



INJURY MANAGEMENT AND WORKER'S COMPENSATION

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1 POLICY

- a) The Department of Education and Training will provide assistance to injured or ill employees as soon as practicable to facilitate their return to work.
- b) The Department of Education and Training will make provision for the injury management of all employees who have sustained a work-related injury or illness that is subject to compensation.
- c) The Department of Education and Training is committed to consultation with the employee and his or her medical practitioner to develop and maintain a return to work program.
- d) Injured employees will be treated with dignity and respect. Procedures for injury management and workers' compensation claims will be transparent, follow legislative requirements, ensure appropriate confidentiality and demonstrate procedural fairness.
- e) Where practicable and required by medical specialist certification the Department of Education and Training will make provision for the placement of injured employees who have accepted workers' compensation claims and are unable to return to their original duties.

2 BACKGROUND

2.1 SCOPE

This policy and its procedures apply to all staff members including:

- public service officers appointed under Part 3 of the *Public Sector Management Act 1994*;
- members of the teaching staff employed under section 235 of the *School Education Act 1999*;
- other officers employed under section 235 of the *School Education Act 1999*; and
- casual employees employed under contracts for service.

2.2 RATIONALE

The Department of Education and Training is committed to providing assistance to injured or ill employees as soon as practicable, to facilitate their return to work. Work can be an effective means of reducing the psychological and physical effects of injury (such as reduced self-esteem and confidence, physical de-conditioning and social isolation) as it maintains the injured employee's contribution to productivity and keeps him or her in touch with the workplace.

2.2.1 THE BENEFITS OF AN EARLY RETURN TO WORK

The benefits of an early return to work for the injured employee include: an increase in morale by contributing to the workplace; maintenance of self-esteem by fulfilling normal home and work routines and roles; and maintenance of general fitness for work.

The benefits of an early return to work for the Department include: contribution to a team spirit in the workplace; in the case of teaching staff, continuity of teaching within the classroom by minimising the use of relief teachers; reduction in lost time rates, workers' compensation costs and insurance premiums; and distribution of money saved to other areas of the Department.

2.2.2 ACCREDITED VOCATIONAL REHABILITATION PROVIDERS

Vocational rehabilitation services complement medical and employer intervention by assisting injured employees to remain in or return to productive employment. As part of the injury management process it may be necessary to use the services of an approved vocational rehabilitation provider. The aims of vocational rehabilitation are achievement of optimal levels of physical and/or mental recovery and provision of specialist services to assist an injured employee to remain in or return to work. Vocational rehabilitation also reduces the human and economic cost of injury to employees, employers and the broader community.

2.1.3 WORKERS' COMPENSATION

All employees of the Department and casual staff who are injured in the course of work may apply to receive workers' compensation benefits for a compensable injury, as defined in the *Workers' Compensation and Injury Management Act 1981* (the Act) including:

- a personal injury by accident arising out of or sustained during the course of his or her employment;¹
- a disabling disease as specified in the Act;²
- a recurrence, aggravation or acceleration of a pre-existing disease where his or her employment was a significant contributing factor;³
- a disease contracted by an employee in the course of his or her employment and to which the employment was a contributing factor to a significant degree;⁴
- a loss of function as specified in the Act.⁵

Claims for motor vehicle accidents that occur on the journey to or from work,⁶ and stress claims wholly or predominantly arising from the exclusion provisions in the Act including, but not limited to, an employee's dismissal, retrenchment, demotion, discipline, redeployment, failure to receive a promotion or reclassification, or any expectation of these matters⁷ may not be covered by the legislation.

¹ Workers' Compensation and Injury Management Act s.5 (a)

² Workers' Compensation and Injury Management Act s.32-35, 44 and Schedule 3

³ Workers' Compensation and Injury Management Act s.5 (5)

⁴ Workers' Compensation and Injury Management Act s.5 (5) and 32

⁵ Workers' Compensation and Injury Management Act s.25 and Schedule 2

⁶ Workers' Compensation and Injury Management Act s.19 (2) and (3)

⁷ Workers' Compensation and Injury Management Act s.5 (4)

Workers' compensation is a no fault system except in the case of proved serious and wilful misconduct, or if the injury of the employee was attributable to his or her consumption of alcohol or of a drug of addiction or failure to use protective equipment and clothing. In these cases the employee may be ineligible for workers' compensation.⁸

RiskCover determines whether the injury is work-related in accordance with the definitions provided in the legislation. The WorkCover WA Dispute Resolution Directorate can hear and determine workers' compensation disputes about liability.⁹

3 DEFINITIONS

3.1 DISPUTE RESOLUTION PROCESS

The dispute resolution system for workers' compensation claims is focused on the early resolution of issues. Where disputes relating to claims or injury management cannot be resolved internally between parties a matter may be referred to the WorkCover Dispute Resolution Directorate. Disputes will be managed by an arbitrator who will attempt conciliation to bring about a resolution between the disputing parties prior to arbitration. A commissioner will hear appeals against decisions of arbitrators on matters of law.

3.2 EMPLOYEE SUPPORT BUREAU

The Employee Support Bureau is the collective name for the Workers' Compensation, Injury Management and Safety Units. It is now part of the Department of Education and Training Shared Services Centre.

3.3 INJURY MANAGEMENT

The Department of Education and Training follows the WorkCover WA injury management model. Injury management is defined as a workplace managed process incorporating employer and medical management from time of injury to facilitate where practicable, efficient and cost effective maintenance in or return to suitable employment.

The key parties in the injury management process are the injured employee, the employer and the treating medical practitioner. The injury management process may also involve RiskCover, a vocational rehabilitation provider and the union representative.

3.4 INJURY MANAGEMENT CONSULTANTS

Injury Management Consultants also coordinate vocational rehabilitation services for workers' compensation claims and provide advice to workers, districts, schools and central office on injury management issues.

⁸ Workers' Compensation and Injury Management Act s.22

⁹ Workers' Compensation and Injury Management Act s.58

3.5 PROCEDURAL FAIRNESS

The concept of procedural fairness is derived from the principles of natural justice.¹⁰ A process that demonstrates procedural fairness is one in which:

- decision makers act fairly and provide reasons for decisions;
- the person affected is given a fair hearing;
- all parties to a matter have an opportunity to put their case where an adverse decision or finding is made; and
- all relevant arguments are considered and irrelevant arguments are excluded.

3.6 RISKCOVER

RiskCover is the managed fund created to administer the self-insurance arrangements of State Government agencies. RiskCover promotes effective claims management in partnership with the Department. RiskCover Claims Officers facilitate this partnership and work with the Department to ensure claims are managed effectively.

3.7 SAFETY OFFICERS

Safety Officers provide advice and to support line managers and Safety and Health Representatives on managing safety and health risks and meeting legislative requirements relating to occupational safety and health.

3.8 WORKCOVER WA

WorkCover WA is the independent government agency responsible for the administration of the workers' compensation and injury management system in Western Australia. Information on workers' compensation, injury management and dispute resolution is available on the WorkCover infoline on 1300 794 744.

3.9 WORKERS' COMPENSATION OFFICERS

Workers' Compensation Officers assist with the monitoring and coordination of workers' compensation claims. They liaise with Departmental staff members, RiskCover and other parties in the workers' compensation system. Workers' Compensation Officers also work with the Injury Management Consultants in coordinating vocational rehabilitation services with external providers.

4 RELEVANT LEGISLATION OR AUTHORITY

The Workers' Compensation and Injury Management Act 1981 is the principal legislation governing workers' compensation and injury management in Western Australia. Amongst other things, the Act makes provision for the:

- compensation of employees who suffer a work-related injury or certain dependents of those employees where the death of an employee results from such a injury;¹¹

¹⁰ Workers' Compensation and Injury Management Act s.3 (b)

- promotion of the injury management of injured employees, to return them to the fullest capacity for gainful employment;¹² and
- promotion of safety measures to minimise the occurrence of injuries.¹³

Other relevant legislation includes:

Equal Opportunity Act 1984

Occupational Safety and Health Act 1984

Public Sector Management Act 1994

Public Sector Standards in Human Resource Management

School Education Act 1999

School Education Regulations 2000

WA Public Sector Code of Ethics

4.1 RELEVANT POLICIES

Occupational Safety and Health

Staff Conduct

¹¹ Workers' Compensation and Injury Management Act Schedule 1, 1- 19

¹² Workers' Compensation and Injury Management Act s.3 (b)

¹³ Workers' Compensation and Injury Management Act s.3 (c)

Injury Management and Worker's Compensation

All policy and procedural statements contained within this document are lawful orders for the purposes of section 80(a) of the Public Sector Management Act 1994 (WA) and are therefore to be observed by all Department of Education and Training employees.

5 PROCEDURES

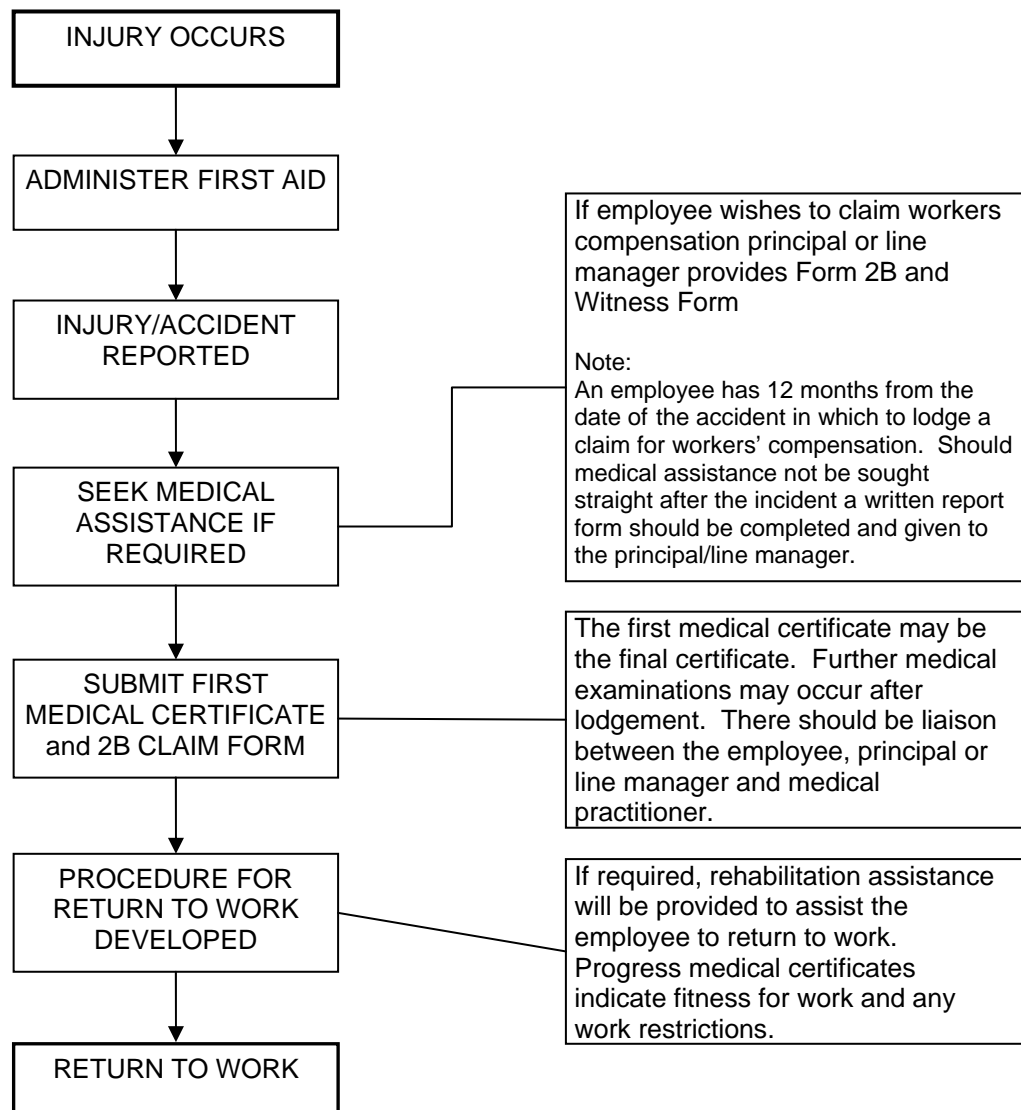


Figure 1: Flow chart of workers' compensation injury management process

5.1 WORKERS' COMPENSATION FORMS

All forms required during the workers' compensation process are able to be downloaded through the Employee Support Bureau website on <http://www.det.wa.edu.au/education/hr/>

5.2 RESPONSIBILITIES OF PRINCIPALS AND LINE MANAGERS

Principals and line managers must manage an employee who suffers a workplace accident causing injury or illness in accordance with these procedures. Providing early assistance and open communication are important factors in supporting an injured or ill employee. The procedures below must be followed to ensure that the employee receives the necessary medical treatment and support to facilitate his or her return to work.

When a member of staff is injured the principal or line manager must:

- a) Ensure first aid is provided, if required.
- b) Advise the employee to seek medical assistance if required. (If not urgent then the employee can seek assistance if and when the need arises. The employee has 12 months from the date of injury in which to lodge a workers' compensation claim).
- c) Investigate the incident and complete an incident/accident investigation form and report the incident to the OSH representative for that area. (The investigation is required under occupational safety and health legislation).
- d) Maintain records of incident/accident reports (it is essential records are kept in case the employee lodges a claim at a later date).
- e) Provide the employee with a 2B Claim Form and a Form 5A Witness Statement form if they wish to claim compensation.
- f) On receipt of the first medical certificate from the employee note the information regarding work capacity. Date stamp the form and fax it to the Employee Support Bureau in the Department of Education and Training Shared Services Centre on 9264 8463. (If the employee lodges a first medical certificate without a 2B claim form contact the employee immediately to advise that a 2B form must be completed to lodge a claim for compensation).
- g) If the medical certificate indicates that the employee will be absent from work ask the employee if they wish to utilise sick leave or other leave credits until liability for the claim is determined. Place on requested leave if credits are available. Employees with no accrued sick leave are to be placed on sick leave without pay and advised to contact Centrelink to determine any benefits to which they may be entitled.
- h) Complete a 1B Employer Report Form and send with the first medical certificate, 2B claim form and the accident/incident investigation form to the Employee Support Bureau by the end of the next working day. It is essential that the forms are received by RiskCover within 3 working days. If not possible by post then fax copies first.

Note:

The details to be provided to a medical practitioner section in the 2B claim form will be completed by the workers' compensation officers in the Employee Support Bureau on receipt of the claim form, where appropriate.

The principal or line manager is also responsible for supporting an injured worker to return to work. In order to do this the principal or line manager must:¹⁴

- i) Identify possible productive and meaningful alternative duties or make modifications to original duties for consideration by the medical practitioner.¹⁵
- j) Provide suitable equipment to enable the employee to safely complete their duties.

¹⁴ Workers' Compensation and Injury Management Act s.3 (b)

¹⁵ Workers' Compensation and Injury Management Act s.155B, s155C

- k) Where an employee is fit to return to work but only on restricted duties or hours, ensure that a written return to work program is developed and implemented. A return to work program is to be developed in consultation with the injured worker and based on the restrictions on the medical certificate or advice from the treating medical practitioner. (If assistance or further information about return to work programs is required contact the Employee Support Bureau. Further information also provided in section 5.4)
- l) Send a copy of the return to work plan to the workers' compensation officer in the Employee Support Bureau.
- m) Maintain relevant confidential documentation, such as copies of medical certificates, in a secure location.
- n) Respect the privacy of the injured employee. No information regarding the injured employee's injury or rehabilitation status is to be communicated to unauthorised staff or parents without the permission of the employee.
- o) Liaise with the nominated vocational rehabilitation provider regarding the rehabilitation program.

5.3 RESPONSIBILITIES OF AN INJURED EMPLOYEE

All employees have an obligation to report hazards and all incidences that result in an injury or are near misses to the principal or line manager. If an employee has been injured they are to:

- a) Report the incident to the principal or line manager as soon as practicable;
- b) Seek medical attention if required. Injured workers have 12 months from the date of injury in which to make a workers' compensation claim for lost wages and/or medical costs. If immediate medical attention is not required it can be sought if the injury progresses in days or weeks following the incident. A workers' compensation claim can still be lodged if it is within the 12 month period; and
- c) Provide a medical certificate to principal or line manager.

If Workers' Compensation is being sought then the injured employee must:

- d) Complete a form 2B claim form and where applicable obtain completed 5A witness statement forms from any witnesses to the accident;
- e) Return completed forms to the principal or line manager with the first medical certificate; attend medical reviews and appointments with rehabilitation providers; and
- f) Provide ongoing workers' compensation medical certificates to the principal or line manager.

Guidelines

In order to claim for workers' compensation a first medical certificate must be obtained from a medical practitioner and a 2B claim form must be completed. If possible also get a witness to complete a 5A Witness Statement Form.

Medical Reviews

The Department's insurer, RiskCover has the right to obtain information regarding the medical status of workers receiving compensation and will exercise its discretion in requiring a worker to submit to an examination by a medical expert nominated by RiskCover.¹⁶

RiskCover will also exercise its discretion in applying to the WorkCover Dispute Resolution Directorate to suspend an employee's weekly payments or extinguishing his or her claim if he or she unreasonably obstructs, fails or refuses to attend a medical appointment arranged by RiskCover.¹⁷ The injured worker may request copies of specialist reports from RiskCover.

Progress Medical Certificates

The medical practitioner will complete a progress medical certificate after each subsequent medical review. The employee is required to submit current certificates to his or her principal or line manager.¹⁸ An employee who has been transferred from the school where the injury occurred, or is no longer at a school, will forward the certificate directly to the Workers' Compensation Unit or hand it to his or her current school for forwarding. The principal or line manager must note the medical practitioner's comments prior to forwarding the certificate to the Employee Support Bureau.

5.4 RETURN TO WORK PROGRAMS

Workers' Compensation legislation requires that a return to work program must be established where the injured worker cannot return to their pre injury duties or hours but has a capacity to return to restricted hours or duties. It is the responsibility of the principal or line manager to ensure that a return to work program is developed, documented and implemented as soon as possible and in accordance with the information provided by the treating medical practitioner.

In most cases the return to work program will be developed by an external rehabilitation provider. This will be coordinated by the Employee Support Bureau. However where a rehabilitation provider is not involved the principal/line manager may need to develop a program and provide a copy of the program to the Employee Support Bureau. Advice on developing a return to work program is available from the Injury Management Consultants in the Employee Support Bureau. A template return to work program is also available at Appendix E.

(An example of a return to work plan that should be able to be developed at the school site is where a teacher is returning to work following a work injury to the knee and is unable to do yard duty for a few days or is only able to do half days for one week but normal duties).

The injured employee must be provided the opportunity to participate in the development of a return to work program and relevant adjustments made to the program if there are changes in the injured worker's condition.

Return to work programs must be in writing and have the signature of the injured employee and the principal/line manager indicating that they agree with the details and goal of the program. Further details on the contents of a return to work program are at section 6.2.

¹⁶ Workers' Compensation and Injury Management Act s.64 (1)

¹⁷ Workers' Compensation and Injury Management Act s.72A

¹⁸ Workers' Compensation and Injury Management Act s.84I, 57B (1)

The injured employee will remain on compensation payments for the hours worked when a relief person is also required (i.e. they are working as a supernumerary). For the hours that they are completing their pre injury duties at their usual place of work full wages will be paid. Any query with this should be discussed with the Workers' Compensation Officer in the Employee Support Bureau.

5.5 REFERRAL TO A VOCATIONAL REHABILITATION PROVIDER

When deemed necessary the Department's Injury Management Consultant or Workers' Compensation Officer will refer the injured employee, with the approval of the medical practitioner, to an accredited vocational rehabilitation provider. The injured employee will be advised by the Department's Injury Management Consultant or Workers' Compensation Officer of his or her right to select a vocational rehabilitation provider. Injured employees must also be provided the opportunity to be involved in all decisions regarding their injury management and to receive information on their vocational rehabilitation program.

Guideline

An injured employee should participate in injury management if he or she is in receipt of weekly payments. If a worker is required by the WorkCover Arbitrator to participate in a return to work program, and refuses to do so or fails to participate, weekly payments may be suspended.

5.6 RETURN TO WORK HIERARCHY

The initial return to work goal will be to return the employee to the position he or she occupied before their injury.¹⁹ Injury management or rehabilitation consultants must use the return to work hierarchy to establish a new return to work goal. The return to work program must be approved by the medical practitioner before the employee returns to work. Table 1 describes the hierarchy used:

Preference	Employer	Duties
1 st	Same worksite	Original duties
2 nd	Same worksite	Modified duties
3 rd	New worksite	Original duties
4 th	New worksite	Modified duties
5 th	New worksite	New duties
6 th	New employer	New duties

Table 1: Return to work hierarchy

Sufficient medical information indicating that the employee is unable to return to original duties in the near future is required for the employee to be retrained in new duties. If this is the case, retraining with a view to deployment into an alternative position within the Department, will be considered.

Where reasonably practicable the Department must make a position held by a permanent employee available for 12 months from the date he or she became entitled to weekly compensation payments.

¹⁹ Workers' Compensation and Injury Management Act s.84AA

If that job is not available or the employee can no longer perform that job, the Department must provide a similar position that the employee is qualified and capable of doing within a one-year period from the date of incapacity.²⁰

District Office Support Officers may be contacted for the placement of non teaching staff. Staffing consultants are responsible for the placement of teaching staff. Branch Managers look after placements throughout central office.

The Department cannot guarantee the employee a position with a new employer but will provide suitable job-search training. Employees must notify the Department or RiskCover in writing of their commencement of work with another employer.²¹

5.7 RECORD KEEPING

Principals and line managers need to exercise good record-keeping. Record keeping is an essential part of managing employee concerns and in particular managing workplace injury and rehabilitation.

The relevant workers' compensation forms must be completed, copied and stored so that confidentiality is maintained. It is necessary that principals and line managers keep records of all matters that may become the subject of a complaint, grievance or future dispute.

Records of information pertaining to an incident should include information on the date and time that information was provided, who it was provided by (including statements by a witness or third party) with details being kept as specific as possible.

Further information on record management is available on the Department's Our Policies website: <http://policies.det.wa.edu.au/>

6 GUIDELINES

6.1 THE EMPLOYEE SUPPORT BUREAU AND INJURY MANAGEMENT

The Employee Support Bureau (ESB) is based in the Department of Education and Training Shared Services Centre. The role of ESB is to:

- a) coordinate injury management services for the Department;
- b) provide advice and training to schools, districts and central office on injury management issues;
- c) develop strategies to facilitate the early return to work of injured or ill employees including the evaluation of workplace facilities;
- d) develop and implement quality assurance programs to monitor the provision of injury management services by vocational rehabilitation providers; and
- e) recommend and deliver appropriate injury prevention strategies (for example, ergonomic assessments and training seminars on the awareness of stress).

²⁰ Workers' Compensation and Injury Management Act s.84AA

²¹ Workers' Compensation and Injury Management Act s.59 (2)

6.2 RETURN TO WORK PROGRAMS

The aim of return to work programs is to return an injured employee to meaningful and productive work when medically appropriate. Where necessary, modifications will be made to an injured employee's duties or workplace. These modifications may include:

- reduced work hours per day and/or reduced working days per week;
- modified duties that include components of his or her substantive position that are considered medically suitable; and
- alternative duties created for the purpose of return to work.

If the employee undertakes alternative duties when he or she returns to work this is not an indication that he or she is being retrained.

Typically, a case team comprising the injured employee, principal or line manager, Injury Management Consultant or Workers' Compensation Officer for the Department or an external vocational rehabilitation provider and medical practitioner will develop a return to work program. Where requested by the injured employee a union representative may also be involved.

However in cases of minor injury a return to work program may just involve the injured employee and the principal/line manager and utilising information provided by the treating medical practitioner.

Return to work programs must be written and signed by the parties involved to ensure there are agreed goals for the program. Return to work programs also must indicate:

- the name of the injured employee;
- a description of the goal of the program;
- a list of the action that is to be taken to enable the employee to return to work and who is responsible for each action; and
- a statement that the employee agrees with the program.

A template of a return to work program is provided at Appendix E. Injury Management Consultants from Employee Support Bureau can provide guidance where required.

A copy of the written return to work program must be sent to the Workers' Compensation Officer in the Employee Support Bureau.

If the injured employee does not agree with their return to work program they should first discuss the problem with their principal or line manager. If the problem cannot be resolved contact one of the Injury Management Consultants in the Employee Support Bureau for advice.

Information and advice on return to work programs is also available from WorkCover on www.workcover.wa.gov.au or by phoning 1300 794 744.

6.3 INJURY MANAGEMENT ASSISTANCE FOR EMPLOYEES WITH PENDED CLAIMS

The period for determining liability for some claims, particularly stress-related claims may be protracted if RiskCover requires reports from an insurance assessor or medical specialist. RiskCover may approve funding for injury management assistance of up to \$2,000 for an employee with a pended claim.

An employee with a pended claim for stress related illness may also be offered a limited number of counselling sessions with a clinical psychologist to assist them in dealing with their illness.

6.4 SUPERNUMERARY PLACEMENT

An employee may return to work supernumerary (e.g. as an extra person) when he or she returns to work other than in a pre-injury capacity. Although the work being completed by a person on a supernumerary placement is valued and may involve some of their normal duties it is essential that a relief person is paid for all the time they are at the workplace while the injured employee is on supernumerary duties. Therefore any employee undertaking a supernumerary placement will continue to receive workers compensation benefits paid at the compensable rate.

(For example, a teacher with an accepted claim may return to work to undertake an administrative project. The medical practitioner must authorise the teacher fit to undertake the proposed duties).

A full-time relief person will work in the position while the injured employee undertakes duties compatible with his or her medical condition. The Department covers the costs of the relief person. This is applicable to workers' compensation claims only. Approval must be obtained from the Workers' Compensation Officer or Injury Management Consultant from the Employee Support Bureau prior to an employee commencing supernumerary placement.

Where possible a supernumerary placement will take place at the employee's worksite where they were working when their injury occurred. If this is not possible then placement will be at the next most suitable worksite.

6.5 LODGEMENT AND ASSESSMENT OF A COMPENSATION CLAIM

A flow-chart of the assessment process is provided at Appendix C.

STEP 1 – LODGEMENT OF CLAIM AT WORKSITE

The employee lodges a workers' compensation claim forms at his or her work site, regardless of where the injury occurred. The employee is advised to lodge a claim within 12 months of the date of the original injury or accident, however this time limit may be extended in some situations²² A Travel Accident Form must be completed by the employee for an injury that has arisen out of and in the course of a work-related journey.

²² Workers' Compensation and Injury Management Act s.84 I (b)

STEP 2 – CLAIM FORMS FORWARDED TO THE EMPLOYEE SUPPORT BUREAU

The claim forms needs to be date stamped when lodged and sent to the Employee Support Bureau to arrive within three working days. If it is not possible to get the forms to the Employee Support Bureau within three working days then the claims form needs to be faxed and the originals mailed. This will enable ESB to fax the form to RiskCover to meet the three days requirement.

The Workers' Compensation Unit in the Employee Support Bureau provides advice and assistance to the injured employee and the principal or line manager once the claim papers are received. The Workers' Compensation Officer contacts the employee and the principal or line manager to follow-up incomplete forms.

STEP 3 – CLAIM FORMS FORWARDED TO RISKCOVER

Information from the claim form is entered into a database at the Employee Support Bureau. The Employee Support Bureau forwards claim forms to RiskCover for assessment as soon as possible after receiving them in order to meet legislative requirements for dealing with claims.²³

STEP 4 – ASSESSMENT OF CLAIMS

RiskCover will assess the claim. This may include investigating the accident or incident, or obtaining a specialist medical opinion.²⁴ In such cases an insurance assessor will be appointed to investigate the factual circumstances of the claim and possibly interview the injured employee, witnesses and other parties.

By providing a detailed statement of the circumstances surrounding the claim, the employee and his or her principal or line manager may reduce the time taken for liability of the claim to be determined. The employee and his or her principal or line manager are not obligated to provide a statement.

When a claim is made against a public authority such as the Department of Education and Training, the Department is required to provide RiskCover with all information in its possession relating to the claim or possible claim.²⁵

RiskCover may refer an employee who has lodged a claim for occupational stress to a psychiatrist.²⁶ The psychiatrist will assess whether the worker has a recognisable psychiatric injury and whether his or her employment contributed to this injury to a significant degree.

RiskCover advises the employee in writing within 17 days of lodgement of its decision to accept, decline or pend a decision on the claim.²⁷ RiskCover also advises the employee's principal or line manager of this decision in writing.

²³ Workers' Compensation and Injury Management Act s.57B (4)

²⁴ Workers' Compensation and Injury Management Act ss64, 65

²⁵ Fund Guide 2.1

²⁶ Workers' Compensation and Injury Management Act ss64, 65

²⁷ Workers' Compensation and Injury Management Act s57B (2)

STEP 4.1 - ACCEPTED, PENDED, AND DECLINED CLAIMS

When a claim is accepted it means RiskCover has admitted liability for the claim under the Act. The employee is entitled to compensation for lost time, medical, rehabilitation and other expenses. More information regarding entitlements is available from WorkCover (see contact details overleaf). All sick leave utilised while the claim was pended will be reinstated. When a claim is pended it means RiskCover considers it necessary to obtain further information before making a decision about liability. RiskCover must advise the Department, the employee and WorkCover WA that additional time is required to make a decision concerning liability.

When a claim is declined it means RiskCover has determined the claim does not meet the provisions of the Act. If a claim is declined all medical costs remain the sole responsibility of the employee. Where liability for a claim is declined employees may apply to use available leave credits to ensure continuation of salary. The employee has recourse to the dispute resolution process if he or she disagrees with the assessment of liability or wishes to try and expedite the resolution of a matter.²⁸

An employee may contact WorkCover Infoline on 1300 794 744 for information regarding claim entitlements or liability.

STEP 5 – DISPUTE RESOLUTION

Despite all attempts to resolve matters in accordance with the Department's process and the requirements of the legislation there are occasions when disputes arise between the Department and employees. Any dispute involving an entitlement under the Act may be taken to WorkCover WA's Dispute Resolution Directorate. Disputes will be managed by an arbitrator, who will attempt consultation to bring about a resolution between the disputing parties, prior to arbitration. Further details on the dispute resolution process are available from WorkCover on 1300 794 744 and on their website on www.workcover.wa.gov.au or from the union.

6.6 SUPPORTING AN INJURED EMPLOYEE WHEN HE OR SHE IS ABSENT

Management support is vital to the success of an employee's return to work program. It is important to let the employee know that he or she is a valued staff member. Strategies which principals or line managers may find useful include:

- regularly contacting an injured or unwell employee who is totally unfit. This needs to be done with genuine concern for their well being rather than viewed as harassment to return to work;
- attending an appointment with the employee and medical practitioner (with the consent of the employee) to determine the level of support required to assist him or her to return to work and to advise the medical practitioner of available alternative duties;
- advising the employee of the availability of counselling via the Department's Employee Assistance Program provider;
- forwarding copies of newsletters, relevant memos and School Matters; and

²⁸ Workers' Compensation and Injury Management Act s 58

- extending social invitations to the employee (the employee requires medical approval to attend work-related meetings).

6.7 IDENTIFYING THE EARLY SIGNS OF STRESS

Effective stress management involves learning to identify the early signs of an employee experiencing stress. The cause of the stress may be a combination of work and non work related issues. Signs and symptoms do not appear in isolation. Management may observe one or more of the following signs, which fall into four broad areas:

1. behavioural signs (such as social withdrawal; uncharacteristic behaviour; increased mistakes; rapid or slow speech; critical and cynical attitudes; frequent, unexplained sickness absence; and frequent medical visits for minor health complaints);
2. physical signs (such as disturbed sleep, fatigue, upset stomach, headaches and agitation);
3. emotional signs (such as anxiety; tearfulness; irritability and over-sensitivity); and
4. cognitive signs (such as reduced concentration, forgetfulness; and diminished decision-making capacity).

6.8 MANAGEMENT OF EMPLOYEES WITH OCCUPATIONAL STRESS CLAIMS

Line managers should be aware of the sensitive nature of stress claims and the need for confidentiality of information related to the claim. Details regarding the injured employee's condition or injury management status are not to be communicated to other staff or parents without the permission of the employee.

The principal or line manager is advised to facilitate early and ongoing communications with the employee. Communication will assist to maintain the employee's work identity by reducing the sense of isolation from the worksite and demonstrating to the absent employee that he or she is a valued staff member.

The principal or line manager may need to nominate an alternative person to approach a distressed employee if the employee perceives that his or her principal or line manager has caused their distress. It is encouraged that both parties agree to the frequency and method of ongoing communication and discuss expectations about the return to work program.

The principal or line manager is encouraged to explore what the issues are, expressing a willingness to listen and to avoid making value judgements. It is important to acknowledge the employee's distress. The principal or line manager is encouraged to be supportive of the employee and encourage them to discuss their issues and to explore options to resolve any issues. An action plan should be developed in consultation with the employee and wherever possible agreement reached prior to actions being implemented.

Where it is suspected that workplace conflict is a factor in an employee's ill health, this matter should be investigated by the principal or line manager and appropriate action taken. A joint action plan with review dates may be developed. Consideration may be given to pairing the injured employee with a trusted colleague to enable them to develop strategies to deal with the situation. If required, independent mediation may be arranged. The employee should also be informed about the Department's Employee Assistance Program provider who may be able to assist them with the development of strategies to build resilience and coping skills.

When managing critical incidents, such as assaults, it is important for principals or line managers to accept individual perceptions and not to make value judgements about the incident or the affect that it will have on the employee. Principals or line managers are also advised to:

- develop strategies to assist the employee to return to normal working patterns as soon as possible;
- investigate the incident and develop risk management plans in consultation with staff to manage violence in the workplace; and
- consider offering professional development in areas such as conflict resolution and negotiation to provide employees with the skills to deal with difficult people and situations appropriately.

7 FURTHER INFORMATION

Contact Details

Employee Support Bureau
(Workers' Compensation, Injury Management and Safety)
Department of Education and Training Shared Services Centre
Level 6, 8 Bennett Street
EAST PERTH WA 6004
Telephone: (08) 9264 8653
Facsimile: (08) 9264 8463

RiskCover

Telephone: (08) 9264 3333

WorkCover WA (Infoline)

Telephone: 1300 794 744

APPENDIX A PROCEDURES FOR PROCESSING A CLAIM FORM USING THE HUMAN RESOURCE MANAGEMENT INFORMATION SYSTEM (HRMIS) AT SCHOOL SITES

Procedure for staff entering data at the school site.

The following procedures are for line managers and administrators who are managing the leave of an employee who has lodged a workers' compensation claim and is absent from work.

The employee's leave forms are to be sent to the Workers' Compensation Unit, after the details have been entered into HRMIS. The leave forms need to indicate that the employee is on sick leave and not workers' compensation until liability for the claim is determined. A comment should be placed in the leave panel advising sick leave pending acceptance of workers' compensation claim.

The codes below are only to be used for staff providing relief for employees with accepted workers' compensation claims. The Workers' Compensation Officer for your district should be contacted to determine whether a claim is approved and to seek approval to employ a relief person in special circumstances.

If the approval is given the relief employee's staffing advice should be processed using the following codes:

1471 – teaching staff;

1472 – non-teaching staff.

Role of the Workers' Compensation Officers:

The workers' compensation officer will process a payroll advice for a workers' compensation claim with time lost from work. The advice is forwarded to the payroll section for processing on HRMIS. The information contained in the advice is listed below:

- claim number;
- claimant's name;
- ID number;
- location (school/department);
- occupation;
- district;
- dates off work; and
- type of leave used.

A weekly rate of pay will be included if the employee's wage is to be capped (see appendix D).

When the employee is certified unfit for work for an extended period of time, the Workers' Compensation Officer will place the injured employee on leave until further notice.

To remove the employee from leave and to place him or her on normal wages, a further advice is sent to payroll when the return to work date is confirmed.

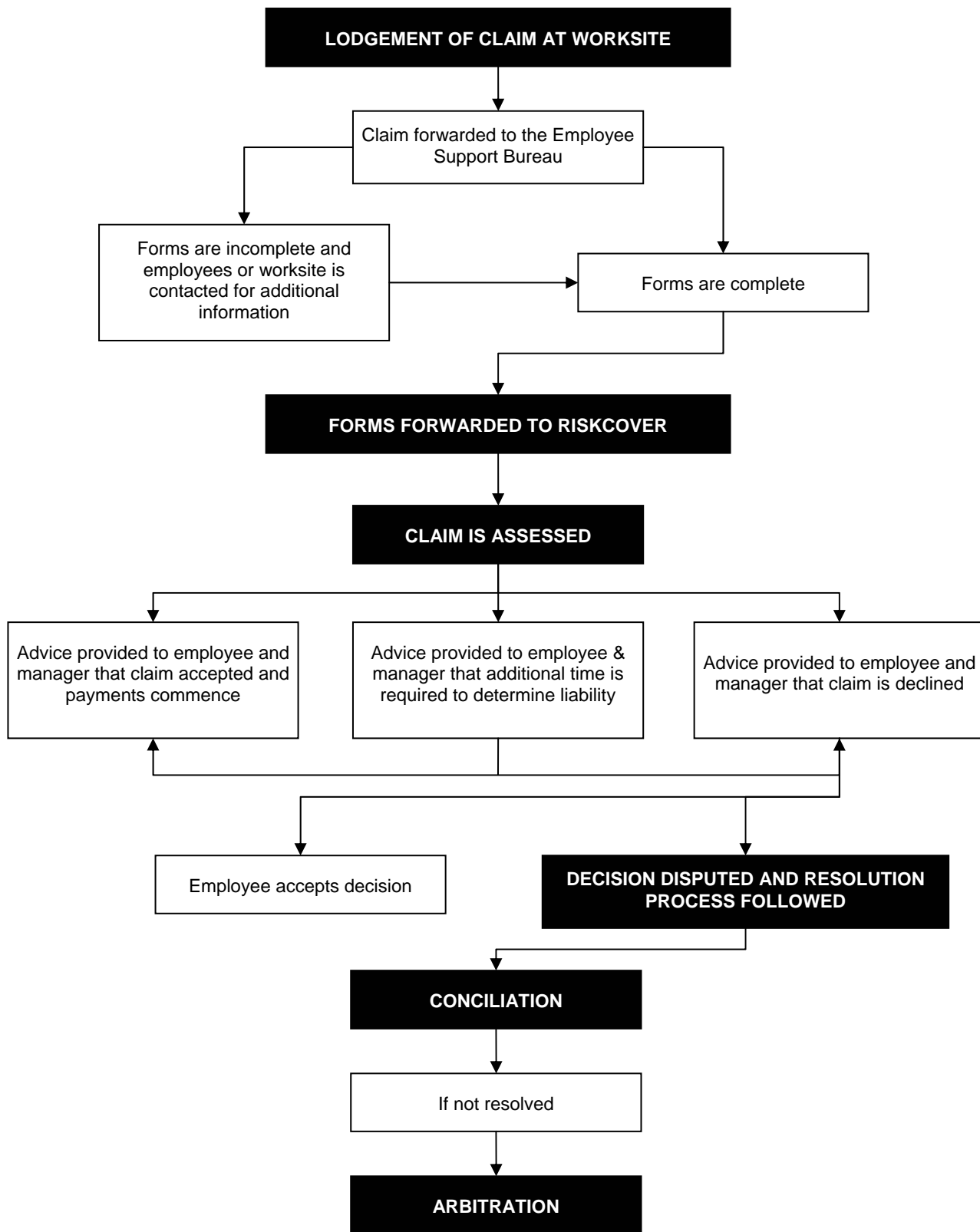
APPENDIX B WORKERS' COMPENSATION FORMS

All forms required during the workers' compensation process are able to be downloaded through the Employee Support Bureau website on <http://www.det.wa.edu.au/education/hr/>

- **Accident Investigation Form**
 - To be completed by principal or line manager to identify how the injury occurred and why, in order to prevent a similar injury in the future.
- **Employer's Report Form 1B**
 - To be completed and signed by principal or line manager (signature on form only required if payment of claim is recommended).
- **Recurrence of Disability Form 3A**
 - To be completed by the injured employee if he or she suffers an aggravation of his or her injury requiring further medical treatment or time off work.
- **Travel Accident Form 4**
 - To be completed by the employee if he or she was injured on a journey during work time.
- **Witness Statement Form 5A**
 - To be completed by a witness to the injury or incident at the request of the injured employee.
- ***Workers' Compensation Claim Form 2B**
 - To be completed by the injured employee and signed in front of a witness.
- *** First Medical Certificate**
 - To be issued by a medical practitioner or specialist after the initial consultation with an employee injured during the course of his or her employment.
- **Progress Medical Certificate**
 - To be issued by a medical practitioner or specialist after subsequent medical reviews relating to the work-related injury or illness.
- **Final Medical Certificate**
 - To be issued by a general medical practitioner or specialist once the injured employee has recovered from the work-related injury or illness.

- * Indicates Prescribed Forms. All other forms listed are for the purpose of best practice injury management and assist with the determination of liability and injury management planning.

APPENDIX C ASSESSMENT OF WORKERS COMPENSATION CLAIM (FLOW CHART)



APPENDIX D ENTITLEMENTS OF INJURED EMPLOYEES

STATUTORY BENEFITS

The maximum compensation payable in weekly payments and lump sum settlements is called the prescribed amount.²⁹ An injured worker's statutory entitlements include:

- compensation for lost wages up to the prescribed amount;
- medical expenses up to 30 per cent of the prescribed amount;
- vocational rehabilitation expenses up to 7 per cent of the prescribed amount .

Further information on entitlements can be obtained from WorkCover Infoline on 1300 794 744 or in Schedule 1 of the *Workers' Compensation And Injury Management Act* (1981) available on www.slp.wa.gov.au/statutes/av.nsf/workcover. The prescribed amount can be obtain from WorkCover on www.workcover.wa.gov.au/Information/RatesFeesPayments/PrescribedAmount.htm

Under the legislation a cap on wages for weekly payments applies and lasts for the duration of a claim.³⁰ The cap is adjusted annually by WorkCover WA. The entitlements for lost wages are set out in table form (below).

Workers covered by an Award or Enterprise Agreement (Certified Agreement)³¹

First Thirteen Weeks of Claim

Weekly payments will consist of the rate of weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis including overtime, bonuses or allowances. Overtime, bonuses or allowances are averaged over the 13 weeks before the injury occurred.

Fourteenth Week Onwards

Weekly payments will consist of the rate of weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis, but excluding overtime, bonuses and allowances.

COMMON LAW BENEFITS

Workers' compensation benefits are considered statutory benefits that injured workers are entitled to receive regardless of whether they contributed to the accident that caused their injuries. It is a "no-fault" system of compensation. However, in addition to receiving the statutory benefits under the Act, an injured worker may also bring a civil claim for common law damages against the Department.

²⁹ The prescribed amount is the maximum compensation payable in weekly payments and lump sum settlements. It is annually adjusted in accordance with the consumer price index.

³⁰ Workers' Compensation and Injury Management Act Schedule 1, 11

³¹ Workers' Compensation and Injury Management Act Schedule 1, 11

The common law system is based on proving “fault” or breach of a common law or contractual or statutory duty of care on the part of the Department, which has resulted in an injury medically assessed to be of a prescribed level³²

If the injured employee can prove they have suffered an injury up to the prescribed level and prove some breach or negligence against the Department, and that breach materially caused or contributed to his or her injuries, then the Department may be held liable to pay common law damages as restricted pursuant to the provisions of the Act.

Currently injured workers are required to make an election to pursue common law damages within 12 months from the date of lodging the 2B claim form with their employer.

³² Workers' Compensation and Injury Management Act Part IV, Division 1

RETURN TO WORK PROGRAM continued.../

Actions To Enable The Injured Worker To Return To Work

Action	Person Responsible	Completion/ Review Date

Return to Work Goal
(tick the relevant box)

<input type="checkbox"/> Same worksite Original Duties	<input type="checkbox"/> Same Worksite Modified duties			
Start Date: ____ / ____ / ____				
Review Date: ____ / ____ / ____				
Week	Date	Hrs of work	Duties	Restrictions
1				
2				
3				

Vocational Rehabilitation Details

Note: these details are only included if the worker, the employer and the treating medical practitioner have agreed to a referral to an approved vocational rehabilitation provider.

Name of Approved Vocational Rehabilitation Provider:

Telephone:.....

Email:.....

Date of Referral: ____/____/____

AGREEMENT BY PARTIES AT THE WORKPLACE:

I agree to the terms of this return to work program.

WORKER'S SIGNATURE:

Date: ____/____/____

EMPLOYER'S SIGNATURE:

Name of person signing on behalf of employer:.....

Position:

Date: ____/____/____