



Australian Government

Comcare

WORK TRIALS:

A guide for Rehabilitation
Case Managers

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INTRODUCTION

This guide provides Rehabilitation Case Manager (RCM) with information about work trials for employee with a workplace injury or disease.

Section 40 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) requires employers to take all reasonable steps to provide employees with a workplace injury or disease who are undergoing or have completed a rehabilitation program—with suitable employment. In situations where suitable duties are not available in the short term, Rehabilitation Case Managers can negotiate a work trial with another agency or an alternative job role.

WHAT IS A WORK TRIAL?

A work trial allows an employee with a workplace injury or disease to work with a host employer for a defined period of time while retaining employment with their pre-injury employer.

While on a work trial, employees with a workplace injury or disease will continue to receive their salary and incapacity benefits from their pre-injury employer, Comcare or relevant claims agent. The host employer is responsible for the workplace health and safety (WHS) of the employee with a workplace injury or disease.

Employees with a workplace injury or disease undertaking a work trial are considered to be additional to existing staff numbers. In some cases they may occupy a vacant position. A permanent position does not need to be created for an employee undertaking a work trial.

A work trial should:

- > actively involve the rehabilitation authority, the approved workplace rehabilitation provider (WRP), the host employer and the employee with a workplace injury or disease
- > have clear goals
- > have clear short-term timeframes
- > consider the return to work hierarchy
- > only be undertaken if it is included as a strategy in the return to work plan.

A work trial helps an employee to:

- > rebuild work skills and self confidence
- > establish work routines following an injury and absence from the workforce
- > take part in a work hardening program to improve physical or psychological tolerance at work
- > learn new work skills—this is beneficial if an employee needs new skills to improve their employability
- > build a relationship with a new employer.

If you are using a work trial to assist an employee with a workplace injury or disease to secure alternative permanent employment you need to ensure:

- > the position meets the definition of suitable employment
- > the return to work plan includes job seeking targets and timeframes—for example, the plan could state that the employee with a workplace injury or disease must review relevant job advertisements in two newspapers and submit two job applications each week. Job seeking might target employment within the host agency or an external agency.

ORGANISING A WORK TRIAL

A rehabilitation authority has the delegation for the return to work plan which can include a work trial. These are the steps you should follow as a Rehabilitation Case Manager (RCM).

STEP 1—ENGAGE A SUITABLY QUALIFIED COMCARE WRP TO ASSIST WITH IDENTIFYING, COORDINATING AND MONITORING THE PLACEMENT

You should ensure that:

- > you meet with the WRP and the employee with a workplace injury or disease to discuss the purpose of the work trial
- > the expectations are clear
- > the WRP has discussed the employee's job capacity with the treating medical practitioner
- > treatment needs have been discussed with the treating medical practitioner to ensure the employee has access to specific intervention that will ensure their fitness for work—for example, a physical conditioning program.

STEP 2—ENSURE THE WRP MEETS WITH THE TREATING MEDICAL PRACTITIONER AND THE EMPLOYEE WITH A WORKPLACE INJURY OR DISEASE TO OBTAIN CURRENT INFORMATION ON THEIR WORK CAPACITY AND RESTRICTIONS

There should be agreement between all parties before pursuing a work trial.

STEP 3—DEVELOP AND APPROVE A RETURN TO WORK PLAN

The short-term goal is normally to identify a suitable host employer and prepare a work trial placement. Sometimes there may be two return to work plans, one for finding and arranging a suitable host agency, the other to cover the work trial period.

STEP 4—IDENTIFY THE LOCATION OF THE WORK TRIAL

Both you and the WRP may be involved in this process. You can use formal and informal networks to identify potential locations. For more information see the section on finding a work trial.

STEP 5—ARRANGE FOR A WORKPLACE ASSESSMENT AT THE HOST EMPLOYER’S WORKPLACE

The assessment should:

- > involve the employee with a workplace injury or disease and proposed host employer supervisor/manager
- > identify potential suitable duties
- > recommend the timeline for increasing hours and duties
- > suggest control strategies to reduce the risk of exposing the employee with a workplace injury or disease to potential hazards which may cause a new injury, or aggravate their pre-existing injury
- > identify ergonomic equipment needs
- > identify the training needs of the employee with a workplace injury or disease—this may include informal strategies such as coaching, mentoring, or formal courses provided by the host agency or an external provider. The rehabilitation authority should consider paying for relevant short courses especially if they are relevant to the goals of the return to work plan. Training costs should be included in the return to work plan under code 93 (return to work support services) and approved by the RCM. Payments under s. 37 of the SRC Act 1988 can only be made to WRPs or the rehabilitation authority (and not the training institution).

STEP 6—SEEK MEDICAL CLEARANCE ONCE THE WORK TRIAL HAS BEEN IDENTIFIED

The WRP and employee with a workplace injury or disease should attend an appointment with the treating medical practitioner to discuss the suitability of the work trial. A medical certificate must be obtained to cover the duration of the work trial. Medical approval must be given for the employee to perform the identified duties. The medical practitioner should review the the medical condition of the employee with a workplace injury or disease shortly after the work trial commences. They should continue to review the employee’s progress regularly throughout the placement and provide necessary medical certificates. Modifications to the work trial may be required to ensure the agreed goals are achieved. Modifications should be negotiated by all parties.

STEP 7—ARRANGE A MEETING WITH THE EMPLOYEE WITH A WORKPLACE INJURY OR DISEASE, WRP AND MANAGER AT THE HOST EMPLOYER

This meeting is to:

- > discuss the roles and responsibilities of each party in the work trial
- > share contact details with the employee with a workplace injury or disease
- > decide on monitoring arrangements between all stakeholders including regular meetings to discuss the employee with a workplace injury or disease—meetings should occur in the workplace at least once every month
- > decide who the employee with a workplace injury or disease should contact in the event of illness or other absence
- > discuss the timeframes for medical reviews
- > finalise the work trial details—all parties must sign the work trial agreement form.

STEP 8—ENSURE ALL PARTIES HAVE SIGNED THE WORK TRIAL AGREEMENT FORM

Copies of the form should be sent to Comcare or the relevant claims agent, treating medical practitioner and host employer.

A WORK TRIAL PLACEMENT MUST NOT DISADVANTAGE AN EMPLOYEE WITH A WORKPLACE INJURY OR DISEASE

You must consider the pre-injury hours and working arrangements of the employee with a workplace injury or disease when determining suitable duties, hours and days for the work trial. The maximum hours that an employee with a workplace injury or disease can work during a work trial should not exceed their pre-injury hours.

MONITORING THE WORK TRIAL

All key parties should meet at least once a month to monitor the progress of the work trial—this can be more often if it is required. It can be useful to arrange the workplace meetings following medical review appointments.

The following questions should be considered when reviewing the work trial:

1. Is the employee with a workplace injury or disease actively participating in the work trial?
2. Has the host employer been consistently able to offer the necessary suitable duties that meet the needs of the employee with a workplace injury or disease?
3. Is the employee with a workplace injury or disease continuing to progress towards the established goals?
4. Have the goals of the work trial been achieved prior to the end date of the agreement?
5. Should the work trial be extended beyond the original dates, or cease?
6. Is this placement likely to end with the employee with a workplace injury or disease being offered employment with the host employer?
(Note: This should only be pursued if the employee with a workplace injury or disease is unable to return to work with their pre-injury employer in the future.)
7. What will the employee with a workplace injury or disease gain from continuing with this placement and with this host employer? Should a new host employer be investigated?
8. Has the employee with a workplace injury or disease reached a level of work capacity that would allow them to return to the pre-injury employer or seek permanent employment elsewhere?
9. Has the medical certificates of the employee with a workplace injury or disease changed, allowing them to return to the pre-injury workplace following a medical review?

It is important that the employee with a workplace injury or disease and treating medical practitioner are involved in decision making if you are considering extending or ending the work trial.

ERGONOMIC EQUIPMENT

The host employer is responsible for providing a safe and hazard free workplace in accordance with the relevant WHS legislation. This includes standard ergonomic equipment. The rehabilitation authority is responsible for providing—through the return to work plan—any additional or specialised ergonomic equipment, unless there is an agreement with the host employer. Equipment hire may be considered if the requirement is temporary.

TRAVEL

Additional reasonable travel costs can be included on the return to work plan with the approval of the RCM. This includes the provision of funding for travel on public transport or by taxi to enable participation in a rehabilitation program. This funding will only be provided if the employee with a workplace injury or disease is unable to travel by their usual means of transport, or if they are required to travel significantly further than they would on their normal route to work in order to participate in the rehabilitation program. Travel costs can only be paid to a WRP or rehabilitation authority. You can not reimburse the claimant directly for work-related travel costs.

TRAINING COSTS

If training costs are required with the work trial they can be included in the return to work plan and approved by the RCM. Payments under s. 37 of *the SRC Act 1988* can only be made to WRPs, not the training institution.

PRIVACY PRINCIPLES

The privacy of the employee with a workplace injury or disease must be maintained at all times in line with *the Privacy Act 1988* which addresses the collection, storage and release of information. You, as the RCM, and the WRP must ensure:

- > The consent of the employee with a workplace injury or disease is obtained prior to the release of information to the host employer.
- > The host employer is only provided with information relevant to the work trial. The information is limited to the role of each person. For example, a supervisor needs to know the nature of the injury, the medical restrictions in place, the recommended work hours, and the duties to be performed. They also require a copy of the work trial agreement. The employee with a workplace injury or disease co-workers do not require any information but may need to be informed about the employee's injury so the employee is not asked to perform any duties without the permission of their supervisor.

JOB SEEKING

In most cases, where the return to work goal is new employment active job seeking should commence during the work trial and should form part of the return to work plan to facilitate the employee's return to paid work. The WRP should provide coaching as necessary to promote the employee with a workplace injury or disease to independently look for jobs. The employee should be involved in activities such as preparing a resume, producing job applications and completing other job seeking tasks.

FINDING A WORK TRIAL PLACEMENT

The following resources may be useful when you are looking for a work trial placement.

Within the Australian Public Service (APS)

- > APSjobs provides a list of all APS vacancies. You, or the employee with a workplace injury or disease, can register with APSjobs to get email alerts of new job vacancies. Visit www.apsjobs.gov.au

Outside the APS

- > Look at the recruitment sections of local and national newspapers.
- > Visit job seeking websites such as www.jobsearch.gov.au, www.seek.com.au and www.careerone.com.au
- > The WRP should also find out if suitable organisations advertise through other mediums or through recruitment agencies.
- > Encourage the employee with a workplace injury or disease—through the return to work plan process—to register with various recruitment agencies.

Other networks

- > Australian Employers' Network on Disability is a not-for-profit organisation funded by its members to take a leading role in ensuring the inclusion of people with disability in all aspects of business. Visit www.aend.org.au
- > JobAccess is an initiative of the Australian Government to support people with disabilities to find employment. Visit www.jobaccess.gov.au
- > Register the employee with a workplace injury or disease with suitable employment agencies.

WORKERS' COMPENSATION COVERAGE DURING A WORK TRIAL

The host employer does not have to pay worker's compensation insurance for the employee with a workplace injury or disease on a work trial. In the event of an injury or accident the employee with a workplace injury or disease should submit an incident report to the host agency and notify all parties involved in the work trial. If a workers' compensation claim is made for a new injury/illness, or aggravation of the pre-existing injury/illness, a new claim form should be submitted through the rehabilitation authority.

INCAPACITY ENTITLEMENTS DURING A WORK TRIAL

During the work trial the employee with a workplace injury or disease is paid for the hours they work by their pre-injury employer. If the employee with a workplace injury or disease is working less than their pre-injury hours, incapacity is paid to the employee by the relevant claims agent in accordance with the relevant section of *the SRC Act 1988*.

WORK TRIAL TIMEFRAME

It is recommended the work trial have a fixed time frame and not exceed a period of three months. You should not use a work trial as a long term arrangement if suitable duties are unavailable.

Three months is a reasonable time for an employee with a workplace injury or disease to progress through the work trial goals and objectives. Over the course of the three months the goals and objectives should be reviewed in consultation with all parties. Any changes made to the work trial should not disadvantage the employee with a workplace injury or disease.

A specified timeframe provides structure for the employee with a workplace injury or disease and host employer. A timeframe will help to define the work trial as a temporary arrangement.

If the employee with a workplace injury or disease is not meeting the agreed work trial timeframes then the objectives should be reviewed. Barriers preventing an employee with a workplace injury or disease from achieving the work trial objectives should be identified and a more realistic return to work goal identified.

If an extended period of time is indicated for the work trial:

- > the benefits and goals must be clearly identified and communicated to all key stakeholders
- > an updated work trial agreement and medical certificate are required.

ROLES AND RESPONSIBILITIES OF PARTIES INVOLVED IN A WORK TRIAL

YOUR RESPONSIBILITIES AS A REHABILITATION CASE MANAGER

As a RCM you are the representative for the rehabilitation authority with delegation and responsibility for the rehabilitation of the employee with a workplace injury or disease. This includes:

- > being involved in each step of the work trial process
- > finding the location of the work trial—you and the WRP can work together on this task
- > monitoring the development and implementation of a return to work plan involving a work trial
- > working with the WRP, employee with a workplace injury or disease and other stakeholders, to facilitate, implement and monitor the work trial
- > monitoring the return to work plan, including the work trial, to ensure the employee with a workplace injury or disease is progressing towards returning to meaningful employment—the return to work hierarchy can be used as a guide
- > monitoring the WRP's involvement in the rehabilitation program and work trial
- > monitoring the participation of the employee with a workplace injury or disease in the rehabilitation program and work trial
- > making yourself available to the employee with a workplace injury or disease if they need to discuss any aspect of the work trial
- > ceasing the work trial—you should consult with the WRP, employee with a workplace injury or disease and other relevant parties before ceasing the program.

YOUR RESPONSIBILITY AS AN APPROVED WORKPLACE REHABILITATION PROVIDER

As an approved workplace rehabilitation provider you should:

- > implement and coordinate the work trial in consultation with the RCM
- > conduct a workplace assessment prior to the beginning of the work trial
- > ensure the work trial is safe considering the physical and psychosocial work environment
- > ensure the work trial can accommodate the medical restrictions of the employee with a workplace injury or disease
- > provide guidance on upgrades in hours and duties
- > actively monitor the return to work plan and work trial
- > liaise with all parties including the treating medical practitioner, host employer, employee with a workplace injury or disease and RCM to ensure the work trial is monitored and remains appropriate for meeting the objectives of the work trial and return to work plan
- > keep all parties informed of the progress of the employee with a workplace injury or disease as per the return to work plan—this could involve regular phone calls, emails and/or a progress report
- > ensure the work the employee with a workplace injury or disease is performing remains consistent with the signed agreement—work trial agreements can be modified to meet work trial goals but all parties must be consulted
- > ensure the employee with a workplace injury or disease is not being disadvantaged by participation in a work trial
- > you can recommend that a work trial be ceased following consultation with the RCM, employee with a workplace injury or disease and other relevant parties.

YOUR RESPONSIBILITIES AS A HOST EMPLOYER

Your responsibilities as a host employer are to:

- > provide induction and training for all employees in your organisation
- > meet the same WHS obligations for all employees in your organisation
- > manage performance issues including absences for all your employees
- > notify the RCM and WRP of any performance issues
- > advise the RCM and WRP of any absences
- > make the workplace available to the WRP to monitor the work trial as negotiated between the two parties
- > provide feedback to the employee with a workplace injury or disease, RCM and WRP regarding the employee's performance, and report any concerns or barriers
- > be available to discuss or review progress of the work trial with relevant parties
- > adhere to the work trial agreement at all times—you can negotiate changes to duties, times or days with the WRP, however the RCM or WRP should seek medical approval
- > recommend termination of the work trial at any time in consultation with the RCM and WRP if the goals are not being achieved.

As a host employer you are not:

- > expected to pay the employee with a workplace injury or disease for any work completed during the work trial
- > obliged to provide ongoing employment for the employee with a workplace injury or disease—if a suitable employment vacancy becomes available the employee with a workplace injury or disease may be encouraged to apply for the position.

YOUR RESPONSIBILITIES AS AN EMPLOYEE WITH A WORKPLACE INJURY OR DISEASE

As an employee with a workplace injury or disease you are expected to:

- > attend the host employer's workplace and undertake the duties specified in the work trial agreement
- > adhere to the host employer's work policies and legislative requirements, this includes WHS policies and work procedure policies
- > act in a manner consistent with employees of the host employer
- > contact the RCM or WRP to discuss any issues that may arise during the course of the work trial
- > notify the RCM and WRP if you are absent or changes occur during the course of the work trial
- > undertake the activities detailed in the return to work plan and work trial agreement—this may include resume preparation, preparation of job applications, interview preparation, as well as other job seeking tasks
- > job seek concurrently if your return to work goal is permanent redeployment.

You can request termination of the placement. However, you must consult the WRP and/or the RCM and treating medical practitioner—withdrawing from the rehabilitation program without reasonable cause may result in suspension of your entitlements.

YOUR RESPONSIBILITY AS A MEDICAL PRACTITIONER

As a medical practitioner you are expected to:

- > provide medical assessments of the capacity of the employee with a workplace injury or disease for returning to work or participating in a work trial
- > participate in the return to work planning
- > provide advice on medical restrictions and how these need to be applied in the workplace
- > provide medical certification as required
- > be available for case conferences.

WORK TRIAL CHECKLIST

This checklist has been developed to assist Rehabilitation Case Manager ensure all processes have been implemented prior to a work trial commencing.

A WRP has been engaged to assist with identification and implementation of a work trial.

Medical clearance

Medical clearance has been obtained to pursue a work trial.

The medical practitioner has provided guidance on capacity and restrictions.

Medical clearance has been given for the work trial and the medical certificate covers the full period of the work trial.

Suitable return to work goal

Suitable return to work goal has been identified and all parties have agreed.

Work trial position supports the agreed return to work goal.

Workplace assessment undertaken including:

> potential suitable duties identified

> graduations, hours and duties recommended

> risks identified and control strategies provided for potential hazards

> work duties and demands documented (physical, psychosocial, cognitive, environmental)

> equipment and/or training needs identified.

Monitoring arrangements have been discussed with all parties and recorded.

Work trial agreement form has been explained and signed by all parties.

Copies of the work trial agreement have been sent to all relevant parties including claims agent and treating doctor.

GLOSSARY

Approved Workplace Rehabilitation Provider (WRP)

Refers to rehabilitation providers approved by Comcare under s. 34 of *the SRC Act 1988*. The workplace rehabilitation provider (WRP) was formerly known as an approved rehabilitation provider (ARP). These terms may be interchangeable.

Host employer

The employer the employee with a workplace injury or disease is completing the work trial with. The host employer can be another employer within the scheme or private sector. The definition of suitable employment needs to be considered if the employee is looking at gaining permanent employment. The host employer does not pay the employee with a workplace injury or disease for the work they perform and is not responsible for workers' compensation for the period of the work trial.

Pre-injury employer (Liable agency)

This is the employer at the time of the injury, and remains responsible for the compensation and rehabilitation of the employee with a workplace injury or disease. The delegation for the return to work plan (including the work trial) rests with the rehabilitation authority (usually the RCM).

Rehabilitation authority

This is the principal officer of the organisation employing the injured employee at the time of workplace rehabilitation. If an organisation is an exempt authority, Comcare is the rehabilitation authority. The rehabilitation authority has the delegation to organise a work trial. This delegation is usually given to the RCM in the agency.

Rehabilitation Case Manager (RCM)

An employee who coordinates and manages the rehabilitation of employees. The RCM from the rehabilitation authority holds the delegation for approving return to work plans and work trial services.

Return to work plan

Is the plan which forms the agreement between the employer (through the RCM), the employee with a workplace injury or disease and the WRP. The return to work plan is a determination under s37 of the SRC Act, for which the rehabilitation case manager is usually the delegate. This plan outlines the overall goal, the obligations and rights of the employee with a workplace injury or disease, and defines the activities and time frames of the plan.

Suitable employment s. 40 of *the SRC Act 1988* requires employers to take all reasonable steps to provide an employee with a workplace injury or disease who is undergoing—or has completed a rehabilitation program—with suitable employment.

What is suitable employment under *the SRC Act 1988*?

The definition of *suitable employment* varies depending on the status and circumstances of an employee with a workplace injury or disease and the nature of their employment. Applying the definition means that if the employee who suffered an injury is an ongoing employee of:

- > the Australian Government, then suitable employment is any employment within the Australian Government
- > the ACT Government, then suitable employment is any employment within the ACT Government
- > a licensee, then suitable employment is any employment within the licensed corporation.

Additionally, if the employee:

- > wishes to pursue employment other than in the above examples they will need to elect to separate from the organisation—an offer of employment in the private sector or outside the Australian Government, ACT Government or licensed corporation is not suitable employment
- > was on a fixed-term contract with the Australian Government, ACT Government or licensee at the time of the injury, and the contract expires before they are back at work, then *suitable employment* is any employment
- > is separated from ongoing employment—for example, resigns, is terminated, or accepts a redundancy—then *suitable employment* becomes any employment for the purposes of rehabilitation.

Work trial

A return to work strategy where the injured worker is placed with a host employer for a defined period of time but continues to be employed by the pre-injury (liable) employer. The work trial can only be undertaken as part of a return to work plan.

Work trial agreement

An agreement signed by all parties which outlines the details of the work trial such as suitable duties, work hours, time frame and medical restriction/considerations. The work trial agreement should be an attachment to the return to work plan and forms part of the rehabilitation authority's determination under s. 37 of *the SRC Act 1988*. A description of the goal(s) of the work trial should be included as part of the stated goals on the return to work plan.