

# SUITABLE EMPLOYMENT FOR INJURED WORKERS

## A STEP BY STEP GUIDE TO ASSESSING SUITABLE EMPLOYMENT OPTIONS

Supporting your worker to remain at or return to work benefits you and your worker. Employers have legal obligations to provide suitable or pre-injury employment to a worker following a work-related injury or illness, and to plan for their return to work. Planning an injured worker's return to work as soon as possible after the injury can help reduce the impact on your worker and your organisation.

This worksheet is a practical guide that steps you through the process of assessing suitable employment options for your worker. Using this template is not mandatory however, the completed worksheet can help to demonstrate your efforts in assessing suitable employment options.

### OBLIGATION TO PROVIDE SUITABLE OR PRE-INJURY EMPLOYMENT

In accordance with the *Accident Compensation Act 1985* (the Act):

- If a worker can do some work, but cannot do all of their normal job, the employer must provide suitable employment.
- If a worker can remain at or return to their pre-injury work and hours, the employer must provide a job that is the same as or equivalent to the job held before the injury.

This obligation starts from the date you receive your worker's *WorkSafe Certificate of Capacity* or claim for weekly payments, or from the date your WorkSafe Agent (Agent) advises you they have received either of these documents whichever is earlier. It continues for the first 52 weeks that your worker has an incapacity for work. This 52 week period is not necessarily consecutive calendar weeks and may start and stop based on a number of factors. Your Agent can help explain the factors relevant to calculating this period.

### WHAT IS SUITABLE EMPLOYMENT?

Suitable employment means employment for which the worker is currently suited, where they are not yet able to return to their pre-injury job. To assess suitable employment options these are some of the factors you need to consider:

- the nature of the worker's injury and incapacity for work
- the worker's pre-injury duties and whether these can be modified, reduced or performed in a supported way
- any other relevant factors such as the worker's age, education, skills, work experience, where they live
- any plan or document prepared as part of the return to work planning process
- any occupational rehabilitation services that are being provided to assist with return to work planning
- whether there are reasonable workplace supports aids or modifications that will assist the worker return to work in suitable or pre-injury employment

It could mean doing modified or alternate duties, or working reduced hours while the worker recovers and until they can return to their usual work.

Once you have assessed the suitable employment options, ideally you would document these in writing. WorkSafe has developed a *Return to Work Arrangements* template which you can use to do this. This template is available from your Agent or at [worksafe.vic.gov.au](http://worksafe.vic.gov.au).

### WHEN SHOULD I PROVIDE SUITABLE EMPLOYMENT?

If your worker has a current work capacity, but cannot yet return to their pre-injury job and hours, you need to provide them with suitable employment consistent with their capacity.

You should attempt to assess and propose suitable employment options even before your worker's doctor or healthcare provider has certified that they have a capacity for work. The assessment can be based on their anticipated capacity for work, taking into account the nature of their injury and expected recovery time. Doing this shows support for your worker's return to work and provides your worker and their doctor or healthcare provider with options for suitable employment when the worker is ready to return to work.

### WHO CAN HELP ME ASSESS SUITABLE EMPLOYMENT OPTIONS?

Consulting with your worker and their doctor or healthcare provider is a key part of effective return to work planning and the timely provision of suitable employment. It can help you clarify medical information and match your worker's capacity for work with duties available in your workplace.

Your Agent can also help you plan for your worker's return to work and assess suitable employment options. This may involve engaging an occupational rehabilitation provider. They can assist with return to work planning, identifying suitable employment options, and helping your worker remain at work or return to work. If you believe an occupational rehabilitation provider could help you, talk to your Agent as they must approve the cost of these services before they are provided. This assistance does not remove your obligations to plan your worker's return to work and provide them with suitable or pre-injury employment.

### WHAT IF I CAN'T PROVIDE SUITABLE OR PRE-INJURY EMPLOYMENT?

An employer must provide a worker with suitable or pre-injury employment to the extent it is reasonable to do so. In most circumstances it will be reasonable for employers to provide suitable or pre-injury employment that is appropriate to a worker's capacity for work. If the employer considers that they cannot reasonably provide suitable or pre-injury employment they will have to explain why and this would form the basis of further review by WorkSafe as to whether:

- the employer is adequately meeting this obligation
- further enforcement action by WorkSafe is necessary

You must assess suitable or pre-injury employment options and ideally document these as well as your efforts at return to work planning. Completing the worksheet inside will document your efforts to assess suitable employment.

**If you have assessed suitable or pre-injury employment options and believe you may not be able to provide your worker with suitable or pre-injury employment, immediately contact your Agent for assistance.**

A return to work inspector may visit your workplace at any time to assess whether you are adequately complying with your legal obligations. Inspectors will help ensure you are appropriately informed about your obligations and how to comply. They may issue an improvement notice requiring you to comply with specific obligations. An employer can also be prosecuted for not adequately complying with their return to work obligations and face financial penalties of up to 180 penalty units for a natural person and up to 900 penalty units for a body corporate per offence. For information about the value of penalty units, refer to [worksafe.vic.gov.au](http://worksafe.vic.gov.au)

## WORKSHEET TO ASSESS SUITABLE EMPLOYMENT OPTIONS

This worksheet contains key questions to consider when assessing and/or reviewing suitable employment options for your worker during the return to work planning process.

Step through these questions each time you review your worker's return to work in readiness for their increased capacity and when their capacity changes. Speak with relevant managers, supervisors and work colleagues when assessing suitable employment options. Consult with your worker and their doctor or healthcare provider.

Examples have been provided to help you answer each question. Write your answer in the space provided as it relates to your worker and your workplace.

Answering these questions will help determine what work is appropriate for your worker's current capacity for work or likely capacity in the future.

Assessing suitable employment options	<b>Step 1</b> Understand your worker's capacity for work	<b>Step 2</b> Assess your worker's pre-injury duties and whether these can be modified
<b>Considerations, questions and actions</b>	Talk to your worker and review their <i>Certificate of Capacity</i> and any other available information. (e.g. medical or occupational rehabilitation reports). If you have the worker's consent or signed claim form, speak to their doctor or healthcare provider. You should also talk to their occupational rehabilitation provider (if involved). <ul style="list-style-type: none"> <li>• What is the nature of your worker's injury or illness?</li> <li>• What is their capacity for work and their medical restrictions?</li> <li>• What is the expected duration of their incapacity for work?</li> </ul>	Try to provide suitable employment that is as close as possible to your worker's normal job. <ul style="list-style-type: none"> <li>• What are your worker's normal duties?</li> <li>• What parts of their normal duties could they do with their capacity and medical restrictions?</li> <li>• Could they safely perform some or all of their normal duties if they were temporarily or permanently modified? (e.g. support tools or equipment, reduced hours, rest breaks, working with the support of a colleague etc).</li> </ul>
<b>Example</b>	<p><i>Mike injured his back. His Certificate of Capacity says he can work 4 hours per day. He can lift up to 5kgs and can't sit for more than 20 minutes.</i></p> <p><i>Mike's doctor has said that Mike will recover over the next few weeks but will need to build up his strength to protect his back from further injury.</i></p>	<p><i>Mike's a storeman and delivery driver.</i></p> <p><i>Mike can take delivery of stock and pick up light orders with the help of a trolley. He can also enter delivery slips into the computer.</i></p> <p><i>Mike's colleagues can help him by lifting any heavier items.</i></p>
<b>Completed by:</b>  <b>Date:</b> ____ / ____ / ____	_____ _____ _____ _____	_____ _____ _____ _____
<b>First review conducted by:</b>  <b>Date:</b> ____ / ____ / ____  E.g. When new <i>WorkSafe Certificate of Capacity</i> issued / capacity changes	_____ _____ _____ _____ _____ _____	_____ _____ _____ _____ _____ _____
<b>Second review conducted by:</b>  <b>Date:</b> ____ / ____ / ____  E.g. When new <i>WorkSafe Certificate of Capacity</i> issued / capacity changes	_____ _____ _____ _____ _____ _____	_____ _____ _____ _____ _____ _____

Keep this completed worksheet for your records. Provide a copy to your WorkSafe Agent if you do not believe you can provide suitable employment.

Worker's Name

Claim Number

<p><b>Step 3</b> Look for other suitable duties</p>	<p><b>Step 4</b> Consider your worker's individual circumstances</p>	<p><b>Step 5</b> Outline suitable employment to be proposed</p>
<p>Consider whether there are any other duties available in the workplace that your worker may be able to perform safely.</p> <ul style="list-style-type: none"> <li>• Are there different duties they could do in the immediate work area?</li> <li>• Are there different duties they could do in another part of your organisation?</li> <li>• Can your worker safely perform any of these tasks or roles?</li> <li>• Consider whether reasonable workplace supports, modifications or assistance (e.g. buddy system, tools, equipment, training etc) would help your worker return to work in suitable employment?</li> </ul>	<p>How do your worker's age, education, skills, work experience and personal circumstances impact upon their return to work? How can you accommodate these factors?</p> <ul style="list-style-type: none"> <li>• Could your worker perform duties other than those associated with their pre-injury work? [e.g. review your worker's resume or personnel file]</li> <li>• Where does your worker live - does their injury affect their ability to get to and from work or a particular workplace?</li> <li>• Are there other things to consider to support your worker's return to work? [e.g. time to attend treatment]</li> </ul>	<p>After completing steps 1-4, you should be able to document some suitable employment options.</p> <p>It is also a good idea to document the proposed return to work arrangements, including suitable employment options, in writing and provide these to your worker and their doctor or healthcare provider</p> <p>An easy way to do this is by using WorkSafe's <i>Return to Work Arrangements</i> template.</p> <p><b>**If no duties are identified, contact your Agent to discuss what steps you need to take and what support your Agent can offer **</b></p>
<p><i>Mike's manager says he'd like some help in the warehouse with stocktaking. This can be done sitting or standing and doesn't require any lifting.</i></p> <p><i>The accounts and customer service departments could also use some help.</i></p> <p><i>Mike requires some training to use the computer for stocktaking.</i></p> <p><i>Mike's manager says he can sit with Mike to talk him through it.</i></p>	<p><i>Mike's 42 years old. His education, skills and work experience make it difficult for him to quickly take up accounting or customer service roles.</i></p> <p><i>Mike says he can't drive because sitting and changing the gears causes him pain.</i></p> <p><i>Mike needs to attend his back strengthening class twice a week.</i></p>	<p><i>A proposal can be made to Mike as follows:</i></p> <ul style="list-style-type: none"> <li>- <i>working Monday to Friday from 8am to midday.</i></li> <li>- <i>taking deliveries and picking up light orders for 2 hours, stock-taking for 2 hours per day.</i></li> <li>- <i>no lifting any materials above 5 kgs.</i></li> <li>- <i>rest breaks as required.</i></li> <li>- <i>3 hours computer training with the manager</i></li> <li>- <i>travel assistance will be provided</i></li> </ul>
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## WHERE TO GET MORE INFORMATION

The WorkSafe Advisory Service is a free service that can:

- explain return to work, rehabilitation rights and obligations;
- answer general occupational health and safety enquiries;
- advise you on your rights, including health and safety.

### Telephone

Freecall 1800 136 089

### Email

info@worksafe.vic.gov.au

### Website [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au)

### Visit

WorkSafe Victoria  
222 Exhibition Street  
Melbourne VIC 3000

### Write to

WorkSafe Advisory Service  
GPO Box 4306  
Melbourne VIC 3001

Contact your WorkSafe Agent for further advice and assistance if required.

## WorkSafe Publications

All WorkSafe publications are available on our website [worksafe.vic.gov.au](https://www.worksafe.vic.gov.au).

Some of the WorkSafe publications you may find helpful include:

- *What to do if a worker is injured – A guide for employers*
- *Return to Work Arrangements template*
- *Original Employer Services – Helping injured workers get back to work*
- *New Employer Services – Helping injured workers get back to work*
- *WorkSafe Incentive Scheme for Employers – Helping injured workers get back to work with a new employer*