



Returning to work whilst on WorkCover

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If you've been injured at work and are receiving [WorkCover weekly compensation payments](#), you've likely been asked to participate in return-to-work planning, even if you're still recovering. The Victorian WorkCover scheme prioritises the early return of injured workers to the workforce. This blog will delve into your obligations, the reasonableness of the request to return to work and the potential consequences of not complying with return-to-work plans.

Your obligations in return-to-work planning after injury

Both you and your employer have specific responsibilities in the return-to-work process. It's essential to remember that these obligations apply even if you're currently unable to work. Your primary obligations include:

Engage in open communication

- Regularly communicate with your employer. Keep your employer informed about your progress, limitations, and any concerns you may have about returning to work.
- Work closely with your doctor, physiotherapist, or other healthcare professionals to develop a personalised rehabilitation plan, and if your doctors do not think you have a capacity to work, ensure that they communicate this to your insurer or case manager.
- Attend meetings with your employer, case manager, and healthcare provider to discuss your progress, set goals, and develop a return-to-work plan that is manageable and realistic to the severity of your injuries.

In developing your return-to-work plan, a thorough assessment of your physical and psychological limitations is conducted to determine your ability to perform specific tasks. As you get closer to

returning to work, regular reviews of the return-to-work plan are conducted to assess your progress and make necessary adjustments if needed.

Undergo medical assessments

- Follow your doctor's advice and attend all scheduled appointments.
- Participate in the independent medical examinations (IME) scheduled by the insurer. These assessments will help determine your physical and cognitive abilities and limitations.

If you are unsure what to expect from an IME appointment, you can read our earlier blog, [“Independent Medical Examinations \(IME\) – WorkCover and TAC claims”](#).

Utilise rehabilitation services

- Participate actively in physical therapy, occupational therapy, or other rehabilitation programs.
- If needed, consider vocational or employment-related rehabilitation services to help you acquire new skills or find alternative employment. In most cases, the WorkCover insurer will assist in helping you find these services and can pay for them.
- Explore workplace modifications which will help ease you into getting back to work. Work with your employer and rehabilitation provider to identify any necessary workplace modifications or accommodations.

Return to work gradually after a workplace injury

- Start with modified duties: Begin with lighter duties that gradually increase in intensity as your recovery progresses.
- Consider a phased return by starting employment on a part-time basis and gradually increase your hours as your condition improves.
- Be patient with yourself. Recovery takes time, and it's important to listen to your body and avoid overexertion and forcing yourself to work when you do not have the physical capacity to do so.
- You may be unable to return to your previous role due to your injuries. The WorkCover insurer may work with you to find alternative, reasonable employment that you could do with your injuries.

Stay informed

- Stay connected with your employer. Maintain open communication with your employer to ensure a smooth transition back to work.

Your employer's obligations after a workplace injury

Employers have a legal duty of care to provide a safe working environment for their employees. This includes taking reasonable steps to prevent workplace injuries and to facilitate the return to work of injured employees.

For the first 52 weeks following an injury, employers are obligated to offer suitable modified duties. This means adjusting the worker's job duties or responsibilities to accommodate their limitations and restrictions.

In some cases, employers may be required to make reasonable adjustments to the workplace or work practices to enable an injured worker to return to work. This can include providing assistive devices (for example, ramps, handrails, ergonomic chairs, adapted keyboards and other technology), modifying work hours, or altering the physical layout of the workplace.

Assessing a worker's capacity for work

The primary method of assessing a worker's capacity for work is through medical assessments conducted by your treating doctor. These assessments typically involve:

- Medical examinations: The doctor examines the worker's injuries and assesses their physical and psychological limitations.
- Functional capacity evaluations: These evaluations assess the worker's ability to perform specific physical tasks, such as lifting, bending, and standing.
- Psychological assessments: If necessary, psychological assessments may be conducted to evaluate the worker's mental health and cognitive abilities.

One of the most crucial factors in a successful return to work is your active participation in the process. However, it is important to remember that you should not rush yourself to return to work as returning too early could cause your injury to recover slower, deteriorate faster or cause further injuries.

Whilst you don't have to wait for a full recovery to return to work, it is important that you only start even a gradual return to work once permitted by your treating doctors rather than when the WorkCover insurer says you should. Further, you should never be pressured by your employer to return to work early.

Your employer and the WorkCover insurer need to have consideration to what is 'reasonable' in asking you to return to work. This means that they need to consider several factors in determining your ability to return to work, given your injuries.

Your living situation, access to transportation, and family responsibilities can also influence your ability to return to work. Factors such as distance to work, public transportation options, and childcare arrangements may need to be taken into account by the insurer and the employer.

If you are having a dispute with your insurer about when you should return to work or the reasonableness of their request, it is important to seek legal advice. Guardian Injury Law can assist you in navigating through these disputes to ensure your return to work is at an appropriate time.

[FREE ADVICE FROM A WORKCOVER LAWYER: 1300 700 761](https://www.guardianinjurylaw.com.au/free-advice-from-a-workcover-lawyer-1300-700-761)

When return to work isn't possible after a workplace injury

There are several reasons why you may not be able to return to work after an injury.

You have suffered a permanent impairment

In some cases, your injuries may result in permanent impairment that prevents you from returning to your previous occupation or results in your becoming unable to permanently return to any occupation.

If you have suffered an injury where you are completely incapacitated for any work, in addition to your entitlements for a [WorkCover lump sum payment due to permanent impairment](#), you may also be entitled to claim for total permanent disability (TPD) benefits through your super. You can learn more about how Guardian Injury Law can assist you with [accessing TPD benefits here](#).

Employer inability to accommodate an injured worker

The employer may be unable to offer suitable modified duties that accommodate your restrictions. This could include modifications such as reduced hours, modified duties, lighter workload or physical modifications that could be installed to assist in your work.

Economic considerations of the employer

Economic factors, such as downsizing or restructuring, may limit the employer's ability to retain injured workers. The employer does not have an obligation to keep your job open after 52 weeks on worker's compensation.

Ending employment while on WorkCover

Both the worker and the employer can terminate the employment relationship while on WorkCover or during a return-to-work plan. However, it's essential to consider the potential legal implications of such actions.

If you choose to resign from your employment, it may affect the amount you receive for WorkCover weekly payments. You can read more about the implications and what to do in this situation in our earlier blog, "Can I resign while on Workcover?".

Get help from a worker's compensation lawyer

By understanding your obligations and those of your employer while on WorkCover and actively engaging in the return-to-work process, injured workers can increase their chances of a successful recovery and return to the workforce.

Speaking with a lawyer experienced in WorkCover claims will allow you to ensure that you are receiving the correct advice to ensure that your WorkCover claim is not impacted if you are unable to follow return-to-work plans.

At Guardian Injury Law, we understand the complexities that each WorkCover claim can bring and are able to analyse your circumstances and your claim to provide you with advice personalised to your situation.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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