

8 - Return to Work

In most cases an injured [worker](#) can remain at or return to work ([RTW](#)), with medical support. When this does not happen, early and appropriate agent intervention is needed to achieve a return to work outcome.

Commitment to return to work [WorkSafe](#) is committed to obtaining an early, successful and sustainable RTW outcome wherever possible for injured workers. To achieve this agents must:

- ensure every injured worker is provided with appropriate advice and assistance to RTW in [suitable employment](#) or [pre-injury employment](#)
- have appropriate case management practices in place to ensure workers with a current work capacity ([CWC](#)) are encouraged and assisted to RTW.

RTW hierarchy

Initially, OR services should be focused at the injury workplace. Only after all possibilities have been explored at the injury workplace or at other workplaces of the injury employer, should the focus be shifted to RTW with a new employer.

An agent, employer and OR provider (if one is involved) must consider the following RTW hierarchy when determining a RTW goal for a worker:

1. same employer, same job
2. same employer, similar job
3. same employer, different job
4. different employer, same job
5. different employer, similar job
6. different employer, different job

Worker current work capacity established

As part of the case management process, an agent must continually review the worker's circumstances and make a decision regarding the worker's CWC as often as is necessary and particularly when new relevant medical evidence is received.

Agent consideration must also be given to whether approving OR services may assist and support the worker to RTW.

When the RTW goal is RTW with the injury employer, OR services can also be approved when there is medical evidence suggesting a work capacity within three months may be possible.

When the RTW goal is RTW with a new employer then OR services should only be approved when the worker's CWC is established.

Act ref: S99, S99AAA(2)

Worker engagement

The engagement of the worker is a key element in any early, safe and sustainable RTW.

An employer has an obligation to plan the RTW of a worker with an incapacity for work. The agent should support the injury employer to fulfil this obligation.

When RTW options with their injury employer are fully exhausted, the worker must be assisted to RTW with a new employer.

See: [8.3 - Worker RTW obligations](#)

Worker THP engagement

Engagement of a worker's THP is another key element in early, safe and sustainable RTW. In particular, an agent must engage the THP who is providing the worker's certificates of capacity.

An employer has an obligation to consult with the worker's THP (subject to obtaining the worker's consent which is usually provided in the initial claim form).

An agent must also ensure that the worker's THP is consistently informed of the agent's case management and RTW strategy for the worker.

See: [8.10 - RTW questionnaire process](#)

Worker has no current work capacity

Where the agent establishes that the worker has no current work capacity ([NCWC](#)), they must ensure an effective case management process is in place.

A decision regarding the worker's NCWC should be made by the agent as often as is necessary and particularly when new relevant medical evidence is received.

Related information

- [If your worker is injured - A guide for employers](#)

This WorkSafe publication contains information for employers about RTW. Agents must be familiar with this publication in order to support and guide employers and workers.

This Guide is available on the WorkSafe website.

- [Employer obligations](#)

Provides information on employer obligations, including providing suitable or pre-injury employment, [RTW planning](#) and consulting, RTW information provision and RTW Coordinators.

- [Entitlements - Medical and like services](#)

Provides information on available medical and like services and the process for approving and paying for these services.

- For detailed information on how employers can comply with their return to work obligations, refer to the following publications:

- [Compliance Code 1 of 4: Proving employment, planning and consulting about return to work](#)
 - [Compliance Code 2 of 4: Return to Work Coordinators](#)
 - [Compliance Code: 3 of 4: Return to Work Information](#)
 - [Compliance Code 4 of 4: Cooperating with labour hire employers about return to work.](#)
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This chapter provides information on agent obligations to support RTW with both injury and new employers.

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8.1 - Early claims management

Systematic file reviews

The overall objective is to achieve a [RTW](#) early in the life of a claim by reviewing strategic factors at critical times and identifying and overcoming any RTW barriers. To achieve this objective requires a systematic review and conferencing of files by agents at strategic points to target early, safe and sustainable return to work.

Systematic file reviews may include:

- [MDT](#) case conference with the [worker](#) and employer
- case conference or review with other parties (such as the [THP](#), OR provider or other stakeholders)
- review by agent staff other than the claim owner.

Systematic reviews should be aligned to claims events, injury recovery or RTW events. Claims should be reviewed regularly to ensure the plan remains appropriate, with a maximum of eight week intervals from the previous review.

See also: [7.14.5 - Multidisciplinary teams](#)

RTW management

A primary focus of managing claims should be to improve safe and sustainable RTW outcomes and to promote the right intervention at the right time.

This can best be achieved by the agent:

- systematically reviewing claims in line with the multidisciplinary management model
- considering the unique circumstances of each claim identifying and addressing RTW barriers
- ensuring that a strategy is developed, monitored and maintained for each claim
and
- ensuring the appropriate medical and OR service interventions occur at the right time.

See also:

[7.6.2.3 - Initial claim review by MDT](#)

[7.11 - Medical exams, certificates and reports](#)

[8.12.4 - RTW management framework](#)

8.2 - Occupational rehabilitation services

Occupational rehabilitation (OR) services are offered to a [worker](#) with a current work capacity ([CWC](#)) or a potential CWC to assist them to [RTW](#) with their injury employer or a new employer.

RTW focus determines the type of OR service offered

The types of OR services that may be approved for a worker will depend on whether the RTW goal is to help them RTW with their injury employer or if that is not possible, with a new employer.

Knowing the RTW goal helps an agent decide the type of OR service to be approved and for what time period the OR service should be provided.

See also: [8.2.1 - OR services](#)

What is an OR service?

An OR service is a service to a worker required as a result of a [work-related](#) injury under s99 of [the Act](#). An OR service is focused on the achievement of RTW as soon as it is practicable given a worker's CWC, physical or psychological limitations or medical restrictions.

[WorkSafe](#) recognises specific OR services to support a worker to RTW with their injury employer or a new employer.

Each OR service has a service code, a description and a fee approved by WorkSafe. WorkSafe then includes each service in a particular Schedule based on the RTW goal.

Who approves OR services?

Except where an employer has provided OR services in discharge of their employer excess for medical and like services under s125A(3)(c) of the Act, the agent approves OR services.

OR services require prior approval from the agent before the service is provided. The OR service approved must be required by the worker as a result of their work-related injury, be reasonable and necessary in the circumstances and the costs of the OR service must be reasonable.

See also: [8.2.3 - Agent approval of OR services](#)

Who can request OR services?

The above prior approval requirements apply regardless of who requests the OR service for the worker. A request for an OR service may be made by the worker or the worker's representative or their [THP](#) or the injury employer. New employers may even request an OR service if the worker has returned to work with a new employer.

The agent must inform the worker in writing why an OR service has not been approved and include the reasons for that decision and appeal rights.

Act ref: S99, S99AAA(2)

Approved OR providers

Only OR providers approved by WorkSafe may deliver OR services. All OR providers are approved to deliver Original Employer Services ([OES](#)). Some OR providers are approved to deliver Workplace Support Services ([WSS](#)) and/or New Employer Services ([NES](#)).

OR providers offer specialised and independent [RTW planning](#) assistance by helping to clarify and create a common understanding between the various parties about any workplace issues, RTW barriers or concerns.

OR providers prepare reports, which include action plans and identify pre-injury or [suitable employment](#) to resolve and progress any RTW issues and achieve a RTW.

See:

[Approved Occupational Rehabilitation Service Provider Directory](#)

Worker choice of OR provider

Workers are entitled to receive an OR service from an approved OR provider of their choice from a list of at least 3 OR providers where available.

See: [8.2.7 - Worker choice of OR provider](#)

OR services on pending claims

The agent may pay the [reasonable costs](#) of an OR service prior to a worker's entitlement to compensation being determined. No OR services can be approved on or after the date claim liability is rejected or the worker's entitlement to medical and like services (under s99 of the Act) has ended (been terminated).

See: [8.2.5 - OR services on pending claims](#)

Act ref: S99A(1)

Use of information consent forms

The [Collection Statement](#) in the Worker's Injury Claim Form allows OR providers to collect personal and health information for the purpose of processing, assessing and managing the claim. OR providers have been directed that there is no requirement for them to seek additional consent and cannot require or request an injured worker to sign an additional consent form.

OR providers should inform workers that they will deliver the OR service consistent with the *Information Privacy Act 2000* and *Health Records Act 2001*. If any injured worker has concerns regarding OR providers collecting or disclosing personal information in the process of delivering the OR service, these concerns should be referred to the relevant WorkSafe Agent.

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8.2.1 - OR services

The types of OR services approved for a [worker](#) depend on the [RTW](#) goal for the worker.

RTW with injury employer focus

[WorkSafe](#) recognises a number of OR services specifically for RTW with the injury employer. These are referred to as Original Employer Services ([OES](#)). Some or all of these OES services may be needed to return the worker to work with the injury employer. Which OES service is approved by the agent will depend on the worker's capacity for work at the time the service is provided and whether the worker has returned to their full-time pre-injury duties or hours at the time OES services are commenced.

A worker is entitled to choose the OR provider who will provide the OES service.

See:

[8.2.7 - Worker choice of OR provider](#)

[8.12.1 - OES Schedule 2](#)

Workplace support service ([WSS](#))

Workplace Support Service (WSS) is a specific type of three month OR service for a worker with a mental injury claim where a workplace relationship breakdown is a key contributor to that injury. The RTW goal remains RTW with the injury employer and if the worker continues to require OR servicing post three months, the agent may approve OES services.

Where a RTW is achieved during the three month period of WSS the applicable OES incentives will be paid to the OR provider on submission of an appropriate invoice.

A worker is entitled to choose the OR provider who will provide the WSS service.

See:

[8.2.7 - Worker choice of OR provider](#)

[8.12.3 - WSS Schedule 4](#)

Worker at work with injury employer but this is not a long-term solution

Although a worker may RTW with their injury employer the agent may be advised that this is not a long-term solution. Prior to considering a new RTW goal with a new employer, the agent must confirm the injury employer's RTW obligations have been satisfied, including fully exhausting any other RTW opportunities at another of their workplaces and considering vocational re-education.

Once the agent is satisfied that no opportunity exists for the worker to return to work at a workplace of the injury employer, the RTW goal becomes a return to work with a new employer and a 26 Week [NES](#) Vocational Assessment Report should be approved.

RTW with new employer focus

[WorkSafe](#) recognises a number of OR services specifically for RTW with a new employer. These are referred to as New Employer Services (NES). Some or all of these NES services may be needed to return the worker to work with a new employer. Which NES service is approved by the agent will depend on the worker's capacity for work at the time the service is provided.

A worker is entitled to choose the OR provider who will provide the NES service.

See:

[8.2.7 - Worker choice of OR provider](#)

[8.12.2 - NES Schedule 3](#)

*OES & NES
concurrent
servicing*

Maintaining a worker's capacity for work is important. If the injury employer is willing, NES may commence while the worker continues to work at the injury employer for a limited period of time (up to eight weeks) to maintain their [CWC](#).

OES services in these circumstances would usually be provided via telephone contact.

If the OR provider delivering the NES services to the worker is different to the OR provider delivering OES services then the agent must advise the worker that their primary OR provider contact is the NES provider.

The agent should closely monitor any such arrangement and document the date when the arrangement is proposed to cease.

*Worker obligation
to use an OR
service*

A worker is obliged to actively use an OR service and cooperate with the provider of the service. In general, agents and OR providers should ensure workers are made aware of their rights and obligations under [the Act](#), particularly as it relates to RTW and OR service participation.

See: [8.3 - Worker RTW obligations](#)

*OR provider to
continue to offer
services*

Where a worker's activities, use of OR services or cooperation with the service provider is an issue, it is best tested by the OR provider continuing to offer OR services even though the worker may not be attending appointment(s) or has demonstrated a lack of interest in returning to work or participating in an OR service.

See: [8.3 - Worker RTW obligations](#)

The OR provider should telephone the agent where they believe a worker is not actively participating in an OR service, not cooperating with the provider of that service or failing to make a reasonable effort to RTW.

Although the OR provider may be concerned about the worker's participation, OR services should continue to be offered until the agent instructs the OR provider that OR service provision should be suspended or ceased.

*Exceptions where
an OR provider
may cease to offer
OR services
immediately*

An OR provider may cease OR service provision without prior agent approval where the worker:

- threatens to physically harm an OR provider or OR provider staff
- suggests self-harm if the OR provider or the OR provider's staff continue to contact them.

An OR provider must inform the agent and the worker's [THP](#) immediately if they cease OR service provision for these reasons.

8.2.2 - Cost of OR services

OR services are paid at a fixed fee or at an hourly rate based on the service item code included in an OR provider invoice.

[OES](#), [WSS](#), [NES](#)
and [WISE RTW](#)
and sustainability
fees

[WorkSafe](#) recognises the payment of OES, NES or WISE OR provider fixed fees to OR providers for achieving a RTW.

WSS uses the same fees as OES where a RTW is achieved.

*OR service fees
indexed annually*

All OR service fees are automatically indexed on 1 July each year.

*All OR provider
administrative
costs are included*

Fixed fees or hourly rates are inclusive of all OR provider administrative costs, including travelling time to and from the place where the services are provided. However, OR provider travel may be payable as an additional service cost.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

[8.12.3 - WSS Schedule 4](#)

*OR provider
invoice
requirements*

On receiving an OR provider invoice, the agent should ensure that the services and the amount being requested have been approved.

The agent should refer to their OR Referral form and any Funding Requests from the OR provider that they have approved and the ACtion payment profile.

The agent can make payment when the OR provider invoice includes the following:

- the OR provider organisation's [ABN](#) and address details
- the OR provider number (eg ORP999A, ORP999B etc)
- the invoice number and date of invoice
- [worker](#)'s name, claim number and date of injury (or alternatively the worker's date of birth)
- injury employer's name
- the name of the OR provider who delivered the service
- the date of the service
- the name of service item
- the service code (RC code)
- the cost of the service item.

Please Note:

1. The OR provider number must be 'ORP' followed by three numbers and an alphabetic reference reflecting the provider location where the OR services were delivered from.
2. For the service code (RC code) this can also be a summary of the service code for the period of the invoice as well individual service entries.

8.2.3 - Agent approval of OR services

Principles for approving OR services

Except where OR services have been provided to the [worker](#) by the employer under the employer excess, the agent must approve an OR service when it is reasonable and necessary for the worker.

The agent must also establish whether the [RTW](#) goal is with the injury employer or with the new employer. Depending on the RTW goal the agent will approve [OES](#), [WSS](#) or [NES](#) services for the worker.

Once an OR service has been approved, a worker must be given a choice of OR provider from a list of at least three OR providers (where available) unless the worker has already chosen an OR provider.

See:

[8.2.7 - Worker choice of OR provider](#)

OR referral form completed by the agent

On approving an OR service, the agent will forward a completed OR Referral form to the worker's choice of OR provider.

The OR Referral form will specify the services to be provided, the duration of the service provision and other information relevant to the service provision, including an expected cost.

OES funding request submitted by an OR provider

On receiving an OR Referral form from the agent for OES, the OR provider will submit a Funding Request confirming the services approved by the agent, the expected duration of the service provision and agree to the cost nominated in the OR Referral form. If an OR provider wishes to amend any aspect of the OR Referral form they should contact the agent.

Other funding requests may be submitted during OES as required.

Updating ACction payment profile after OR services are approved

[WorkSafe](#) recommends that the agent update the ACction payment profile each time OR services are approved.

This ensures that only those OR services which have been approved for the worker are paid and the worker's progress in undertaking those services can be verified.

OR provider directly approaches agent to request OR services commence



The OR provider may also seek agent approval of OR services by submitting a Funding Request. In these cases, the agent is required to establish whether the OR servicing is reasonable and necessary for the worker within 10 working days of receiving the request.

OR service approval decisions should be based on whether the worker has a current capacity for work, is able to benefit from the OR services and whether additional support and assistance is needed to RTW.

If the agent needs to seek more information from the OR provider and they believe this will not be received within 10 days, the agent should inform the OR provider that a decision is pending on the provision of further information being provided.

Denying liability for OR services

Where an agent does not approve OR services they must be able to support their decision with clear factual information or evidence capable of withstanding scrutiny.

The agent must inform the worker in writing why an OR service has not been approved and include the reasons for that decision and appeal rights.

8.2.4 - Not OR services

[WorkSafe](#) will only pay as a claims cost approved OR services provided direct to the [worker](#).

Worker non-attendance/cancellation of appointment

OR providers may not seek payment for a worker's non-attendance or cancellation of an appointment.

An exception to this is that a RC755 One-Off Assessment may be paid instead of an RC700 [OES](#) Initial Assessment Report where OES is not continued after completion of the assessment.

Household help (OT) assessments

A Household Help (OT) assessment (previously known as an Activities of Daily Living assessment) is not an approved OR service. Further information about this type of assessment can be found in Chapter 10 of the Claims Manual.

See also: [10.5.18 - Household Help](#)

Employer obligations for RTW

Part VIIB of [the Act](#) obliges an employer, for the duration of the [employment obligation period](#), to plan the worker's RTW and provide suitable or [pre-injury employment](#) consistent with the worker's capacity for work. This includes obtaining relevant information about the worker's capacity, assessing and proposing [suitable employment](#), consulting with the worker and their [THP](#) and providing the worker with clear, accurate and current details of the RTW arrangements. This must occur as often as is necessary taking into account the worker's capacity for work.

See also:

[4.5 - Return to work obligations](#)

[Compliance Code 1 of 4: Proving employment, planning and consulting about return to work](#)

[Compliance Code 2 of 4: Return to Work Coordinators](#)

[Compliance Code: 3 of 4: Return to Work Information](#)

[Compliance Code 4 of 4: Cooperating with labour hire employers about return to work](#)

Act ref: Part VIIB, Division 2

OR services provided as part of an employer's excess

An employer may pay agent approved OR services and claim the payment under their employer excess if liability for the worker's claim is accepted.

Employers using information from an OR provider report to meet their RTW obligations

An employer may use information obtained from an OR provider report (such as an initial or a workplace assessment) to assist them to meet their Part VIIB obligations for planning the RTW of a worker and providing the worker with suitable or pre-injury employment consistent with their capacity for work.

Using an OR provider report does not remove or change the employer's Part VIIB obligations.

[RTW planning and providing suitable or pre-injury employment](#)

WorkSafe has templates to assist employers plan a worker's RTW and to assess and propose suitable employment.

While it's not mandatory that an employer use a form to document RTW planning and arrangements, most employers find it is very helpful to do so.

Alternatively, an employer may use their own method of documenting their planning activity, [suitable duties](#) and RTW arrangements but they will need to ensure the information contained adequately fulfils their RTW obligations to provide the worker with clear, accurate and current details of the worker's RTW arrangements.

In-house employer assistance

Some employers provide 'in-house' assistance to workers before or after a claim is made. Although the employer may sometimes refer to this assistance as 'RTW services', the agent should not confuse this types of services with WorkSafe approved OR services for injured workers under the Act.

In-house assistance services are an employer responsibility and any costs associated with these services cannot be paid as a claim or OR service cost, even though in some cases the employer may have engaged an organisation that is also a WorkSafe approved OR provider to provide these services.

An organisation who is a WorkSafe approved OR provider is not precluded from supporting an employer meet their Part VIIB Act obligations towards an individual worker but where they act for an employer in that role they cannot also provide OR services under the Act to that same worker.

Outsourced RTW coordinator role

Activities associated with the functions of a RTW coordinator are an employer responsibility and any costs associated with this role cannot be paid as a claim or OR service cost even though in some cases the employer may have engaged an organisation that is also a WorkSafe approved OR provider to provide these services.

An organisation that is a WorkSafe approved OR provider is not precluded from supporting an employer to meet their RTW coordinator obligations under Part VIIB of the Act but where they act for the employer in that role the organisation cannot provide OR services for individual workers of that employer under the Act.

OR providers engaged by an employer must avoid conflict of interest



An organisation providing services such as 'in-house' or RTW coordinator assistance to the employer that is also an approved WorkSafe OR provider must avoid any situation which may constitute a 'conflict of interest'.

WorkSafe's agreement with an OR provider requires a provider's declaration of any real or perceived conflict of interest.

It would be considered to be a conflict of interest, for example, if the OR provider assisted or acted as an employer's RTW coordinator to meet the employer's Part VIIB obligations then sought to provide OR services to the same worker under the Act.

If the agent or OR provider has a query about conflict of interest, they can contact WorkSafe via occupational_rehab@worksafe.vic.gov.au. WorkSafe will provide a response within 48 working hours. WorkSafe may seek further information during this time and any determination will then be made within 48 working hours of that information being received by WorkSafe.

8.2.5 - OR services on pending claims

S99A applies when liability not determined

S99A applies where the agent has not made a decision about claim liability but has determined that a [worker](#) may benefit from OR services.

Once a claim is accepted, approval of an OR service under s99A no longer applies and an OR service approved for the worker will be made under s99.

Agent approval of OR service provision under s99A

Employers may pay for agent approved OR services under s99A and claim the payment as excess should liability be accepted. However, any cost additional to this may not be claimed as a claims cost unless approved by the agent prior to the OR service being delivered.

Once the agent has determined the type of OR service to be approved for the worker then the worker is offered a choice of OR provider from a list of at least three OR providers (where available).

See: [8.2.7 - Worker choice of OR provider](#)

[ACction](#)

Agent to write to worker if OR service under s99A approved

There is no [WorkSafe](#) standard letter for this purpose – WorkSafe recommends the agent refer to Novus standard letters ORP3 and ORP4a as a guide.

The agent letter must include:

'In approving the provision of an OR service pursuant to s99A of the Accident Compensation Act 1985, you are entitled to receive OR services while your claim is pending.

In the event that your claim is accepted then you will continue to be entitled to receive OR services while these services are considered to be reasonable and necessary to assist you to return to work.

If a decision is made to reject your claim, OR services will cease effective from the date the claim was rejected.'

Once the worker has chosen an OR provider the agent must write to the worker confirming their choice of OR provider and advising that the OR service will commence.

OR service provision on rejected claim

An agent may approve an OR service such as an [OES](#) Initial Assessment, which the employer had paid as part of their excess while the claim was pending and the claim was subsequently rejected.

In this case, the agent can pay the over-excess cost of the approved OR service prior to the claim being rejected under s99A.

However, an agent should not approve or pay for an OR service provided to the worker **after the worker and employer have been advised in writing that the claim is rejected.**

8.2.6 - Other OR services approved by WorkSafe

*OR services
approved by
[WorkSafe](#)*

Section 5 of [the Act](#) authorises WorkSafe to recognise other OR services as required. Currently WorkSafe recognises the following as an OR service:

- [worker RTW](#) or retraining travel
 - subsequent [NES](#) vocational assessment
 - vocational counselling as a job seeking assistance service
 - 130 week vocational assessment for weekly payment entitlement.
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[8.2.6.2 - Workplace equipment or modifications](#)

[8.2.6.3 - Vocational re-education \(retraining courses\)](#)

[8.2.6.4 - 130 week vocational assessment](#)

8.2.6.1 - Worker RTW or retraining travel

<i>Worker RTW travel to injury employer</i>	Worker RTW or retraining travel can be approved where the RTW is at a workplace of the injury employer that is different to the workplace where the worker was injured and the different workplace is at a significantly greater distance from the worker's residence than the distance between the worker's residence and the workplace where they were injured.
<i>Worker RTW travel to attend new employer job interviews</i>	Worker RTW travel can be approved for travel to and from a job interview for new employment.
<i>Worker travel to s204 interview</i>	An agent should reimburse a worker for reasonable travel expenses associated with travelling to and from a s204 worker interview .
<i>Worker retraining travel</i>	An agent should reimburse a worker for reasonable travel expenses associated with travelling to and from an approved retraining course.
<i>Worker RTW travel using public transport</i>	<p>Where the worker uses public transport, they may seek pre-payment or reimbursement of the public transport costs associated with the travel by specifying the mileage and dates (individual days or weeks) of the travel and providing a copy of the ticket.</p> <p>Where the travel is to a different workplace of the injury employer then the worker may seek pre-payment or reimbursement of any additional public transport costs associated with travelling to a different workplace to where they were injured.</p>
<i>Worker RTW travel private vehicle</i>	<p>Where the worker uses a private vehicle they may seek pre-payment or reimbursement of any costs incurred as a petrol allowance.</p> <p>Where the travel is to a different workplace of the injury employer then the worker may seek pre-payment or reimbursement of any additional costs incurred travelling to a different workplace to where they were injured.</p> <p>The worker may claim the same petrol allowance that would apply if they were travelling from their residence to the rooms of a practitioner who is providing a medical and like treatment service.</p> <p>See also: 10.5.43 - Travel Expenses</p>
<i>Worker RTW or retraining travel not approved</i>	If an agent does not approve worker RTW or retraining travel, they must advise the worker in writing the reasons for their decision and appeal rights.

8.2.6.2 - Workplace equipment or modifications

An OR provider may recommend workplace equipment or modifications to assist the [worker](#) to [RTW](#) at the injury or a new employer.

Workplace equipment or modifications

An agent may approve workplace equipment or modifications as an occupational rehabilitation service under [the Act](#).

In most instances an OR provider would recommend workplace equipment or modification as part of a Workplace Assessment Report.

The OR provider report must outline the duties and tasks of the job the worker is being asked to perform and explain how the workplace equipment or modification will address the particular features of the worker's injury that cannot be addressed in the current workplace or by using current or existing workplace equipment.

Agent action following a recommendation for workplace equipment or modifications

If an agent approves workplace equipment or modifications as an occupational rehabilitation service for the worker under s99(1) of the Act, two quotes should be obtained from appropriately qualified tradespersons or suppliers.

These quotes may be obtained by the employer or the OR provider and forwarded to the agent.

The agent should determine the [reasonable costs](#) of the equipment or modifications and therefore which quote will be accepted and advise all parties accordingly.

Workplace equipment or modifications not approved

If the agent does not approve a recommendation for workplace equipment or modifications they must advise the worker in writing of the reasons for their decision and appeal rights.

Payment of workplace equipment or modifications

Payment should be made to the tradesperson or organisation who supplied the approved workplace equipment or modification using Payment Type Code 169.

An employer may choose to directly pay the tradesperson or organisation and where agent approval has been gained prior to the equipment or modification being supplied, the agent may reimburse the employer for these costs.

If prior approval has not been given then the agent must only reimburse the employer for these costs where the agent is satisfied that the equipment or modification is reasonable and necessary in the circumstances and therefore the reasonable costs are payable as an occupational rehabilitation service for the worker (i.e. rather than as part of an employer's [OHS](#) cost).

Workplace equipment or modifications may be an OR service or covered under OHS Act

An OR provider should not recommend workplace equipment or modification if that equipment or modification is of a type ordinarily provided for general staff use within a workplace. This type of equipment or modification is likely to be an employer expense under the *Occupational Health & Safety Act 2004* (OHS Act).

Examples of particular industry knowledge

Employers within particular industries have a state of knowledge about how to control workplace occupational health and safety (OHS) risks in their industry and as such, particular equipment or modifications would be part of meeting those risks. If such a state of knowledge does exist then [WorkSafe](#) would consider that an employer has a responsibility under the OHS Act to control that particular workplace risk, especially where a worker is being returned to work.

Example 1 - Residential aged care industry

In the residential aged care industry it is well documented that manual handling of patients is hazardous and a risk to direct care staff. It is now common knowledge and common practice throughout this industry that the use of patient transfer equipment such as hoists, slide sheets and transfer boards reduces the risk of injury. WorkSafe would expect that an employer be responsible for the provision of any transfer equipment as an OHS cost.

Example 2 - Manufacturing environment

In a manufacturing environment, an employer has an OHS responsibility to provide adequate guarding and switching on all machinery and plant.

Requests for this type of equipment would be the responsibility of the employer as an OHS cost.

Example 3 - Office environment

In an office environment, an employer would have an OHS responsibility to provide an adjustable ergonomic chair, mouse pad, wrist pad, document holder and foot rest. WorkSafe expects that an employer would be responsible for standard office equipment as an OHS cost.

This obligation extends to any equipment needs that a worker may have where an employer has agreed that the worker perform aspects of their job or [suitable employment](#) from the worker's home.

*Example 1
OHS v OR service costs*

It is recommended in a Workplace Assessment Report that a data entry officer would benefit from an ergonomic chair with adjustable lumbar support. The responsibility to provide and pay for the chair is clearly an employer OHS responsibility as this is a standard feature on ergonomic chairs. If a standard ergonomic chair is determined to be insufficient to address the particular features of a worker's injury or the duties of the job to be performed then the cost difference between a standard ergonomic chair and the recommended chair is payable as a claims cost. The cost of the standard ergonomic chair would be the employer's responsibility.

Additionally, if it was recommended that the worker use a forearm support to allow them to fulfil all the duties of their job, this may be a reasonable occupational rehabilitation services cost for the worker under s99 if the forearm support is required as a result of the worker's injury. This is particularly so given not all data entry officers require a forearm support to perform their job.

Act ref: S99

Example 2

Determining costs: OHS v OR service costs

An employer has a responsibility to maintain plant (for example: forklifts, cranes, earthmoving equipment) to eliminate any risk associated with the plant. This includes the employer's responsibility to provide adequate seating on all plant.

Application of the OHS Act

If a forklift has a poorly designed and non-ergonomic seat, the cost of the replacement is clearly an employer OHS cost because the employer must ensure a worker can safely operate the forklift.

Application of s99 of the Act

However, if the injured forklift driver required a seat with a neck support as a consequence of their injury, then this type of seat would be a reasonable claims cost. Not all forklift drivers require this type of seat to allow them to perform their tasks in a safe system of work.

Act ref: S99

Plant that has been modified

If an OR provider, following a workplace assessment, recommends that modifications be made to plant (for example: forklifts, cranes, earthmoving equipment) to provide different seating or altered controls as a consequence of the worker's injury, then it is important that any modification comply with the original manufacturer's specifications. Any variation in design from the original could expose a worker to further risks.

This is a requirement of the Occupational Health and Safety Regulations 2007.

8.2.6.3 - Vocational re-education (retraining courses)

Retraining may be appropriate to help a [worker RTW](#) with their injury employer or a new employer.

Process for approving training

The process for approving retraining is the same whether the RTW goal is for the worker to RTW with their injury employer or a new employer.

Particular competency (certificate or licence) needed

Where pre-injury or [suitable employment](#) can be identified but the worker's employability would be enhanced by gaining a particular competency (eg a certificate or a licence), then a retraining course specifically to gain that competency may be considered.

New competencies required

Where suitable employment options cannot be identified with the worker's existing transferable skills and the worker's employability would be enhanced by new competencies, a retraining course for that purpose may be considered.

Vocational re-education assessment to identify retraining course

On receiving an [OES](#) report or a [NES](#) Vocational Assessment that recommends a retraining course to return an injured worker to work, the agent may approve a Vocational Re-Education Assessment.

The agent may verbally advise the worker that a Vocational Re-education Assessment has been approved.

If the agent does not approve a Vocational Re-education assessment the worker must be informed in writing why this OR service has not been approved and include the reasons for that decision and appeal rights.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

Courses of up to 26 weeks

Where suitable employment options have been identified and the focus for the worker is gaining a particular competency, the OR provider should consider a retraining course of up to 26 weeks in the first instance.

As retraining courses are available with very flexible arrangements, a worker may be able to RTW and complete the retraining course outside their hours of work.

Courses of more than 26 weeks

Where suitable employment options cannot be identified for a worker and new competencies are required, the OR provider may need to consider a retraining course of more than 26 weeks.

Agent reviews vocational re-education assessment report

The OR provider will submit a Vocational Re-education Assessment Report and if a retraining course is recommended, the report must detail:

- why the particular retraining course is relevant to the suitable employment options identified for the worker
 - explain how the worker's employability would be enhanced by gaining a particular competency or competencies
- and
- estimate a date when the OR provider considers a return to suitable employment may be achieved.

On receiving a Vocational Re-Education Assessment Report recommending a retraining course, the agent must decide whether to approve a retraining course or not.

Retraining course not approved

If the agent does not approve a retraining course they must advise the worker in writing of the reasons for their decision and appeal rights.

Agent approved retraining course

The agent should verbally advise the worker if approving a retraining course and send the worker a letter confirming the course details including:

- title of retraining course, duration and cost
 - the name of the training provider and the location where the retraining course will be provided
 - confirmation of the need for regular contact with the agent (this may include nominating approximate dates for the contact)
 - the expectation that the worker will advise the agent if they cease attending the retraining course
- and
- the requirement that the worker actively participate in the retraining course because it is an OR service.

Where the RTW goal for the worker is RTW with a new employer, the agent should also consider whether NES retraining monitoring may support and assist the worker while they participate in a retraining course.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

Payment of the retraining course costs

On receiving an invoice for an approved retraining course, the agent will pay the [reasonable costs](#) of the retraining course by paying the retraining course provider using Payment Type Code 170.

An injury employer may choose to directly pay the retraining course provider and where agent approval has been gained prior to the retraining course commencing, the agent may reimburse the reasonable costs of the retraining course using Payment Type Code 170.

Worker costs approved

In addition to the retraining course costs, the agent should also pay as an OR service the reasonable costs of the provision of aids, appliances, apparatus or other material likely to facilitate the worker returning to work after injury. Items that may be considered include the reasonable costs involved with the worker completing the retraining course, including books, pens, computer paper and other miscellaneous items defined by the training provider as course requirements.

These types of costs may be paid direct to the recognised training provider where appropriate or the worker can be reimbursed on the provision of receipts etc.

Wherever possible, an agent and worker should discuss what types of costs may be involved with the worker completing the approved retraining course. This assists the agent to manage the worker's expectations as to what may or may not be a reasonable cost of completing a retraining course.

Worker costs not approved

If the agent does not approve a request from a worker for the payment of the reasonable costs associated with participating in a retraining course, they must advise the worker in writing of the reasons for their decision and appeal rights.

Computer & related expenses not approved as retraining costs

Although [WorkSafe](#) recognises that a retraining course may require workers to have access to a computer, the provision of computers or replacement computers, computer hardware or software or access to internet/email access are not approved as retraining costs.

All recognised training providers offer their students access to computers and appropriate software to enable the student to successfully complete their retraining course.

Exception where agent may consider the provision of computer etc to a worker's home



An agent who believes a worker may be disadvantaged and unable to complete their retraining course without a computer, upgrades or internet/email access being provided as a claims cost must forward appropriate documentation supporting their decision to WorkSafe via occupational_rehab@worksafe.vic.gov.au.

WorkSafe will provide a response within 48 working hours. WorkSafe may seek further information during this period and any determination will then be made within 48 working hours of such information being received by WorkSafe.

Worker does not complete training course

On receiving advice from the worker that they have ceased attending a retraining course, the agent should consider whether the worker is not actively using an OR service or cooperating with the provider of that service.

Agents should also consider whether a refund of all or part of the retraining course cost is appropriate.

See: [8.3 - Worker RTW obligations](#)

8.2.6.4 - 130 week vocational assessment

*130 week
entitlement
determination*

When considering the approval of a Vocational Assessment for 130 week entitlement purposes, an agent should check whether the [worker](#) is at work with the injury or new employer and if they are not at work, whether the worker has previously completed a 26 Week [NES](#).

An agent must consider whether a NES Refresher or a 16 Week NES should be approved. In some cases, an agent may consider approving a 26 Week NES.

See:

[20.8.3 - Worker choice of OR provider form](#)

[8.5.2 - NES refresher](#)

[8.5.3 - 16 Week NES](#)

Where agents approve a Vocational Assessment for the purposes of a 130 week entitlement review, they must advise the worker in writing of the purpose of this type of vocational assessment and offer the worker a choice of OR provider if they have not already chosen an OR provider.

There is no [WorkSafe](#) approved 130 week Vocational Assessment template but the format used for the NES Vocational Assessment should be used as a guide. It is recommended that the agent and OR provider agree prior to the assessment about the details that should be included in the report.

The agent and the OR provider should also agree on the fee for the 130 week Vocational Assessment.

See:

[8.12.2 - NES Schedule 3](#)

[9.1.4 - Entitlement periods](#)

*Worker at work
with injury
employer*

An agent may also consider approving a 130 week Vocational Assessment where the worker is at work with the injury employer and working in [suitable employment](#) and their entitlement is being reviewed.

8.2.7 - Worker choice of OR provider

*Agent to offer
[worker choice of
OR provider](#)*

The agent must meet the requirements of s99AB of [the Act](#) by ensuring that the worker has been given a choice of OR provider at the time that OR services are approved.

Before providing the worker a choice of OR provider, the agent must first establish the [RTW](#) goal and determine the type of OR services to be approved.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

[8.12.3 - WSS Schedule 4](#)

Act ref: S99AB

*Criteria when
compiling an OR
provider list*

In accordance with s99AB(2) of the Act, the agent must compile a list of no less than three OR providers (where available) after having regard as far as possible to the following:

- the worker's injury type
- the type of OR services required
- where the worker resides and
- the location where the OR provider will provide the OR services.

Most OR providers deliver [OES](#) and [NES](#) services but there are some OR providers that are approved by [WorkSafe](#) to deliver only one type of OR service (OES or NES but not both). There are also some OR providers that are approved by WorkSafe to deliver [WSS](#).

In some instances, particularly for workers residing in regional or remote areas, where less than three OR providers of particular OR service may be available.

For example: A NES Vocational Assessment is approved by the agent for a worker but there are only two OR providers within a reasonable travelling distance from where the worker resides to the nearest office location of a NES providers. In this case it would be sufficient for the agent to list only two OR providers for the worker to choose from.

Note: Agent discretion must be exercised to determine what may be a 'reasonable travelling distance' for a worker to see an OR provider from where they reside.

The 'Approved Occupational Rehabilitation Service Provider Directory' supports agents in identifying suitable approved OR providers. It is a search engine that displays the distance to the nearest OR provider branch locations based on the:

- type of OR service and
- worker postcode or suburb.

See: [Approved Occupational Rehabilitation Service Provider Directory](#)

Offer of OR provider choice

Whenever workers are offered a choice of OR provider, a written list of OR providers must be given.

After a choice of OR provider has been offered in writing, the worker's choice can be confirmed by:

- the worker responding in writing
- the worker contacting the agent by telephone
- the agent contacting the worker by telephone.

The agent must keep a record of any offer or confirmation of OR provider choice.

Contents of the list of OR providers

To ensure the worker makes an informed decision, the list of OR providers offered to the worker must contain the:

- names of the nominated OR providers
- addresses (locations) of the nominated OR providers nearest to where the service will be provided
and
- contact details of the OR providers (eg phone number or website).

For example: If Geelong is the location of the workplace and where the worker resides, then the Geelong address for the nominated OR providers must be listed although their head office may be in the Melbourne CBD.

OR service approved on a pending claim

Agents may approve an OR service prior to determination of initial liability.

Act ref: S99A

To offer OR provider choice at this time, the agent follows the same steps as for offering choice of OR provider at the time an OR service is approved once liability has been accepted.

However, the agent must amend the ORP4 standard letter to advise OR services will cease if a decision is made to reject their claim.

See: [8.2.5 - OR services on pending claims](#)

Choice of OR provider at time claim acceptance

WorkSafe requires agents to offer a choice of OR provider at the time of claim acceptance for time loss claims by attaching a completed 'Worker Choice of Occupational Rehabilitation Provider' nomination form to the claim acceptance letter (ACC1). This is intended to minimise any delays in initiating OR service delivery if the agent approves an OR service at a later date.

The worker may respond by returning the nomination form or by calling the agent. Alternatively, the agent may contact the worker after providing the claim acceptance letter to confirm OR provider choice.

The agent must keep a record of any choice of OR provider made by the worker at this time. However, the worker is not obliged to respond to an offer of OR provider at this stage. This is because the legislative requirement is for the worker to receive OR services from an OR provider chosen by the worker so unless OR services are to be received, there is no requirement for OR provider choice to be made.

Choice of OR provider when OR service is approved

At the time that an OR service is approved the agent must check whether the worker has previously chosen an OR provider.

If the worker has not yet chosen an OR provider but the OR providers listed continue to meet the Act criteria, the agent can contact the worker by phone to confirm choice of OR provider.

If the agent cannot establish that the worker has previously made a choice



of OR provider, has not responded to a phone call or if the OR providers previously listed no longer meet the Act criteria, the agent must send the worker a ORP4 letter offering a choice of OR provider again. The worker is required to respond within 14 calendar days by returning the nomination form or by calling the agent.

If the worker does not respond within 16 calendar days (14 + two calendar days for postage), the agent is to choose an OR provider from the list on behalf of the worker.

The agent must keep a record of the OR provider chosen by the worker or record that the worker made no choice at this time.

Worker choice of OR provider for worker residing outside Victoria

Worker choice of OR provider also applies to OR services approved for workers residing interstate.

The agent should contact the relevant workers compensation jurisdiction for assistance in identifying a list of OR providers who may be able to assist them.

Once an interstate OR provider is identified and agrees to deliver OR services, the agent must advise the Accounts Solution area of WorkSafe on (03) 8663 5098 to enable approval of the OR provider and registration on ACction. Without approval by WorkSafe and registration on ACction, the OR provider cannot be paid.

Agents must also advise the OR provider of the type of service to be provided and the appropriate fees that are payable.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

[8.12.3 - WSS Schedule 4](#)

Employer has offered OR provider choice

If the agent approves an OR service but an employer has previously offered OR choice to a worker, then the agent must be satisfied that the employer has met the requirements of s99AB of the Act.

The agent must also update the claim file and/or Novus to document that the employer has met these requirements. This may include a copy of employer correspondence to the worker offering a list of OR providers.

If an agent is unable to confirm that an appropriate choice of OR provider has been offered by an employer, the agent must offer the worker a choice of OR provider in writing to ensure the Act criteria is met.

Further worker choice of OR provider after OR services commenced

Once the worker has chosen an OR provider, the same OR provider should provide all OR services approved by the agent. The exception to this is where an OR provider is not approved by WorkSafe to deliver a particular OR service.

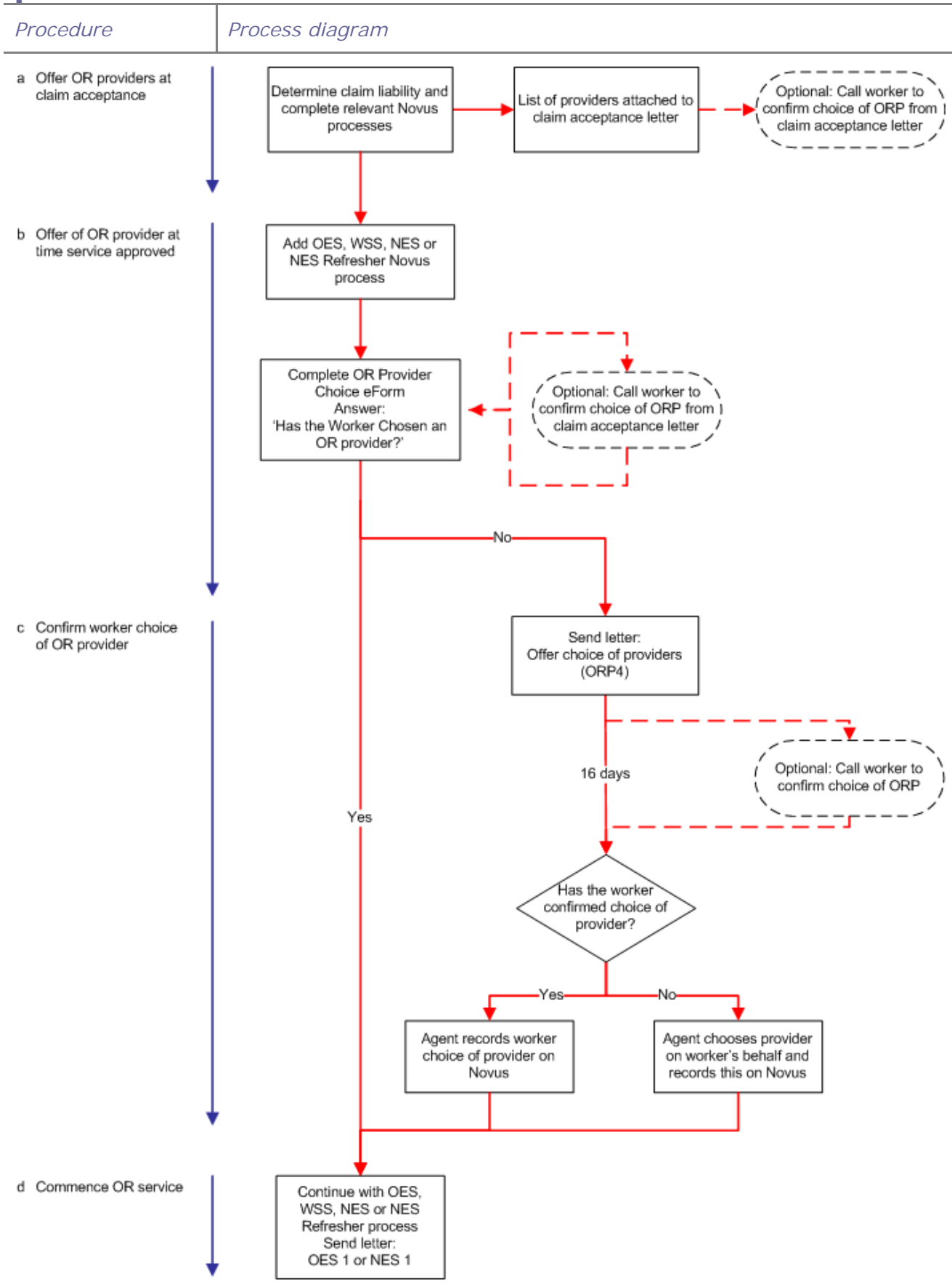
The agent must nominate a list of not less than three OR providers (where available) that can provide the approved OR service to the worker so the worker has a further choice of OR provider taking into account the Act criteria.

For example: A worker returns to work with their injury employer with the assistance of an OR provider but cannot return to their full-time pre-injury duties and hours. The agent approves NES services to assist the worker with the new RTW goal with a new employer but the OR provider previously chosen by the worker is not approved by WorkSafe to deliver NES services..

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[8.2.7.1 - Process for offering worker choice of OR provider](#)

8.2.7.1 - Process for offering worker choice of OR provider



[a Offer OR providers at claim acceptance](#)

[b Offer of OR provider at time service approved](#)

[c Confirm worker choice of OR provider](#)

[d Commence OR service](#)

a Offer OR providers at claim acceptance

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>On making a decision to accept liability on a claim registered or converted to standard time loss, the agent must nominate a list of not less than three OR providers (where available) taking into consideration the Act criteria.</p> <p>The list using the 'Worker Choice of Occupational Rehabilitation Provider' nomination form is sent to the worker with the claim acceptance letter and a reply paid envelope.</p> <p>A copy of the claim acceptance letter and populated nomination form must be retained on the claim file or in a 'completed' status on Novus.</p> <p>Note: There is no requirement that an acceptance letter contain a list of OR providers if, at the date the acceptance letter is generated and sent, a full return to work has been coded on ACction (ECE02) or a clearance certificate has been recorded on ACction (ECD01).</p>
<i>Worker</i>	<p>The worker chooses an OR provider by returning the completed nomination form or by contacting the agent by telephone.</p>
<i>Agent</i>	<p>At the time of claim acceptance, the worker is not obliged to return the form, however, the agent must retain a copy of the nomination form if it is returned by the worker.</p> <p>The agent adds a Novus contact to record the worker's choice of OR provider if received by telephone.</p> <p>See: ACC1 standard letter Novus</p>

b Offer of OR provider at time service approved

BY

ACTION

Agent



The decision to approve an OR service is confirmed by the agent adding the [OES](#), [WSS](#) or [NES](#) processes on Novus within two working days. NES Refresher is added within one working day.

The agent checks the claim file for any evidence that OR provider choice was previously offered such as:

- a completed '[Worker](#) Choice of Occupational Rehabilitation Provider' nomination form has been returned by the worker
- or
- any record of a worker contact confirming choice.

The agent also checks that any list of OR providers previously given (usually at the time of claim acceptance) remains relevant taking into account:

- the criteria in s99AB(2) of [the Act](#)
- the type of OR service approved (eg OES or NES)
- when the previous list of OR providers was offered (eg is it current?)
- and
- any change in circumstances (eg to the worker's injury type or where the worker resides).

The agent completes the OR Provider Choice eForm and answers the question, 'Has the Worker Selected an OR Provider?' The agent answers the question as follows:

Yes – If the list of OR providers previously nominated is still appropriate and there is evidence that the worker has selected an OR provider.

No – If the list of OR providers previously nominated is inappropriate at this time or there is no evidence that the worker has selected an OR provider. The agent adds a comment about why any prior OR provider choice is now inappropriate, for example, 'The previously selected OR provider is not approved to deliver NES'.



The agent then sends standard letter ORP4 with an attached 'Worker Choice of Occupational Rehabilitation Provider – Services Approved' nomination form and a reply paid envelope.

See:

ORP4 Standard Letter

[Novus](#)

c Confirm worker choice of OR provider

<i>BY</i>	<i>ACTION</i>
<p><u>Worker</u></p> 	<p>The worker has 14 calendar days from the date of the ORP4 standard letter to complete and return the 'Worker Choice of Occupational Rehabilitation Provider – Services Approved' nomination form.</p> <p>Alternatively, the worker's choice of OR provider can be confirmed by the worker contacting the agent by telephone (or vice versa).</p>
<p><u>Agent</u></p> 	<p>The agent retains a file copy of any nomination form returned by the worker.</p> <p>If the worker's choice of OR provider is confirmed by telephone the agent makes a record of this conversation.</p> <p>If the worker has not responded to a list of OR providers within 16 calendar days (two days allowed for postage), then the agent records whether the worker has chosen an OR provider and if not, chooses an OR provider from the list on the worker's behalf.</p> <p>The name of the OR provider chosen by the worker or the agent must be recorded on Novus against the OES, WSS, a 26 Week NES, NES Refresher or a 16 Week NES process by adding OR provider as a party case role.</p> <p>Novus</p>

d Commence OR service

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>The agent must send an OES1 or NES1 standard letter to confirm the choice of OR provider and that OES or WSS or a 26 Week NES will commence.</p> <p>The agent also sends a Novus generated OR Referral form to the nominated OR provider after checking the accuracy of automated content and completing any blank fields or comments.</p> <p>Novus</p>

8.2.8 - DEEWR

The Department of Education, Employment and Workplace Relations ([DEEWR](#)) is responsible for overseeing the provision of rehabilitation programs funded by the Commonwealth Government pursuant to the Commonwealth [Disability Services Act 1986](#) (the [DSA](#)).

According to the DSA, as a compensation payer, [WorkSafe](#) is required to pay the costs of a rehabilitation program funded by the Commonwealth Government which a [worker](#) has or will undertake.

Rehabilitation programs which are funded by DEEWR are known as Vocational Rehabilitation Services ([VRS](#)) programs.

Compensation in this instance does not include weekly payment. However, if a worker is entitled to a lump sum permanent disability, impairment benefit or common law damages for the same injury or illness for which DEEWR funded the rehabilitation program, the costs of the program must be deducted and paid to DEEWR prior to any money being paid to the worker.

Act ref: S23 – Disability Services Act 1986

DEEWR notices

When a worker is undertaking or has undertaken a Commonwealth funded rehabilitation program, DEEWR will issue the following notices:

1. Notice of Intent to Recover Costs

This will be sent to an agent or WorkSafe informing them of the obligation to ensure that the cost of a worker's Commonwealth funded rehabilitation program is reimbursed to DEEWR should the worker receive a lump sum payment.

2. Interim Notice of Charge

Informs the parties of a worker's current rehabilitation costs.

3. Final Notice of Charge

This is issued detailing the total cost of the rehabilitation program when DEEWR have been advised of a claim for an impairment benefit, lump sum under S98/98A of [the Act](#) (Table of Maims claim) or a common law action has settled.

All notices will be forwarded to the agent and copies sent to the worker and worker's solicitor (if the worker is legally represented).

When an agent is required to pay DEEWR

The agent is only required to pay DEEWR for the cost of a worker's rehabilitation program if the worker receives a lump sum or common law damages for the same injury or illness for which DEEWR funded the rehabilitation program.

Agents are required to pay any money owed to DEEWR prior to any money being paid to the worker.

New claims

Where a worker participates in a VRS program before their claim for compensation is accepted, the agent must pay the Commonwealth for the cost of the VRS program if the worker subsequently receives a lump sum or damages for the same injury or illness for which DEEWR funded the rehabilitation program.

IB claims

It is common for workers to take part in a VRS program after their weekly payments have been terminated at 104 or 130 weeks.

Where a worker participates in a VRS program after their weekly payments have been terminated and the worker later makes a successful claim for an impairment benefit, the agent must pay the Commonwealth for the cost of the VRS program.

Common law damages

Where a worker participates in a VRS program and later makes a successful claim for common law damages, the agent must pay DEEWR for the cost of the VRS program.

Maims claims

Where a worker participates in a VRS program and later makes a successful claim for a lump sum under S98/98A of the Act (Table of Maims claim) the agent must pay DEEWR for the cost of the VRS program.

*Where an agent
has not paid
DEEWR*

Where an agent has received a notice from DEEWR and they have not deducted the amount specified in the Final Notice of Charge, the agent will be liable for the payment of the DEEWR debt.

The agent is also liable for any additional penalty applied by DEEWR for breach of a DSA notice in paying compensation to a worker before paying the debt owed to the Commonwealth.

See also: [9.11.3.3 - Guidelines for recovery of Centrelink payments](#)

Section contents

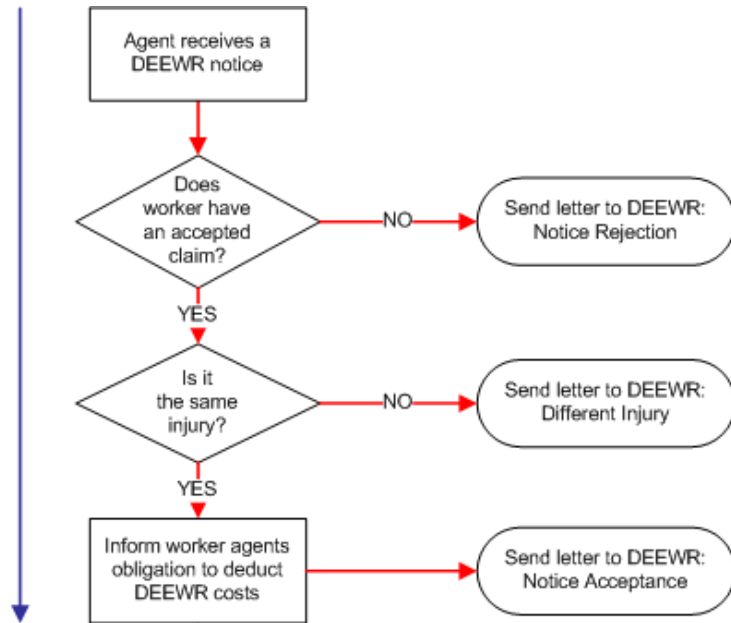
[a Agent receives a DEEWR notice](#)
[b Making the payment to DEEWR and worker](#)
[c Reimbursing DEEWR payment to a worker](#)

8.2.8.1 - Process for making payments to DEEWR

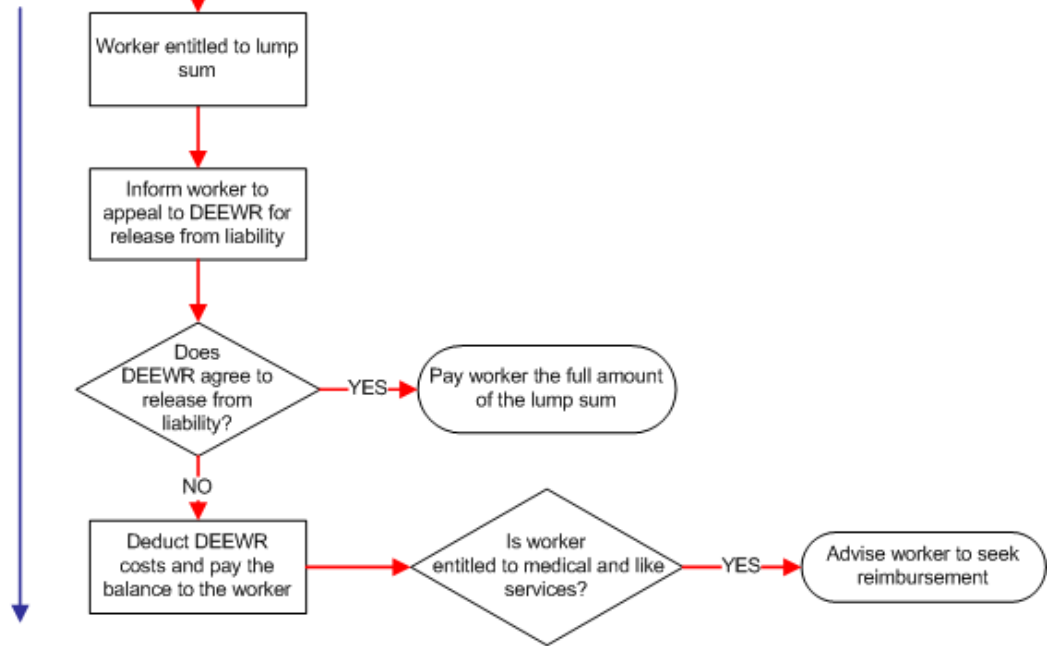
Procedure

Process diagram

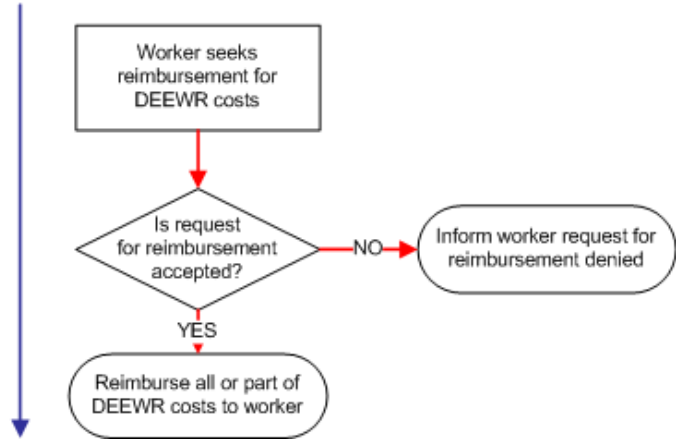
a Agent receives a DEEWR notice



b Making the payment to DEEWR and worker



c Reimbursing DEEWR payment to a worker



[a Agent receives a DEEWR notice](#)

[b Making the payment to DEEWR and worker](#)

[c Reimbursing DEEWR payment to a worker](#)

a Agent receives a DEEWR notice

BY	ACTION
DEEWR	<p>DEEWR will put an agent on notice that there may be an amount owing for a VRS program by way of a:</p> <ul style="list-style-type: none"> • Notice of Intent to Recover Costs • Interim Notice of Charge <p style="text-align: center;">or</p> <ul style="list-style-type: none"> • Final Notice of Charge. <p>ACction</p>
<i>Agent</i>	<p>When an agent becomes aware that there may be an amount owing to DEEWR they are required to check that the worker has an accepted claim for the same injury or illness for which they are undertaking the VRS program.</p> <p>If the agent is unable to determine whether it is the same injury or illness, they are required to seek information related to the nature of the injury for which DEEWR have funded the VRS program.</p> <p>Where injury/illness is the same - accepted</p> <p>If the agent is satisfied that the injury and illness is the same, they are required to advise DEEWR and confirm that payment will be made for the VRS program from any compensation the worker receives in accordance with the Final Notice of Charge.</p> <p>The agent is also required to inform the worker of their obligation to pay DEEWR for the cost of the VRS program in the event that the worker receives a lump sum, impairment benefit or common law damages payment with a copy of the confirmation letter sent to DEEWR attachment.</p> <p>See: Standard letters</p> <p>Where injury/illness is the different</p> <p>The agent is not liable to pay DEEWR for the cost of the VRS program if the injury or illness for which the compensation is to be paid is different to the injury or illness for which the worker has undertaken the rehabilitation program funded by DEEWR.</p> <p>If this is the case, the agent must advise DEEWR in writing</p> <p>See: Standard Letter</p> <p>Where there is uncertainty regarding the injury/illness</p> <p>The agent must determine whether the worker's claim for a work-related injury or illness is the same injury or illness for which DEEWR funded the VRS program.</p> <p>If the agent is unable to determine whether it is the same injury or illness, the agent must seek information related to the nature of the injury for which DEEWR funded the VRS program.</p> <p>See: Standard Letter</p> <p>If agent is unsure whether a notice has been received</p> <p>If an agent is uncertain whether a notice has been received from DEEWR or have not yet received a Final Notice of Charge, they are required to verify this and seek a copy by calling the VRS Recovery and Debt Management Hotline on 1800 001 894.</p> <p>Worker's claim for a work-related injury or illness - rejected</p> <p>Where an agent has rejected the worker's claim for an injury or illness for which they are undertaking a VRS program they are required to write to DEEWR requesting that the notice be withdrawn.</p> <p>See: Standard Letter</p>

b Making the payment to DEEWR and worker

<i>BY</i>	<i>ACTION</i>
<u>Worker</u>	<p>Once the worker is aware that they are going to be paid a lump sum they are required to inform DEEWR.</p> <p>A worker may also apply to DEEWR for a release from liability to pay the costs of their VRS program on the grounds of 'special circumstances' before the amount indicated in the Final Notice of Charge is deducted from their lump sum, impairment benefit or common law damages payment.</p>
<i>Agent</i>	<p>Once the agent has been put on notice by DEEWR, a lump sum entitlement cannot be paid to the worker until the agent has received a Final Notice of Charge and any money owed has been deducted and paid to DEEWR.</p> <p>When an agent becomes aware that the worker is entitled to a lump sum payment they should advise the worker in writing that they can seek a release from DEEWR liability.</p> <p>See: Standard letter 20.8.5 - DEEWR - Fact sheet</p> <p>Agent has received a DEEWR notice</p> <p>If an agent has received any of the DEEWR notices and the worker becomes entitled to a lump sum payment then payments cannot be paid to the worker until the amount owed to DEEWR has been deducted or the worker has been released from liability.</p> <p>Agent has not received a DEEWR notice</p> <p>If none of the DEEWR notices have been received by an agent then there is no obligation to contact or deduct DEEWR prior to paying a lump sum, impairment benefit or common law damages payment to a worker.</p> <p>Agent has not received a Final Notice of Charge</p> <p>Once an agent becomes aware that the worker is entitled to a lump sum, impairment benefit or common law damages payment and only a Notice of Intent to Recover Costs or an Interim Notice of Charge has been received, the agent is required to follow up with DEEWR for the Final Notice of Charge prior to making any payment.</p> <p>DEEWR has agreed to release worker's liability</p> <p>If DEEWR have agreed to release the worker from liability to pay the VRS program costs they will advise the worker of this in writing.</p> <p>Where the agent has received a copy of the DEEWR release the agent can pay the full amount of the lump sum, impairment benefit or damages payment to the worker.</p> <p>If the agent has not received a copy of the DEEWR release at the time they are ready to make the payment they are required to deduct the amount on the Final Notice of Charge.</p> <p>In circumstances where the release has been received from the worker after the payment has been processed, the agent must advise the worker to seek reimbursement directly from DEEWR.</p> <p>DEEWR rejects worker's request to release liability</p> <p>If DEEWR has rejected the worker's request to release them from liability for the VRS program costs, the agent is required to deduct the amount specified from the impairment benefit, lump sum or common law damages payment and pay the balance to the worker.</p> <p>If the worker has a current entitlement to medical and like services, the agent should then write to the worker inviting them to seek reimbursement of the costs</p>

of the VRS program as a s99 medical and like expense.

Act ref: S99

See: [Standard letter](#)

Agent

When there is a requirement to deduct a DEEWR payment from the lump sum, impairment benefit or common law damages payment, these payments are to be processed as an Emergency Cheque.

This process is to be used only if at the time the agent is ready to make the payment:

- the worker's appeal to DEEWR for a release from liability to pay the costs of the worker's VRS program on the ground of 'special circumstances' has been rejected
- or
- the worker has not received a copy of the workers response from DEEWR to the request for a release from liability to pay the costs of the worker's VRS program.

Prior to processing the lump sum, impairment benefit or common law damages payment in ACction, the agent is required to complete the initial details on the [20.8.6 - Emergency cheque DEEWR payment form](#).

[ACction](#)

c Reimbursing DEEWR payment to a worker

A [worker](#) may be entitled to reimbursement of the amount paid to [DEEWR](#) if he or she has a current entitlement to medical and like services.

Act ref: S99

[For example:](#)

A worker may not have a current entitlement to medical and like services if their entitlement has ceased because 52 weeks have elapsed since their entitlement to weekly payments ceased.

A worker who receives a [settlement](#) or award of economic loss damages or a voluntary settlement of weekly payments, will continue to be entitled to receive medical and like services, subject to [the Act](#).

Act ref: S99(11) & S99(13)

Agent

When an agent receives a request from a worker for reimbursement of the cost of the [VRS](#) program, the agent is required to determine whether the VRS program in full or part comprises services or items that might be payable as compensation under the definition of Occupational Rehabilitation Services, Personal and Household services or Medical and Like Services.

If the agent does not have sufficient information to determine this, the worker should be encouraged to contact the VRS program provider and request a copy of their complete file or to make a request under the [Freedom of Information Act 1982](#) to obtain a copy.

If it is determined that the services or items within the VRS program are claimable then the agent is required to assess whether these services or items are:

- reasonable and/or necessary in the circumstances
and
- if the costs of the services or items are reasonable.

Any VRS program items or services that are not reasonable and/or necessary or do not fall under the category of personal and household services, occupational rehabilitation services or medical services should not be reimbursed.

Act ref: S5(1), S99(1), S99AAA(2)

Agent decision is to reimburse worker

Where the agent decides to reimburse the worker for the costs of all or part of the rehabilitation services provided, the agent is required to advise the worker in writing that they will be reimbursing for part or all of the costs of the VRS program deducted from the lump sum, impairment benefit or common law damages payment received by the worker.

When reimbursing the costs of the VRS program from the lump sum, agents must enter payment details following certain procedures.

See:

[ACction](#)

[Standard letter](#)

Agent decision not to reimburse worker

If the worker's request for reimbursement is denied in full, the agent is required to advise the worker in writing.

Act ref: S99

See: [Standard Letter](#)

8.3 - Worker RTW obligations

Worker's obligations

Workers who have an incapacity for work are required to:

- make reasonable efforts to actively participate and cooperate in planning for [RTW](#)
- actively use an occupational rehabilitation service (where relevant) and cooperate with the provider of that service
- actively participate and cooperate in any assessment of their capacity for work, rehabilitation progress or future employment prospects
- make reasonable efforts to RTW in [suitable employment](#) or [pre-injury employment](#) at the worker's place of employment or at another place of employment
- participate in an interview with a representative of [WorkSafe](#) for the purpose of enhancing the worker's opportunities to RTW.

Act ref: S200, S201, S202, S203, S204

Non-compliance



Four stages of sanctions can be applied to encourage workers to meet their RTW obligations and provide workers with adequate opportunity to demonstrate compliance.

Stage One

A worker not meeting their RTW obligations may receive a warning notice advising them that their weekly payments may be suspended on a date specified if they do not comply with their RTW obligations. The date specified must be at least 14 days but no more than 60 days after this warning notice is given.

During this warning period the worker will be advised of action they can take to prevent the suspension of their weekly payments, eg participate in planning for their RTW with their employer.

See: [8.3.2 - Warning notice](#)

Stage Two

If the worker does not undertake the action requested of them to comply with their RTW obligations during the warning period, they may have their weekly payments suspended for 28 days. If a worker subsequently complies with their RTW obligations by undertaking the action requested of them within the 28 day suspension period, payment of their weekly payments will resume effective from the date the worker complies.

During the suspension period the worker will be advised of action they can take to prevent the termination of their weekly payments if they have still not complied with their obligations after the suspension period has lapsed, eg to participate in OR services and cooperate with the provider of the service.

See: [8.3.3 - Suspending weekly payments](#)

Stage Three

If the worker does not undertake the action requested of them to comply with their RTW obligations, during the suspension period they may have their weekly payments terminated.

See: [8.3.4 - Terminating weekly payments for RTW non-compliance](#)

Stage Four

If the worker does not undertake the action requested of them to comply with their RTW obligations during the suspension period, and has also demonstrated non-compliance multiple times in the previous 12 months, their weekly payments may be ceased and determined. In order to cease and determine a worker's entitlement to weekly payments in the 12 months

prior to the cease and determine notice being given:

- the worker must have been given at least two Stage One warning notices which did not lead to a suspension
or
- had their weekly payments suspended under Stage Two at least once.

See: [8.3.5 - Cease and determine weekly payments for RTW non-compliance](#)

Act ref: S205

Worker reasonable efforts

These sanctions do **not** apply where a worker has made a reasonable effort to comply with their RTW obligations or where the worker's non-participation was reasonable.

Individual circumstances

Decisions about the reasonableness of a worker's efforts need to take into account the worker's individual circumstances.

Some examples of common factors that may influence the nature and extent of a worker's participation include:

- their incapacity
- seriousness of their injury (including psychological effects)
- non-[work related](#) injuries or illnesses
- language and literacy skills
- availability of and access to their [THP](#)
- the effect of medication or other treatments
- access to transport and residential location (does their injury prevent or limit the use of public or personal means of transport?)
- access to a phone (land line and/or mobile phone)
and
- family or carer responsibilities.

Mutual expectations

Employers and workers are both required to participate in the RTW process. Without adequate effort on the employer's part, the worker's ability to make reasonable efforts will be affected. For example, a worker's ability to make reasonable efforts to RTW in pre-injury or suitable employment will be hampered if the employer has not proposed suitable employment or has proposed employment that is not really suitable.

A decision about a worker's efforts should therefore take into account the efforts of the employer.

See also: [4.5 - Return to work obligations](#)

For the sanctions to apply

For the sanctions to apply the following must have occurred prior to their application:

- the agent **must** contact the worker and ask the worker to explain why they are not meeting their RTW obligations. Upon receipt of an explanation from the worker the agent can determine whether to proceed, taking the worker's explanation and individual circumstances into consideration
- agents are to remind workers of their RTW obligations at the commencement of any RTW activities (eg referral to OR services), the first sign of non-compliance or where a situation of potential non-compliance may exist.

Medical exams

The sanctions do not apply to s112 exams where non-attendance or obstruction has its own sanctions.

See: [7.11.2 - Non attendance or obstruction of medical examination](#)

Section contents

[8.3.1 - Worker sanctions for RTW non-compliance](#)

[8.3.2 - Warning notice](#)

[8.3.3 - Suspending weekly payments](#)

[8.3.4 - Terminating weekly payments for RTW non-compliance](#)

[8.3.5 - Cease and determine weekly payments for RTW non-compliance](#)

8.3.1 - Worker sanctions for RTW non-compliance

The procedures that apply in relation to the [worker](#) sanctions for non-compliance with [RTW](#) obligations are outlined in this section.

8.3.2 - Warning notice

When it is considered that a [worker](#) is not meeting their [RTW](#) obligations an agent may issue a warning notice to the worker.

Warning notices provide injured workers with at least 14 days but no longer than 60 days notice to demonstrate compliance with their RTW obligations.

Contact the worker Prior to issuing a warning notice the worker must be contacted to:

- advise that they appear to not be complying with a RTW obligation
- explain the action/inaction considered to be non-compliant
- ask them to explain why they have been non-compliant.

Following this it can be determined whether to proceed with a warning notice taking the worker's explanation and their individual circumstances into consideration.

Contents of a warning notice



A warning notice must give a worker at least 14 days but no longer than 60 days after the notice is given to comply with a RTW obligation.

The notice must contain:

- the reason for the giving of the notice including a description of what action/inaction has been considered non-compliant
- instructions on how they can comply with their RTW obligation(s) (see below)
- what period is provided for them to comply, ie 14 days to 60 days
- the consequences of failing to comply with the instructions in the warning notice, ie suspension of weekly payments for up to 28 days and the date on which that suspension will take effect should they not comply within the warning period.

See: [9.10.2.1 - Contents of notice](#)

Determine what action/s are necessary for the worker to be compliant



A warning notice must set out the obligation the worker is required to comply with within the warning period. A warning notice must set out an action the worker is required to take to demonstrate compliance with their RTW obligation. This can include (but is not limited to):

- an appointment to plan RTW
- an appointment with an occupational rehabilitation provider
- an assessment of capacity, rehabilitation progress or future employment prospects
- RTW at the worker's place of employment in [suitable employment](#) or [pre-injury employment](#)
- RTW at another place of employment
- an interview with a representative of [WorkSafe](#).

The agent is to ensure this appointment, assessment, RTW or interview is planned within the warning period (ie within 14 days to 60 days) and give the worker every opportunity to comply.

Notice period



Workers are to be provided with at least 14 days but no longer than 60 days after the notice is given to comply with their obligations. If the notice is sent by mail, allow for postal days.

Ensure adequate notice is provided for the worker to attend an appointment or interview for them to demonstrate compliance.

Compliance within the warning period

If a worker complies with their obligations within the notice period, make a record of their compliance.

8.3.3 - Suspending weekly payments

When it is considered that a [worker](#) is not meeting their [RTW](#) obligations an agent may first issue a warning notice to the worker.

Warning notices provide injured workers at least 14 days but no longer than 60 days after the notice is given to demonstrate compliance with their RTW obligations. If, within this period, the worker has still not met their obligations, the agent can suspend their weekly payments.

Contact the worker Prior to suspending weekly payments the worker must be contacted to:

- advise that there continues to be non-compliance with a RTW obligation
- explain the action/inaction considered to be non-compliant
- ask them to explain why they continue to be non-compliant.

Following this it can be determined whether to proceed with a suspension notice, taking the worker's explanation and individual circumstances into consideration.

Contents of a suspension notice



A suspension notice must give a worker 28 days to comply with their RTW obligations.

The notice must contain:

- advice that the worker's weekly payments are being suspended for 28 days. If a worker subsequently complies with their RTW obligations by undertaking the action requested of them within the 28 day suspension period, payment of their weekly payments will resume effective from the date the worker complies
- a description of the action/inaction considered to be non-compliant
- what they are required to do for their weekly payments to be recommenced (see below)
- what period is provided for them to comply, ie 28 days
- the consequences of failing to comply with the instructions in the suspension notice, ie termination of weekly payments and the date on which this termination will take effect should they fail to comply.

See: [9.10.2.1 - Contents of notice](#)

Determine what action/s are necessary for the worker to be compliant

A suspension notice must set out which obligation(s) the worker is required to comply with within the suspension period. A suspension notice must set out an action the worker is required to take to demonstrate compliance with their RTW obligation. This can include:

- an appointment to plan RTW
- an appointment with an occupational rehabilitation provider
- an assessment of capacity, rehabilitation progress or future employment prospects
- RTW at the worker's place of employment in [suitable employment](#) or [pre-injury employment](#)
- RTW at another place of employment
- an interview with a representative of [WorkSafe](#).

The agent is to ensure this appointment, assessment, RTW or interview is planned within the suspension period (ie within 28 days) and give the worker every opportunity to comply.

Notice period



The suspension can take effect on the date set out in the warning letter ie at the conclusion of the warning period but not earlier.

Ensure adequate notice is provided for the worker to attend an appointment or interview for them to demonstrate compliance.

As part of the warning letter, workers are given at least 14 days but no longer than 60 days after the notice is given, to comply with their obligations. This warning letter also provides the notice period for the suspension and therefore allowance for postal days is not required when sending the suspension notice.

*Compliance within
the suspension
period*



If a worker complies with their obligations within 28 days, the agent must reinstate their weekly payments from the date they demonstrated compliance and make record of their compliance.

*Suspension
periods*

Any period of suspension is included in the time counted for entitlement periods such as the 104/130 weeks. Any payments that would have otherwise been payable during a suspension remain forfeited and should not subsequently be back-paid to the worker.

*At the end of the
suspension period*



The suspension can be for 28 days only. Weekly payments must be either reinstated or terminated or ceased and determined (depending on the workers history of non-compliance) after 28 days.

8.3.4 - Terminating weekly payments for RTW non-compliance

When it is considered that a [worker](#) has not made reasonable efforts to take the action specified in the suspension notice an agent may terminate weekly payments.

Contact the worker Prior to terminating weekly payments the worker must be contacted to:

- advise that there continues to be non-compliance with a [RTW](#) obligation
- explain the action/inaction considered to be non-compliant
- ask them to explain why they continue to be non-compliant.

Following this it can be determined whether to proceed with a termination notice, taking the worker's explanation and individual circumstances into consideration.

Contents of a termination notice

Where it is determined that a worker's weekly payments, should be terminated the notice must contain:

- advice that their weekly payments are being terminated
- a description of what action/inaction has been considered non-compliant.

See: [9.10.2.1 - Contents of notice](#)

Notice period

The termination can take effect the day after the end of the suspension period but not earlier.

8.3.5 - Cease and determine weekly payments for RTW non-compliance

Action to cease and determine weekly payments is only to be used when workers repeatedly demonstrate a cycle of non-compliance.

When a [worker](#) has repeatedly demonstrated non-compliance within a 12 month period, [WorkSafe](#) can cease and determine weekly payments.

Cease and determine

The effect of a cease and determine notice is that a worker cannot re-establish their entitlement to weekly payments, even if their circumstances change, without this notice being overturned. A change to total incapacity or later complying with [the Act](#) does not result in weekly payments being recommenced. This can only occur when the notice is overturned through the normal dispute resolution process.

Because of the severity of this sanction it is to be used only for repeated non-compliance over a 12 month period.

When to cease and determine

Cease and determine can only occur:

- Following the third warning relating to non-compliance with [RTW](#) obligations – a worker who has received a warning notice and has not taken the action outlined in the warning notice, during the warning period or the suspension period **and** has also received two earlier warning notices within the preceding 12 months. A suspension period may not have been applied in relation to the first two warnings. In this circumstance it may be appropriate to cease and determine weekly payments.
- Following an earlier suspension for non-compliance with RTW obligations – a worker whose weekly payments have been suspended for 28 days and has not taken the action outlined in the suspension notice **and** has also previously been suspended for RTW non-compliance within the preceding 12 months. In this circumstance it may be appropriate to cease and determine weekly payments.

Agents are to use discretion when ceasing and determining weekly payments. It should only be utilised where repeated non-compliance is shown. Even where the scenarios identified above occur, an agent may assess whether to terminate rather than cease and determine the worker's weekly payments, taking into consideration relevant circumstances.

Contact the worker

Prior to issuing a notice to cease and determine weekly payments the worker must be contacted to:

- advise that they continue to appear to not be complying with their RTW obligations
- explain what action/inaction is considered non-compliant
- advise that they are now at risk of having their payments ceased and determined
- ask them to explain why they have been non compliant.

Following this it can be determined whether to proceed with ceasing and determining weekly payments, taking the worker's explanation into consideration. Depending on the circumstances, agents may decide to terminate weekly payments or may decide that it is appropriate to reinstate weekly payments.

Contents of a termination notice

The notice must contain:

- advice that their weekly payments are being ceased and determined
 - a description of what action/inaction has been considered non-compliance
-

- a description of what cease and determine means
- appeals clause.

See: [9.10.2.1 - Contents of notice](#)

Notice period

The cease and determine notice can take effect at the conclusion of the suspension period advised in the suspension notice but not earlier.

8.4 - Return to work with injury employer

If a [worker](#) is able to [RTW](#) with the injury employer then the RTW goal is with that employer.

For detailed information on how employers can comply with their obligation to provide employment, plan and consult about return to work, refer to: [Compliance Code 1 of 4: Proving employment, planning and consulting about return to work](#).

RTW with injury employer

Original Employer Services ([OES](#)) are OR services approved by [WorkSafe](#) specifically for the worker's RTW with their injury employer.

Workplace Support Services ([WSS](#)) is a type of OES service to facilitate a negotiated RTW for a worker with a mental injury claim where a workplace relationship breakdown is a key contributor to the worker's injury.

A worker is entitled to choose the OR provider who will provide OES or WSS. Not all OR providers are approved by WorkSafe to deliver WSS.

See:

[8.2.7 - Worker choice of OR provider](#)

[8.12.1 - OES Schedule 2](#)

[8.12.3 - WSS Schedule 4](#)

[Approved Occupational Rehabilitation Service Provider Directory](#)

Expected outcomes from OES or WSS

It is expected that after receiving OES or WSS, the worker will RTW at the injury or another workplace of the injury employer.

Employer obligations to assist a worker to RTW

There are specific injury employer obligations to:

- provide pre-injury or [suitable employment](#) for the 52 week [employment obligation period](#)
- plan for the RTW of a worker
- consult with the worker, their [THP](#) and OR provider
- nominate and appoint a RTW coordinator who is competent and has sufficient seniority to perform the role
- make RTW information available.

See also:

[4.5.2 - Plan return to work](#)

[4.5.4 - Process for employer RTW compliance](#)

[4.5 - Return to work obligations](#)

Worker with potential [CWC](#)

If the agent determines that the worker has the potential to develop a CWC within a three month period, the agent may approve an OES Initial Assessment or if the worker has a mental injury claim, a WSS Assessment.

Following the OES Initial Assessment, ongoing OES must be approved by an [IMA](#).

Suspending or ceasing OES

An agent may suspend OES servicing where medical evidence supports the worker has, or will have, no CWC for more than four weeks but is expected to have a CWC within 13 weeks.

An agent may cease OES where medical evidence supports the worker has or will have, no CWC for more than 13 weeks.

See: [8.12.1 - OES Schedule 2](#)



One off including workplace assessment

An OES One off assessment, including workplace assessment, can be used to provide limited RTW support and assistance to a worker when the expectation is that there will be no need for OES to continue.

Worker at work with injury employer but this is not a long-term solution

A worker may RTW with their injury employer but the employer advises the agent that this is not a long-term solution. Prior to considering a RTW with a new employer, the agent must confirm the injury employer's RTW obligations have been fulfilled including fully exhausting other RTW opportunities at other workplaces of the injury employer and considering vocational re-education.

Once the agent is satisfied that no opportunity exists for the worker to RTW at a workplace of the injury employer, a 26 Week [NES](#) should be approved.

OES & NES concurrent servicing

Maintaining a worker's capacity for work is important. If the injury employer is willing, NES should commence while the worker continues to work at the injury employer.

Where the agent is satisfied that RTW opportunities at the injury employer have been fully exhausted, NES servicing should be approved.

In some circumstances a worker commencing NES services may, with the injury employer's approval, continue their employment for a limited period of time to maintain their CWC. The agent should closely monitor any such arrangements, which should be documented with a date when the arrangements will cease. While such arrangements are in place, the agent may consider continuing OES services for a limited duration (up to eight weeks) to maintain the worker's CWC. OES services provided to maintain a worker's CWC would usually be provided via telephone contact. If the OR provider delivering the NES services to the worker is different from the OR provider delivering OES services, the agent must advise the worker that their primary OR provider contact is the NES provider.

OES to NES transition

As part of claims management the agent is required to regularly review a worker's RTW potential, especially where there is medical evidence confirming the worker has a CWC and is not at work.

Initially, the RTW goal is for the worker to RTW with their injury employer, preferably working their pre-injury hours ([PIH](#)) and pre-injury duties ([PID](#)).

Sometimes, an agent may make a decision that the worker's RTW goal is no longer RTW with the injury employer and that a new RTW goal of suitable employment with a new employer is appropriate, particularly where the worker can work their pre-injury hours (PIH).

This decision may be made at any time by the agent but is likely to occur when the injury employer's employment obligation period of 52 weeks has been satisfied.

An OR provider should not discuss NES with the worker until this new RTW goal has first been discussed and approved by the agent.

See:

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

Worker costs

An agent should reimburse the worker the [reasonable costs](#) associated with the worker participating in a retraining course, a s204 [worker interview](#) or travelling to and from a RTW to a different workplace from where they worked pre-injury. These costs should be reimbursed to the worker on the provision of receipts.

See:

[8.2.6.1 - Worker RTW or retraining travel](#)

[8.2.6.3 - Vocational re-education \(retraining courses\)](#)

[8.3 - Worker RTW obligations](#)

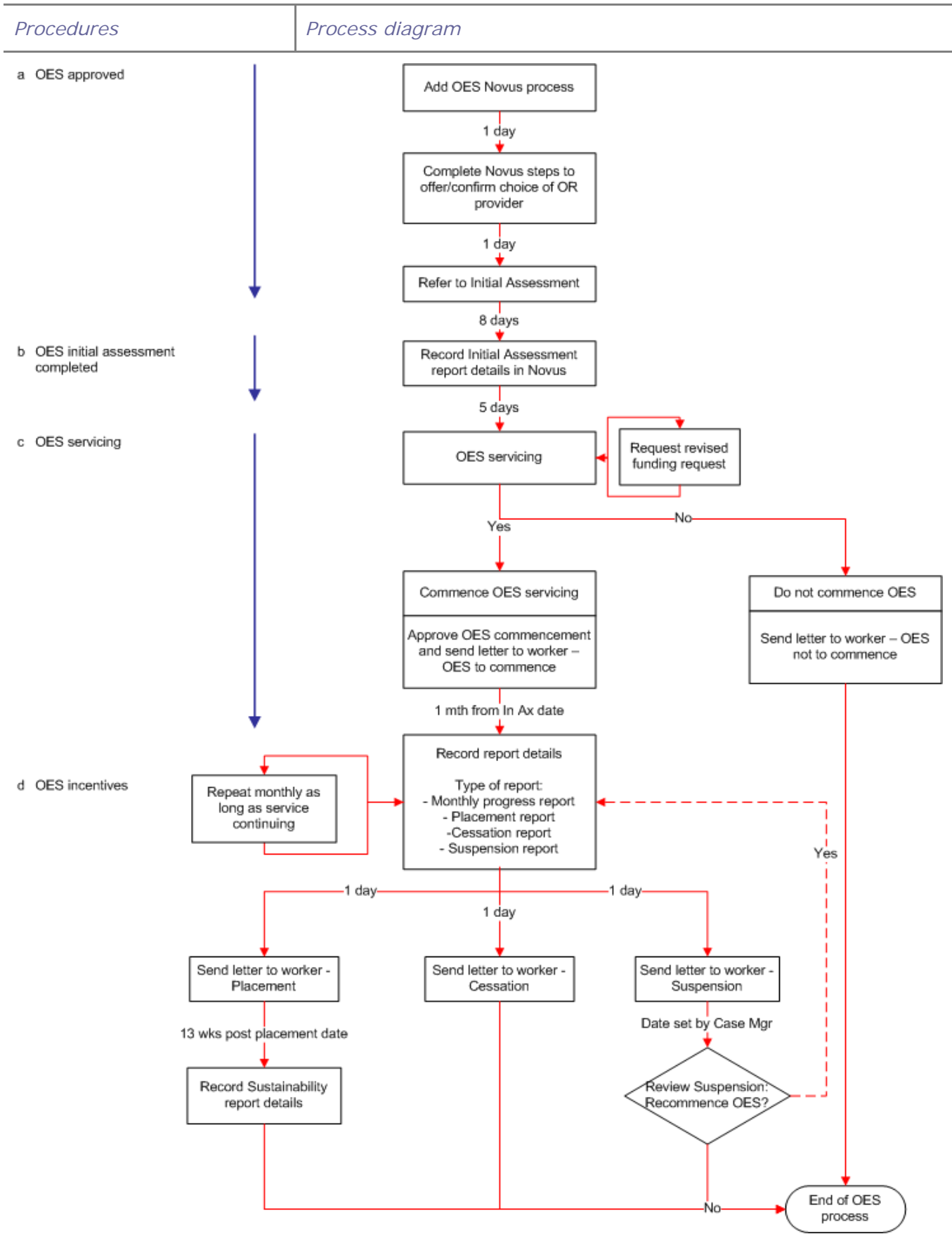
*Section
contents*

[8.4.1 - OES process for RTW with injury employer](#)

[8.4.2 - OES suspension or cessation](#)

8.4.1 - OES process for RTW with injury employer

Here is the process for [RTW](#) with injury employer. Note that the [worker](#) may RTW at any time during this process.



- [a OES approved](#)
- [b OES initial assessment completed](#)
- [c OES servicing](#)
- [d OES incentives](#)



a OES approved

For details about the agent and OR provider activities for [OES](#) servicing, see: [8.12.1 - OES Schedule 2](#) in particular RC700.

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>The agent will:</p> <ul style="list-style-type: none">• create the Novus task 'OES' process within two working days of making the decision to approve OES (noting that OR choice is a sub-process)• within one working day of undertaking tasks associated with the 'Worker choice of OR provider' process being completed (ie worker choice of provider confirmed), create and complete Novus task 'Refer Initial Assessment'• complete fax/email an OR Referral form to the OR provider chosen by the worker selecting OES Initial Assessment and indicating the worker's PIH at the time of injury, excluding overtime/shift• send standard letter OES1 'Initial Assessment – Worker' to the worker, their IHP and injury employer. <p>Cancellation of the Novus process must include an explanatory comment.</p>

b OES initial assessment completed

For details about the agent and OR provider activities for [OES](#) servicing, see: [8.12.1 - OES Schedule 2](#) in particular RC700.

<i>BY</i>	<i>ACTION</i>
<p><i>OR provider</i></p> 	<p>On receiving the OR Referral form, the OR provider will:</p> <ul style="list-style-type: none"> • conduct the OES Initial Assessment within five working days • submit a OES initial Assessment Report within three working days of the assessment being completed to the: <ul style="list-style-type: none"> - agent (with invoice RC700) - worker - worker's THP - injury employer. <p>The OES Initial assessment report must include a recommendation for:</p> <ol style="list-style-type: none"> 1. OES services to commence (a Funding request for RC715 or other OES services to be included with report) or 2. OES services not to commence.
<p><i>Agent</i></p> 	<p>On receiving the OES Initial Assessment Report, an agent IMA (specific WorkSafe requirement) will:</p> <ul style="list-style-type: none"> • create and complete Novus task 'OES Make Decision' and within five working days, review the OES Initial Assessment Report to determine if the report is complete and if not, request further information from the OR provider • where the report is complete, pay the OR provider (RC700) • create and complete Novus task 'Record Initial Assessment Report' details on the date of receipt or within eight working days of completing the task approving the OES Initial Assessment (whichever is earlier) for the: <ul style="list-style-type: none"> - agent (with invoice RC700) - worker - worker's THP - injury employer. <p>Within five working days of receiving the OES Initial Assessment Report, the agent IMA will:</p> <ul style="list-style-type: none"> • complete Novus task 'OES: Refer Worker to OES' • forward the signed Funding Request to the OR provider • send standard letter OES2 'Refer Worker to OES' to the worker, their THP and injury employer. <p>OR</p> <p>Within five working days of receiving the OES Initial Assessment Report, the agent IMA will:</p> <ul style="list-style-type: none"> • complete Novus task 'OES: Send Letter to Worker – OES Not to Commence' • send standard letter OES3 'OES not to commence' to the worker, their THP and injury employer. <p>OR</p> <p>Within five working days of receiving the OES Initial Assessment Report, the agent IMA may also:</p> <ul style="list-style-type: none"> • create and complete Novus task 'OES: Request Revised Funding Request • contact the OR provider to discuss the reasons why a revised Funding Request is being requested • complete a new 'OES: Make a Decision' task (within five working days).

c OES servicing

For details about the agent and OR provider activities for [OES](#) servicing, see: [8.12.1 - OES Schedule 2](#) in particular RC701, RC705, RC710, RC715, RC764 and RC765.

BY ACTION

OR provider **OES Monthly Progress Reports (Months 1-5, 7-11 and 13 onwards)**



On receiving advice that RC715 OES servicing or another OES service should commence, the OR provider must complete the activities nominated in the OES Initial Assessment Report.

Once RC715 OES servicing commences, the OR provider must submit a monthly progress report to the agent.

If RC715 servicing continues for six or 12 months, the monthly progress reports are replaced by the OES 6 Month Progress Report and the OES 12 Month Progress Report.

The OR provider must submit each OES Monthly Progress Report or an OES 6 Month or 12 Month Progress Report on the same date each month after the initial assessment was conducted (unless OES services were suspended and ceased and a different date is now appropriate). Each report must have an invoice attached for the RC715 OES servicing or other OES service provided since the last report and may also include an Additional Funding Request if the OR provider is seeking to change the number of hours or OES service type and the costs already approved by the agent.

The OR provider must contact the agent immediately should the provider, whilst completing an OES Monthly Progress Report, form the opinion that the [worker](#) may not be able to [RTW](#) with the injury employer. An OR provider should not discuss [NES](#) with the worker until this new RTW goal has first been discussed and approved by the agent.

OES 6 Month Progress Report

The OR provider must submit an OES 6 Month Progress Report with an invoice for RC705. The report must contain sufficient information to substantiate the recommendations being made by the OR provider and any further funding being sought for RC715 OES servicing or any other OES service.

The OR provider must contact the agent immediately should the provider, whilst completing the OES 6 Month Progress Report, form the opinion that the worker may not be able to RTW with the injury employer. An OR provider should not discuss NES with the worker until this new RTW goal has first been discussed and approved by the agent.

OES 12 Month Progress Report

An OR provider must submit an OES 12 Month Progress Report with an invoice for RC710. The report must contain sufficient information to substantiate the recommendations being made by the OR provider and any further funding being sought for RC715 OES servicing or any other OES service.

The OR provider must contact the agent immediately should the provider, whilst completing the OES 6 Month Progress Report, form the opinion that the worker may not be able to RTW with the injury employer. An OR provider should not discuss NES with the worker until this new RTW goal has first been discussed and approved by the agent.

13 Months onwards

An agent must not approve RC715 OES servicing or another OES service to continue for more than 12 months unless there are exceptional circumstances.

The OR provider must submit an OES Monthly Progress Report with an invoice for RC701. The report must contain sufficient information to substantiate the recommendations being made by the OR provider and any further funding being sought for RC715 OES servicing or any other OES service.

The OR provider must contact the agent immediately should the provider, whilst completing the OES 6 Month Progress Report, form the opinion that the worker may not be able to RTW with the injury employer. An OR provider should not discuss NES with the worker until this new RTW goal has first been discussed and approved by the agent.

Agent



If a RTW is not achieved, on receiving an OES Monthly Progress Report or an OES 6 Month or 12 Month Progress Report, the agent will:

- review the OES Monthly Progress Report to determine if the report is complete and if not, request further information from the OR provider
- where the report is complete, pay the OR provider (RC701)
- create and complete Novus tasks 'OES: Record Report Details' and associated eForm 'OES: Report Details' for the report received or alternatively, 'Refer to [IMA](#)'.

If the OES Monthly Progress Report has an Additional Funding Request attached, the agent must notify the OR provider within five working days to advise whether the number of hours, type of OES service and service costs are approved or not. If no response received within five working days, OES services can commence.

If the agent receives an OES Suspension Report (RC764) or OES Cessation Report (RC765) instead of an OES Monthly Progress Report or an OES 6 Month or 12 Month Progress Report, the agent will:

- review the report to determine if the report is complete and if not, request further information from the OR provider
- where the report is complete, pay the OR provider (the appropriate report code)
- create and complete Novus tasks 'OES: Record Report Details' and associated eForm 'OES: Report Details' for the report received or alternatively, 'Refer to IMA'
- send standard letter 'OES: Send Letter to Worker – Suspension' or 'OES: Send Letter to Worker – Cessation' to the worker, their [THP](#), the injury employer and the OR provider within one working day.

d OES incentives

For details about the agent and OR provider activities for [OES](#) servicing, see: [8.12.1 - OES Schedule 2](#) in particular RC720, RC730, RC740, RC741, RC742 and RC750.

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>If a worker returns to their pre-injury hours of work, an OES Placement Report is submitted by the OR provider with an invoice for RC730 instead of an OES Monthly Progress Report or an OES 6 Month or 12 Month Progress Report.</p> <p>On receiving an OES Placement Report, the agent will:</p> <ul style="list-style-type: none">• review the report to determine if the report is complete and if not, request further information from the OR provider• where the report is complete, pay the OR provider (RC730)• create and complete Novus tasks 'OES: Record Report Details' and associated eForm 'OES: Report Details' for the report received• send standard letter 'OES: Send Letter to Worker – Placement' to the worker, their THP, the injury employer and the OR provider within one working day. <p>If the agent decides to make OES 'inactive' the option 'not required' must be selected when completing the Novus task 'OES: Record Report Details'.</p> <p>Thirteen weeks after the date the worker returned to work and on receiving an OES Sustainability Report with an invoice for the appropriate OES RTW incentive from the OR provider, the agent will:</p> <ul style="list-style-type: none">• create and complete Novus task 'OES: Record Sustainability Report Details'.

8.4.2 - OES suspension or cessation

Suspend [OES](#) service

If the decision is made to suspend OES services, the agent will:

- create and complete the Novus task 'OES: Send Letter to [Worker](#) - Suspension'
 - send the standard letter OES5: 'OR Services Suspended – Worker', including the date on which services cease, to the worker, their [THP](#) and the injury employer within one working day
 - inform the OR provider of the date on which OES services cease.
-

Cease [OES](#) services

If the decision is made to cease OES services, the agent will:

- create and complete the Novus task 'OES cessation'
- send the standard letter OES6: 'OR Services Ceased – Worker', including the date on which services cease to the worker, their THP and injury employer within one working day
- inform the OR provider of the date on which OES services cease.

8.5 - Return to work with a new employer

If a [worker](#) with a current work capacity cannot [RTW](#) with the injury employer, the RTW goal is to RTW with a new employer.

For detailed information on how employers can comply with their obligation to provide employment, plan and consult about return to work refer to: [Compliance Code 1 of 4: Proving employment, planning and consulting about return to work.](#)

RTW with new employer focus

New Employer Services ([NES](#)) are OR services approved by [WorkSafe](#) specifically for a worker's RTW with a new employer.

A worker is entitled to choose the OR provider who will provide the approved NES service.

Not all WorkSafe approved OR providers can provide NES.

See:

[8.2.7 - Worker choice of OR provider](#)

[8.7 - Worker interview process](#)

[8.12.2 - NES Schedule 3](#)

[Approved Occupational Rehabilitation Service Provider Directory](#)

Expected outcome of NES

It is expected that after receiving NES services, the worker will have secured a sustainable job with a new employer and/or will be equipped with the competencies and skills to pursue [suitable employment](#) as an independent job seeker themselves.

26 week NES

Initially, an agent will approve a 26 Week NES Vocational Assessment Report to be completed so the OR provider can review the worker's circumstances, including the medical evidence and any work restrictions, the worker's transferable skills and abilities and identifying a list of prioritised suitable employment options based on a labour market analysis relevant to the worker and where they reside.

See: [26 Week NES](#)

NES refresher approved following a 130 week entitlement period

After a 130 week entitlement review, the agent must be able to demonstrate that a worker with a [CWC](#) who is not at work has been offered every opportunity to RTW, including a RTW with a new employer.

This means that the agent approving any further NES required where, although a 26 Week NES was completed, a RTW with a new employer was not achieved or has subsequently failed and the worker has continue to receive weekly payments.

NES Refresher services are OR services approved by WorkSafe specifically for this purpose. Which NES Refresher option is approved by the agent will depend on when the worker completed the 26 Week NES.

WorkSafe expects agents to approve a NES Refresher even though the date for terminating the worker's weekly payments at the end of the [second entitlement period](#) may be prior to the date the NES Refresher is due for completion.

See: [NES Refresher](#)

NES 16 week following a 130 week entitlement

Sometimes, the 130 week entitlement review reveals that a worker might not have been offered every opportunity to RTW including a RTW with a new employer

Where a 26 Week NES has not been completed, the agent may approve a 16 Week NES or a 26 Week NES.

WorkSafe expects agents to approve a 16 Week NES even though the date for terminating the worker's weekly payments at the end of the second entitlement period may be prior to the date the 16 Week NES is due for completion.

See: [8.5.3 - 16 Week NES](#)

Ceasing or suspending NES services

NES will commence if an agent has not advised a NES provider within two working days that the service is not approved.

Agents may also suspend or cease NES where medical evidence supports that the worker does not or will not have a CWC for a period of time. Agents may also consider suspending or ceasing NES where there is a current barrier to the worker's RTW which prevents the worker from being able to actively participate in a NES.

Specific advice is provided within the NES Schedule 3 about the cessation and suspension of NES.

See: [8.12.2 - NES Schedule 3](#)

OES & NES concurrent servicing

Maintaining a worker's capacity for work is important. If the injury employer is willing, NES should commence whilst the worker continues to work for their injury employer.

Where the agent is satisfied that the RTW opportunities at the injury employer have been fully exhausted, NES should be approved.

A worker commencing NES services may, with the injury employer's approval, continue their employment for a limited period of time to maintain their CWC. The agent should closely monitor any such arrangements and document the proposed cessation date. Whilst such an arrangement is in place, the agent may consider continuing OES for a limited duration (up to eight weeks) to maintain the worker's CWC. OES to maintain a worker's CWC would usually be provided via telephone contact. If the OR provider delivering NES to the worker is different to the OR provider delivering OES, the agent must advise the worker that their primary OR provider contact is the NES provider.

[WISE](#) eligibility

The WorkSafe Incentive Scheme for Employers (WISE) is available for any worker participating in NES services.

An employer who offers a worker a job recognised by WorkSafe as being appropriate for WISE can receive a subsidy for up to 12 months as well as injury insurance protection in the event the worker has a new injury or exacerbates their existing injury whilst participating in a WISE program.

The maximum amount payable for a WISE placement is \$26,000.

See: [8.6 - WorkSafe incentive scheme for employers](#)

NES within a group

An OR provider may offer group rather than individual NES but only with prior approval from the agent before group servicing is commenced.

Worker costs

An agent should reimburse the worker the [reasonable costs](#) associated with a worker participating in a NES service, a retraining course, a s204 [worker interview](#) or seeking suitable employment such as the costs of travel to and from a job interview, photocopying of a resume, postage etc. These reasonable costs should be reimbursed to the worker on the provision of receipts.

See:

[8.2.6.1 - Worker RTW or retraining travel](#)

[8.2.6.3 - Vocational re-education \(retraining courses\)](#)

[8.3 – Worker RTW obligation](#)

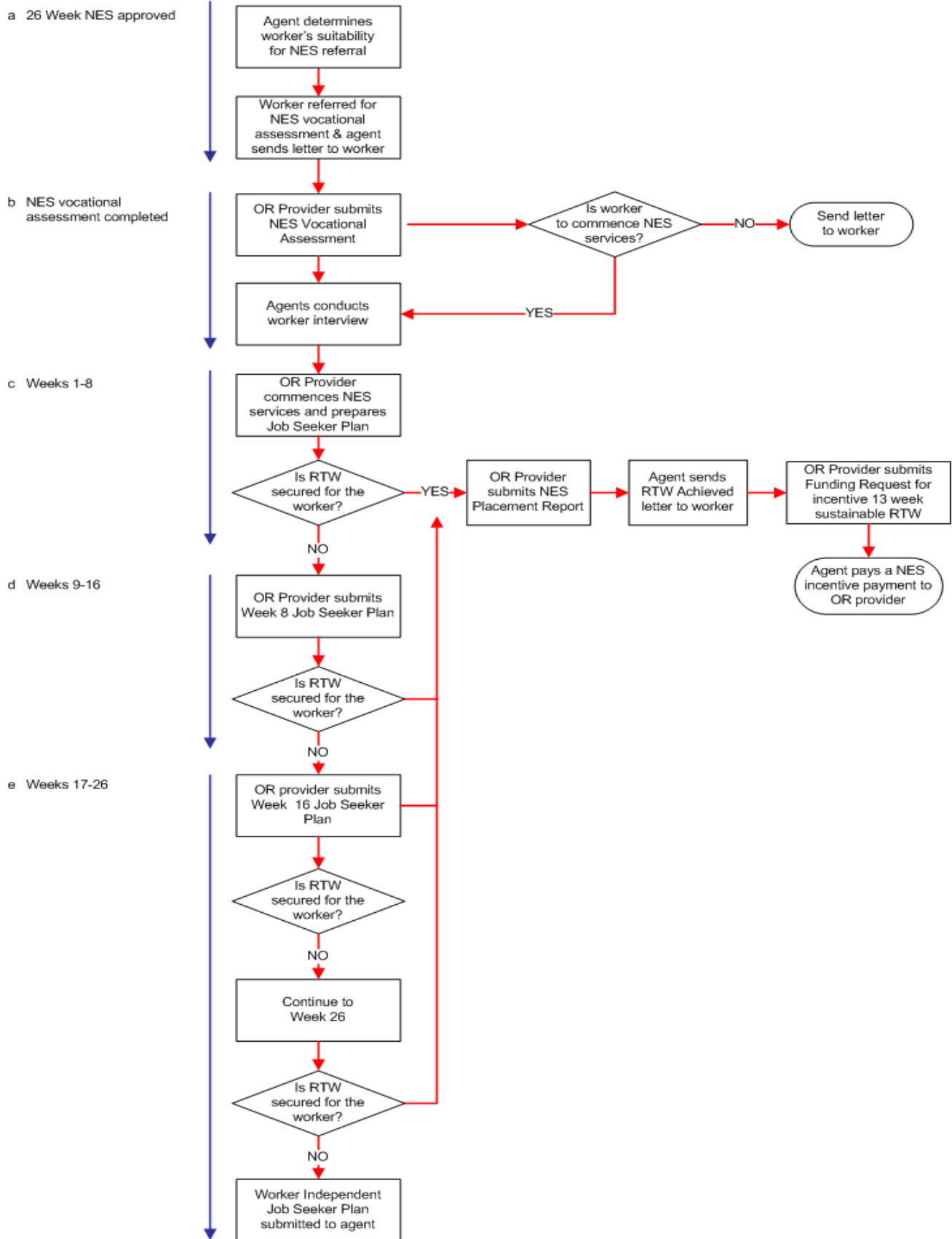
Section contents

[8.5.1 - Process for 26 Week NES](#)

8.5.1 - Process for 26 Week NES

Procedures

Process diagram



[a 26 Week NES approved](#)

[b NES vocational assessment completed](#)

[c Weeks 1-8](#)

[d Weeks 9-16](#)

[e Weeks 17-26](#)

a 26 Week NES approved

BY

ACTION

Agent





The agent will approve a 26 Week [NES](#) Vocational Assessment Report when a [worker](#) with a [CWC](#) cannot return to work with their injury employer.

The agent will:

- create and complete Novus task 'Refer Worker for Vocational Assessment' and send a letter to the worker within one working day of the decision to approve the Vocational Assessment
- complete and fax/email an OR Referral form to the OR provider chosen by the worker selecting NES Vocational Assessment and enclosing copy relevant medical information related to the worker's CWC including any work restrictions
- send standard letter NES1 'NES Vocational Assessment Approved' to the worker and their [THP](#).


b NES vocational assessment completed

For details about the agent and OR provider activities, see: [8.12.2 - NES Schedule 3](#) in particular RC800.

<i>BY</i>	<i>ACTION</i>
<i>OR provider</i> 	<p>On receiving the OR Referral form, the OR provider will:</p> <ul style="list-style-type: none">• contact the worker within two working days to arrange a meeting• conduct the NES Vocational Assessment• submit a NES Vocational Assessment Report within 15 working days to the:<ul style="list-style-type: none">- agent (with invoice for RC800)- workerand<ul style="list-style-type: none">- worker's THP. <p>The NES Vocational Assessment Report must include a recommendation that either:</p> <ol style="list-style-type: none">1. 26 Week NES commences (assessment invoice to also include RC880).2. A Vocational Re-education Assessment (with invoice for RC830) should be completed.3. 26 Week NES should not commence.
<i>Agent</i> 	<p>On receiving the NES Vocational Assessment Report, the agent will:</p> <ul style="list-style-type: none">• review the NES Vocational Assessment Report to determine the report is complete and if not, request further information from the OR provider• where the report is complete, pay the OR provider (RC800)• create and complete Novus task 'Record Vocational Assessment Report' details within one working day. <p>Where the report is complete, the OR provider will commence a 26 Week NES unless the agent advises the OR provider within two working days that a 26 Week NES is not approved.</p> <p>If a 26 Week NES commences, the agent will:</p> <ul style="list-style-type: none">• create and complete Novus task 'NES to Commence' and <ul style="list-style-type: none">• pay the OR provider (RC880). <p>If a 26 Week NES is not approved to commence, the agent will:</p> <ul style="list-style-type: none">• create and complete Novus task 'NES not to Commence'• send standard letter NES5 'NES not to Commence' to the worker and their THP within one working day.


c Weeks 1-8

For details about the agent and OR provider activities for weeks 1 to 8 of the 26 Week [NES](#), see: [8.12.2 - NES Schedule 3](#) in particular RC880 & RC881.

BY	ACTION
<p>Agent</p> 	<p>Week 4</p> <p>Where a RTW is not achieved by week four (ie within 20 working days of the NES Vocational Assessment Report), the OR provider will submit a NES Job Seeker Plan.</p> <p>On receiving a NES Job Seeker Plan, the agent will:</p> <ul style="list-style-type: none">• review the NES Job Seeker Plan to determine if the plan is complete and• create and complete Novus task 'Review NES Job Seeker Plan' within one working day. <p>If a RTW is achieved by week 4, the OR provider will submit a NES Placement Report instead of a NES Job Seeker Plan and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if the reports are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus Task 'NES Placement Report'• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus Task 'NES Workplace Assessment Report'. <p>Weeks 4-8</p> <p>If a RTW is achieved between weeks four to eight, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if they are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus Optional Template Task –NES Placement Report• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus Task 'NES Workplace Assessment Report'. <p>Week 8</p> <p>If a RTW is not achieved by week 8 (ie within 40 working days of the NES Vocational Assessment Report being submitted), the OR provider will submit a NES Week 8 Job Seeker Plan with an invoice for RC881.</p> <p>On receiving a NES Week 8 Job Seeker Plan, the agent will:</p> <ul style="list-style-type: none">• review the NES Week 8 Job Seeker Plan to determine if the plan is complete• where the plan is complete, pay the OR provider (RC881)• create and complete Novus task 'Review NES Week 8 Job Seeker Plan' within one working day.


d Weeks 9-16

For details about the agent and OR provider activities for weeks 9 to 16 of a 26 Week [NES](#), see: [8.12.2 - NES Schedule 3](#) in particular RC881 & RC883.

<i>BY</i>	<i>ACTION</i>
<i>Agent</i> 	<p>Week 9–16</p> <p>If a RTW is achieved between weeks 9 and 16, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if they are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus Optional Template task 'NES Placement Report'• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus task 'NES Workplace Assessment Report'. <p>Week 16</p> <p>If a RTW is not achieved by week 16 (ie within 80 working days of the NES Vocational Assessment Report being submitted), the OR provider will submit a NES Week 16 Job Seeker Plan with an invoice for RC883.</p> <p>On receiving a NES Week 16 Job Seeker Plan, the agent will:</p> <ul style="list-style-type: none">• review the NES Week 16 Job Seeker Plan to determine if the plan is complete• where the plan is complete, pay the OR provider (RC883)• create and complete Novus Task 'Review NES Week 16 Job Seeker Plan' within one working day.

e Weeks 17-26

For details about the agent and OR provider activities relevant to weeks 17 to 26 of a 26 Week [NES](#), see: [8.12.2 - NES Schedule 3](#) in particular RC883 & RC882.

<i>BY</i>	<i>ACTION</i>
<i>Agent</i> 	<p>Weeks 17–26</p> <p>If a RTW is achieved between weeks 17 and 26, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if they are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus Optional Template task 'NES Placement Report'• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus Task – NES Workplace Assessment Report <p>Week 26</p> <p>If a RTW is not achieved by week 26 (ie within 130 working days of the NES Vocational Assessment Report being submitted), the OR provider will submit a NES Worker Independent Job Seeker Plan with an invoice for RC882.</p> <p>On receiving a Worker Independent Job Seeker Plan, the agent will</p> <ul style="list-style-type: none">• review the Worker independent Job Seeker Plan to determine if the plan is complete• where the plan is complete, pay the OR provider (RC882)• create and complete Novus task 'Review Worker Independent Job Seeker Plan' within one working day.

8.5.2 - NES refresher

Which [NES](#) Refresher option an agent approves will depend on when the [worker](#) completed a 26 Week NES. The agent will make a decision about this when they complete a 130 (or 104) week claim review.

As part of that review, the agent will create and complete Novus task 'Review Claim 104/130 Weeks'.

If the 26 Week NES was completed (ie the RC882 service date) more than 12 weeks prior to the 130 week entitlement review commencing, a 12 Week NES Refresher will be approved.

If the 26 Week NES was completed (ie the RC882 service date) less than 12 weeks prior to the 130 week entitlement review commencing, NES Refresher Vocational Counselling will be approved.

A worker is entitled to chose the OR provider who will provide the NES Refresher or NES Refresher Vocational Counselling.

Where a NES Refresher or NES Refresher Vocational Counselling is approved, the agent will:

- confirm the worker's choice of OR provider
- contact the worker within one working day to advise that a NES Refresher has been approved
- create and complete the Novus Task 'Approve NES Refresher' for the service approved within one working day
- complete and fax/email within two working days, an OR Referral form to the OR provider chosen by the worker enclosing:
 - a copy of the last NES Vocational Assessment Report and the Worker Independent Job Seeker Plan as well as copies of relevant medical information related to the worker's [CWC](#) including any work restrictions.

The agent must be contacted immediately if the OR provider is of the opinion that the worker does not have a CWC or there are current barriers to the worker's [RTW](#) which prevents the worker from active participation in a NES Refresher or NES Refresher Vocational Counselling.

Section contents [8.5.2.1 - 12 Week NES refresher](#)
[8.5.2.2 - NES refresher vocational counselling](#)

8.5.2.1 - 12 Week NES refresher

For details about the agent and OR provider activities for the 12 Week [NES](#) Refresher, see: [8.12.2 - NES Schedule 3](#) in particular RC884 & RC885.

BY ACTION

OR provider



On receiving the OR Referral form, the OR provider will:

- contact the [worker](#) within two working days to arrange a meeting
- conduct the NES Refresher Assessment, confirm the worker has a [CWC](#) and that there are no current barriers to the worker's [RTW](#) that prevents the worker from active participation in a 12 Week NES Refresher
- submit a NES Refresher Assessment Report within five working days from the date the assessment was completed to the:
 - agent (with invoice for RC884)
 - worker
 - worker's [THP](#).

If the OR provider is of the opinion that a 12 Week NES Refresher should commence, the report should also include the plan and RC885 should also be included on the invoice.

Agent



Weeks 1–12

The agent will:

- review the NES Refresher Assessment Report to determine if the report is complete and if not, request further information from the OR provider
- review the NES Refresher Plan to determine if the plan is complete and if not, request further information from the OR provider
- pay the OR provider (RC884) where the report is complete and the agent has not advised the OR provider within 2 working days that a 12 Week NES Refresher is not approved, servicing commences and the agent must pay the OR provider (RC884)
- pay the OR provider (RC884 and RC885) where the report and plan are complete and the agent approves a NES Refresher.

If the agent does not approve a 12 Week NES Refresher, they must advise the worker and their THP in writing of the reasons for this decision and appeal rights.

If a RTW is achieved between week 1 and 12, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.

The agent will:



- review the NES Placement Report and the Workplace Assessment Report to determine if they are complete and if not, request further information from the OR provider
- where the reports are complete, pay the OR provider (RC889 and RC810)
- create and complete Novus Optional Template Task 'NES Placement Report'
- send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day
- create and complete Novus task 'NES Workplace Assessment Report'.

If a RTW is not achieved by week 12 (ie within 60 working days of the NES Refresher) the OR provider will advise the agent, worker and their THP that no RTW has been achieved.

On receiving advice from the OR provider, the agent will contact the worker to discuss the outcome of the 12 Week NES Refresher within two working days.

8.5.2.2 - NES refresher vocational counselling

For details about the agent and OR provider activities for [NES Refresher Vocational Counselling](#), see: [8.12.2 - NES Schedule 3](#) in particular RC886.

<i>BY</i>	<i>ACTION</i>
<p><i>OR provider</i></p> 	<p>On receiving the OR Referral form, the OR provider will:</p> <ul style="list-style-type: none"> • contact the worker within two working days to arrange a meeting • meet with the worker to confirm the worker has a CWC and that there are no current barriers to the worker's RTW preventing active participation in NES Refresher Vocational Counselling. <p>If the OR provider is of the opinion that NES Refresher Vocational Counselling should commence, the OR provider should contact the agent immediately and submit an invoice for RC886.</p> <p>If the agent does not advise the OR provider within two working days that NES Refresher Vocational Counselling is not approved, the OR provider commences servicing.</p> <p>If the agent does not approve NES Refresher Vocational Counselling, they must advise the worker in writing of the reasons for their decision and appeal rights.</p> <p>The OR provider will review the Worker Independent Job Seeker Plan and confirm whether the list of prioritised suitable employment options is still appropriate. If the suitable employment options are no longer relevant the agreed activities must focus on achieving new suitable employment options.</p>
<p><i>Agent</i></p> 	<p>If a RTW is achieved during NES Refresher Vocational Counselling, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none"> • review the NES Placement Report and the Workplace Assessment Report to determine if the reports are complete and if not, request further information from the OR provider • where the reports are complete, pay the OR provider (RC889 and RC810) • create and complete Novus Optional Template task 'NES Placement Report' • send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day • create and complete Novus task 'NES Workplace Assessment Report'. <p>If a RTW is not achieved during NES Refresher Vocational Counselling, the OR provider will submit a NES Refresher Vocational Counselling Report to the agent.</p> <p>On receiving the report from the OR provider, the agent will contact the worker and their THP to discuss the outcome of the NES Refresher Vocational Counselling within two working days.</p>

8.5.3 - 16 Week NES

Following a 130 week entitlement review, the agent will approve a 16 week [NES](#) for a [worker](#) with a [CWC](#) who is not at work if that worker has not previously completed a 26 Week NES.

For details about the agent and OR provider activities for a 16 week NES, see: [8.12.2 - NES Schedule 3](#) in particular RC895, RC896, RC897 & RC898.

Section contents

- [a 16 Week NES approved](#)
- [b 16 Week NES vocational assessment completed](#)
- [c Weeks 1-8](#)
- [d Weeks 9-16](#)

a 16 Week NES approved

BY

ACTION

Agent





The agent will:

- confirm the [worker](#)'s choice of OR provider
- contact the worker within one working day to advise that a 16 week [NES](#) has been approved
- create and complete the Novus Task 'Approve 16 Week' within one working day
- complete and fax/email within two working days, an OR Referral form to the OR provider chosen by the worker enclosing copies of relevant medical information related to the worker's [CWC](#) including any medical restrictions or limitations for work.


b 16 Week NES vocational assessment completed

For details about the agent and OR provider activities for weeks 1 to 8 of a 16 week [NES](#), see: [8.12.2 - NES Schedule 3](#) in particular RC895.

<i>BY</i>	<i>ACTION</i>
<i>OR provider</i> 	<p>On receiving the OR Referral form, the OR provider will:</p> <ul style="list-style-type: none">• contact the worker within two working days to arrange a meeting• conduct the 16 week NES Vocational Assessment and identify suitable employment options based on the worker's transferable skills and undertake a labour market analysis relevant to the worker and where they reside• submit a 16 week NES Vocational Assessment Report within five working days to the:<ul style="list-style-type: none">- agent (with invoice for RC895)- worker- worker's THP. <p>The 16 week NES Vocational Assessment Report must include a recommendation to either:</p> <ol style="list-style-type: none">1. Commence 16 Week NES (assessment invoice to also include RC896).2. Not to commence 16 week NES.
<i>Agent</i> 	<p>On receiving the 16 week NES Vocational Assessment Report, the agent will:</p> <ul style="list-style-type: none">• review the 16 Week NES Vocational Assessment Report to determine if the report is complete and if not, request further information from the OR provider• where the report is complete, pay the OR provider (RC895). <p>Where the report is complete and the agent does not advise the OR provider within two working days that a 16 Week NES is not approved, the OR provider commences servicing.</p> <p>If the agent does not approve a 16 week NES, they must advise the worker and their THP in writing of the reasons for this decision and appeal rights.</p> <p>If a 16 week NES commences, the agent will pay the OR provider (RC896).</p>

c Weeks 1-8

For details about the agent and OR provider activities for weeks 1 to 8 of the 16 Week [NES](#), see: [8.12.2 - NES Schedule 3](#) in particular RC896 & RC897.

<i>BY</i>	<i>ACTION</i>
<i>Agent</i> 	<p>Week 4</p> <p>Where a RTW is not achieved by week 4 (ie within 20 working days of the 16 Week NES Vocational Assessment Report), the OR provider will submit a NES Job Seeker Plan.</p> <p>On receiving a NES Job Seeker Plan, the agent reviews the NES Job Seeker Plan to determine if the plan is complete.</p> <p>If a RTW is achieved by week 4, the OR provider will submit a NES Placement Report instead of a NES Job Seeker Plan and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if the reports are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus task 'NES Placement Report'• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus task 'NES Workplace Assessment Report'. <p>Weeks 4–8</p> <p>If a RTW is achieved between weeks 4 and 8, the OR provider will submit a NES Placement Report and a Workplace Report with an invoice for RC889 and RC810.</p> <p>The agent will:</p> <ul style="list-style-type: none">• review the NES Placement Report and the Workplace Assessment Report to determine if the reports are complete and if not, request further information from the OR provider• where the reports are complete, pay the OR provider (RC889 and RC810)• create and complete Novus Optional Template task 'NES Placement Report'• send letter NES6 'NES RTW Achieved' to the worker and their THP within one working day• create and complete Novus task 'NES Workplace Assessment Report'. <p>Week 8</p> <p>If a RTW is not achieved by week 8 (ie within 40 working days of the 16 Week NES Vocational Assessment Report being submitted), the OR provider will submit a NES Week 8 Job Seeker Plan with an invoice for RC897.</p> <p>On receiving a NES Week 8 Job Seeker Plan, the agent will:</p> <ul style="list-style-type: none">• review the NES Week 8 Job Seeker Plan to determine if the plan is complete• where the plan is complete, pay the OR provider (RC897).

d Weeks 9-16

BY

ACTION

Agent



Weeks 9–16

If a [RTW](#) is achieved between weeks 9 and 16, the OR provider will submit a [NES](#) Placement Report and a Workplace Report with an invoice for RC889 and RC810.

The agent will:

- review the NES Placement Report and the Workplace Assessment Report to determine if the reports are complete and if not, request further information from the OR provider
- where the reports are complete, pay the OR provider (RC889 and RC810)
- create and complete Novus Optional Template task 'NES Placement Report'
- send letter NES6 'NES RTW Achieved' to the [worker](#) and their [THP](#) within one working day
- create and complete Novus task 'NES Workplace Assessment Report'.


Week 16

If a RTW is not achieved by week 16 (ie within 80 working days of the 16 Week NES Vocational Assessment Report being submitted), the OR provider will submit a NES Week 16 Worker Independent Job Seeker Plan with an invoice for RC898.

On receiving a NES Week 16 Worker Independent Job Seeker Plan, the agent will:

- review the NES Week 16 Worker Independent Job Seeker Plan to determine if the plan is complete
- where the plan is complete, pay the OR provider (RC883).

8.5.4 - NES suspension or cessation

<i>BY</i>	<i>ACTION</i>
<i>Agent</i> 	<p>If a decision is made to suspend NES, the agent will:</p> <ul style="list-style-type: none">• create and complete the Novus task 'NES suspension'• send the standard letter NES7 'NES suspension worker' to the worker and the their THP which will includes the date from which NES are suspended within one working day• inform the OR provider of the date from which NES are suspended. <p>If a decision is made to cease NES, the agent will:</p> <ul style="list-style-type: none">• create and complete the Novus task 'NES cessation'• send the standard letter NES8 'NES cessation letter' to the worker and their THP which includes the date that NES cease within one working day• inform the OR provider of the NES cessation date.

8.6 - WorkSafe incentive scheme for employers

What is [WISE](#)?

[WorkSafe](#) has approved a program targeted at employers who are willing to offer full-time, part-time, casual or permanent employment to workers needing assistance and support to [RTW](#) with a new employer.

The WorkSafe Incentive Scheme for Employers (WISE) offers a 12 month financial incentive to these employers as well as offering WorkSafe Injury Insurance protection against the costs of a new or recurring injury while the [worker](#) participates in a WISE placement.

Act ref: S20

Worker access to WISE

A worker with a [CWC](#) and a RTW goal of return to work with a new employer may access WISE if placed in employment recognised by WorkSafe as appropriate for WISE, irrespective of whether they are receiving weekly payments or not.

The worker must be able to:

- work 15 hours or more per week
- complete the WISE placement prior to attaining retirement age.

WISE should be a consideration while a worker is participating in a [NES](#) service.

Worker cannot access WISE

A worker cannot access a WISE placement:

- to pursue self-employment
- if they are a director or board member of their own company or that of a family member.

Worker access WISE in a non-entitlement period

A worker can access WISE if they are not receiving weekly payments due to a non-entitlement period, eg whilst in receipt of a retirement or superannuation pension.

Worker responsibilities during WISE

The worker must:

- work within the agreed conditions and any restrictions negotiated as part of the WISE placement
- advise the employer and either the agent or the OR provider of any problems or concerns which they believe may impact on them completing the WISE placement
- wherever possible, attend any medical and like treatment outside of work hours where the treatment relates to a continuing claim.

No obligation to accept a job offer made through WISE

A worker does not have to accept a job offer made to them under WISE. However, the agent should contact the worker to discuss any issues or concerns if a worker does not accept a job offer.

A worker's entitlement to weekly payments may be affected if they are able to work and do not make reasonable efforts to return to work including looking for [suitable employment](#) with a new employer when their injury employer cannot provide this.

Employer access to WISE

Except for 'excluded employers', any employer who can offer full-time or part-time employment for at least 15 hours per week and has a current WorkSafe Injury Insurance policy can access WISE.

For details about excluded employers, see: [8.6.2 - Employer access to WISE](#)

Employer responsibilities

The employer must:

- understand that the worker should be employed under the same conditions of employment within the WISE workplace as any other

worker

- understand that WISE payments are a wage subsidy and are not intended to constitute a worker's entire salary
- provide a safe and healthy work environment for the WISE worker
- support and assist the worker throughout the WISE placement.

Employment arrangements

The employment arrangements between the worker and employer should be the same for WISE as for any other non-subsidised workers at the employer's workplace.

OR provider responsibilities

The OR provider is responsible for informing the agent of any WISE placement concerns, including OH&S issues or queries about the WISE worker's conditions of employment (eg they seem different to those of other workers employed at the same workplace).

The OR provider should ensure that the potential WISE employer is an employer who can access WISE.

Where a WISE placement is secured and a NES RTW incentive is not being sought, the OR provider should keep in contact with the worker and WISE employer during the first 13 weeks of the WISE placement and prepare a WISE Sustainability and Action Plan at the end of the first 13 weeks in consultation with the worker and the WISE employer.

Ongoing OR contact

An OR provider is expected to maintain ongoing contact with the worker and the WISE employer up to week 13. The cost of this monitoring activity is included as part of the OR provider placement fees.

Is WISE transferable?

WISE cannot be transferred from one worker to another worker or from one employer to another employer.

Available for traineeship or apprenticeships?

WISE cannot to be used for a traineeship or an apprenticeship.

Workplace assessment required

A NES Workplace Assessment is recommended prior to a worker commencing a WISE placement. This confirms the employment being offered is suitable for the worker.

Worker entitled to weekly payments during a WISE placement

A worker who remains entitled to weekly payments during a WISE placement must be made a direct payee by the agent.

WorkSafe support



If an agent has a query about WISE they should contact WorkSafe via occupational_rehab@worksafe.vic.gov.au. WorkSafe will then provide a response within 48 working hours. WorkSafe may seek further information during this period and any response will be made within 48 working hours of this information being received by WorkSafe.

Section contents

- [8.6.1 - WISE subsidy payments](#)
- [8.6.2 - Employer access to WISE](#)
- [8.6.3 - Agent responsibilities for WISE](#)
- [8.6.4 - Worker injury during a WISE placement](#)

8.6.1 - WISE subsidy payments

[WISE](#) subsidy payments are paid against the [worker's](#) claim. Therefore, all WISE subsidy payments are included as part of the injury employer's claim costs and as such, may affect their employer's [WorkSafe](#) Injury Insurance premium.

WISE paid in four instalments

A WISE employer can receive up to \$26,000 for a 12 month WISE placement.

Week 1	Initial payment 'work commencement' paid as a fixed fee of \$2000
Week 13	Payment for the preceding 13 weeks
Week 26	Payment for the preceding 13 weeks
Week 52	Payment for the preceding 26 weeks

The Week 13, Week 26 and Week 52 payments are calculated at 30% of the worker's gross earnings capped at \$8,000.

Agent makes WISE payments

On receiving the relevant WISE Payment form and verifying the worker is still at work, the agent makes the WISE subsidy payments to the WISE employer.

GST & indexation

WISE subsidy payments are not subject to GST and are not indexed on 1 July each year.

Employer must regularly pay worker

The worker must receive a regular salary appropriate for the job they are performing just like any other worker at the WISE employer's workplace. The WISE employer must not wait to receive the WISE subsidy payments from the agent at particular 'points in time' determined by WorkSafe before paying the worker.

The WISE subsidy payments represent a reimbursement to the WISE employer of part of the worker's salary paid to the employer.

WISE payments not included in employer's premium advice

An employer receiving WISE subsidy payments must include the gross wages or salary paid directly to the worker in their [remuneration](#) advice for WorkSafe Injury Insurance policy purposes.

WISE subsidy payments are not, however, included in the WISE employer's remuneration advice.

For example: A worker is placed in employment with a WISE employer and paid \$400 gross for 52 weeks of the 12 month placement (\$20,800). For the same period, the WISE employer receives WISE subsidy payments of \$8,240 from the agent. The total gross amount of wages paid by the employer to the worker of \$20,800 is included as part of the employer's remuneration advice for WorkSafe Injury Insurance purposes but the \$8,240 they receive as WISE subsidy payments is not.

Payment of appropriate incentive for a sustainable WISE placement

Worker participating in [NES](#) at time WISE placement achieved

In this case, an OR provider will submit a NES Placement Report with an invoice for RC889. If the worker remains in work for 13 weeks and the agent and OR provider agree that the criteria for paying a NES [RTW](#) incentive can be satisfied, the OR provider will submit an invoice for the appropriate NES RTW Incentive being claimed (RC890 or RC891 or RC892 or RC893).

In this case because NES placement and RTW incentive fees have been paid, the OR provider may not claim a WISE placement or sustainability fee as well.

Worker not participating in NES at time WISE placement achieved

In this case, an OR provider will submit a NES Placement Report with an invoice for payment type code 216, EWP200. If the worker remains in work for 13 weeks and the agent and OR provider agree that the criteria for paying a WISE sustainability fee has been fulfilled, the OR provider will submit a WISE Sustainability and Action Plan with an invoice for payment type code 216, EWP203.

See: [8.12.2 - NES Schedule 3](#) for WISE OR provider fees

No NES RTW incentive for WISE in a worker non-entitlement period

Usually, where a worker achieves a RTW with a WISE employer while participating in NES services and the RTW was sustainable for 13 weeks, the OR provider is paid a NES RTW incentive.

However, if the worker was not receiving weekly payments due to a non-entitlement period at the time of the RTW and/or the 13 week sustainable RTW, no NES RTW incentive can be paid because there is no impact on weekly payments.

In this case, if the worker remains in work for 13 weeks and the agent and OR provider agree that the criteria for paying a WISE sustainability fee has been fulfilled, the OR provider will submit a WISE Sustainability and Action Plan with an invoice for payment type code 216, EWP203.

The OR provider prepares the WISE Sustainability and Action Plan in consultation with the worker and WISE employer to outline any actions, including the recommendation of OR services, which may be needed in future to maintain the worker at work.

An agent should consider any recommendation for OR services promptly and advise the worker in writing and the OR provider if NES Vocational Counselling is approved.

WISE employer payment form

There is no invoice number on the WISE Employer Payment form. The agent should therefore use the item number plus the last four digits of the claim number.

When paying a WISE employer, the service date must be within an active WISE registration.

WISE work commencement

All WISE employers will be paid the Work Commencement fee, even where the WISE placement may have ceased.

On receiving the WISE Employer Payment form, the agent will make payment within 20 working days of the WISE commencement (ie the WISE registration start date).

The agent makes payment using Payment Type Code 211 and item code 1W12 (\$2000 fixed fee). On ACCtion the same service date should be used for the start and end date on the invoice.

WISE week 13

The Week 13 payment can be submitted by the employer on or after 92 calendar days from the WISE registration start date.

On receiving the WISE Employer Payment form, the agent will make payment using Payment Type Code 212 and item code IW13 (30% of gross wages paid to worker for the preceding 13 weeks capped at \$8,000).

On ACction the same service date should be used for the start and end date on the invoice. Any payment that exceeds \$5,000 will require supervisor approval.

WISE week 26

The Week 26 payment can be submitted by the employer on or after 183 calendar days from the WISE registration start date.

On receiving the WISE Employer Payment form, the agent will make payment using Payment Type Code 212 and item code IW26 (30% of gross wages paid to worker for the preceding 13 weeks capped at \$8,000).

On ACction the same service date should be used for the start and end date on the invoice. Any payment that exceeds \$5,000 will require supervisor approval.

WISE week 52

The Week 52 payment can be submitted by the employer on or after 366 calendar days from the WISE registration start date.

On receiving the WISE Employer Payment form, the agent will make payment using Payment Type Code 212 and item code IW52 (30% of gross wages paid to worker for the preceding 26 weeks capped at \$8,000). On ACction the Week 52 payment can only be paid on day 365 or 366.

On ACction the same service date should be used for the start and end date on the invoice. Any payment that exceeds \$5,000 will require supervisor approval.

8.6.2 - Employer access to WISE

Employers excluded from accessing [WISE](#)

Employers who are:

- labour hire companies
 - employment agencies
- or
- group training organisations

and intend to on-hire the [worker](#) to another business and charge that business an amount in excess of what is directly paid to the worker, cannot access WISE.

However, if the above types of employers intend to directly employ and pay the worker they may access WISE.

Employer access to WISE for family members

An employer can access WISE for family members if the agent is of the opinion that this is the most [suitable employment](#) option available for the worker and no other achievable suitable employment options can be found.

Certain criteria must also be met regarding the business where the worker will be employed. That business must provide the agent with evidence that the business:

- is financially viable and is likely to remain so for the 12 months of WISE and
 - has been established for at least 12 months prior to WISE being considered
 - does not have the worker as a director or board member of the company.
-

Self-insurer access to WISE

A self-insurer under [the Act](#) can access WISE for a worker who was injured at the workplace of an employer who is not a self-insurer. In the event a self-insurer does access WISE the [WorkSafe](#) Injury Insurance protection for a new or recurring injury does not apply to a self-insurer.

Interstate or Commonwealth Government access to WISE

An interstate or Commonwealth Government employer can access WISE if that employer has a current workers compensation insurance policy appropriate for the State or jurisdiction in which the worker will be employed. In the event an interstate Commonwealth Government employer does access WISE, the WorkSafe Injury Insurance protection for a new or recurring injury does not apply to an interstate or Commonwealth Government employer.

Once a placement is secured, the WISE employer needs to be registered with a WorkSafe employer number to enable WISE payments to be made. In order for the employer to be registered, the relevant section of the 'Application for WorkSafe Injury Insurance Policy' needs to be completed.

Payments cannot be made to the WISE employer without a WISE registration.

[ACction](#)

8.6.3 - Agent responsibilities for WISE

Agent responsibilities

Agents should:

- ensure a [worker](#) has current [WISE](#) information including a WISE brochure to market themselves to potential WISE employers (through [Worker Interview](#) and/or Letter 3 Outcome [NES](#) Review – NES to Commence)
 - ensure full-time, part-time or casual employment is offered which is likely to continue after the 12 month WISE period
 - ensure the WISE employer:
 - has a [WorkSafe](#) Injury Insurance policy
 - understands how to claim the WISE subsidies
 - understands that WorkSafe Injury Insurance protection against the costs of a new or recurring injury during the WISE placement
 - is an employer who can access WISE including confirming an interstate or Commonwealth Government employer has a current workers' compensation insurance policy appropriate for the State or jurisdiction in which the worker will be employed
 - approve a workplace assessment prior to the worker commencing the WISE placement to ensure the worker is being placed in safe as well as [suitable employment](#)
 - consider any workplace modification recommendation following receipt of a NES Workplace Assessment Report to ensure the WISE placement can proceed
- See: [8.2.6.2 - Workplace equipment or modifications](#)
- monitor and support the worker during the WISE placement and approve further NES if appropriate to maintain the worker at work
 - make payments to the WISE employer and OR provider in appropriate timeframes using the correct WISE payment codes and service item codes.

WISE placements and agent discretion

Placement for less than 15 hours per week

An agent has the discretion to approve a WISE placement of less than 15 hours per week where they consider that a worker is unlikely to [RTW](#) for more than 15 hours per week.

Placement fails in first 13 weeks

An agent has the discretion to pay the WISE employer a Work Commencement fee and the WISE wage subsidy payment at Week 13 if a WISE placement fails within the first 13 weeks.

Three placements per worker

An agent has the discretion to approve up to three WISE placements for a worker where they consider that a WISE placement failed for reasons other than worker non-participation, eg where the employment was not suitable.

8.6.4 - Worker injury during a WISE placement

[Worker](#) makes a claim during a [WISE](#) placement

If a worker makes a claim during a WISE placement, the agent must determine which employer has liability for the claim (ie whether the injury is linked to the original claim or is it a new injury and a responsibility of the WISE employer) as soon as it is practicable.

The agent should seek medical evidence or other information to establish whether the injury is a recurrence, aggravation, acceleration, exacerbation or deterioration of any pre-existing injury or claim.

See also: [20.5 - Entitlements: Workers and Injuries](#)

New injury sustained with WISE employer

When a new injury or a recurrence of the original injury occurs during a WISE placement, the WISE employer is responsible for paying the employer excess unless they have a buyout option applying to their [WorkSafe](#) Injury Insurance policy.

Any weekly payments made to the worker are based on the pre-injury average weekly earnings paid by the WISE employer.

The claim is managed by the WISE employer's agent but as WISE provides employer's with WorkSafe Injury Insurance protection, the claims costs are not allocated against the WISE employer for WorkSafe Injury Insurance purposes.

Note: Employer excess amounts are indexed on 1 July each year.

See also: [9.1.2 - PIAWE](#)

[ACction](#)

Continuing injury on a pre-WISE claim

If it is determined that the injury is related to a continuing pre-WISE placement claim, any weekly payment and/or medical and like entitlements are paid on that claim.

If the pre-WISE placement claim is managed by a different agent to the agent of the WISE employer, the worker must be told to forward all medical certificates and/or medical and like service invoices to that agent.

For premium purposes all costs for a continuing injury claim are allocated to the employer associated with that claim.

Returning a worker to a WISE placement

Prior to the worker returning to the WISE placement after injury, the agent should approve a further Workplace Assessment Report with the OR provider involved in the WISE placement to establish what duties/tasks and/or workplace modifications may be needed to enable the placement to continue.

8.7 - Worker interview process

S204 of [the Act](#) allows an agent to invite a [worker](#) who has an incapacity for work to participate in an interview for the purpose of enhancing the worker's opportunities to [RTW](#).

This interview can occur at any time during the life of a claim and can be of great assistance to all parties as it provides the opportunity to explain to the worker the claims management process, what is expected of them with regard to RTW and what are the worker's rights and obligations to RTW if they have a capacity for work.

To ensure maximum benefit from the [Worker Interview](#) the agent should determine whether the current RTW goal is assisting the worker back to work with their injury employer or with a new employer.

If the current RTW goal is assisting the worker back to work with a new employer then an agent must conduct a Worker Interview prior to making a decision whether to approve [NES](#) services for the worker.

Act ref: S204

Purposes of a worker interview

Optimising the worker's opportunities to RTW by:

1. Clarifying the injured worker's RTW rights and obligations including the requirement to actively participate and cooperate in the Worker Interview in order to comply with the worker's RTW obligations.
2. Clarifying the reason for claims management activities that will follow from an [OES](#) service provider referral.
3. Clarifying the reason for claims management activities that will follow from an NES service provider referral. (Where a vocational assessment recommends NES referral a RTW Interview should be conducted within 20 days of receiving the report).
4. Clarifying the claims management activities that are necessary and/or those that will/may be implemented as the worker approaches a time when their entitlement to weekly payments will/may come to an end. This includes but is not limited to, where the worker approaches retirement age and/or the worker approaches 104/130 weeks.
5. Clarifying the reasons for a worksite visit referral.
6. Other general claims management and RTW related reasons that may be deemed necessary.

Workers who are required to attend a worker interview

Workers who have an incapacity for work are required to attend RTW Interviews as requested by their agent and to actively participate and cooperate in the interview in order to comply with their RTW obligations.

Agent arranges a worker interview



Agents may arrange Worker Interviews over the phone or in writing.

Agents must provide workers with a minimum of 14 days written notice of a Worker Interview time and place of interview, unless by mutual consent an earlier time can be arranged.

Regardless of the method of arrangement the agent must outline the following points, in writing to the worker:

- the purpose of the interview
- the time and place of the interview
- that the worker must participate in an interview and may be accompanied by a representative if they wish.

Agents should use the 'Interview Confirm Letter – Worker' template to arrange/confirm an interview.

If the reason for the Worker Interview is to assist the agent to determine whether the worker may benefit from NES services then the letter must also

enclose a NES brochure and a [WISE](#) brochure.

See: [8.5 - Return to work with a new employer](#)

Worker can be accompanied to an interview

An interview should occur directly with the worker, however the worker can choose to be assisted by a representative during any consultation.

The letter from the agent should inform the worker of that right and request that if they wish to have another person such as a union representative, friend or family member at the interview that they advise the agent prior to the interview date. The representative who accompanies a worker is to play a supportive role, rather than speak on behalf of the worker.

Parties who attend a Worker Interview to accompany a worker cannot seek payment for attending the interview.

Interview to be in person

The worker interview should be conducted face-to-face with the worker where possible.

Interview location

The worker interview may be arranged at any safe and reasonable location associated with the worker's RTW for instance, the agent, [THP](#) or OR provider's office or the worker's place of employment. Ideally, this should be arranged by mutual agreement however, if agreement cannot be obtained for an alternative location then attendance at the agent's offices will be required.

Interviews conducted by telephone

In some instances, it may not be practical for the worker to attend a Worker Interview in person and the agent may conduct the interview by telephone. The types of instances where this may occur is where the worker:

- is based in a regional location and the agent has no regional office
- has mobility issues that prevent them from attending the interview in person.

When arranging a telephone interview, the agent must advise the worker that they are not obliged to accept that the interview be conducted via telephone, particularly, if they wish to have someone accompany them at the worker interview.

A telephone interview should only be conducted if the worker has access to a telephone with speaker functionality to allow for participation by the worker's support person/representative.

Worker travel cost associated with worker attending interview

A worker may seek reimbursement of any reasonable travel costs as a result of attending a worker interview.

See:

[8.2.6.1 - Worker RTW or retraining travel](#)

[10.5.43 - Travel Expenses](#)

Agreed actions following an interview

If there are any actions to be taken following the Worker Interview then the agent should document those actions and nominate who will be responsible for each action and provide a copy to the worker in writing within 5 working days of the interview using the 'Interview Outcome Letter – Worker' template.



OR provider at worker interview

An OR provider is not required to participate in a Worker Interview. An OR provider who attends a Worker Interview cannot seek payment for attending the interview.

OES or NES services approved following an interview

Where the Worker Interview was conducted to assist the agent to determine whether the worker would benefit from an OES or NES service approval, the agent should advise the worker of their decision to approve OES or NES services or not within 5 working days of a Worker Interview being conducted.



Arranging an interview at same time as an OES initial assessment and a NES vocational assessment is approved

An agent may choose to arrange a Worker Interview at the same time they approve an OES Initial Assessment or NES Vocational Assessment Report for a worker.

In these cases, the letter sent to the worker should also include details confirming:

- the purpose of the Worker Interview
- the time and place of the Worker Interview
- that the worker must participate in an interview and may be accompanied by a representative.

The agent should ensure they allow sufficient time for the OES Initial Assessment Report or the NES Vocational Assessment Report to be received prior to the date of the scheduled Worker Interview.

See: [8.5 - Return to work with a new employer](#)

Worker interview after OES or NES services have commenced

An agent may also arrange a Worker Interview with the worker during OES or NES service provision if there is a concern that the worker is having difficulties with returning to work or is not participating in OES or NES services.

8.8 - Employment obligation period worker advice

Agents have a legal obligation to inform workers with an incapacity for work about the employer's obligation to provide suitable or [pre-injury employment](#) for a period of 52 weeks of the [worker's](#) incapacity ([employment obligation period](#)). The following sets out the process of when an agent must provide this information.

Note: The provision of this information to the worker does not in any way change the core employer obligation.

This legal requirement does not limit an agent's ability to provide information regarding the employment obligation period at any other point in the claim, either to the worker or to the employer.

Employer obligation to provide employment

Employers have an obligation under the *Accident Compensation Act 1985* to provide their injured worker with suitable or pre-injury employment for a total period of 52 weeks to the extent that it is reasonable to do so. This obligation starts when an employer receives a worker's [Certificate of Capacity](#) or claim for weekly payments or the employer is advised by the agent of receipt of either of these documents.

The employment obligation period is not necessarily 52 consecutive calendar weeks.

Refer to [4.5.1.1 - Calculating the 52 week period](#) for details of when the 52 week period starts and the factors relevant in calculating this period.

See also: [4.5.1 - Provide employment to a worker for a total of 52 weeks](#)

Act ref: S194

Overview of requirement to inform workers about the duration of the employer obligation to provide employment

Agents must inform workers with an incapacity for work about the employer's obligation to provide suitable or pre-injury employment and other related information at two points:

- when a claim for weekly payments is accepted
- when it is estimated that 30 weeks of the employment obligation has elapsed (unless exempted from doing so by the s208 Ministerial direction) but no later than when an estimated 36 weeks of the employment obligation has elapsed.

Following receipt of the information at 30-36 weeks, a worker may request more information about [RTW](#) and/or the calculation of the estimated period elapsed. Agents must adequately respond to these requests.

See also: [RTW Direction No 2 of 2010](#)

Act ref: S208

Section contents

[8.8.1 - Informing the worker when a claim is accepted](#)

[8.8.2 - Tracking the estimated time elapsed of the employment obligation period](#)

[8.8.3 - Informing the worker when an estimated 30 weeks of the obligation has elapsed](#)

[8.8.4 - Responding to requests for further information](#)

8.8.1 - Informing the worker when a claim is accepted

Informing the worker when a claim is accepted

Agents must inform a worker with an incapacity for work about their employer's obligation to provide employment as soon as practicable after a claim has been accepted. The information that must be provided is:

- a. the obligation of the employer to provide [suitable employment](#) or [pre-injury employment](#) for the duration of the [employment obligation period](#)
- b. how the employment obligation period is calculated
and
- c. advice that the worker the worker may wish to keep records of his or her employment capacity, including copies of certificates of capacity and that the calculation of the employment obligation period may be assisted by the worker retaining such records.

See also: [RTW Direction No 2 of 2010](#)

Act ref: S208(1)

Include relevant information in the acceptance letter

Information about the employment obligation period must be included in the claim acceptance letter sent to the worker.

See: Standard letter template system

Providing the information in the claim acceptance letter ensures that the worker has been informed about the employment obligation period as soon as practicable after a claim has been accepted.

8.8.2 - Tracking the estimated time elapsed of the employment obligation period

Tracking the estimated time elapsed of the employment obligation period

To identify when an estimated 30 weeks of the employment obligation period has elapsed, agents should undertake the following as part of the usual claims management activities including:

Certificates of Capacity:

- the agent should encourage employers to provide all certificates of capacity that the employer receives from their [worker](#), regardless of whether the worker is receiving weekly payments
- the agent should record all certificates of capacity provided by the employer.

Full capacity for pre-injury duties and hours (no incapacity for work):

- the agent should encourage employers to advise them when a worker has returned to full capacity for pre-injury duties and hours and record this information.
- at each case conference, the agent should estimate the period of the obligation that has elapsed using the 'employment obligation NOVUS information' and then confirm the estimate taking into account all relevant factors for the particular claim.

Refer to: [8.8.3 - Informing the worker when an estimated 30 weeks of the obligation has elapsed](#)

Initial flag that 30 weeks of the obligation may have elapsed

A NOVUS task will be triggered when a claim has reached 29 weeks of incapacity for work. The process is supported via the [RTW](#) Worker Update: Obligation to Provide Employment Novus process.

Exemptions from requirement to inform the worker at 30-36 weeks

The agent must assess whether the claim is exempt from the requirement to inform the worker at 30 weeks by the Ministerial Direction.

If the claim is exempt, the agent must record the grounds for this exemption, which should be endorsed by a technical manager.

Note: Periods where the worker has returned to work but is not working full pre-injury hours and duties count towards the employment obligation period. These claims are not excluded from the requirement to send the letter. Claims of limited acceptance or where a termination of weekly payments has occurred are also not excluded from the requirement to send the letter.

Exceptions to sending a letter at 30 weeks are set out in the s208 Ministerial direction. There is no requirement to provide a 30 week Employment Obligation Period letter to the worker:

- if the worker is no longer employed by the injury employer
- where the injury employer cannot be identified, cannot be found, is deceased or has been wound up
- where the worker has only received payments of compensation that do not exceed the employer's excess (10 days of incapacity and \$629 of [reasonable costs](#) as indexed)
- during any period that the s194(4) exclusion from the employer obligation period applies.

The s194(4) exclusion applies in relation to the following periods:

- any period during which the worker does not have an incapacity for work
 - the period commencing on the date the worker's weekly payments claim has been rejected and:
 - no direction has yet been made by a Conciliation Officer that weekly payments
-

are to be paid in relation to the claim

- no recommendation has yet been made at Conciliation that weekly payments are to be paid
- no court decision has yet been made to accept the claim
- the period commencing on the date [WorkSafe](#) sets aside an agent's decision to accept the claim against an employer and no direction or recommendation by a Conciliation Officer or court to pay weekly payments or accept the claim has been made
- the period commencing on the date a Conciliation officer has directed that weekly payments be paid but that direction has been revoked and weekly payments have not resumed.

If, at 30 weeks, any of the above circumstances apply, then a 30 week Employment Obligation Period letter is not required. However, should circumstances change and the employment obligation period be re-activated then the decision must be reviewed.

Once it is endorsed that the information does not need to be sent, the process concludes.

See also: [RTW Direction No 2 of 2010](#)

Act ref: S208(3)

Process triggered: has the worker returned to full pre-injury hours and duties?

If the worker has returned to full pre-injury hours and duties at the time that the RTW Obligation to Provide Employment process triggers, then the 30 week Employment Obligation Period letter to the worker is not required at this time.

However, this decision must be reviewed if a worker's circumstances change.

Process triggered: worker has not returned to full pre-injury hours and duties - confirm the estimated period elapsed of the employment obligation period

The agent must confirm the estimated time elapsed in accordance with the factors set out in [the Act](#).

Note: Agents will only be able to confirm the estimated time elapsed based on information available to the agent at the time. Agents may not have received all of the relevant information, for example:

- employers are not obliged to send all relevant information to the agent
- there is a lag time involved in the provision of relevant information.

The estimate is based on certain key assumptions to ensure that a worker is informed prior to the obligation ending.

The Novus Process has an eform (RTW Estimate: Employer Obligation to Provide Employment) to support the confirmation.

Key elements that the agent needs to take into consideration when confirming the estimate include:

- the worker's capacity for work. Where there are missing certificates, the same capacity for work as the most recent certificate is assumed (unless the agent has other acceptable evidence regarding the worker's capacity for work)
- whether the claim was initially rejected, or set aside after internal review, or when a Conciliation Officer's direction for weekly payments is revoked and if so, the date it was rejected/set aside/revoked and the date the employer's obligation recommenced due to conciliation or court
- if known, whether the employer provided suitable or [pre-injury employment](#) in periods that they were not technically required (eg when the claim was rejected).

The RTW Obligation Period Checklist sets out the elements that need to be considered when confirming the estimate.

Process triggered: claim has not reached an estimated 30 weeks of the employment obligation period

Where the agent estimates the claim has not yet reached an estimated 30 weeks, the agent must set another date to re-estimate the period elapsed depending on how close to the 30 week mark. The re-estimation should occur earlier if subsequent information obtained requires it.

Process triggered: claim has already exceeded 36 weeks of the employment obligation period

There may be uncommon instances that after estimating the period of the obligation that has elapsed, the period estimated to have elapsed exceeds 36 weeks. In these circumstances, the agent must refer the matter to a technical manager for review.

8.8.3 - Informing the worker when an estimated 30 weeks of the obligation has elapsed

The following sets out the procedure for informing workers when an estimated 30 weeks of the [employment obligation period](#) has elapsed. Informing the [worker](#) at this point ensures they are aware of the duration of the obligation in advance of the obligation ending.

Important note:

It is important to understand that the end of the 52 week employment obligation period under [the Act](#) does not automatically mean the injured worker is no longer an employee of an employer.

There are employment and anti-discrimination laws (and in some workplaces enterprise bargaining agreements) that an employer must consider in relation to a worker's ongoing employment arrangements. Employers should seek advice from their industry association or Fair Work Online before making any decisions about an injured worker's employment status.

Claim has reached an estimated 30 weeks of the employment obligation period

Where the agent confirms the estimate that 30-36 weeks of the obligation has elapsed and no Ministerial Direction exclusions apply such that a letter is not required, the agent must inform the worker in writing and by phone of the number of weeks of the employment obligation period which in the opinion of [WorkSafe](#) has expired.

Preparing to inform the worker

A worker may have concerns about what this information means. It is important to clarify that this information is provided to all relevant workers at a similar point in the claim and that it seeks to ensure workers are aware of the duration of the obligation so that they are able to consider their own circumstances.

To ensure a worker is informed appropriately, the agent, when preparing to inform the worker must consider a range of factors including:

- the purpose and content of the information
- the individual circumstances of the claim
- supporting and maintaining the injury employer/worker relationship
- the potential impact on the workplace relationship and the method of communicating this
- whether the worker has returned to work with the injury employer
- whether it would be beneficial to conduct an interview with the worker
- the likelihood of the worker understanding the information to be provided.

Where an agent arranges a meeting or discusses the matter with the worker over the telephone, this must be completed before 36 weeks of incapacity elapses.

Informing the worker – initial call/meeting

Prior to sending the Obligation to Provide Employment: Update Letter to Worker, the agent must call the worker to explain the information to be sent, including the employer's obligation to provide employment, the duration of this period and the estimated period that may have elapsed.

Informing the worker – in writing

The agent must prepare and issue the Obligation to Provide Employment: Update Letter to Worker.

If the agent is unable to contact the worker, the 30 week letter must be sent prior to 36 weeks of the employment obligation period elapsing regardless of whether the agent has been successful in contacting the worker by phone.

See: Standard Letters Template system

8.8.4 - Responding to requests for further information

Following receipt of the information at 30-36 weeks, a [worker](#) may request more information about [RTW](#), the calculation of the [employment obligation period](#) as it relates to their claim, or the employer's obligation to provide suitable or [pre-injury employment](#).

Agents must adequately respond to these requests. The following provides detail about how to respond to these requests.

Request for more information about the calculation of the employment obligation period as it relates to the worker's claim

A worker may request further information about the calculation of the employment obligation period as it relates to their claim.

This may include information about how the estimate was calculated and what information it was based on.

The worker may also ask for a more accurate estimate of the period elapsed.

To respond appropriately, the agent will, in most cases, need to seek additional information from the worker or the employer about the worker's capacity for work over a period of time. Agents must inform the worker that to provide a more accurate estimate, the agent will need further information about the worker's capacity for work from:

- a. the worker (eg copies of certificates of capacity retained) and/or
- b. the employer.

Note: This process does not limit an agent's normal claims management practices and communications with employers regarding the obligation to provide employment.

Obtaining additional information from the employer

When contacting the employer to obtain the necessary information agents must use the Obligation to Provide Employment: Request to employer for detailed information.

See: Standard Letters Template system

Re-estimating the period of the obligation elapsed

When the agent has the additional information required, the agent must re-estimate the time elapsed of the employment obligation period.

Refer to:

[8.8.3 - Informing the worker when an estimated 30 weeks of the obligation has elapsed](#)

Providing additional information to the worker – initial call

Wherever appropriate, agents should seek to discuss the matter with the worker by telephone prior to providing the information in writing. Refer to [8.8.3 - Informing the worker when an estimated 30 weeks of the obligation has elapsed](#) for detail of factors to take into account when undertaking this communication.

Providing additional information to the worker – in writing

The agent will provide this information to the worker within 2 weeks of receipt of the information, noting that the estimate is accurate based on the available information.

The agent must prepare and issue the Obligation to Provide Employment: Detailed information to worker. Including the details of what the estimate has been based on.

See: Standard Letters Template system



8.9 - RTW issue resolution

If a return to work issue arises, the employer and the [worker](#) must attempt to resolve the issue in accordance with the relevant agreed procedure or in the absence of this, the Return to Work Issues Resolution Procedure outlined below.

Employers and workers have an obligation to attempt to resolve [RTW](#) issues

If an issue about a worker's RTW arises, the employer and the worker must attempt to resolve the issue in accordance with:

- the relevant agreed procedure or
- if there is no relevant agreed procedure, in accordance with the Return to Work Issues Resolution Procedure outlined in the Ministerial Direction.

Act ref: S207

Aim of the RTW issue resolution procedure

The aim of the RTW issue resolution procedure is, firstly, to provide guidance to parties involved in RTW activities as to how to resolve a RTW issue and secondly, where the issue remains unresolved, provide a clear pathway for parties involved to escalate the issue and gain further assistance if required.

The agent's role

Promote the availability and effective use of the RTW issue resolution procedure to both employers and workers, where relevant.

Use of the procedure



The RTW issue resolution procedure should not replace normal communication between parties involved in the RTW process.

The RTW issue resolution procedure is intended for use when a party entitled to raise an issue considers that a RTW issue is not being addressed or has not been addressed to their satisfaction.

As soon as possible but no later than 20 days after a RTW issue has been reported, the employer, the RTW Coordinator and the worker must meet and try to resolve the issue.

For the purpose of resolving the return to work issue, the employer and the RTW coordinator should liaise directly with the worker, however a worker may be assisted, represented and supported during the RTW issue resolution process.

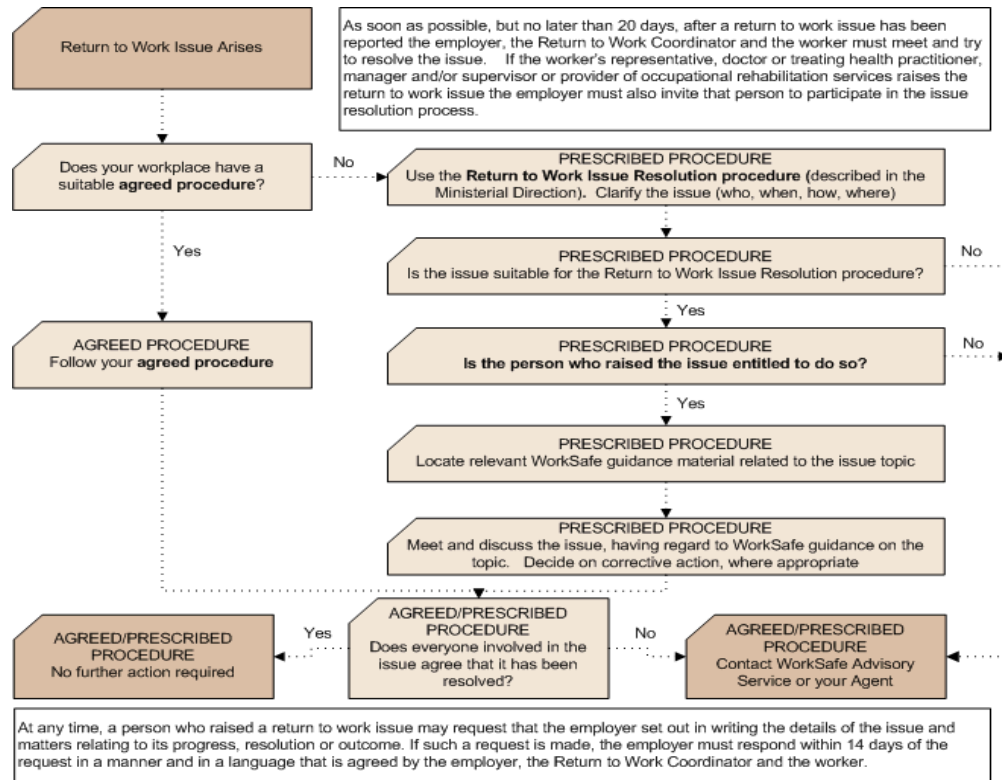
If a worker's representative, [THP](#), RTW Coordinator, manager, supervisor or provider of occupational rehabilitation services raises an issue on behalf of the worker, the employer must also invite that person to participate in the issue resolution process.

The RTW issue resolution procedure should be conducted in a manner and in a language that is agreed by the employer, RTW coordinator and the worker to be appropriate.

If, after the issue is resolved, the worker, their representative, manager/supervisor, THP, OR service provider (if any) or the RTW Coordinator request that the employer set out in writing the details of the issue and matters relating to its resolution, the employer must do so with 14 days of the request and must provide copies of the information to those who requested it.

Diagram of the process employers should follow to resolve a RTW issue

When a RTW issue has been identified the parties involved should refer to the relevant agreed procedure. If one doesn't exist, then the Return to Work Issues Resolution Procedure outlined in the Ministerial Direction is to be applied.



Who can raise a RTW issue

The following persons can raise a RTW issue:

- the worker
- representative chosen by the worker - the worker has the option to be represented, supported or assisted in the return to work process by another person
- an OR services provider
- a RTW Coordinator
- the worker's manager/supervisor
- the worker's THP.

Payment for persons that attend issue resolution process

Persons other than those listed in clause 7(1) of the Ministerial Direction (the employer, Return to Work Coordinator and the worker) cannot seek payment for attending the issue resolution process.

Suitable RTW issues

The Return to Work Issues Resolution Procedure may be used to resolve RTW issues including but not limited to where the:

- employer unreasonably delays or refuses to plan a worker's return to work
- employer inadequately plans a worker's return to work
- worker does not agree with the employer's proposed [suitable employment](#) and/or return to work arrangements
- employer refuses to offer injured worker suitable employment
- employer refuses to provide or provides inadequate return to [work related](#) documentation to an injured worker
- RTW Coordinator is not nominated and appointed within the required timeframe

- RTW Coordinator is considered not to have adequate seniority to perform their functions
 - employer breaches the confidentiality of a worker's personal information as it relates to RTW
- or
- employer refuses to consult or consults inadequately with other parties about the RTW of a worker.
-

*Unsuitable
RTW issues*

The Return to Work Issues Resolution Procedure is to be used for issues arising out of the RTW process. It is not designed for complaints about [WorkSafe](#) or its agents (unless WorkSafe is the employer of the injured worker), claim liability, payment of an entitlement, termination or suspension of a claim, reimbursement of an expense or a conciliation application or outcome. Also to be excluded are general matters of policy and practice applying across the workplace and not directly and particularly related to the worker's RTW. These issues should be addressed using alternative issue resolution processes.

Note: WorkSafe should be notified directly where employers fail to meet their obligations. Agents should be notified directly where workers fail to meet their obligations.

*An agreed
procedure*

Ideally, an agreed procedure should outline the steps involved in resolving a workplace RTW issue and not be a procedure that exists solely for other purposes such as a grievance or complaint procedure, unless such a procedure is agreed to be utilised for RTW issues.

It is recommended that the agreed procedure be in writing and should be clear and accessible to all parties who may potentially be affected by a RTW issue.

The procedure must have been agreed. This means that it must have been agreed to by the employer and its employees. The agreement must be genuinely consensual, incorporating genuine consultation.

The agreed procedure cannot be imposed on one party by another or arise out of a flawed process. A flawed process may be one where:

- only a select group of employees participated and agreed with the employer
- or
- agreement is reached through an unrepresentative process.

If either the employer or a majority of employees have concerns about an agreed procedure, they are entitled to withdraw their agreement and unless or until a new procedure is agreed, the Ministerial Direction procedure will apply.

If an employer's agreed procedure does not meet the above criteria it is not a valid alternative to the Return to Work Issues Resolution Procedure outlined in the Ministerial Direction.

*The ministerial
direction
procedure*

If at the time a RTW issue arises the employer does not have in place an agreed procedure then the parties should follow the steps outlined in the Return to Work Issues Resolution Procedure outlined in the Ministerial Direction.

Refer: [RTW Direction No 1 of 2010](#)

*Non-
participation in
the RTW issue
resolution
procedure*

This issue resolution procedure has been developed to help workers and employers resolve RTW issues before they become disputes and hamper a worker's early, safe and sustainable RTW. If employers and or workers do not attempt to resolve RTW issues in accordance with their agreed procedure, or in accordance with the Return to Work Issues Resolution Procedure outlined in the Ministerial Direction in the absence of such an agreed procedure, their failure to do so may be reported to WorkSafe, or their agent, respectively and may be in breach of [the Act](#).

8.10 - RTW questionnaire process

Section contents

[a Deciding when a RTW questionnaire is required](#)

[b Requesting the completion of the RTW questionnaire](#)


[c Agent reviews and actions questionnaire](#)

[d Agent pays for report](#)

a Deciding when a RTW questionnaire is required

BY	ACTION
Agent	<p>The purpose of the RTW questionnaire is to provide clinical information to assist in the management of an injured worker's timely RTW. The questionnaire also provides a tool that:</p> <ul style="list-style-type: none">• compensates a THP for their role in facilitating RTW• supports communication and engagement between the THP, worker, employer and agent• supports the employer obligation to consult and obtain RTW information from the certifying THP and• provides an avenue to clarify RTW goals by seeking information about the worker's capacity to participate in suitable employment. <p>These work practices are relevant for the THP who has issued a Certificate of Capacity.</p> <p>WorkSafe guidelines for use</p> <p>The RTW questionnaire is to be used to help facilitate safe and sustainable work. It may be considered for use at the discretion of an agent case manager for those injured workers only where:</p> <ul style="list-style-type: none">• the worker has:<ul style="list-style-type: none">- a registered (accepted or pending) time lost claim- at least 10 days have been paid or are payable and- less than 12 consecutive months have elapsed since the worker's first Cease Work Date (CWD)• the current information on file does not provide adequate information to facilitate a safe and sustainable RTW and• no more than one questionnaire has been sent for the same worker in a two-month period (up to a maximum of 4 questionnaires over 12 months). <p>A copy or extract of the completed questionnaire must be provided to both the worker and employer to support communication between key parties, ensuring that the privacy policy is complied with at all times.</p> <p>Prior to requesting a questionnaire the agent should consider the purpose for requesting the information and relevant barriers to RTW, for example recent surgery, workplace issues, or non-work related factors. If the agent believes they already have sufficient information to resolve the issue then a questionnaire should not be requested.</p> <p>The two questionnaires available for use by an agent are:</p> <ol style="list-style-type: none">1. RTW questionnaire with employer information Employer information about the duties and work hours must be attached when sending. and2. RTW questionnaire without employer information When the agent has not been provided with employer information.

b Requesting the completion of the RTW questionnaire

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>Sending the request letter</p> <p>When requesting the RTW questionnaire, the agent should write to the THP:</p> <ul style="list-style-type: none"> • using the appropriate request letter template available on the standard letter database • enclose relevant documents, including copies of information pertaining to work duties and hours, etc. The privacy policy should be complied with at all times • enclose a copy of the injured worker's signed Authority to Release Medical Information <p>and</p> <ul style="list-style-type: none"> • use the most appropriate form of delivery eg mail, facsimile or email (where requested by the THP). <p>A copy of the request letter must be provided to both the worker and employer to support communication between key parties.</p> <p>Documentation</p> <p>The agent completes the Novus task – ‘Seek Information from Provider’ and places a copy of the request letter on file.</p> <p>Note: When the Novus task – ‘Seek Information from Provider’ is completed the next task – ‘Report Questionnaire Summary’ will be generated by Novus.</p>
<i>THP</i>	<p>The THP completes the questionnaire and invoices the fee and item code specified in the request letter.</p> <ol style="list-style-type: none"> 1. RTW questionnaire with employer information – Payment type 129, item number MPRTW01. 2. RTW questionnaire without employer information – Payment type 129, item number MPRTW02.
<p><i>Agent</i></p> 	<p>Delay in receiving the questionnaire</p> <p>The following procedure should be adopted where there are unacceptable delays in receipt of the questionnaire:</p> <ul style="list-style-type: none"> • if after 14 days there is no reply to the initial request for the information, the agent should contact the THP's rooms by telephone and/or send a follow-up fax <p>The Novus – ‘Seek Information from Provider’ task comments should indicate a follow-up phone call/letter has occurred and the due date should be updated to prompt a further follow-up if required.</p> <ul style="list-style-type: none"> • the agent should consider if the questionnaire is still required if, after a further 14 days, there is still no reply to the follow-up letter or receipt of information from the THP. If the report is still required, the agent should telephone the THP concerned for an explanation and confirm the conversation with a final follow-up letter • if the agent decides that the information is no longer required, for example, if the worker has returned to pre-injury work, the agent should write to the THP cancelling their request and document this in Novus. <p>Note: Where there is refusal by the THP to comply with the request this should be discussed with the IMA/MA.</p>

c Agent reviews and actions questionnaire

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>Reviewing the RTW questionnaire</p> <p>The agent reviews and documents key points and any actions to be taken relevant to the management of the claim within 5 working days of receiving the completed questionnaire CSW Eform attached to the 'Record Provider Response' task.</p> <p>Key points to note by the agent:</p> <ul style="list-style-type: none">• note any changes or developments in the worker's ability to RTW and• resolve any apparent inconsistencies between the questionnaire and other information on file. <p>Seek advice from an IMA/MA on interpreting the information if the issues are complex or unresolved and do not read the information in isolation, as it should be compared with employer information and other relevant information on file.</p> <p>Decision Making</p> <p>No further information or assistance required</p> <p>If there is a change to the worker's entitlements, a decision letter is sent to the worker.</p> <p>Note: A copy or extract of the completed questionnaire must be provided to both the worker and employer to support communication between key parties, ensuring that the privacy policy is complied with at all times.</p> <p>Further information or assistance required</p> <p>Further information may be required by the agent prior to making a decision regarding the worker's ability to RTW. Where the questionnaire response lacks detail and does not meet the specified requirements, the agent should discuss the information with the IMA or MA prior to following up with the THP.</p> <p>If the THP fails to respond to questions raised by the agent in their request, clarification in writing should be sought by the agent and this should be covered by the report fee which has already been paid.</p>

d Agent pays for report

<i>BY</i>	<i>ACTION</i>
<i>Agent</i>	<p>Consultation associated with questionnaire</p> <p>It is expected that the questionnaire provided by the certifying THP be completed on the basis of their clinical notes. A consultation is not generally expected to be a pre-requisite for the preparation of the questionnaire. If the THP believes that a consultation is required then the agent will pay for the consultation in accordance with WorkSafe reimbursement rates.</p> <p>Payment of RTW questionnaire</p> <p>Please refer to Chapter 23 of the Accounts Manual, located under Manuals on Agent Online for guidance regarding payment.</p>

8.11 - Legislation

This section contains information on the main sections of [the Act](#) that relate to [worker](#) and employer [RTW](#) obligations.

Note: Italicised text is text quoted from the Act.

<i>Section</i>	<i>Section summary</i>	<i>Section detail</i>
S5(1) & S5(1D)	Definitions	<p>'suitable employment', in relation to a worker, means employment in work for which the worker is currently suited:</p> <p>a. <i>having regard to:</i></p> <ul style="list-style-type: none"> (i) <i>the nature of the worker's incapacity and the details provided in medical information including, but not limited to, the certificate of capacity supplied by the worker and</i> (ii) <i>the nature of the worker's pre-injury employment and</i> (iii) <i>the worker's age, education, skills and work experience and</i> (iv) <i>the worker's place of residence and</i> (v) <i>any plan or document prepared as part of the RTW planning process and</i> (vi) <i>any occupational rehabilitation services that are being, or have been, provided to or for the worker and</i> <p>b. <i>regardless of whether:</i></p> <ul style="list-style-type: none"> (i) <i>the work or the employment is available and</i> (ii) <i>the work or the employment is of a type or nature that is generally available in the employment market.</i> <p><i>For the purposes of Part VIIB [the RTW Part] of the Act, suitable employment also includes:</i></p> <ul style="list-style-type: none"> a. <i>employment in respect of which the number of hours each day or week that the worker performs work or the range of duties the worker performs is suitably increased in stages in accordance with RTW planning or otherwise</i> b. <i>employment the worker is undertaking or that is offered to the worker regardless of whether the work or the employment is of a type or nature that is generally available in the employment market</i> c. <i>suitable training or vocational re-education provided by the employer or under arrangements approved by the employer (whether or not the employer also provides employment involving the performance of work duties), but only if the employer pays an appropriate wage or salary to the worker in respect of the time the worker attends suitable training or vocational re-education.</i> <p>'current work capacity' in relation to a worker, means a present inability arising from an injury such that the worker is not able to return to his or her pre-injury employment but is able to return to work in suitable employment.</p> <p>'no current work capacity' in relation to a worker, means a present inability arising from an injury such that the worker is not able to return to work, either in the worker's pre-injury employment or in suitable employment.</p> <p>'occupational rehabilitation service' means any of the following services provided by a person who is approved by WorkSafe as a provider of OR services:</p> <ul style="list-style-type: none"> a. <i>initial rehabilitation assessment</i>

Section	Section summary	Section detail
		<p>b. functional assessment</p> <p>c. workplace assessment</p> <p>d. job analysis</p> <p>e. advice concerning job modification</p> <p>f. occupational rehabilitation counselling</p> <p>g. vocational assessment</p> <p>h. advice or assistance concerning job-seeking</p> <p>i. vocational re-education</p> <p>j. advice or assistance in arranging vocational re-education</p> <p>k. preparation of a RTW plan</p> <p>l. the provision of aids, appliances, apparatus or other material likely to facilitate the RTW of a worker after injury</p> <p>m. modification to a workstation or equipment used by the worker that is likely to facilitate the RTW after an injury</p> <p>n. any other service authorised by the Authority -</p> <p>but does not include a hospital service.</p>
S99	Compensation for OR services	S99 provides for a worker to have paid as compensation the reasonable costs of OR services.
S99A	OR services before determination of entitlement	<p>S99A provides that a worker may receive the reasonable costs of an OR service whether or not the entitlement of the worker to compensation under the Act has been established.</p> <p>Reasonable notice must be given before discontinuing payments.</p>
S99AB	Worker choice of OR provider	S99AB provides that the worker shall receive the OR service from a list of no less than three OR providers (where available) offered by the agent. If an offer is not made, then the worker may choose any approved OR provider.
S192	Definitions	<p>A worker who has an 'incapacity for work' means a worker who:</p> <ul style="list-style-type: none"> • has no current work capacity or • has a current work capacity or • is a pre-12 November 1997 claimant and who has a serious injury within the meaning of s91E of the Act. <p>'pre-injury employment' means employment in a position that is the same as or equivalent to the position that the worker held before the injury.</p> <p>'representative' – a worker may be represented, assisted and supported in the return to work process. Representative (in relation to a worker) does not include a legal practitioner.</p> <p>'treating health practitioner' means a medical practitioner who issued the initial certificate of capacity or a medical practitioner, registered physiotherapist, chiropractor or osteopath who has issued a valid certificate of capacity under the Act.</p>
S194(1), (3) & (4)	Employment obligation period	<p>The employment obligation period is a period of 52 weeks which commences on the earliest of the following dates:</p> <ul style="list-style-type: none"> • the date the employer receives from the worker a valid WorkSafe Certificate of Capacity issued by a registered medical practitioner. It must specify the expected duration

<i>Section</i>	<i>Section summary</i>	<i>Section detail</i>
		<p>of the worker's incapacity and whether the worker has a current work capacity or has no current work capacity</p> <p>or</p> <ul style="list-style-type: none"> • the date the employer receives a claim from the worker for compensation in the form of weekly payments <p>or</p> <ul style="list-style-type: none"> • the date the employer is notified by WorkSafe or their agent that the worker has made a claim for compensation in the form of weekly payments <p>or</p> <ul style="list-style-type: none"> • the date the employer is notified by WorkSafe or their agent that the worker has provided a WorkSafe Certificate of Capacity relating to a workers' compensation claim. <p>The obligation continues for 52 weeks. This period may not be consecutive as it is an aggregated period and begins on the earliest date above and includes those period during which a worker has an incapacity for work (resulting from or materially contributed to by the injury to which the employment obligation period relates).</p> <p>The employment obligation period does not include:</p> <ul style="list-style-type: none"> • any period during which he worker does not have an incapacity for work • any period commencing from the date the worker's claim has been rejected by the agent and ending on the date that a direction, recommendation or court determination that weekly payments are to be paid is made (unless the employer continues to provide suitable or pre-injury employment) • any period commencing on the date that WorkSafe sets aside a decision to accept a claim for compensation against an employer and ending on the date that a direction, recommendation or court determination that weekly payments are to be paid is made (unless the employer continues to provide suitable or pre-injury employment) • any period commencing on the date a decision to revoke a direction to pay weekly payments by a conciliation officer is made and ending on the date that weekly payments resume (unless the employer continues to provide suitable or pre-injury employment). <p>Employers that breach their RTW obligations risk prosecution and penalties.</p>
S194(2)	Employer to provide pre-injury or suitable employment	<p>An employer must, to the extent that it is reasonable to do so, provide suitable employment if the worker has a current work capacity and pre-injury employment if the worker no longer has an incapacity for work. This obligation is for the duration of the employer obligation period.</p> <p>Employers who breach their RTW obligations risk prosecution and penalties.</p>
S195	Plan RTW	<p><i>An employer must, to the extent that it is reasonable to do so, plan the RTW of a worker from the date the employer knows or ought reasonably to have known of the worker's incapacity for work.</i></p>

Section	Section summary	Section detail
		<p><i>The start of this obligation would ordinarily be at the same time as the start of the employment obligation period.</i></p> <p><i>Planning the RTW of a worker includes:</i></p> <ol style="list-style-type: none"> <i>a. obtaining relevant information about the worker's capacity for work and</i> <i>b. considering reasonable workplace support, aids or modifications to assist in the worker's RTW and</i> <i>c. assessing and proposing options for suitable employment or pre-injury employment and</i> <i>d. engaging in consultation (in accordance with s196), treating healthcare practitioner (with consent of worker) and occupational rehabilitation provider (where one is involved) and</i> <i>e. providing the worker with clear, accurate and current details of the worker's RTW arrangements and</i> <i>f. monitoring the worker's progress.</i> <p>Employers must undertake these tasks as often as necessary to enable the worker to RTW in employment that is consistent with their capacity for work.</p> <p>Employers who breach their RTW obligations risk prosecution and penalties.</p>
S196	Consult about RTW	<p><i>An employer must, to the extent that it is reasonable to do so, consult about the RTW of a worker with:</i></p> <ol style="list-style-type: none"> <i>a. the worker and</i> <i>b. subject to the consent of the worker, the worker's treating health practitioner and</i> <i>c. a provider of occupational rehabilitation services that provides those services to the worker in accordance with s99 and s99A</i> <p><i>Consultation with these persons includes:</i></p> <ol style="list-style-type: none"> <i>a. sharing information about the worker's RTW and</i> <i>b. providing a reasonable opportunity for those persons to consider and express their views about the worker's return to work and</i> <i>c. taking those views into account.</i> <p>Whilst an employer must consult directly with the worker, the worker may choose to have a person represent, assist and support them during the consultation process. The person who represents, assists and supports the worker can be any person chosen by the worker, except a legal practitioner.</p> <p>Employers must be able to demonstrate the consultation that they have undertaken or the reasonable efforts they have made to do so. While maintaining written records is not mandatory, compliance with the duty to consult can be easier to demonstrate if written records exist.</p> <p>Employers who breach their RTW obligations risk prosecution and penalties.</p>
S197	RTW Coordinator	<p>An employer must nominate a person to act as a RTW Coordinator who has an appropriate level of seniority and is competent to assist the employer to meet their obligations</p>

<i>Section</i>	<i>Section summary</i>	<i>Section detail</i>
		<p>under Part VIIB of the Act.</p> <p>The nominated person must be competent to be a RTW Coordinator if they have the knowledge, skills or experience relevant to planning for return to work, including:</p> <ul style="list-style-type: none"> • knowledge of the obligations of employers and workers under Part VIIB and • knowledge of the compensation scheme provided for under the Act and the functions of WorkSafe under Part VIIB. <p>An employer who has certified or been assessed as having a total rateable remuneration of \$2 million or more (for all the employer's workplaces in respect of the preceding policy period) must have a nominated RTW Coordinator appointed at all times.</p> <p>An employer who has certified or been assessed as having a total remuneration of less than \$2 million (for all the employer's workplaces in respect of the preceding policy period) must have a nominated RTW Coordinator appointed for the duration of the employer's obligations under Part VIIB to a worker who has an incapacity for work.</p> <p>A RTW Coordinator is not personally liable for any act or omission done or omitted to be done in good faith in the course of acting as a RTW Coordinator. An employer would instead be liable for any such act or omission.</p>
S198	Make RTW information available	<p>An employer must make the following return to work information available to their workers:</p> <ol style="list-style-type: none"> a. the employer obligations and how they are meeting them b. the rights and obligations of workers and how workers can obtain further information about these c. the name and contact details of their agent d. the name and contact details of their RTW Coordinator e. the procedure for resolving RTW issues in the workplace. <p>Employers who breach their RTW obligations risk prosecution and penalties.</p>
S198A	Employer notification of RTW	<p>Employers must notify their agent when they know that a worker who is receiving weekly payments returns to work or there is a change in the earnings of that worker.</p> <p>Employers who breach their RTW obligations risk prosecution and penalties.</p>
S199(1)(a)	Labour hire employer	An employer of the worker whose services are let on hire to another employer (host).
	Host	<p>A person to whom the services of a worker are let on hire by a labour hire employer with whom the worker had entered into a contract of employment (the labour hire employer).</p> <p>Note: A 'host' includes a person who hires an apprentice or trainee employed by a group training organisation.</p>
S200	Participate in planning for return to work	A worker must make reasonable efforts to actively participate and cooperate in planning for the worker to return to work.

<i>Section</i>	<i>Section summary</i>	<i>Section detail</i>
S201	Use occupational rehabilitation services	A worker must actively use an occupational rehabilitation service provided under s99 and s99A and cooperate with the provider of that service.
S202	Participate in assessments	A worker must, when requested, actively participate and cooperate in any assessment of capacity for work, rehabilitation progress and future employment prospects.
S203	Return to work	<p>A worker must make reasonable efforts to RTW in suitable or pre-injury employment at the worker's place of employment or at another place of employment.</p> <p>A worker is making a reasonable effort to do so in any reasonable period that:</p> <ul style="list-style-type: none"> • the worker is waiting for the commencement of an OR service after approval has been given • the worker is waiting for a response to a request for suitable or pre-injury employment made by the worker and received by the employer for employment with the injury employer or another employer or • the worker is waiting for suitable pre-injury employment to commence with the employer. <p>A worker is not making a reasonable effort to meet their RTW obligations during any period in which the worker has refused or failed to meet any of their RTW obligations under Division 3 of the Act.</p>
S204	Worker interview	A worker who has an incapacity for work, must as required by the agent or self insurer, participate in an interview with the representative of the agent or self insurer for the purpose of enhancing the worker's opportunities to RTW.
S205	Worker failure to comply with RTW obligations	If a worker does not comply with their RTW obligations they may receive a warning notice, followed by suspension of their weekly payments, forfeiture of their weekly payments, termination of their weekly payments and ultimately cessation and determination of their entitlement to weekly payments for continued non-compliance.
S206	Worker notification of return to work	<p>Workers who have been receiving weekly payments directly from WorkSafe must immediately notify WorkSafe of their return to any work or of a change in their earnings.</p> <p>Workers who have been receiving weekly payments from their injury employer must immediately notify the injury employer of any RTW (whether self-employed or with another employer), regardless of whether the worker is in receipt of current weekly earnings</p>
S207	Workplace issue resolution procedure	<p>If an issue about a worker's RTW arises the employer and worker must attempt to resolve the issue in accordance with:</p> <ol style="list-style-type: none"> a. an agreed procedure (if one exists) or b. the WorkSafe procedure as outlined in the Ministerial Direction. <p>Further information about how to resolve RTW issues is available in the RTW Issues Resolution Fact Sheet.</p>

<i>Section</i>	<i>Section summary</i>	<i>Section detail</i>
S208	Informing workers about the duration of the employer obligation to provide suitable or pre-injury employment	<p>After accepting a claim for compensation from a worker who has an incapacity for work, the agent must inform the worker of the employer's obligation to provide suitable or pre-injury employment for 52 weeks and how this period is calculated.</p> <p>Where the agent estimates that 30-36 weeks of the period have expired, the agent must advise the worker of this in writing.</p> <p>The Minister has issued a Ministerial Direction in relation to this which sets out additional information to be provided under this section and the type of circumstances that do not require written advice to be given.</p>

8.12 - Appendices

This section contains information referred to within the preceding text.

List of appendices

[8.12.1 - OES Schedule 2](#)

[8.12.2 - NES Schedule 3](#)

[8.12.3 - WSS Schedule 4](#)

[8.12.4 - RTW management framework](#)

[8.12.5 - Systemic file review - 4 step](#)


[8.12.6 - RTW questionnaire with employer information](#)

[8.12.7 - RTW questionnaire without employer information](#)

8.12.1 - OES Schedule 2

Original Employer Services ([OES](#)) are specific occupational rehabilitation (OR) services recognised by [WorkSafe](#) to support a [worker](#) to [RTW](#) with the injury employer.


This OES information should be read in conjunction with the Claims Manual and any other guidance provided or released by WorkSafe related to those OR services known as OES services.

Click  to view the comprehensive list of OES descriptions and codes.

8.12.2 - NES Schedule 3

New Employer Services ([NES](#)) are specific occupational rehabilitation (OR) services recognised by [WorkSafe](#) to support a [worker RTW](#) with a new employer.


This NES information should be read in conjunction with the Claims Manual and any other guidance provided or released by WorkSafe related to those OR services known as NES services.

Click  to view the comprehensive list of NES descriptions and codes.

8.12.3 - WSS Schedule 4

Workplace Support Services ([WSS](#)) are specific occupational rehabilitation (OR) services recognised by [WorkSafe](#) for a mental injury claim where a workplace relationship breakdown is a key contributor to claim lodgement. WSS is offered over 3 months to support a [worker](#) to [RTW](#) with the injury employer.

This WSS information should be read in conjunction with the Claims Manual and any other guidance provided or released by WorkSafe related to those OR services known as WSS services.

Click  to view the comprehensive list of WSS descriptions and codes.

8.12.4 - RTW management framework

RTW Management

RTW Management

To achieve a successful and sustainable RTW outcome, the agent starts by collecting the **facts** and **summarising** the key issues. The **MDT** meet to **analyse** details of the case, develop an agreed claims management approach and **RTW strategy**.



RTW barriers

As part of the strategy to ensure early and effective RTW, it is important to recognise barriers to RTW by identifying and proactively managing these issues

Examples of issues that could be barriers to the worker's RTW include:

- uncooperative worker, employer or THP
- poor communication (language/literacy) understanding of obligations or relationship between the employer, worker and/or THP
- inadequate medical information to support the worker's ongoing incapacity
- employer has not planned RTW
- employer has not identified pre-injury or suitable duties
- psychosocial issues (psychological and social factors)
- location of workplace & injured workers residence
- uncooperative worker, employer or THP

Abbreviations

RTW	Return to work
THP	Treating health practitioner
<u>CWC</u>	Current work capacity
<u>NCWC</u>	No current work capacity
OR	Occupational rehabilitation
MDT	Multidisciplinary Team

Work together

Agents can help build a positive working relationship between the employer, worker and THP to optimise RTW.

Essential to a successful relationship is:

- regular communication – everyone is kept involved and up-to-date
- regular consultation – builds trust between all parties and improves the prospects for RTW

Agent's role

Agents can play a key role in optimising successful RTW by (but not limited to):

- systematically reviewing claims
- considering the individual circumstances of the worker, employer and workforce
- addressing issues as soon as identified to help prevent barriers to RTW
- recommending strategies, developing goals tactics and actions to identify and remove barriers
- monitoring the progress of RTW strategies by all parties on a regular basis
- supporting the worker and employer to optimise RTW

- help the employer plan for RTW and propose pre-injury and [suitable employment](#) (whichever is relevant) – consider support tools such as [OES](#)
- discussing claim related matters and clarifying all parties rights and responsibilities
- advising on appropriateness or timing of OR services
- obtaining information to clarify the worker's CWC (treater's report, s112 key party contact)
- coaching and assisting the employer's RTW coordinator
- maintaining regular communication throughout the worker's recovery and RTW
- minimising delays on decision making

Help worker

Agents should discuss with the worker:

- their rights, obligations and responsibilities
- their role in the RTW process including having discussed possible RTW options with the employer and/or THP

Agents can provide high quality customer service to workers by offering support to resolve any RTW issues.

A worker may be apprehensive about further aggravations, returning to work, loss of function etc. The agent can advise that support is available from the THP, RTW Coordinator within the workplace, OR provider etc.

Encourage the worker to maintain contact with the workplace and remain involved in workplace issues where possible.

The worker may be the best person to identify possible RTW options and should be encouraged to be actively involved in planning RTW and assessing pre-injury or suitable employment.

Help employer

For each individual worker, encourage employers to plan for and implement the worker's RTW as soon as possible.

Encourage employers to consult with the worker and their THP as soon as possible after the injury, to develop and implement communication channels and to plan RTW. Consultation between key parties helps identify and overcome potential RTW barriers.

Encourage employers to contact THP to discuss:

- work capacity for pre-injury or suitable duties identified in the workplace
- goals for recovery and full RTW
- inviting THP to attend the workplace to assist in assessing and supporting RTW opportunities

If the THP cannot visit the workplace photos or a short video could be used to show the THP provider.

Pre-injury or suitable employment

If the worker has a CWC, encourage employers to consult with the THP and worker to find pre-injury or suitable work during their recovery.

Regularly monitor the worker's progress and encourage employers to revise the duties as appropriate, particularly in line with any change in the workers capacity.

Monitor RTW

Ensure that employers update the worker's RTW progress, in readiness for and in line with changes in medical capacity.

Other RTW obligations

Discuss and advise employers of their rights, obligations and responsibilities to their injured workers. Help employers develop and make available RTW information to their workers.

Help THP

The THP is the person who signs the initial (valid) [medical certificate](#) under [the Act](#) and is responsible for managing the worker's health/recovery. THPs can also be registered physiotherapists, registered chiropractors or registered osteopaths, Allied health practitioners to whom the worker has been referred for treatment and can also issue continuing valid certificates of capacity under the Act, eg. Osteopaths, chiropractors and physiotherapists. As the THP certifies a worker fit or unfit for work a successful RTW can be dependent on the relationship developed.

Contact

The agent may contact the THP when necessary; under certain circumstance eg:

- change in certified capacity
- change in diagnosis
- treatment issues
- stated review points on RTW plan

Discussion

The discussion with the THP may include:

- your contact details
- offering assistance
- employer contact details depending on the circumstances of the claim
- treatment options or plan
- the appropriateness and involvement of an OR provider
- provision and availability of pre-injury or suitable work
- initiatives such as OES and [NES](#)

Encourage the employer to consult about the provision of pre-injury or suitable work and workplace modifications directly with the THP. The THP can:

- Provide detailed information about the worker's injury and CWC, the treatment program and likely recovery
- Evaluate suitability of duties at the workplace and
- Visit the worksite to view possible duties

In some cases, it may be beneficial to arrange (with prior consent) for the OR provider or [Case Manager](#) and Injury Management Advisor to meet with the worker and THP

It may be more appropriate that the contact be made by the [IMA](#) or Medical Advisor where:

- the Claims Manager is inexperienced
- complex medical issues are evident
- there are complex RTW issues
- surgery requests or clarification of diagnosis is made or required
- THP refuses to speak with the case manager

Education

To achieve successful relationships and outcomes the agent should ensure appropriate and adequate training has been provided to:

Employers

- Education on their obligations and responsibilities
- Commitment to health and safety and returning injured workers to work despite the liability status
- Development of RTW information, including how the employer will meet their obligations
- A well supported RTW coordinator to help assessment of pre-injury or suitable duties and supporting worker return to work programs
- Understanding the benefits of early intervention to achieve RTW and minimise costs associated with the workplace injury/[disease](#) and how that can be significantly reduced through:
 - early reporting of injury, disease or hazard
 - early medical intervention
 - early lodgement of claims
- Ensuring regular communication and consultation with their injured workers whilst off work. The development, implementation and ongoing review of [RTW planning](#) and arrangements

More information

The Act	<i>Accident Compensation Act 1985, Part VIIB</i>
Publications	<ul style="list-style-type: none">• What to do if a worker is injured – A guide for employers• Introduction to WorkSafe Scheme – A guide for injured workers• Returning to work – a guide for injured workers
Claims Manual	4 Employer Obligations 7 Claims Management Segments 8 Return to Work 10 Entitlements - Medical & Like Services 13 Entitlements - Common Law 15 Investigations and Compliance 16 Recoveries 17 Dispute resolution

8.12.5 - Systemic file review - 4 step

Systemic File Review - 4 Steps



FACTS

Step One – Gather Facts

Gathering as much up to date information as possible is essential to the success of a holistic file review and the development, implementation and monitoring of [RTW planning](#) and [RTW](#) arrangements.

Whilst information is available from documentation, such as medical certificates, claim forms, medical reports, investigations, etc., a quick, easy and cost effective way to gather additional information is by direct contact: open and regular communication with all parties (injured [worker](#), employer and where appropriate [THP](#)). The aim of the contact should be to gather additional facts not available from the written documentation which is essential to the achievement of an effective RTW outcome in each case.

Contact involves the agent initiating and continuing regular contact and developing a relationship with the parties, allowing the gathering and passing on of current information, RTW plan and goals.

It is essential that direct contact is made, not just attempted. At any stage where contact has been unsuccessful, despite numerous attempts, write to the party (utilise your Injury Management Advisor/Technical Manager or Medical Advisor if the information is required from the THP, for developing appropriate questions). The contact involves discussing, informing, understanding, setting future contact dates and seeking the most up to date status on issues such as:

Employer

- RTW barriers and opportunities
- RTW planning and the availability of pre-injury or [suitable employment](#)
- Contact with the worker since lodgement of the claim
- Contact with the THP post lodgement of the claim
- Advice on rights and obligations for example
 - keep job open for 52 weeks of incapacity including providing pre-injury and suitable employment (s194)
 - timely and early lodgement of claim (s108)
 - plan RTW, including assessing and proposing pre-injury and suitable employment (s195)
 - consult about RTW (s196)
 - appoint a RTW Coordinator of appropriate seniority and who is competent to assist the employer meet their RTW obligations (s197)
 - regular payment of wages based on medical certificates (s114D)
- Future claims management and RTW strategies

Request (and follow up) the supply of documentation such as medical certificates, RTW planning documentation, signed RTW arrangements, where available etc.

Worker

- Nature of injury, treatment regime (including effectiveness) and expected recovery
- Issues or concerns
- RTW barriers (physical and psychological)
- RTW opportunities
- Capacity and restrictions for work
- Advice on rights and obligations - for example
 - supply of valid certificates of capacity (s111)

Systemic File Review - 4 Steps

- participate and cooperate in planning for RTW, assessments, interviews and OR services (s200, s201, s202 and s204)
- Accident Compensation Conciliation Service
- Preferred OR provider from list supplied by employer and/or agent
- Potential or confirmed referrals (eg occupational rehabilitation)
- Future claims management RTW strategies
- Request (and follow up) the supply of documentation such as certificates of capacity

Treating health practitioner (where necessary)

- Diagnosis, treatment management plan (including effectiveness) and expected recovery times
- Other specialists involved
- RTW barriers (physical and psychological)
- Capacity and restrictions for work
- Potential or confirmed referrals (Occupational Rehabilitation, Job Seeking Assistance, etc)
- Surgery Request
- Future claims management and strategies

Prior to any communication, prepare a list of questions and prioritise them. Ensure your questions are specific to the individual claim and to the point as time can often be limiting to both yourself and the party/parties you wish to speak with.



Step Two – Summarise your facts and information

Summarise the information from file documentation, discussions with the worker, employer and THP on Novus. The summary will relate to:

- Medical information
- Contact discussions
- Pre-injury or suitable employment options
- RTW planning
- Treatment
- Work capacity
- Rehabilitation options/goals/strategy/status

Relevant checklists for Common Law, Recovery and Fraud identification are found on Novus. Novus must be used by agents to record details of the RTW process.

Systemic File Review - 4 Steps



ANALYSE

Step Three – Analyse the data to identify key opportunities

The purpose of the case conference or file review is to analyse and discuss all aspects of the claim. These aspects include but are not limited to:

- 13 week capacity review
- Overtime and shift allowance review
- Entitlement review – weekly benefits
- Current treatment regime and its appropriateness, including requests for surgery
- Agent RTW planning (implementation, progress monitoring, outcome)
- General issues/concerns eg workers age and literacy etc
- Classification eg [CWC](#)
- Utilisation of a 'package of support' (eg [NES](#)) where appropriate

At the conclusion of the conference or review a goal and plan for the worker's rehabilitation and RTW is set. Prior to the next conference the agreed task/s required to meet the goal should be completed. The next conference should be scheduled to coincide with the receipt of further information and/or to discuss the ongoing claim plan. An example of some of the tasks to be considered include:

- Injury Management Advisor/Medical Advisor to contact THP
- Referral to Medical Advisor for RTW certification review
- Referral to OR provider
- [Case manager](#) to discuss RTW options or to progress RTW planning
- Surveillance
- Utilisation of a 'package of support' (NES etc) where appropriate
- S112 Independent assessment
- Reconciling weekly payments
- Reconciling the estimated period of the employer obligation elapsed

These form part of the overall plan and goal setting to optimise RTW opportunities.



STRATEGY

Step four – Developing and implementing the RTW strategy

A strategy is developed to overcome any RTW barriers and achieve the RTW goal. At the:

- initial review, the [MDT](#) develops a strategy that focuses on the worker's safe and sustainable return to work
- subsequent case reviews, the MDT assess the likely success of the original/previous RTW strategy and determine if it needs to be modified.

Each RTW strategy needs to specify the tasks to be completed, who is responsible for them and the timeframe in which they need to be completed.

Strategies can include:

- OR referral
- RTW planning
- Suitable employment options
- Medical advisor referral
- THP report /contact
- S112

Systemic File Review - 4 Steps

- [IME](#) worksite visit
- Key party contact
- Vocational assessment / NES referral
- [Worker interview](#)
- [WISE](#)
- RTWI referral
- Surveillance

Novus

Record in Novus the:

1. Information gathered
2. Barriers identified and corresponding strategies
3. RTW goal (including timeframe)
4. Clear tasks and outcomes

See also:

[8 - Return to Work](#)

[8.2 - Occupational rehabilitation services](#)

[8.5 - Return to work with a new employer](#)

[8.6 - WorkSafe incentive scheme for employers](#)



Once a RTW has been achieved and confirmed, update ACction with all RTW details (date and either full time or partial RTW – entry cannot be before RTW date) and re-classify worker to CWC if applicable.

Should a worker commence a partial RTW it is essential to continue to manage and drive the progression of the partial RTW to a full RTW (or the maximum possible), until either a full clearance is received or the modified/alternative duties are offered by the employer as the workers new job.

If there has been no RTW it is just as important to manage and progress the claims (where possible) to achieve a RTW by monitoring the worker's progress and reviewing the plan where required.


Ensure ACction is updated at any stage if the worker ceases work or increases from partial to full hours (consider closure of file when all outstanding weekly compensation payments have been paid).

Management reporting and controls

Agents should have management controls and reporting in place to ensure that:

- timely case conferencing is occurring at intervention points
- the quality of the RTW actions are appropriate
- trends are identified
- correct use and implementation of initiatives
- return to work is coded
- identified actions/tasks are completed in a timely manner

8.12.6 - RTW questionnaire with employer information

Click  to view [RTW](#) Questionnaire with employer information

8.12.7 - RTW questionnaire without employer information

Click  to view [RTW](#) Questionnaire without employer information