



Australian Government

Comcare

Safety, Rehabilitation and Compensation Act 1988
Section 34D

**CRITERIA FOR INITIAL APPROVAL OR RENEWAL OF
APPROVAL AS A REHABILITATION PROGRAM PROVIDER
(WORKPLACE REHABILITATION PROVIDER)**

Introduction

- A. These criteria have been determined under section 34D of the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act) and set out the criteria against which an application for initial approval, and for renewal of approval, as a rehabilitation program provider (workplace rehabilitation provider) will be assessed.

Notes:

1. These criteria are a disallowable legislative instrument under the *Legislative Instruments Act 2003*.
2. Decisions to give or refuse an initial approval, renew or refuse renewal of an approval or to impose conditions on an approval or renewal of approval are made by Comcare under sections 34F, 34L and 34P of the SRC Act. Under section 34P of the SRC Act an applicant may apply to the Administrative Appeals Tribunal for merits review of a refusal of approval, refusal of renewal of approval or imposition of a condition to an approval or renewal of approval.

- B. Unless the contrary intention appears, the criteria apply to both an application for initial approval and an application for renewal of approval.

Note: Criteria 4 and 5 only apply to applications for renewal of approval.

- C. Comcare has incorporated key elements of the Heads of Workers' Compensation Authorities (HWCA) endorsed nationally consistent approval framework, namely the Principles of Workplace Rehabilitation and the National Conditions of Approval, into these criteria and the Operational Standards for Rehabilitation Program Providers (Workplace Rehabilitation Providers) in preparation for implementation of the nationally consistent approval framework from 1 July 2010.

- D. In these criteria:

'Code of Conduct' means the HWCA endorsed Code of Conduct for Workplace Rehabilitation Providers as at 23 October 2009;

'HWCA' means the Heads of Workers' Compensation Authorities;

'National Conditions of Approval' means the HWCA endorsed Conditions of Approval as at 23 October 2009;

'Operational Standards' means the Operational Standards for Rehabilitation Program Providers (Workplace Rehabilitation Providers) from time to time in force under section 34E of the SRC Act;

'Principles of Workplace Rehabilitation' means the HWCA endorsed Principles of Workplace Rehabilitation as at 23 October 2009;

'rehabilitation program provider' and 'workplace rehabilitation provider' have the same meaning; and

'the SRC Act' means the *Safety, Rehabilitation and Compensation Act 1988*.

Notes:

1. Authentic copies of the Code of Conduct, the National Conditions of Approval and the Principles of Workplace Rehabilitation as at 23 October 2009 are published on the Comcare website at www.comcare.gov.au.
2. An authentic copy of the Operational Standards is published on the Federal Register of Legislative Instruments at www.comlaw.gov.au. The Operational Standards are a disallowable legislative instrument under the *Legislative Instruments Act 2003*.

- E. A reference in the notes to these criteria to:
- (a) a condition followed by a number is a reference to the condition of that number in the National Conditions of Approval, and
 - (b) a principle followed by a number is a reference to the principle of that number in the Principles of Workplace Rehabilitation.
- F. Any application must be in writing on the approved form and accompanied by the prescribed fee.

Notes:

1. The approved form is the form approved by Comcare under section 34S of the SRC Act. There are separate approved forms for applications for initial approval and applications for renewal of approval. The forms are available from Comcare and can be downloaded from the Comcare website at www.comcare.gov.au.
2. The prescribed fee is the fee prescribed by the *Safety, Rehabilitation and Compensation Regulations 2002* which can be accessed on the Federal Register of Legislative Instruments at www.comlaw.gov.au. There are separate fees for application for initial approval and applications for renewal of approval. The fees are also published on the Comcare website at www.comcare.gov.au.

Criterion 1: Competence

- 1.1 The applicant (including a principal and any workplace rehabilitation provider engaged or employed by the applicant) must be competent to manage rehabilitation programs under section 37 of the SRC Act.
- 1.2 The applicant's management structure must include at least one individual who:
 - (a) holds a workplace rehabilitation qualification referred to in criteria 1.4(a); and
 - (b) is able to demonstrate five years relevant workplace rehabilitation experience.

Note: See Principle 4.2.5a and Condition 3.

- 1.3 The applicant must have systems to ensure that workplace rehabilitation providers have the minimum qualifications and that those qualifications have been verified.

Note: See Principle 4.4.1a.

- 1.4 The applicant may demonstrate competence by establishing that the applicant (including a principal or workplace rehabilitation provider engaged or employed by the applicant):
 - (a) has a qualification that is recognised¹, accredited² or registered³ by one of the following associations or registration boards (however described) –
 - (i) Australian Society of Rehabilitation Counsellors (recognised),
 - (ii) Rehabilitation Counselling Association of Australia (recognised),
 - (iii) Australian Association of Occupational Therapists (recognised),
 - (iv) Occupational Therapists Registration Board (registered),
 - (v) Physiotherapists Registration Board (registration),

¹ The qualification must enable the provider to be eligible for full membership of the recognised professional body.

² Exercise physiologists need to be accredited by the Australian Association for Exercise and Sports Science.

³ In order for certain workplace rehabilitation providers and medical practitioners to practice they must hold current registration with the relevant State or Territory registration board (however described).

- (vi) Australian Association of Exercise and Sports Science (accredited as Exercise Physiologist),
- (vii) Psychologists Registration Board (registered),
- (viii) Speech Pathology Australia (recognised),
- (ix) Australian Association of Social Workers (recognised),
- (x) Medical Board (registered), or
- (xi) Nurses Registration Board (registered);

and has 12 months or more experience delivering workplace rehabilitation services; and

Note: A provider will be taken to satisfy criteria 1.4(a) if they will be eligible for full membership of the relevant professional association on completion of a current period of required supervised professional practice.

- (b) has appropriate skills, knowledge and experience to deliver workplace rehabilitation services; and
- (c) has knowledge of injury management principles and workers' compensation legislation, policy and procedures; and
- (d) all workplace rehabilitation providers and other staff interfacing with injured employees and their employers and workplaces have appropriate and required checks and clearances, such as child protection, occupational health and safety, police and security.

Note: Criteria 1.4 are based on Principle 4.4.1.

- 1.5 Where a workplace rehabilitation provider has less than 12 months experience in delivering workplace rehabilitation services, a provider who otherwise satisfies criteria 1.4 may be taken to have satisfied criteria 1.4 if it can be demonstrated that the applicant can and will provide a comprehensive induction program and professional supervision to that workplace rehabilitation provider for at least 12 months.

Note: See Principle 4.4.1a.

- 1.6 An applicant (including a principal or workplace rehabilitation provider) that has been approved prior to 1 January 2010 and has maintained approval shall be taken to satisfy criteria 1.4.

Criterion 2: Probity

- 2.1 An applicant must demonstrate that it will provide rehabilitation services with professional integrity, honesty and due diligence.
- 2.2 The applicant must have comprehensive and robust governance infrastructure for reliable and consistent service provision and ensure that it has:

- (a) systems of probity that avoid conflict of interest as well as prevent, manage and report malpractice and fraud; and

Note: See Principle 4.2.1a.

- (b) appropriate financial administration including accurate accounting.

Note: See Principle 4.2.1b.

- 2.3 An applicant must show that there is no cause why the applicant's application should not be approved by reason of:

- (a) the applicant (including a principal and any workplace rehabilitation provider engaged or employed by the applicant) has been refused approval as a provider of rehabilitation services or had such approval withdrawn under a workers' compensation scheme in any State or Territory;

- (b) the applicant (including a principal or any individual engaged or employed by the applicant) has admitted having engaged in or been found by a competent court or disciplinary tribunal to have engaged in professional misconduct or criminal conduct;

Note: See Condition 11.viii. Where proceedings for professional misconduct or criminal conduct are pending or uncompleted at the date of the application, consideration of the application may be deferred until the proceedings are finalised.

- (c) the applicant (including a principal and any workplace rehabilitation providers engaged or employed by the applicant) has been subject to an award of damages (including any settlement with or without admission of liability) in respect of any negligent or wrongful conduct in professional practice or training during the immediately preceding six years;

- (d) the applicant or a principal has entered into voluntary financial administration, become insolvent or been subject to bankruptcy proceedings in the previous seven years;

Note: See Condition 11.vii.

- (e) the applicant (including a principal and any workplace rehabilitation providers engaged or employed by the applicant) has been found to have breached the *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, the *Disability discrimination Act 1992*, the *Privacy Act 1998* or the corresponding law of any State or Territory.

2.4 The applicant must demonstrate a capacity and commitment to:

- (a) comply with the Code of Conduct; and

Note: See Condition 8.

- (b) achieve and maintain the Operational Standards;
in the delivery of rehabilitation services.

2.5 The applicant must advise Comcare which of the coverage provisions of the *Privacy Act 1988* apply to the applicant.

2.6 An applicant must accept that Comcare may:

- (a) initiate an evaluation at any time during the period of the approval which may involve an evaluation of conformance to the conditions of approval; and/or
- (b) consult with the relevant professional or industry associations in determining what are reasonable expectations regarding performance; and/or
- (c) impose additional requirements; and/or
- (d) exchange information with other jurisdictions on provider performance; and/or
- (e) revoke a provider's approval if Comcare is satisfied that the provider has failed to comply with the conditions to which the provider's approval is subject under section 34P of the SRC Act.

Notes:

1. This includes any failure to continue to satisfy these criteria.
2. See Condition 12.

Criterion 3: Financial requirements

3.1 An applicant must be and remain financially solvent.

Note: See Condition 10.

3.2 An applicant may demonstrate financial solvency by providing Comcare with:

(a) a reference from an independent qualified person, such as a professional accountant or bank manager, which attests to the financial viability of the applicant;

(b) evidence of appropriate and adequate insurance coverage for professional indemnity and public liability and, where staff are employed, workers' compensation insurance; and

Note: See Principle 4.2.1c.

(c) if requested, a copy of the applicant's audited financial statements for each of the immediately preceding three financial years.

Criterion 4: Referral base (for renewal of approval only)

4.1 Where a provider is seeking renewal of approval by Comcare, the applicant must demonstrate they have provided services as a rehabilitation program provider under the SRC Act in the 12 months immediately prior to the date of the application for renewal.

Note: This criterion only applies to applications for renewal of approval.

4.2 The applicant must demonstrate management of 12 cases within any workers' compensation jurisdiction during the preceding 12 months. Comcare may waive this requirement to the extent it is satisfied that the applicant has a reasonable explanation why the requirement was not met. Due consideration will be given to providers servicing rural and remote areas.

Notes:

1. This criterion only applies to applications for renewal of approval.
2. See Condition 5.

Criterion 5: Satisfactory evaluation of performance (for renewal of approval only)

- 5.1 The applicant must satisfy Comcare that the applicant has meet the Operational Standards during the period starting on the date of the applicant's initial approval under section 34F of the SRC Act or the date of the applicant's most recent renewal of approval under section 34L of the SRC Act (whichever is the later) and ending on the date of the applicant's current application for renewal of approval. Comcare may excuse the applicant from meeting this requirement if, and to the extent, satisfied that the applicant had a reasonable explanation for not meeting the Operational Standards.

Note: This criterion only applies to applications for renewal of approval.