

SURVEILLANCE POLICY

PURPOSE AND SCOPE

Comcare manages workers' compensation claims under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). Comcare may use surveillance on employees with workers' compensation claims under the SRC Act, in accordance with this policy, to manage workers' compensation claims and to maintain the integrity of the scheme.

DEFINITION OF SURVEILLANCE

Surveillance is the discreet optical observation and recording of a person and their activities.

OVERARCHING PRINCIPLES

The principles in this document guide Comcare's use of surveillance. Comcare will balance the need to maintain the integrity of the scheme with any impact on people's privacy due to the use of surveillance. Broadly, Comcare's surveillance guiding principles are that:

1. Surveillance will not be used as a routine procedure; alternative methods of investigation will be explored before surveillance is considered and authorised.
2. The decision to conduct surveillance will be based on all available and relevant evidence.
3. Information obtained through surveillance will be used and stored appropriately in accordance with all of Comcare's relevant obligations.
4. Surveillance will be conducted in accordance with all relevant Commonwealth, State and Territory laws

WHEN COMCARE WILL CONSIDER UNDERTAKING SURVEILLANCE

Comcare will only use surveillance where:

- > there is evidence that the injured worker is exaggerating an aspect of the claim or providing misleading information in relation to a claim; or
- > Comcare reasonably believes that the claim is inconsistent with information in Comcare's possession; or
- > Comcare reasonably believes that unlawful activity, or misconduct of a serious nature, has been, is being or may be engaged in;

and Comcare is satisfied that:

- > it has explored alternate methods of investigation; and
- > it cannot practicably gather the information required through less intrusive means; and
- > the benefit of attempting to obtain the information outweighs the potential intrusion into the injured worker's privacy; and
- > the surveillance is likely to gather the information required for Comcare to take appropriate action in relation to the matter.

HOW SURVEILLANCE WILL BE CONDUCTED

Comcare employees will not/do not undertake surveillance. Any surveillance initiated by Comcare will:

- > be conducted by a suitably qualified and reputable service provider;
- > have a clearly articulated scope and duration;
- > adhere to the approved surveillance instructions and orders, and all applicable Commonwealth, State and Territory laws;
- > not interfere with the injured worker's activities while under observation;
- > not include any acts of inducement, entrapment or trespass, including the use of social media with the intention to induce, entrap or deceive; and
- > be undertaken in a way that is sensitive to the privacy of children and others who are not the primary subject of the surveillance.

HOW THE INFORMATION OBTAINED THROUGH SURVEILLANCE WILL BE USED AND STORED

In relation to any material arising out of surveillance, Comcare will:

- > Securely store any recordings and any other materials collected in accordance with the *Privacy Act 1988* and the *Archives Act 1983* (Archives Act).
- > Take steps not to collect information about individuals who are not the subject of the surveillance unless it forms an integral part of the surveillance being undertaken. If the surveillance material Comcare collects contains the personal information of individuals who are not the subject of the surveillance, Comcare will (where practical) redact or censor the copy of reports and recordings used by Comcare to minimise the likelihood of other individuals being identified (whilst meeting Comcare's Archives Act obligations).
- > When providing the surveillance material to a third party, inform the third party about any relevant confidentiality and privacy obligations.

Comcare may use the information obtained through surveillance for:

- > making decisions on a workers' compensation claim, including reconsiderations of own motion;
- > in the course of legal proceedings, including matters in the Administrative Appeals Tribunal or other litigation;
- > for investigation or referral to police or other relevant entities if there is evidence of unlawful activity, or misconduct of a serious nature.

QUERIES IN RELATION TO SURVEILLANCE

If you have a query about activity on your claim you can speak to your claims manager. If your query relates to surveillance used in relation to decisions on your claim, your claims manager may be able to discuss these matters with you.

If you have a general query about surveillance you can contact us by:

- > Emailing general.enquiries@comcare.gov.au;
- > Calling us, Monday to Friday between 8.30 am and 5 pm AEST, on 1300 366 979 or (02) 6276 0333.; or
- > Writing to Comcare, GPO Box 9905, Canberra, ACT 2601.

CONTACT AUTHORITIES

Anyone who believes that illegal activity is occurring or otherwise perceives that they or another person family is under threat should contact their local authorities for assistance.

ACCESSING INFORMATION ABOUT YOUR CLAIM

Comcare very rarely uses surveillance to make decisions under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). If Comcare uses surveillance to make a decision under the SRC Act, the relevant surveillance material used in making the decision on the claim is placed on the claim file. Information contained on your claim file is accessible under section 59 of the SRC Act.

Where surveillance material is relevant to an Administrative Appeals Tribunal matter, the material will be provided to you during that matter in accordance with any directions or orders issued by the Tribunals

Comcare may also use surveillance in relation to a fraud investigation where there is a suspicion an offence has been or is being committed in accordance with the *Criminal Code Act 1995* (Cth). Comcare will not disclose any information to you that, if disclosed, would prejudice an investigation into a breach, or possible breach, of a law or the proper administration of a law.

You can formally request access to documents we hold under the *Freedom of Information Act 1982* (FOI Act). Access may not be provided if an exemption under the FOI Act applies to the surveillance material.

Information about how to make a request under section 59 of the SRC Act or under the FOI Act is available on Comcare's [website](#).