



Australian Government

Comcare

# GUIDE TO SUBMITTING EMPLOYEE STATEMENTS IN SUPPORT OF A WORKERS' COMPENSATION CLAIM

## PURPOSE

This guide provides information to employees about providing a statement in support of a workers' compensation claim. The Federal compensation scheme is 'no fault' which means there is no requirement to establish negligence or blame. Further guidance about how Comcare determines liability for a claim can be found on [Comcare's website](http://www.comcare.gov.au/claims.and.benefits/lodging.a.claims) including this guidance which is available at <http://www.comcare.gov.au/claims.and.benefits/lodging.a.claims>.

## WHEN SHOULD AN EMPLOYEE STATEMENT BE PROVIDED TO COMCARE?

A statement may provide additional information in support of your claim and can be provided to Comcare in the following circumstances:

1. If you were not able to include sufficient information in the claim form.

OR

2. If Comcare requests further information from you about your claim.

Please note that in order to avoid delay in determining your claim, you will be asked to provide any additional information as soon as possible.

## WHAT SHOULD BE INCLUDED IN A STATEMENT OF FACTS?

The claim for compensation form includes questions about what led to your injury or disease being claimed. Sometimes further information in the form of a statement is required to clarify the circumstances of your injury. The statement can be in any written form (a suggested template is attached for assistance) and should include any relevant supporting information and documentation.

The claim form asks the following questions:

- > When did your injury happen or when did you notice your disease?
- > Describe in detail what events contributed to your injury/disease.

Some claims are more complex, such as a claim for psychological injury—often developed over time and may involve allegations of bullying or harassment. It may not be entirely clear when the injury occurred and what employment and non-employment factors may have caused or contributed to the injury.



Your statement should provide further detailed information and include:

- > factual and objective information (rather than conjecture, hearsay, or emotive opinion) and related dates—a chronology summarising relevant dates and events is helpful
- > any available records such as notes of meetings, incident report forms, or copies of emails.

It is important to note that your statement forms part of the claim file, and will be released to your employer under section 59 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). In the course of determining a claim, information submitted by you is provided to your employer in accordance with principles of natural justice. The same opportunity is afforded to you in relation to information provided by your employer. You will be kept informed throughout the process.

## **WHAT IF YOU CANNOT GAIN ACCESS TO SUPPORTIVE DOCUMENTATION?**

While it is helpful to provide records in support of your claim, we understand that there may be times when you are unable to access supportive documentation (for example, in situations where you are currently not working or are unable to gain access to documents that might be held by a third party such as your employer).

In those circumstances, you may wish to include a list of those records as part of your statement and Comcare can attempt to obtain those documents in the course of gathering information from your employer. The list of those records must be quite specific and cannot be used as a means of searching for documents that may be in existence.

