apply to coal mine employers in NSW.

29 These guidelines do not apply to domestic or similar workers engaged by employers
 30 (including bodies corporate for strata or strata (leasehold) schemes), unless these
 31 workers are for the employer's trade or business.

32 They do not apply to employers that:

- 33 • hold owner-builder permits under the *Home Building Act 1989* (NSW) (for workers
 34 employed for the work the permits relate to)
- 35 • are corporations that only employ workers who are directors of the corporation
- 36 • only employ workers who are their family members
- 37 • only employ workers who work outside NSW
- 38 • have a written exemption from SIRA (to the extent specified in the exemption).

39 These guidelines do not address injury prevention. For information on employers' work,
 40 health and safety obligations please contact SafeWork NSW on 13 10 50 or visit
 41 www.safework.nsw.gov.au.

42 Transitional provisions

43 These guidelines take effect on **[date]** 2016. Employers have two years from this date
 44 to review and update their return to work program to ensure it complies.

45 These guidelines apply to all workplace rehabilitation and return to work coordinator
 46 activities, and replace the *Guidelines for workplace return to work programs,*
 47 *September 2010*. Any SIRA document that refers to the 2010 guidelines now refers to
 48 these guidelines.

49 Information for the reader

50 Words defined in the NSW workers compensation legislation have the same meaning in
51 these guidelines. References to applicable legislative provisions are made throughout
52 the document where further information can be obtained.

53 Substantial compliance

54 If an employer provides information or takes action that is substantially compliant with
55 these guidelines, but is a technical breach of these guidelines, then the information or
56 action remains valid unless a party has, as a result of that breach:

- 57 • been misled
- 58 • been disadvantaged, or
- 59 • suffered procedural unfairness.

60 This does not affect the obligations on workers, employers or insurers to fully comply
61 with all applicable workers compensation legislation.

62 Find out more

63 Employers, workers or unions with queries about these guidelines should contact SIRA's
64 Customer Service Centre on 13 10 50 or email contact@sira.nsw.gov.au.

65 SafeWork NSW has specialist Return to Work Inspectors who can advise and guide
66 employers. Contact SafeWork on 13 10 50 or email contact@safework.nsw.gov.au.

Category 1 employers

67 Category 1 employers meet one of the following criteria:

- 68 • The employer has a basic tariff premium over \$50,000 a year.
- 69 • The employer is self-insured.
- 70 • The employer is insured by a specialised insurer and has over
71 20 employees.

72 All employers must have a return to work program in place within
73 12 months of starting a business.

74  [Clause 15\(2\) of the 2016 Regulation](#)

75 The program must align with the employer's insurer's injury
76 management program and be reviewed at least every 2 years. It
77 should be written in plain English and the documented policies,
78 procedures, roles, responsibilities and communications must
79 support timely, safe and durable recovery at work.

80 Establishing a return to work program doesn't need to be
81 complicated, but it takes commitment from the employer and
82 their workers to do things right.

83 For Category 1 employers, implementing a successful return to work program involves
84 four main activities:

- 85 1. Appoint a return to work coordinator (below)
- 86 2. Develop a return to work program (see [page 5](#)).
- 87 3. Consult workers and unions (see [page 10](#))
- 88 4. Implement the program (see [page 11](#)).

89 1. Appoint a return to work coordinator

90 The return to work coordinator carries out the day-to-day duties of the return to work
91 program, and is the link between the worker and the recovery at work team. The
92 employer must employ the coordinator or engage them to do this (see [page 4](#)).

93 Training, skills and experience

94 Category 1 employers must appoint a return to work coordinator with the relevant
95 training, skills and experience. The coordinator must:

- 96 • have experience with NSW workers compensation legislation
- 97 • understand the roles and responsibilities of all stakeholders
- 98 • know and understand the legal obligations of NSW employers
- 99 • be experienced in supporting workers to manage injuries and recover at work
- 100 • have strong written and verbal communication skills
- 101 • be able to consult and negotiate with stakeholders
- 102 • have conflict resolution experience
- 103 • be organised and skilled in time management.

104  [Clause 23\(1\) of the 2016 Regulation](#)

Return to work program

A summary of the system the employer will use to manage workers with work related injuries or illnesses.

Injury management program

An insurer-developed strategy for managing all aspects of work related injuries and illnesses.

105 Transitional provisions

106 The workers compensation authority no longer trains return to work coordinators and
107 does not specify a course that they must complete.

108 Existing return to work coordinators meet the role's training, skills and experience
109 requirements if they hold any of the following documents from SIRA or WorkCover:

- 110 • a certificate of attendance at the SIRA-approved 2-day course Introduction to return
111 to work coordination
- 112 • a certificate of attendance at a WorkCover-approved 2-day course for rehabilitation
113 coordinators from February 1995 or before
- 114 • a letter exempting them from the requirement to attend training.

115 Role and functions

116 The return to work coordinator must have enough seniority to help the employer meet
117 their obligations under the workers compensation legislation. The level of seniority
118 required will depend on the employer's circumstances, but the coordinator must have
119 authority to represent and make decisions for the employer on the functions below. The
120 coordinator does not make decisions on claim liability or treatment – this is the insurer's
121 responsibility.

122 The return to work program must outline the coordinator's role in planning for recovery
123 at work and managing workers with a work related injury or illness. These duties must
124 include:

- 125 • confirming the injury type and severity with the injured worker and compiling initial
126 notification data
- 127 • coordinating the worker's recovery at work, including identifying suitable
128 employment opportunities
- 129 • preparing, monitoring and reviewing a recovery at work plan that documents the
130 worker's capacity and the duties available, in consultation with key parties
- 131 • liaising with external stakeholders, such as the nominated treating doctor, insurer,
132 treatment providers, union and workplace rehabilitation provider
- 133 • implementing the return to work program
- 134 • helping to redeploy workers (internally or externally) into suitable employment
135 when they cannot return to their pre-injury duties
- 136 • keeping injury and recover at work statistics
- 137 • keeping confidential case notes and records in line with laws and guidelines
- 138 • educating the workforce and promoting the health benefits of work
- 139 • developing policies to improve systems.

140 Employment arrangements

141 A return to work coordinator does not have to be a full-time worker who is dedicated
142 solely to the role. But, if the coordinator has other roles within the organisation,
143 employers must ensure the coordinator can carry out the functions listed above and
144 there is no conflict of interest between roles.

145 Employers should appoint an in-house coordinator, as they will have well-established
146 relationships with workers and a good understanding of all aspects of the workplace.

147 However, employers may outsource this role or engage a return to work coordinator
148 under a work arrangement or contract. In these cases, employers must ensure:

- 149 • the appointed person has the required training, skills and
150 experience (see [page 8](#))
151 • the arrangement will not disadvantage workers
152 • they consult the workforce before proceeding with the
153 arrangement
154 • there is no perceived or actual conflict of interest for the
155 person being engaged
156 • the return to work program details the arrangements,
157 including the person's name, qualifications and experience
158 • the suitability of these arrangements is reviewed every 2 years as part of the
159 program review.

Conflict of interest

A situation where a person's official duties conflict with their private wishes or needs, which may prevent them from fulfilling those duties impartially.

160 The employer must pay the cost of engaging a return to work coordinator. It is not a
161 claims cost.

162 2. Develop a return to work program

163 Category 1 employers must ensure their return to work programs cover the following
164 aspects:

- 165 • leadership and commitment
166 • workplace arrangements
167 • rights and obligations
168 • after an incident
169 • support for the worker
170 • recovery at work
171 • dispute prevention and resolution
172 • administration.

173 They can then use SIRA's checklist (see [page 16](#)) to ensure the program complies with
174 these guidelines.

175 These guidelines set out the minimum requirements for a return to work program.
176 Employers should add any other relevant policies or procedures that reflect the
177 business practices, culture and environment of their workplace, and refer to the NSW
178 workers compensation laws to ensure compliance. Employer associations or approved
179 workplace rehabilitation providers can help to develop a program, but employers must
180 pay any associated costs.

181 Leadership and commitment

182 The program must **state the employer's commitment to helping workers recover at**
183 **work**. This statement should reflect the organisation's structure and operating
184 environment.

185 The program must **show its connection to work health and safety (WHS) policies and**
186 **procedures** under the NSW *Work Health and Safety Act 2011* (the 2011 WHS Act) and
187 Work Health and Safety Regulation 2011 (the 2011 WHS Regulation). Employers must
188 detail how, following an injury, they will review their WHS policies and procedures to
189 identify gaps and opportunities for improvement.

190 The program must detail how the organisation will **develop a positive culture that**
191 **promotes recovery at work**. This includes:

- 192 • fostering positive attitudes towards workers recovering at work
193 • promoting the health benefits of work.

194 Workplace arrangements

195 The program must **list the return to work coordinator's name and contact details**. It
196 must explain the coordinator's role and identify what authority and resources they have
197 to negotiate, develop and implement activities. The coordinator must have reasonable
198 access to injured workers and their workplace. See [page 8](#) for more on the
199 coordinator's role.

200 Employers must **nominate an approved workplace rehabilitation provider** or providers
201 in the return to work program. Visit www.sira.nsw.gov.au for a list of approved
202 providers.

203 Clause 20 of the 2016 Regulation

204 While employers or insurers usually recommend a workplace rehabilitation provider for
205 each situation, workers must have the opportunity to refuse or request a change in
206 provider. The program must outline this procedure, including how workers will be told
207 of this opportunity.

208 The program must also document how the organisation will:

- 209 • cooperate with the workplace rehabilitation provider
210 • ensure reasonable access to injured workers.

211 Employers must **consult with workers and any industrial union representing them** when
212 developing their return to work program. The program must then outline how this was
213 done.

214 Section 52(2)(b) of the 1998 Act

215 The return to work program must **include communication and training arrangements**
216 **for telling staff about the program**. These could include induction training, toolbox
217 talks, intranet pages, staff development and other training programs.

218 It must also **outline monitoring, review and display arrangements**, including
219 reviewing the program every 2 years in consultation with workers and any union
220 representing them.

221 Category 1 employers must display and notify the workplace of the return to work
222 program - failing to do so is an offence. The program must explain how the employer
223 will do this.

Clause 21 of the 2016 Regulation

224 Rights and obligations

225 Employers must **inform workers of their rights and obligations**. The return to work
226 program must detail how these will be communicated to workers throughout the
227 recovery at work process.

228 Workers are obliged to:

- 229 • notify their employer as soon as possible after a work related injury happens
- 230 • participate and cooperate in establishing an injury management plan
- 231 • carry out the actions that such a plan requires of them
- 232 • consent for information about their injury management and recovery at work to be
- 233 shared between the insurer, employer, nominated treating doctor, treating
- 234 practitioners, workplace rehabilitation providers and the regulator
- 235 • make all reasonable efforts to recover at work.

236 Workers have the right to:

- 237 • nominate their own treating doctor
- 238 • employment that is both suitable and, so far as reasonably practicable, the same as
- 239 or equivalent to their pre-injury employment
- 240 • be consulted and involved in identifying suitable employment and developing their
- 241 recover at work plan
- 242 • confidentiality
- 243 • access mechanisms for resolving disputes.

244  [Sections 44\(1\), 47\(1-3\) and \(5\), 48\(1\) and 49\(2\) of the 1998 Act](#)

245 The program must also **outline the responsibilities and obligations of the recovery at**
246 **work team**, including the:

- 247 • organisation's senior and middle management
- 248 • return to work coordinator
- 249 • insurer
- 250 • nominated treating doctor
- 251 • approved workplace rehabilitation provider
- 252 • any union representing workers.

253 [After an incident](#)


254 Employers must **provide first aid equipment** for the workplace. They must ensure all
255 workers can access the equipment and there is sufficient access to facilities for
256 administering first aid. The return to work program must detail the organisation's first
257 aid arrangements, or refer to these procedures if documented elsewhere.

258  [Clause 42\(1\) of the 2011 WHS Regulation](#)

259 Employers must **keep a register of injuries** detailing all work related injuries or illnesses,
260 whether or not they result in a workers compensation claim. They must also keep a
261 record of each notifiable incident. The register may be written or electronic but, if it is
262 electronic, the employer must also provide training and facilities for all workers to use
263 it. The return to work program must describe the register and how the employer will
264 inform workers about procedures for completing it.

265  [Section 63 of the 1998 Act and clauses 45\(1\) and \(2\) of the 2016 Regulation](#)

266 An injured worker must **report the injury to their employer** as soon as possible after
267 sustaining it. Employers must then notify the insurer within 48 hours of receiving report
268 of a work related injury. The return to work program must include procedures for early
269 reporting by workers and to the insurer, and describe how the employer will inform
270 workers of these procedures.

271  Sections 44(1) and (2) of the 1998 Act

272 Employers must **report any notifiable incidents to the WHS**
273 **regulator**. The return to work program must explain how the
274 employer will inform the WHS regulator of any notifiable
275 incidents, or refer to this procedure if documented elsewhere.

Notifiable incident
A death, serious injury or illness, or dangerous incident that results from a business's conduct or an action at a workplace.

276  Section 38 of the 2011 WHS Act

277 Support for the worker

278 Understanding a worker's situation and offering them support will positively affect the
279 worker's response to their injury and enable successful recovery at work. The return to
280 work program must document how the organisation will **maintain positive**
281 **communication with injured workers and the recovery at work team**, and who will be
282 responsible for ensuring this.

283 The program must detail how the employer will **request the worker's informed consent**
284 to gather and exchange information about the worker's health and recovery at work. To
285 give informed consent, a worker needs to understand the implications of agreeing or
286 refusing.

287 The program must describe:

- 288 • how the employer will request consent to release and exchange information about a
289 worker's recovery at work
- 290 • what kind of information will be exchanged
- 291 • who is authorised to exchange this information
- 292 • how the worker will be informed of the benefits of information exchange and their
293 associated rights, obligations and potential penalties for noncompliance.

294 For more on consent, see [page 17](#). Employers may use SIRA's standard form (see [page](#)
295 [17](#)) to request consent.

296 To **ensure workers' weekly payments are prompt and correct**, the return to work
297 program must include procedures for:

- 298 • advising the insurer of the worker's pre-injury average weekly earnings
- 299 • making weekly payments at the usual times wages are paid
- 300 • passing payments on to the worker as soon as practicable after receiving them from
301 the insurer.

302  Section 264(2) and (3) of the 1998 Act and section 84 of the 1987 Act


303 Employers must not refuse or delay passing on entitlements to a
304 worker. They may incur a penalty if they do so.

305  Section 69(1)(c) of the 1998 Act

306 As soon as possible after being notified of a significant work
307 related injury or illness, the employer must **participate and**
308 **cooperate while the insurer writes an injury management plan** for
309 the affected worker. The return to work program must detail how
310 the employer will work with the insurer to develop this plan,

Significant injury
An injury likely to make the worker unable to work for more than seven continuous days, whether or not those are work days, and whether or not the worker's incapacity is total, partial or a combination of both.


311 including an offer of suitable employment.

312  Sections 46(1) and 42 of the 1998 Act

313 Recovery at work

314 Employers must **offer workers suitable employment**, where reasonably practicable, so
315 they have the opportunity to recover at work. The employment may be either full time
316 or part time and, where reasonably practicable, the same as or equivalent to the
317 worker's pre-injury employment.

318 Employers must provide suitable employment even when a claim is in dispute. This may
319 be the same job with different hours or modified duties, a different job at the same or a
320 different workplace, training opportunities or a combination of these. It is also referred
321 to as suitable, alternate, modified or light duties.

322  Sections 41A and 49 of the 1998 Act and section 32A of the
323 1987 Act

324 The return to work program must document the policies and
325 procedures for providing suitable employment, including:

- 326 • who is responsible for identifying suitable employment, and
- 327 how they will do so
- 328 • how the employer will consult with the worker
- 329 • in what circumstances the employer would engage a
- 330 workplace rehabilitation provider
- 331 • the process for resolving disputes if parties disagree
- 332 • strategies to manage instances where no suitable employment can be identified.

333 Tailored planning is essential to a successful work outcome for both employer and
334 worker. This involves **developing and maintaining a recover at work plan**. The return to
335 work program must detail the employer's policies and procedures for:

- 336 • including the worker in developing the plan
- 337 • what each plan should contain
- 338 • managing the worker's appointments for treatment and
- 339 rehabilitation
- 340 • who should have a copy of the plan
- 341 • monitoring and reviewing the plan
- 342 • notifying relevant parties of changes to the plan.

343 Some workers will not be able to return to their pre-injury workplace. The return to
344 work program must outline the support and steps the employer will offer, including
345 retraining and job placement.

346 The program must also describe how the employer will **manage the dismissal of injured**
347 **workers** within the law.

348 An employer cannot legally dismiss a worker for 6 months (or the length of any
349 accident pay in the worker's award or agreement) after the worker becomes unfit for
350 employment due to a work related injury. If an employer dismisses a worker because of
351 a work related injury at any stage in the claim, the worker may apply to the employer to
352 be reinstated. If the employer then replaces the worker within 2 years of dismissing
353 them, the employer must inform the replacement worker that the dismissed worker
354 may be entitled to be reinstated to the role.

***A workers
compensation guide
for employers: When
a worker is injured***

A step-by-step guide to identifying suitable employment and developing a recover at work plan, available at www.sira.nsw.gov.au.

Recover at work plan

An individual plan that the employer develops, in consultation with the worker, to manage recovery at work.

355 ■ Sections 241(1), 247 and 248 of the 1987 Act

356 Dispute prevention and resolution

357 To **prevent and resolve disputes**, employers' return to work programs must detail:

- 358 • how they will prevent disputes
- 359 • what processes they will use to resolve disputes about injury management, suitable
360 employment or recover at work planning
- 361 • how they will advise workers of the workplace dispute resolution arrangements and
362 formal dispute mechanisms available through the workers compensation system.

363 Administration

364 Employers should familiarise themselves with their legal obligations when collecting,
365 using, and disclosing an individual's personal and health information. Particular caution
366 should be exercised when dealing with an individual's health information, including any
367 medical advice or opinions about the person. Such information should only be
368 collected and retained when necessary, and should only be disclosed after careful
369 consideration of applicable privacy principles, including whether the individual has
370 consented to the disclosure.

371 ■ *Section 243 of the 1998 Act, Privacy Act 1998 (Cwlth), Australian Privacy Principles*
372 *and Health Records and Information Privacy Act 2002 (NSW)*

373 The return to work program must **include confidentiality and record keeping**
374 **procedures** for:

- 375 • obtaining the worker's informed consent to exchange information
- 376 • establishing and maintaining a confidential file for each injured worker
- 377 • restricting access to the files and storing them securely.

378 3. Consult workers and unions

379 Effective and successful return to work programs involve consultation with workers on
380 rehabilitation and injury management. Consultation promotes a positive culture around
381 recovery at work and workers compensation, and gives everyone an opportunity to
382 influence policies and procedures. It is in the employer's interest to give workers clear
383 information to avoid misunderstandings and uncertainty.

384 Employers must consult their workers and any industrial union that represents them
385 when developing their program, and should accommodate the needs of workers who
386 do not speak English so they can participate equally. Consultation can be facilitated
387 through health and safety committees or their representatives, unions or other agreed
388 means.

389 The return to work program must explain how the employer meets this requirement.

390 ■ *Section 52(2)(b) of the 1998 Act*

391 4. Implement the program

392 After considering feedback gathered during consultation, the employer must finalise
393 the return to work program and arrange for it to be implemented.

394 This includes informing workers of their rights, obligations and the procedures for
395 workplace rehabilitation and recovery at work. Employers may do this through
396 induction programs, training courses, staff meetings, newsletters and noticeboards, and
397 should consider the needs of workers who do not speak English.

398 Employers must display and notify the workplace of the return to work program -
399 failing to do so is an offence.

400 Section 21 of the 2016 Regulation

401 Employers should then continually review the return to work program, in consultation
402 with the relevant parties, to ensure it is effective. The program must specify review
403 dates that suit the workplace's circumstances. Employers must review their programs
404 at least every 2 years.

DRAFT

Category 2 employers

405 Category 2 employers are any employers that are not Category 1 employers (refer to
406 page 1):

407 All employers must have a return to work program in place within 12 months of starting
408 a business.

409  [Clause 15\(2\) of the 2016 Regulation](#)

410 Establishing a return to work program doesn't need to be
411 complicated, but it takes commitment from the employer and
412 their workers to do things right. Employers must consult with their
413 workers and any industrial union that represents them when
414 developing and reviewing their program.

Return to work program

A summary of the system the employer will use to manage workers with work related injuries or illnesses.

415  [Section 52\(2\) of the 1998 Act](#)

416 For Category 2 employers, implementing a successful return to work program involves
417 three main activities:

- 418 1. Appoint the person responsible for recovery at work
- 419 2. Develop a return to work program
- 420 3. Implement the program

421 1. Appoint the person responsible for recovery at work

422 Category 2 employers do not need to appoint a return to work coordinator, but they
423 must appoint someone to manage any workers compensation and recovery at work
424 activities that arise. This may be an existing employee or a return to work coordinator
425 who is engaged through a work arrangement or contract.

426 They may also set up a shared arrangement with other employers. In such an
427 arrangement, an employer association, a union or a group of employers in the same
428 business or location share a return to work coordinator.

429  [Section 25 of the 2016 Regulation](#)

430 Employers that choose engaged or shared arrangements must
431 ensure:

- 432 • the appointed person has relevant training, skills and
433 experience (see [page 3](#))
- 434 • they provide reasonable access to workers and the workplace
- 435 • the arrangement will not disadvantage workers
- 436 • they consult the workforce before proceeding
- 437 • there is no perceived or actual conflict of interest for the appointed person
- 438 • the other employers in a shared arrangement are in the same business or location
- 439 • the return to work program details the arrangements, including the person's name,
440 qualifications and experience

Conflict of interest

A situation where a person's official duties conflict with their private wishes or needs, which may prevent them from fulfilling those duties impartially.

- 441 • the suitability of these arrangements is reviewed every 2 years as part of the return
442 to work program review.
- 443 Employers must pay the cost of engaging or sharing a return to work coordinator. It is
444 not a claims cost.

445 **2. Develop a return to work program**

446 Category 2 employers can meet their legal obligations by customising SIRA's standard
447 return to work program (see [page 19](#)) for their workplace. This program outlines
448 general procedures for handling work related injuries and illnesses, and represents an
449 employer's commitment to the health, safety and recovery of workers following a work
450 related injury or illness.

451  [Section 17\(2\) of the 2016 Regulation and section 52\(2\) of the 1998 Act](#)

452 Category 2 employers can also develop their own return to work program, using the
453 standard program as a guide.

454 Employers must consult their workers and any industrial union that represents them
455 when developing their program, and should accommodate the needs of workers who
456 do not speak English so they can participate equally. Consultation can be facilitated
457 through health and safety committees or their representatives, unions or other agreed
458 means.

459 **3. Implement the program**

460 When Category 2 employers implement their return to work program, they must inform
461 workers of their rights, obligations and the procedures for workplace rehabilitation and
462 recovery at work.

463 Employers must make copies of the return to work program available to their workers,
464 and provide a copy to any worker who requests it or has a workers compensation
465 claim. If these arrangements are in place, Category 2 employers are not required to
466 display their program.

467  [Section 22 of the 2016 Regulation](#)

468 Employers should then continually review the return to work program, in consultation
469 with the relevant parties, to ensure it is effective. The program should specify review
470 dates that suit the workplace's circumstances. Employers must review their programs
471 at least every two years.

Appendix – templates

472 Return to work program checklist for Category 1 employers

473 Employers developing, implementing or reviewing a return to work program can use
474 this checklist to ensure their program:

- 475 • covers the required content as outlined in these guidelines
- 476 • complies with workers compensation laws.

Leadership and commitment

State employer's commitment to helping workers to recover at work

Show program's connection to WHS policies and procedures

Detail how organisation will develop a positive culture that promotes recovery at work

Workplace arrangements

List return to work coordinator's name, contact details, role, resources and authority

Nominate approved workplace rehabilitation provider and give their details

Describe arrangements for consulting workers and their unions

Outline communication and training arrangements for the program

Detail monitoring, review and display arrangements

Rights and obligations

Describe how workers will be informed of their rights and obligations

Outline obligations for recovery at work team

After an incident

Detail organisation's arrangements for providing first aid

Describe register of injuries and how workers will be trained to use it

Include procedures for workers to report an injury and employer to notify the insurer

Explain process for reporting notifiable incidents to the WHS regulator

Support for the worker

Outline plan to maintain positive communication with injured workers and recovery at work team

Describe how employer will request worker's informed consent

Give procedures for managing weekly payments

State employer's commitment to participating and cooperating in developing injury management plan

Recovery at work

Describe plan for identifying and providing suitable employment

Outline procedures for developing and maintaining a recover at work plan

Describe how employer will manage the dismissal of injured workers within NSW law

Dispute prevention and resolution

Detail plan for preventing and resolving disputes

Explain how employer will advise workers of formal and informal mechanisms for resolving disputes

Administration

Include procedures for keeping records and maintaining confidentiality

477 Requesting consent to release and exchange personal 478 information

479 Workers compensation, information privacy and health records laws regulate the
480 exchange of personal and health information. Employers should understand what these
481 laws require when handling confidential health and personal information about a
482 worker's work related injury and recovery.

483 What is health information?

484 Health information includes any electronic or paper-based information or opinion about
485 a worker's:

- 486 • physical or psychological health
- 487 • treatment
- 488 • rehabilitation
- 489 • retraining
- 490 • claims
- 491 • injury or employment management practices to aid their recovery at work.

492 Why is consent important?

493 By law, employers must gain consent from a worker to exchange and receive
494 information about their health, injury and recovery. But, more importantly, this
495 promotes good communication and transparent decision making between the worker,
496 the employer and the recovery at work team. Good communication can increase
497 adherence to treatment, improve long-term outcomes, hasten recovery and reduce
498 emotional distress.

499 What is informed consent?

500 Informed consent is where a worker is given all the relevant information before
501 consenting to the release and exchange of information. It ensures the worker
502 understands the benefits of providing consent and risks of not doing so.

503 A worker's consent is only genuine and valid if they have been given this information
504 and can understand, provide and communicate their consent. This includes
505 accommodating the needs of workers who do not speak English.

506 When requesting a worker's written consent, employers should ensure the worker
507 knows and understands:

- 508 • their rights and obligations
- 509 • what type of information will be exchanged
- 510 • who will be authorised to exchange and release information
- 511 • the importance and benefits of the recovery at work team being able to exchange
512 information
- 513 • possible penalties for not providing their consent.

514 **Standard consent form for release of personal information**

Claim number _____

Worker details

Title _____ Family name _____

Given name _____

Employer details

Organisation _____

Contact name _____ Title _____

Phone _____ Email _____

515 **Worker's declaration**

516 I have discussed this consent form with my employer. I understand that any information
517 collected will be kept in a confidential case file, with access restricted to those who are
518 directly responsible for coordinating and monitoring my recovery at work.

519 I understand that my employer will:

- 520 • only collect health information that is relevant and necessary to manage my
521 recovery at work and coordinate the workers compensation claim
- 522 • only use and disclose information for the purpose for which it was collected
- 523 • keep any information collected separate from my other personnel records
- 524 • take reasonable steps to protect my information by ensuring it is stored securely,
525 kept no longer than necessary and disposed of appropriately
- 526 • allow me to access my information without unreasonable delay, unless providing
527 access would be unlawful or pose a serious threat to another person's life or health.

528 Considering the above, I authorise and consent to the collection, use and disclosure of
529 personal and health information relevant to managing my injury and workers
530 compensation claim. This information may be exchanged between my employer, my
531 treating doctor(s), the insurer, the workplace rehabilitation provider and the workers
532 compensation authority.

533 I understand that my workers compensation entitlements may be affected if I withdraw
534 my consent.

Worker

Signature _____ Date _____

Employer's representative

Signature _____ Date _____

Interpreter

Signature _____ Name _____

535 Return to work program for Category 2 employers

536 This document describes the steps that we, [\[name of organisation\]](#), will take if a worker
537 sustains a work related injury or illness in our workplace.

Person responsible for recovery at work in our business

Name _____
Phone _____ Email _____

Our workers compensation insurer

Name _____
Phone _____ Website _____

538 Our commitment

539 From injury prevention to when an injury occurs, through the insurance claims process
540 and as our workers recover at work, we will:

- 541 • provide a safe and healthy working environment for all workers
- 542 • promote positive attitudes towards workers compensation claims and recovery at
543 work
- 544 • consult our workers and, where applicable, unions to ensure this program is
545 implemented successfully
- 546 • review this program at least every 2 years to ensure it remains current
- 547 • have procedures to help workers achieve the best health, work and recovery
548 outcomes.

549 Our workers compensation policy covers all of our workers in case they suffer a work
550 related injury or illness.

551 The procedures we will use to fulfil our commitments are outlined below.

552 After an incident

553 We will:

- 554 • provide immediate first aid (where appropriate) and medical treatment (if required)
555 when a worker becomes injured or ill at work
- 556 • require all injuries to be reported as soon as possible and recorded in the register of
557 injuries
- 558 • notify [\[name of insurer\]](#) of all work related injuries and illnesses within 48 hours
- 559 • immediately notify SafeWork NSW on 13 10 50 if an incident either involves a death,
560 serious injury or illness, or is a dangerous incident.

561 Support for the worker

562 We will:

- 563 • contact the worker regularly throughout their recovery
- 564 • inform the worker of their rights and obligations, and give them our workers
565 compensation insurer's details

- 566 • make early contact with the worker's doctor to discuss the worker's normal duties,
567 suitable work that is available, and opportunities for workplace modifications or
568 assistive equipment
- 569 • contribute to the worker's injury management plan, which will be written by our
570 insurer, and meet our obligations stated in the plan
- 571 • arrange for an approved workplace rehabilitation provider to help the worker to recover
572 at work, if necessary
- 573 • not dismiss a worker for 6 months after they become unfit for employment because
574 of a work related injury, as the law requires.

575 If we dismiss a worker because they are unfit for employment due to the injury, the
576 worker may apply to us within 2 years to be reinstated.

577  [Sections 241 and 248 of the Workers Compensation Act 1987 \(NSW\)](#)

578 Recovery at work

579 We will provide suitable full-time or part-time employment for workers with the
580 capacity to recover at work, as far as reasonably practicable. This work will be
581 consistent with medical advice, productive and appropriate for the worker's physical
582 and psychological condition. It may be parts of the same job, the same job with
583 different hours, or modified duties, a different job at the same or a different workplace,
584 training opportunities or a combination of these.

585 We will also:

- 586 • provide other support, such as equipment, workplace modifications or changes in
587 practices to reduce work demands, if necessary to aid a worker's recovery at work
- 588 • begin planning for the worker's recovery at work as soon as we are notified of a
589 work related injury or illness
- 590 • consult the worker, insurer, doctor (where possible) and workplace rehabilitation
591 provider (where applicable) to write a tailored recover at work plan
- 592 • monitor the worker's progress and update the plan as required
- 593 • keep all documents about the workers compensation claim in a confidential file.

594 Dispute prevention and resolution

595 We will:

- 596 • seek help from the insurer or an approved workplace rehabilitation provider if the
597 worker's recovery at work is difficult or progress is stalled
- 598 • work with the worker and their representative to resolve any disputes, and seek help
599 from the insurer if necessary.

600 If there is a dispute, we will give the worker the insurer's contact details and the
601 following contacts:

602 **SIRA Customer Service Centre**

603 Phone 13 10 50 or visit www.sira.nsw.gov.au.

604 **Workers Compensation Independent Review Officer**

605 Phone 13 94 76 or visit www.wiro.nsw.gov.au.

606 **Workers Compensation Commission**

607 Phone 1300 368 040 or visit www.wcc.nsw.gov.au.

608 These parties have consulted and understand the procedures detailed in this return to
609 work program:

Employer representative

Name _____ **Title** _____

Signature _____ **Date** _____

Worker representative

Name _____

Signature _____ **Date** _____

610 Employers must review their programs at least every 2 years. This program will be
611 reviewed on _____

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Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

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Return to Work Operations, Workers and Home Building Compensation Regulation, SIRA

92-100 Donnison Street, Gosford NSW 2250

Customer Service Centre 13 10 50

Website www.sira.nsw.gov.au

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