

AN OVERVIEW FOR REHABILITATION CASE MANAGERS

About the Guide

Section 57A of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) requires Comcare to prepare a Guide for Arranging Rehabilitation Assessments and Requiring Examinations 2024 (the Guide). The Guide's purpose is to support ethical, transparent and accountable decision-making in relation to:

- > arranging rehabilitation assessments and examinations under section 36 of the SRC Act
- > requiring medical examinations under section 57 of the SRC Act.

As a Rehabilitation Case Manager (RCM), you will need to document your considerations against the requirements of the Guide when issuing section 36 rehabilitation assessment determinations to employees.

The Guide applies to all section 36 rehabilitation assessment determinations, with or without examination, on and after **30 October 2024**.

Section 36 rehabilitation assessment and examination process

The Guide requires you to manage section 36 rehabilitation assessments in different ways depending on whether the assessment is conducted as a desktop review without an examination under section 36(1) or with an examination under section 36(3) of the SRC Act.

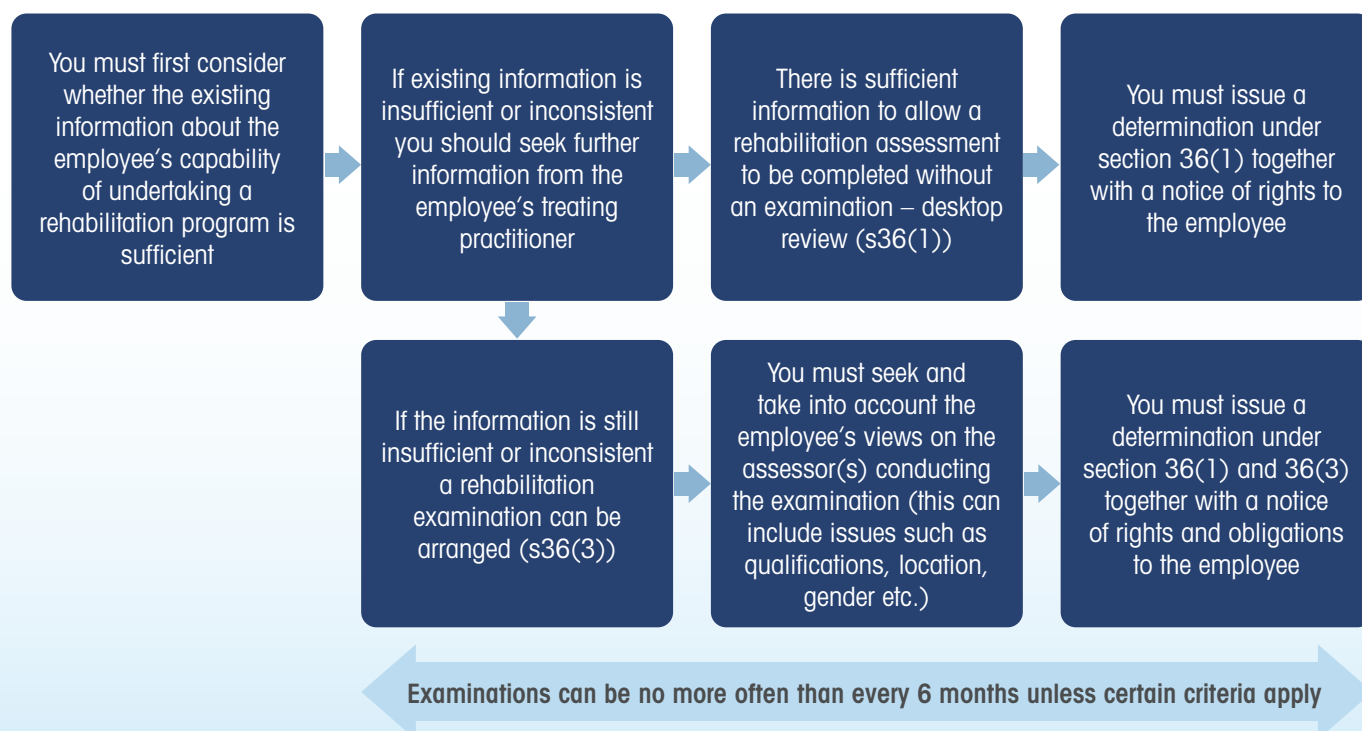


Figure 1 – Overview of the section 57A Guide process for rehabilitation assessments and examinations

Arranging rehabilitation assessments and examinations

Before you arrange a rehabilitation assessment to determine an employee's capability to undertake a rehabilitation program, you must consider whether you already have sufficient relevant information, including information regarding the 'employee's circumstances', any change in those circumstances or any relevant matter specified in the [Guidelines for Rehabilitation Authorities 2019](#) issued under section 41 of the SRC Act.

'Employee's circumstances' is a defined term in the Guide and includes a range of subjects that you may need information on to make a rehabilitation determination. These include:

- > the injury
- > other medical conditions that may be relevant to the claim, for example pre-existing or secondary injuries
- > the requirement for medical treatment
- > the employee's capacity for work
- > the employee's claim for permanent impairment and non-economic loss
- > the employee's need for alterations, modifications or aids or appliances
- > the employee's need for household services or attendant care services
- > understanding suitable employment requirements
- > personal circumstances – such as any biopsychosocial factors that may be impacting their return to work
- > any other relevant matter.

If the available information is insufficient or inconsistent, you should first request the information or clarification of the inconsistent information with the employee's treating practitioner. The request may be verbal (for example, requested during a case conference), or in writing, however it will be generally preferable for the request to be made in writing.

You must specify a period of at least 14 calendar days in which the information is to be provided. You do not have to wait for the specified period to expire if the treating practitioner provides the requested information within that timeframe.

After considering the existing information and the information provided by the employee's treating practitioner, you may decide to:

- > have the employee's capability to engage in a rehabilitation program assessed without the need for an examination under section 36(1) of the SRC Act if the information provided by the treating practitioner is sufficient; or
- > require the employee to undergo a section 36(3) rehabilitation examination where there is still insufficient or inconsistent information regarding the employee's ability to undertake a rehabilitation program.

Seeking the employee's views on the person conducting the rehabilitation examination

Before requiring an employee to attend a rehabilitation examination, you must:

- > seek their views about the selection of the assessor or panel of assessors conducting the examination and if they require a support person to accompany them during all or part of the examination; and
- > take those views into account.

This process can be verbal or in writing.

You must give the employee a period in which to respond. This period must be at least 3 business days. You can make a decision earlier than 3 business days if the employee responds earlier – you do not have to wait for the period to end.

You will need to clearly document all considerations relating to the selection of the assessor or panel of assessors, including the employee's views, in the section 36 rehabilitation assessment determination.

You do not need to seek or take into account the employee's views on the person conducting a section 36(1) rehabilitation assessment where they are not required to undergo an examination. This is commonly referred to as a desktop review and is conducted on the available information.

Qualifications of assessors

Before you arrange a rehabilitation assessment with or without examination, the Guide requires you to be reasonably satisfied that the assessor or panel of assessors have the qualifications defined in the Guide.

The assessor(s) can be:

- > 'an other qualified person', which means a workplace rehabilitation provider approved to operate under the SRC Act or a person who has the equivalent qualifications of a workplace rehabilitation provider; or
- > a legally qualified medical practitioner registered with the Australian Health Practitioner Regulation Agency who is qualified, by their training or registration, to assess the employee's injury.

Notice requirements

A rehabilitation assessment (with or without an examination) is a determination for the purposes of section 60 of the SRC Act. This means it must be issued in writing to the employee and include the terms and reasons for the decision. Your determination must document your consideration of the requirements in the Guide. You must also give the employee a notice of their rights and, if the determination requires the employee to attend an examination, their obligations relating to that examination. The determination must give the employee at least 14 calendar days notice prior to the examination (unless you and the employee agree to an earlier examination).

If the employee is dissatisfied with your determination, they may request reconsideration of that determination. If they are still dissatisfied with the subsequent decision, they can apply for merits review at the Administrative Appeals Tribunal (AAT) (soon to be the Administrative Review Tribunal).

Limitations on frequency and number of rehabilitation assessments

The Guide does not impose limitations on the frequency of section 36(1) rehabilitation assessments as they do not require an employee to undergo an examination.

Limitations are placed on the frequency of rehabilitation assessments that include examinations determined under section 36(3) of the SRC Act. Subject to some specific exceptions, you cannot require an employee to undergo more than one rehabilitation examination in respect of the injury more frequently than at 6-month intervals. The exceptions are where:

- > the employee does not undergo the examination or obstructs the examination
- > an assessment is requested by the employee in writing under section 36(1) of the SRC Act
- > an examination is requested by the employee's treating practitioner
- > an earlier rehabilitation assessment recommended a further examination or re-examination by a specific date or period
- > there has been a change in the 'employee's circumstances' as defined in section 4 of the Guide
- > the injury requires multidisciplinary medical treatment (i.e., a complex case) and it is not reasonably practicable for a single medical practitioner to provide an assessment, so it may be appropriate for you to require the employee to undergo more than one examination, with a different assessor or panel
- > the assessor fails, for any reason, to provide a written report within a specified timeframe
- > a request for reconsideration of a determination is made but a reviewable decision in response to that request has not yet been made
- > an application for review of a reviewable decision is made to the AAT but a final decision has not yet been made.

The limitations placed on the frequency of arranging section 36 rehabilitation assessments with examinations are not impacted by the arrangement of a section 57 medical examination. That is, an RCM could organise a section 36 rehabilitation examination in the same 6-month period as a section 57 medical examination organised by a claims manager.

Further information

For more information about the operation of the Guide please contact Comcare's Provider Frameworks and Return to Work team at providerframeworksandrtw@comcare.gov.au.

You can also review the [explanatory statement that accompanied the Guide](#).

Other relevant guidance:

- > [Guidelines for Rehabilitation Authorities 2019](#)
- > [Rehabilitation case manager handbook](#)
- > [Engaging a legally qualified medical practitioner to undertake an independent medical or rehabilitation examination under the SRC Act](#)
- > [Suspension of compensation under the rehabilitation provisions of the SRC Act 1988](#)