



Australian Government

Comcare

Information Session:

Guide for Arranging Rehabilitation Assessments and Requiring Examinations

Section 36 rehabilitation assessments





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Housekeeping

Audio Solutions

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Questions/ Comments

Submit Questions through
the Q&A function

Acknowledgment of Country



Amendments to the SRC Act

What

- Amendments required Comcare to develop the Guide (section 57A)

When

- The Guide is a legislative instrument with a **commencement on 18 September**

Why

- to support ethical, transparent and accountable decision-making including consideration of the employee's personal circumstances (s57A(2)).

Application of the Guide

Application date 6 weeks after the Guide commences to allow transition

Applies to determinations made from this application date

The Guide sits alongside *Guidelines for Rehabilitation Authorities 2019* (the Guidelines)

Guide takes precedence over the Guidelines (s6 of the Guide)



Commencement of the Guide

14 June 2024

- Section 57A provisions came into effect

18 September
2024

- The Guide commenced as a legislative instrument

30 October
2024

- Application date – 6 weeks after commencement

What does it mean for you?

You will need
to comply with
the Guide

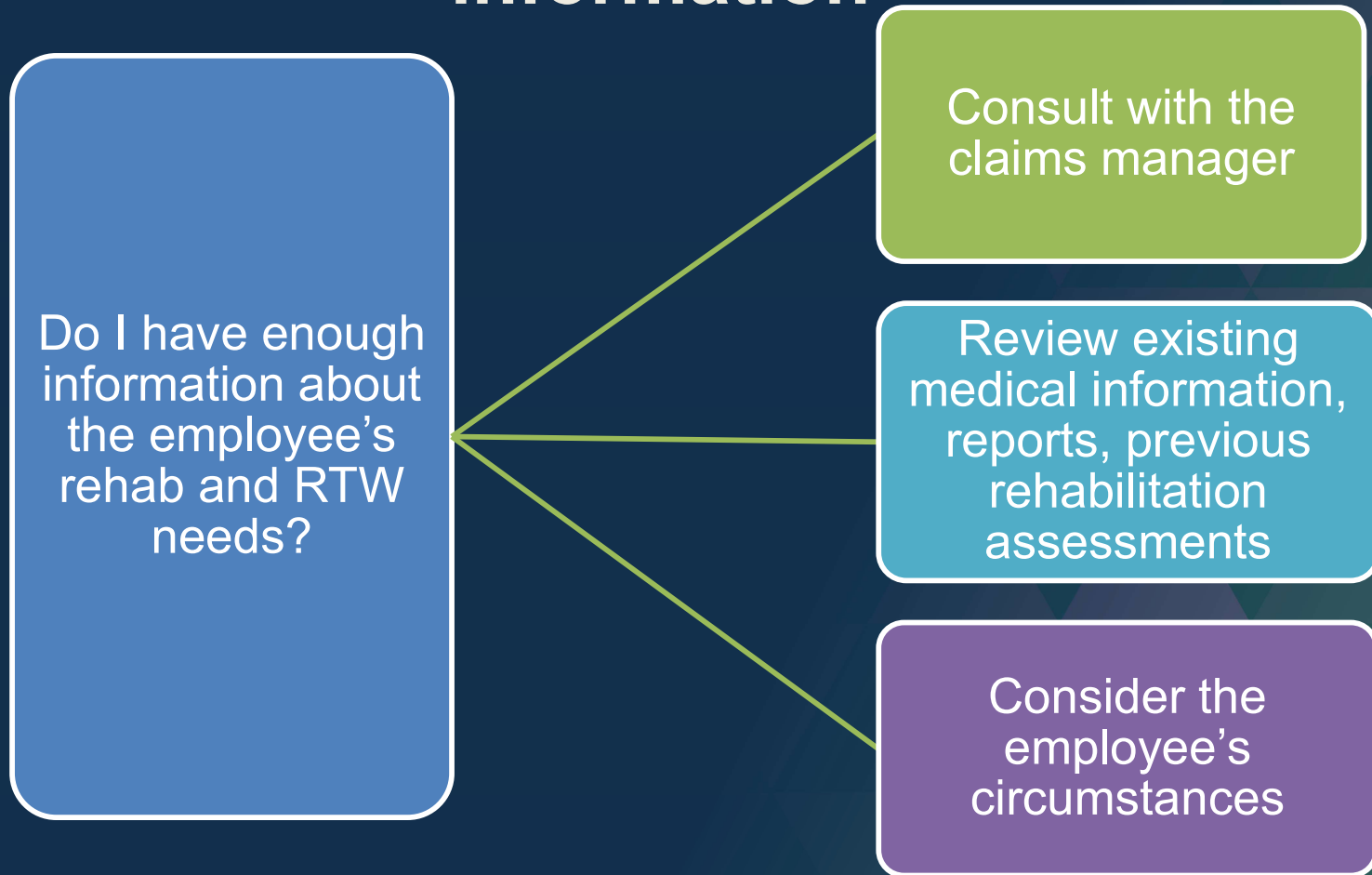
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graph TD; A["You will need to comply with the Guide"] --> B["Rehabilitation assessment (36(1)) or"]; A --> C["Rehabilitation assessment with examination under (36(3))"]; A --> D["Document your considerations in s36 determination"];
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Rehabilitation
assessment
(36(1)) or

Rehabilitation
assessment with
examination
under (36(3))

Document your
considerations in
s36 determination

Step 1 – Consider existing rehabilitation information



Rehabilitation assessment and rehabilitation examination

Rehabilitation Assessment

Subsection 36(1)
of the SRC Act

Does not require
employee to
participate

Cannot be paid for by the
relevant authority ss36(5)

Rehabilitation Examination

Subsection 36(3) of
the SRC Act

Employee is required
to “undergo” or
participate

Employee Circumstances

The employee's circumstances are defined as:



the *injury*



any other medical condition



need for medical treatment



capacity for work



impairment



non-economic loss



alterations, modifications, aids or
appliances



household services or attendant
care services



suitable employment including
the availability of employment

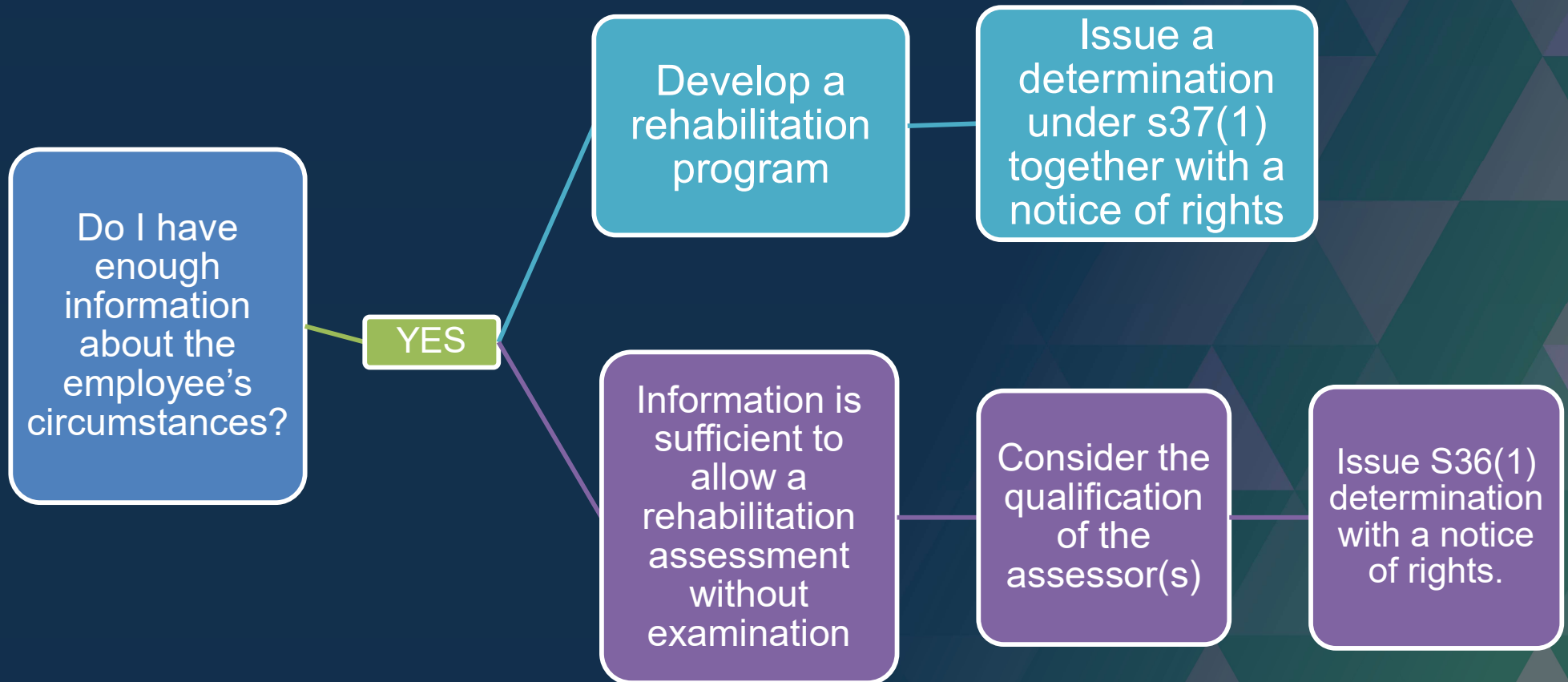


personal circumstances

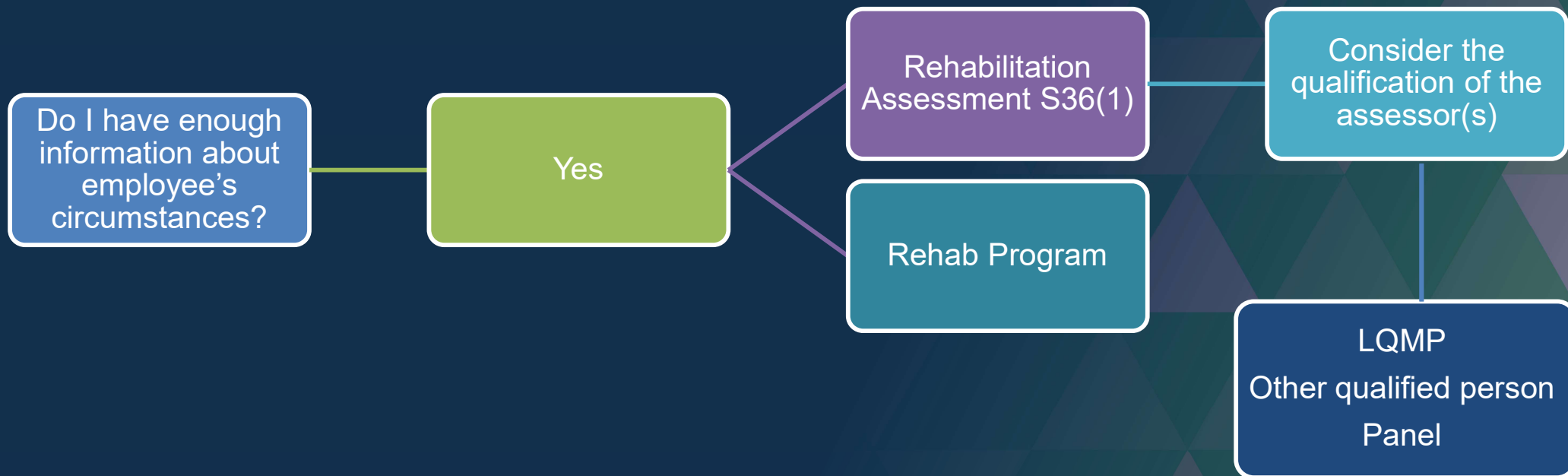


any other relevant matter

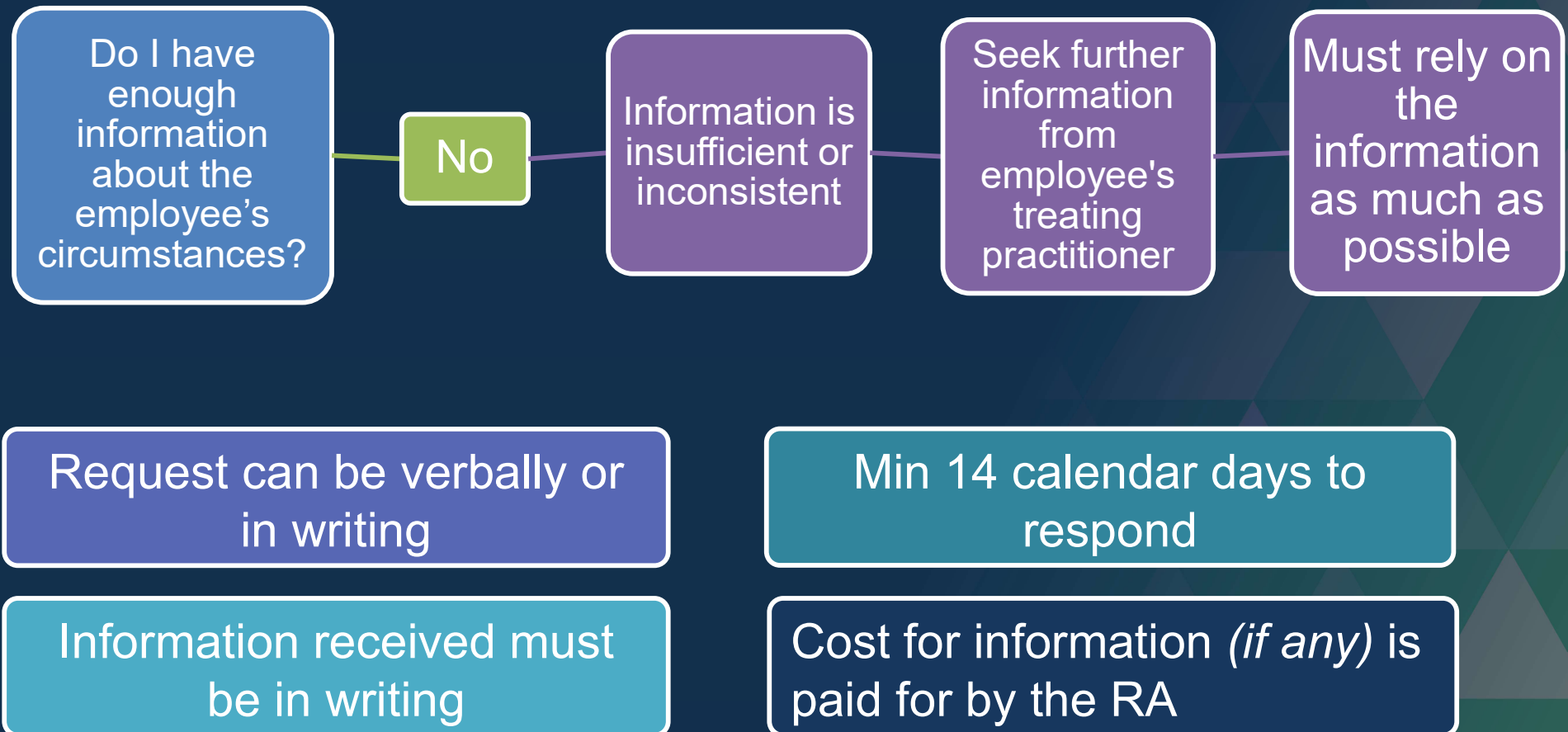
Step 2 – You *do* have sufficient information



Decision making process



Step 3 - You *do not* have sufficient information



Step 4 - Reviewing information from the treating practitioner



Step 5 – Consider Qualifications of assessor(s)

WRP

‘an other qualified person’, which means a workplace rehabilitation provider or a person who has the equivalent qualifications of a workplace rehabilitation provider, or

LQMP

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.

Step 6 – Seeking the views of the employee

Seek the employee's views and reasons for views and take them into account in relation to:

selection of the assessor(s)

need for a support person

other relevant matter

Request can be made verbally or in writing.

Min 3 business days to respond

Don't have to wait 3 days if views are provided

Advise the employee that they may have a support person accompany them during part or all of the examination.

Definitions – section 4

Support person ...

any person who accompanies the employee during part or all of the examination for the sole purpose of providing emotional support to the employee during the examination.

Treating practitioner...

*means a **medical practitioner** or **other health professional** who is primarily responsible for the clinical management of the employee's injury.*

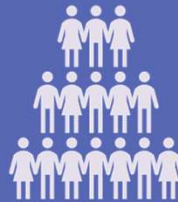
Other health professional...

*a person, other than a medical practitioner, who is:
qualified by their training or registration for a specific profession; and registered with AHPRA or a member of the relevant professional association.*

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



Provide details of several assessors who are qualified to assess the employee's injury



Provide details of a panel that may be used when selecting an assessor



Provide details of a practitioner who has qualifications relevant to the employee's injury



Do you have
any
questions?

Additional Notice requirements

You must issue a determination under section 36(3) together with a notice of rights and obligations to the employee

reasons for
accepting/not accepting
the views of the
employee, and

reasons for relying on/
not relying on information
from the employee's
treating practitioner

Notice of rights must be
provided to the employee
as soon as practicable.

For rehabilitation
examinations notice must
be 14 days before the
examination (legally
qualified medical
practitioner)

Limitations on frequency and number of rehabilitation assessments

The Guide imposes limitations rehabilitation assessments that *include* examinations

The Guide does not impose a limitation on frequency of rehabilitation assessments that *do not include* an examination

You cannot require an employee to undergo more than one rehabilitation examination in respect of the injury more frequently than at *six-month intervals*

Note: This limitation on frequency of s36 rehabilitation examinations is not impacted by the arrangement of a section 57 medical examinations

Limitations on frequency and number of rehabilitation assessments

The minimum 6-month interval only applies if

- the employee undergoes the examination, and
- the employee does not in any way obstruct the examination; and
- the support person (if any) does not in any way obstruct the examination



Exceptions to frequency of rehabilitation examinations



Assessment is requested by the employee in writing



Assessment is requested by the employee's treating practitioner



Earlier assessment recommended a further examination by a date/period



Change in the 'employee's circumstances



The injury requires multidisciplinary medical treatment



Assessor fails to provide a written report



Request for reconsideration of a determination is made but a decision has not yet been made



Application for review is made to the AAT but a final decision has not yet been made

Other relevant matters

7(1) There is no need to comply with the Guide separately or sequentially

7(2) the Guide does not require you to require the employee to undergo an assessment

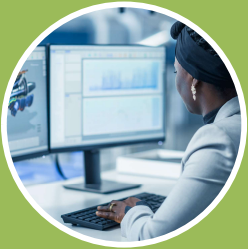
7(3) the Guide does not prevent you from arranging the examination with the employee's treatment practitioner

7(4) the Guide requires you to keep a record of employee views (if any)

7(5) You must provide the report of the examination to certain persons (in line with the Guidelines)

Implementation

The supporting processes around the Guide will need to be implemented by each rehabilitation authority. Considerations include:



Updating IT systems



Updating
letter/determination
templates



Updating policy and
procedure manuals



Updating any
relevant publications



Ensuring reporting
mechanisms are in
place



Key takeaways

Commencement date and application date

Employee circumstances must be considered

First consider the information you have available

Rehabilitation assessments do not require the employee's participation

Seek and rely on the treating practitioner's information before deciding to arrange an examination

Seek and take into account the views of the employee

Advise the employee they may have a support person accompany them

Additional notice requirements for rehabilitation examinations

Limitations on frequency of rehabilitation assessments that include examinations

Exceptions to the frequency

14 days determination to examination with LQMP

Explanatory statement



Do you have
any
questions?

Further information

- [View the Guide for arranging rehabilitation Assessments and Requiring Examinations and Explanatory Statement](#)
- [Access the updated Rehabilitation Case Manager Handbook](#)
- For more information about the operation of the Guide: schemepolicyanddesign@comcare.gov.au

Other relevant guidance:

- [Engaging a legally qualified medical practitioner to undertake an independent medical examination under the SRC Act](#)
- [Suspension of compensation under the rehabilitation provisions of the SRC Act 1988](#)



What now?



**Safety, Rehabilitation and Compensation Act
1988 – Guide for Arranging Rehabilitation
Assessments and Requiring Examinations 2024**

Feedback should be sent to
schemepolicyanddesign@comcare.gov.au



Thank you



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Comcare

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