



Policy definition trends for a successful TPD claim

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If an illness or injury has left you unable to work, you may be able to bring a [total and permanent disability \(TPD\) claim](#) through your super fund or a private insurance policy. Before you bring a claim, it's important to know that every super fund and insurer applies different eligibility criteria in their TPD policy definitions, there is no single, universal test for being 'totally and permanently disabled'. Understanding the specific criteria in your own policy is the first step to giving your claim the best chance of success. At Guardian Injury Law, we help clients across Melbourne and Victoria make sense of these definitions before they lodge.

Do all TPD policies have the same criteria?

Not all TPD policies have the same criteria. Although there are common trends in eligibility criteria, the eligibility definition differs from policy to policy. It is important to properly understand the criteria associated with your individual policy. There is no universal definition for 'totally and permanently disabled'.

There are however, common trends that arise across policies as a whole and this blog will go over some of these trends and how they may be interpreted.

Common TPD eligibility criteria

Waiting Periods

Many TPD policies require you to satisfy a waiting period before they will assess your claim.

A waiting period allows time to determine whether your condition improves with treatment or rehabilitation. The length of the waiting period varies between policies, ranging from a few months to 18 months or more, before an insurer will accept your claim for assessment.

Meeting the waiting period does not guarantee a successful claim. You must still satisfy other elements of the policy definition.

Employment requirements

Some policies contain minimum employment requirements before cover applies, that is that you were working a minimum number of hours per week and have been doing so for a set period of time.

To determine this, insurers may request a statement from your last employer, pay slips, employment contracts and leave records.

Depending on what the policy requires, insurers may consider factors such as:

- Whether you were employed on a permanent, casual or part-time basis;
- Whether you were working a minimum number of hours per week;
- Whether there were any gaps in your employment in a specified period leading up to your date last worked; and
- Whether you were on employee approved leave at the time you left the employer.

Unable to work in your 'own occupation'

Some policies use an 'own occupation' definition.

Under this definition you will usually be eligible if you cannot return to the specific occupation you performed before becoming disabled. These definitions are usually considered broader as the insurer will assess your ability to return to your previous occupation rather than consider any alternative employment you could potentially perform.

This definition has become relatively uncommon in more recent policies.

Unable to work in 'any occupation'

Most recent TPD policies now use an 'any occupation' definition.

Under this definition, you generally need to demonstrate that you are unlikely ever to work again in any occupation for which you are suited by your education, training and experience.

To determine this, the insurer will look further than your most recent position. In their assessment, they will consider your existing skills and qualifications and whether they would enable you to perform another suitable role, even if this differs slightly from your pre-injury employment.

The insurer will require a full employment history to determine this, so having an up-to-date resume is beneficial.

Permanent incapacity

Commonly, policies require your incapacity to be permanent. This is a high threshold and the insurer will review a variety of material to determine eligibility.

This usually means that there must be medical evidence supporting the conclusion that your condition is unlikely to improve sufficiently for you to return to suitable work for the remainder of your working life, up to 65 years.

Insurers are also more commonly requiring additional reports to seek opinions from treating specialists, when assessing whether this requirement has been met, rather than relying solely on the medical forms completed by your treaters to initiate the claim.

Engaged in treatment and medical evidence

Strong medical evidence is central to every TPD claim.

Insurers are more frequently requesting additional medical information, in addition to the forms required for initial lodgment.

Insurers generally require medical opinions that clearly explain;

- Your diagnosis;
- Your prognosis;
- Functional limitations in daily life;
- Functional limitations to return to work; and
- Treatments you have engaged in.

It is a common requirement that you must have engaged in sufficient and recommended treatment, including engagement with relevant specialists.

Failure to have participated in sufficient and regular treatment may result in a declined claim as you have not demonstrated meeting 'permanent incapacity' criteria.

For [psychological conditions](#), receiving treatment from a psychologist is often not enough to satisfy this criteria. Rather you will need to demonstrate that you are receiving ongoing and regular care from a psychiatrist.

Why engaging a [TPD lawyer](#) is essential for a successful outcome

Understanding the eligibility criteria in your TPD insurance policy is essential before lodging a claim with your superannuation fund. Although many policies in Australia contain similar definitions, the precise wording and how this intersects with other elements of

the policy, can have a significant impact on whether you secure a successful outcome in your claim for TPD entitlements.

It is becoming increasingly common for insurers to take unusual views on the criteria to meet the eligibility requirements of TPD policies, in their assessment of claims. Often definitions are interpreted by insurers in a very narrow scope and as such it is vital to engage with experienced legal representation to assist you in this process and give your claim the best chance of success.

Contact Guardian Injury Law today for a free initial appointment to understand if you are eligible to bring a TPD claim with your super fund.

Further reading: [TPD claims – your complete guide](#)

Contacting Guardian Injury Law

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