

Guidelines for workplace return to work programs

Submissions summary

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State Insurance
Regulatory Authority

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Introduction

The *Workplace Injury Management and Workers Compensation Act 1998* sets out clear expectations and objectives for workplace rehabilitation.

All NSW employers must have a return to work program in place within 12 months of starting a business. It must be consistent with the insurer's injury management program and any guidelines issued by the Authority, that is, the State Insurance Regulatory Authority (SIRA).

A return to work program is the foundation supporting an organisational culture of recovery at work and is a written description of the steps an employer will take when a worker sustains a work related injury or illness.

The existing *Guidelines for workplace return to work programs* (Guidelines) were developed in 2010 and require updating.

In October 2016, following consultation with subject matter experts from across the workers compensation industry, SIRA issued draft Guidelines for comment. 27 submissions were received in response.

We encourage you to read the following summary of comments made in the submissions, in response to the key considerations raised and the targeted questions asked.

Key themes in submissions

Background and context

Submissions were received from 27 stakeholders as part of the consultation.. Respondents included employer associations, worker representative groups, unions, employers, government agencies, insurers and service providers.

Themes and issues

Return to work coordinators

1. The training requirements for return to work coordinators

The draft Guidelines proposed replacing the requirement for Category 1 return to work coordinators to attend a two-day face-to-face workshop with a new requirement for an employer to appoint a return to work coordinator with relevant training, skills and experience.

Supportive	Not supportive	Other/No comment
5	8	14

Stakeholders who support the change to the training requirements believe it will result in Category 1 employers placing greater importance on the responsibility and complexity of the return to work coordinator role and ensure the person in this role is appropriately skilled for their unique business and workplace needs.

Stakeholders noted that it will provide opportunities for employers/self-insurers to develop their own internal training programs that can be closely aligned to their return to work program.

The support for the proposed change comes with a significant caveat – that SIRA provide clarification on training and competency standards for return to work coordinators (particularly for entry level roles), as well as more information on how we would monitor the application of these new standards.

In addition, stakeholders requested opportunities for return to work coordinators to share experiences across employer/industry groups by hosting regular forums, webinars, information sessions etc.

The main concern of stakeholders who do not support the change to the training requirements, is that it may lead to a reduction in the quality of return to work coordinators in the workplace, resulting in poorer outcomes for workers.

These stakeholders consider that the status and ability of the return to work coordinators will be downgraded and insurers will increase their utilisation of workplace rehabilitation providers to compensate for the skill deficiencies of the employer.

2. Listing return to work coordinator details in the return to work program

Both the current and draft Guidelines require an employer to list the name and contact details of their return to work coordinator(s) in the program.

Supportive	Not supportive	Other/No comment
0	5	22

A number of stakeholders did not support the requirement for Category 1 employers to have the name and contact details of the organisation's return to work coordinator(s) listed in their return to work program. In large organisations, this was reported to be difficult as it may mean the program has to be reviewed and consulted on every time there is a change of staff.

There was general agreement among stakeholders that general contact information should be included in the program, with specific staff details (like names) included as an appendix to the program or listed elsewhere for example an internal directory.

Consultation

3. Consultation arrangements

The draft Guidelines proposed the removal of the requirement for an employer's return to work program to be an 'agreed' system. It aligned the consultation arrangements with the legislative provisions.

Supportive	Not supportive	Other/No comment
2	3	22

Stakeholders who support the change said the current requirement to have an 'agreed' system was onerous and that changing the wording in the Guidelines would more accurately reflect the legislative intent.

It was also noted that the consultation arrangement would be supported by the comprehensive and prescriptive manner in which the requirements for an employer's return to work program have been detailed in the Guidelines.

Stakeholders against the change expressed concern that it was a dilution of worker rights and would lead to workers being disadvantaged in the recovery at work process. It was felt that the return to work program should represent the consensus of all relevant parties, not just the employer. The lack of definition of consultation within the Guidelines or legislation may mean that employers adopt an 'information sharing' approach rather than engaging workers to actively contribute to the development of their organisation's return to work program.

RTW hierarchy

4. Return to work hierarchy

The draft Guidelines removed the table known as the RTW Hierarchy (refer to page 18 of the current Guidelines) and replaced it with the concept of the 'most direct path back to employment'.

Supportive	Not supportive	Other/No comment
2	5	20

Stakeholders who supported the removal of the hierarchy noted that it would promote a shift towards a less prescriptive recovery at work process. It was acknowledged that it could be a useful tool to guide planning, however it should not be contained within subordinate legislation.

Those against suggested the hierarchy gives structure to the recovery at work process and its removal may encourage employers not to make reasonable adjustments in the workplace and preference re-deployment over a return to pre-injury duties.

The contents of an employer's return to work program

5. Nominating workplace rehabilitation providers

The draft Guidelines requires a Category 1 employer to nominate workplace rehabilitation providers in their return to work program.

Supportive	Not supportive	Other/No comment
0	7	20

Some stakeholders suggested that it was an administrative burden to require the nomination of workplace rehabilitation providers in their return to work program given the geographical spread of their organisation, the capability and skill set of their internal staff and the need to revise and consult on their program should there be a change in provider details.

Some stakeholders said that they rely on their insurer's provider management arrangements which can include panels of providers, and that provider selection is often related to the individual needs of the worker and their injury.

It was acknowledged that engaging providers that understand the workplace is of value and suggested that the requirement to list them in the program could be optional rather than compulsory.

The style and format of the Guidelines

In general, stakeholders were supportive of the move to ensure the Guidelines were drafted in plain English, accessible by both small and large employers, and took a practical approach to the drafting and implementation of employer return to work programs.

Some stakeholders expressed concern at the inconsistency in the use of 'recover at work' and 'return to work program' and questioned the need to update the titles of the Guidelines and return to work coordinators to reflect the cultural shift towards recovery at work.

Some stakeholders were not supportive of the removal of the list of stakeholder obligations in the current Guidelines. Concerns related to the absence of this information in other SIRA guidance material, and that some obligations listed (which did not appear in other legislative instruments) were enforceable because of their inclusion in the Guidelines.

Next steps

The information in this feedback summary will be used to refine the draft Guidelines, with the view to finalisation and gazettal of the new Guideline by March 2017. SIRA will continue engage with stakeholders throughout the development and implementation phases.

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State Insurance Regulatory Authority (SIRA)

Workers & Home Building Compensation Regulation, Locked Bag 2906, Lisarow NSW 2252

SIRA Customer Service Centre 13 10 50

Website www.sira.nsw.gov.au

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