



Workers Compensation Scheme  
**Local Government Association**  
of South Australia

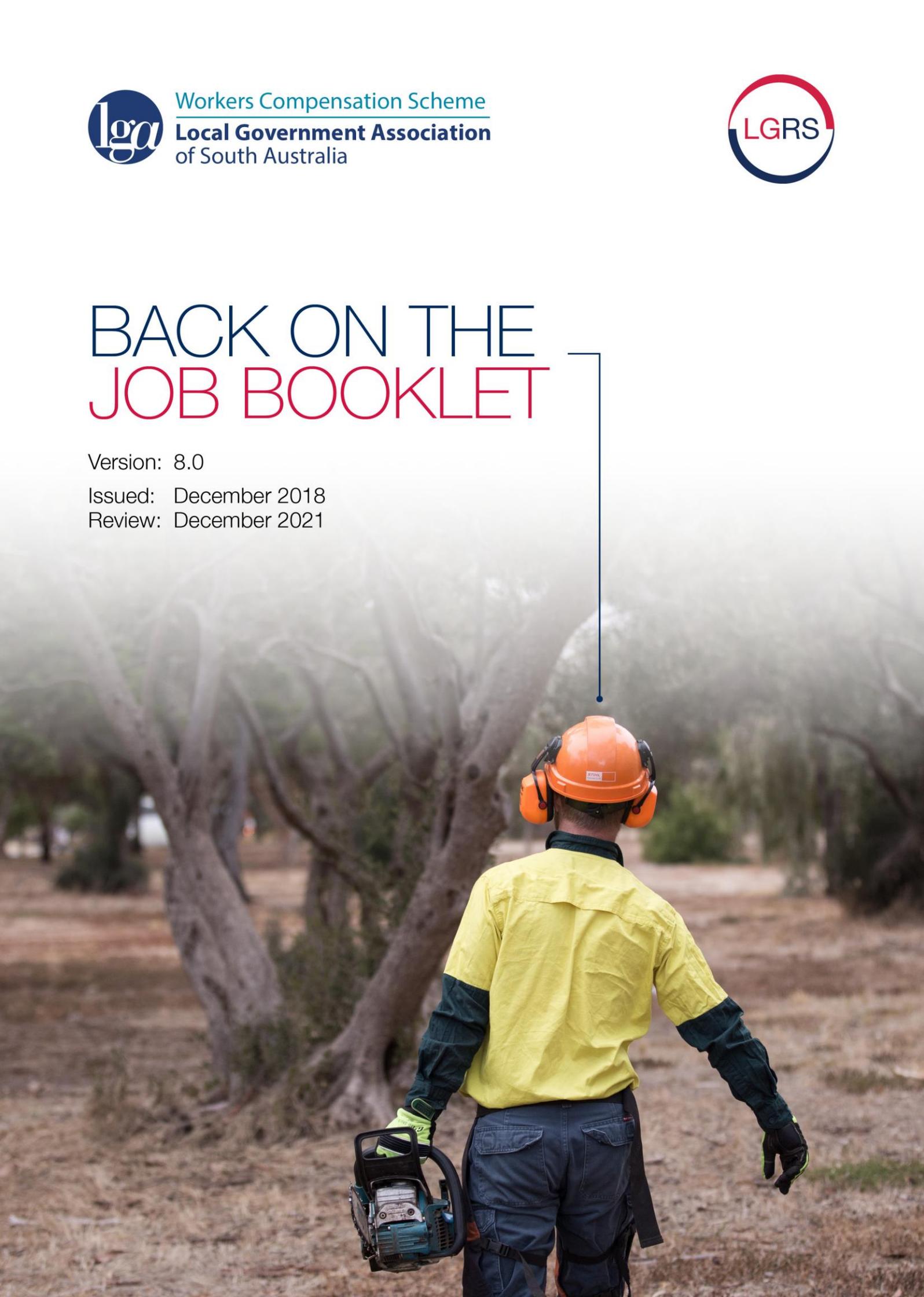


# BACK ON THE JOB BOOKLET

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# ABOUT LGRS

LGRS is a major service provider to Local Government in South Australia, offering specialist services in the risk management, claims management, insurance and workers compensation fields. Our service team has extensive local government knowledge which enables us to provide services and products, tailored to the needs of this specialised industry.

The LGRS service team comprises more than sixty staff in South Australia, including nine risk managers located in regional locations. We work jointly with the Local Government Association to ensure that current and emerging issues that influence the risk profile of Local Government in South Australia are proactively managed.

## LOCAL GOVERNMENT ASSOCIATION WORKERS COMPENSATION SCHEME

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Compensation Scheme.

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# INTRODUCTION

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This booklet has been designed for all Local Government employees in South Australia.

The aim of the booklet is to provide general information about:

- The process to be followed when a work related injury is experienced
- The services provided by the Local Government Association Workers Compensation Scheme (LGAWCS)

The LGAWCS is committed to the early, safe and durable return to work of Local Government employees who sustain a work related injury. This booklet can be read in conjunction with the information provided in the **Return to Work Kit for Employees** and we encourage you to become familiar with both of these documents.

Should you have any questions concerning an aspect of this booklet please raise these in the first instance with your employer or alternatively with the LGAWCS via the contact details located at the front of this booklet. Please be advised that translations of this booklet will be provided on request to the LGAWCS.



# OPERATION OF RTWSA, LGA & THE LGAWCS

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Return To Work SA (RTWSA) is the Government appointed administrator of the Return to Work Act 2014. RTWSA oversees the operation of the Act which sets out the entitlements and obligations for all injured employees and employers following a work related injury being sustained. RTWSA also approves applications from employers to become or renew their self-insurer status.

The Local Government Association (LGA) became a self-insurer when the Local Government Act was amended in the early 1980s to provide for the LGA to “conduct and manage a local government workers compensation self-insurance scheme” and the Scheme commenced operations on 30 June 1986. From September 1987, WorkCover SA (now RTWSA) granted group Self Insured Employer status to the LGA on behalf of its members, that is, Councils and Prescribed Bodies. This means the LGA has the responsibility to implement its own industry programs for Work Health & Safety and Return to Work.

As a Self-Insured Employer the LGA is to meet the requirements of the:

1. Work Health & Safety Act 2012 and associated Regulations
2. Return to Work Act 2014 and associated Regulations
3. Self-Insured Employer Performance Standards
4. Code for the Conduct of Self Insured Employers under the RTWSA Scheme

To ensure the above requirements are being met, RTWSA conducts audits of the LGAWCS and its Member Councils & Prescribed Bodies. Further, as a Self-Insured Employer, the LGA:

1. Established a self-funding Workers Compensation Scheme (LGAWCS)
2. Appoints a Board to oversee the LGAWCS
3. Authorises the LGAWCS collecting financial contributions from all its members to fund the LGAWCS
4. Has the LGAWCS pay an annual levy to RTWSA for its self-insured status

# WHAT TO DO IF YOU ARE INJURED AT WORK?

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## **1. Report your Injury / Seek Medical Treatment**

You are required to report any incident in which you suffer an injury to your Manager / Supervisor and workplace Internal Claims Coordinator (ICC) / Internal Return to Work Coordinator (IRC) immediately. You should also seek medical treatment as required or directed by your employer from a legally qualified medical practitioner. Be sure to also obtain a RTWSA Work Capacity Certificate from your doctor or nurse practitioner (refer to step 3 below).

## **2. Obtain a Work Capacity Certificate**

If you wish to claim for weekly payments or medical expenses you are to also provide a RTWSA Work Capacity Certificate in support of your claim with the completed Claim Form. Your Work Capacity Certificate is to be provided to your Employer immediately.

Further details concerning the Work Capacity Certificate are detailed on page 5.

## **3. Complete a Return to Work Kit / Skytrust Claim**

Should you wish to make a claim for weekly payments and/or medical expenses, your employer will provide you with a Return to Work Kit for Employees, which contains a Claim Form and general information to assist you with the lodgement of your claim. Alternatively a claim can be made via Skytrust utilising the online claim form where installed in your workplace. It is important that all forms including the Claim Form are completed in full and provided to your employer as soon as possible. Ideally the Kit / Skytrust should be completed with your Employer present so that any questions can be attended to without delay.

Should you wish to give notice of an injury only (i.e. not make a claim for weekly payments or medical and other expenses at this time), please complete your employer's standard Accident / Injury Investigation Form / Skytrust incident lodgement. Should you at a later date wish to make a claim for the same incident, please advise your employer and complete a Return to Work Kit / Skytrust Claim Form in full.

If you need help in completing any of the required forms, you can speak to your Employer, Union Representative, WHS Advisor/Coordinator or you can contact the LGAWCS direct on (08) 8235 6460. Should you require a copy of the paperwork you have completed, request your employer to provide you with a photocopy (NB: claims lodged via Skytrust will be emailed to you). If your preferred language is not English (including deaf sign) professional interpreting and translating services are available. If these services are required, please advise your employer who will in turn contact the LGAWCS and make suitable arrangements.

## **4. Submit Claim to the LGAWCS**

Your employer will forward to the LGAWCS your completed Return to Work Kit/Skytrust Claim and Work Capacity Certificate as soon as possible. In addition to this, your employer will provide you with a Contact List advising the name of the appropriate personnel both at your workplace and the LGAWCS, should you have any queries in relation to your claim.

# WHAT NEXT AFTER REPORTING MY INJURY

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A LGAWCS Claims Consultant will review your claim and make a determination within 10 business days of receipt.

## INTERIM BENEFITS

If a determination is unable to be made within this time-frame your LGAWCS Claims Consultant will offer interim benefits. The LGAWCS Claims Consultant will also inform you that should your claim be later found not compensable that any interim benefits received can be recovered from you as a debt.

If you are unable to undertake your pre-injury duties or hours, a LGAWCS Return to Work Consultant will be appointed to commence the return to work process. Please note that this will occur even if your claim is still being processed for a determination. Details concerning return to work services and what to expect are outlined from page 6.



# WORK CAPACITY CERTIFICATE

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As detailed earlier, a Work Capacity Certificate (WCC) is required to be submitted with all claims for compensation. A WCC can only be issued by legally qualified medical practitioners (i.e. general practitioner, surgeon or physician) or in some limited circumstances a Nurse Practitioner where you have attended a Public or Private Hospital Emergency Department. Where you have been provided with a WCC from a Nurse Practitioner you will be required to attend a doctor within 7 days for your injury unless you have been cleared for full pre-injury duties and hours by the Nurse Practitioner.

You are required to submit a WCC for the following:

- When submitting any Workers Compensation Claim and you wish to make a claim for weekly payments and/or medical expenses
- For any period of time you are unfit for pre-injury work due to your work related injury
- Where there are any changes in your work capacity or restrictions
- Where cleared to return to work either on alternative / modified duties or your normal pre-injury duties and hours

You are required to provide a WCC stating your fitness for work, prior to recommencing work following a work related injury. WCC's are to be provided to your Manager / Supervisor or the Internal Claims Coordinator (ICC) / Internal Return to Work Coordinator (IRC) at your workplace, as soon as possible. The WCC is the important communication form used by your medical practitioner to advise your employer of your capacity for work and any medical treatment required.

Please note that you are required to provide final certification when cleared to return to either your normal pre-injury or modified duties. A final certificate is issued by the treating medical practitioner where there is no need for further medical reviews which is usually the situation when optimal recovery and return to work has been achieved.

# RETURN TO WORK SERVICES

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Return to Work services involve the planning and implementation of suitable duties following a work related injury causing incapacity for pre-injury duties. The aim of this service is to achieve the best practicable level of physical and mental recovery and for you to resume, where practicable, pre-injury duties and hours.

You may not require return to work services particularly if the injury is minor and a full recovery is expected within a short period of time (i.e. within 7 days).

## **DIRECT RETURN TO WORK SERVICES PROVIDED BY THE LGAWCS INCLUDE:**

- Early assessment of return to work needs.
- Development, preparation and use of Recovery/Return to Work Plans in accordance with legislation. This will occur in consultation with your Employer, treating medical / health practitioners, nominated employee representative (if required) and yourself.
- Facilitate the negotiation of suitable employment with your Employer and provide ongoing assistance throughout the return to work process.
- Coordinate any other services that may be required (e.g. worksite assessments, appropriate workplace equipment, short-term home help, aids and/or retraining).
- Assist with redeployment and retraining should no suitable alternative employment be available with your pre-injury team.

These services are provided by the LGAWCS Return to Work Consultants. Return to Work services are initiated and provided regardless of the status of claim determination.

## **THE KEY ELEMENTS OF THE RETURN TO WORK PROCESS ARE:**

- Return to work is subject to a medical practitioner's approval. In most cases this is the general practitioner (GP).
- Recovery/Return to Work Plans being written to document suitable duties and work restrictions along with the actions that will occur to assist you to return to your optimal level of recovery and pre-injury / suitable duties.
- Your progress is reviewed on a regular basis and this process continues until you have achieved a return to your pre-injury duties, or if this is not possible, other duties consistent with advice from the medical / health practitioners.

## RECOVERY / RETURN TO WORK PLANS:

Under the Return to Work Act 2014 all employees requiring Recovery and Return to Work services are to have a Recovery/Return to Work Plan in place. This document is a record of who is responsible to complete the agreed actions within the specified time frames. All parties receive a copy of the document. A meeting will be organised involving your Supervisor / Manager, ICC / IRC, your nominated representative (where requested) and a LGAWCS Return to Work Consultant, to develop a Recovery/Return to Work Plan. Recovery/Return to Work Plans are regularly reviewed and updated in line with your progress until a full recovery / return to work is made.



# SERVICES STANDARDS (LGAWCS & EMPLOYER RESPONSIBILITIES)

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In accordance with the Return to Work Act 2014, the LGAWCS, with your employer, are required to comply with a number of Service Standards which are set out below. The Service Standards encourage positive relationships between the LGAWCS, your employer and yourself and acknowledge that all parties need to work together in order to achieve the best outcomes for all. A copy of these Service Standards should be readily available within your workplace with further details on how each of the Standards will be achieved by the LGAWCS.

Specifically, the Service Standards state that the LGAWCS with your employer will:

- (a) view a worker's recovery and return to work as the primary goal if a worker is injured while at work;*
- (b) ensure that early and timely intervention occurs to improve recovery and return to work outcomes including after retraining (if required);*
- (c) with the active assistance and participation of the worker and the employer, consistent with their obligations under this Act, ensure that recovery and return to work processes focus on maintaining the relationship between the worker and the employer;*
- (d) ensure that a worker's employer is made aware of, and fulfils, the employer's recovery and return to work obligations because early and effective workplace-based coordination of a timely and safe return to work benefits an injured worker's recovery;*
- (e) treat a worker and an employer fairly and with integrity, respect and courtesy, and comply with stated timeframes;*
- (f) be clear about how the LGAWCS can assist a worker and an employer to resolve any issues by providing accurate and complete information that is consistent and easy to understand (including options about any claim, entitlements, obligations and responsibilities);*
- (g) assist a worker in making a claim and, if necessary, provide a worker with information about where the worker can access advice, advocacy services and support;*
- (h) take all reasonable steps to provide services and information in a worker's or employer's preferred language and format, including through the use of interpreters if required, and to demonstrate respect and sensitivity to a person's cultural beliefs and values;*
- (i) respect and maintain confidentiality and privacy in accordance with any legislative requirements;*
- (j) provide avenues for feedback or for making complaints, and to be clear about what can be expected as a response;*
- (k) recognise a right of a worker or an employer to be supported by another person and to be represented by a union, advocate or lawyer.*

Should you have a concern with the implementation of the above Service Standards in relation to your claim you may raise your concern with RTWSA or the South Australian Ombudsman. Prior to lodging a complaint however we encourage you first raise your concerns with your assigned LGAWCS Claims or Return to Work Consultant as the LGAWCS has an Internal Complaints Resolution Process. For more information please refer to the Complaint Resolution section on page 19.

# YOUR RESPONSIBILITIES (EMPLOYEE)

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You are to take reasonable care to protect your own health and safety and that of others in the workplace. You must also notify your employer immediately in the event of a workplace incident occurring. You are to participate in medical treatment and Recovery/Return to Work Plans tailored to your work capacity and co-operate with Recovery/Return to Work Plans for any other injured employee. You are obliged to accept and perform suitable employment offered by your employer for which you have been medically assessed fit to perform.

## **SPECIFICALLY, YOU ARE REQUIRED TO:**

1. Report a work related injury to your employer as soon as practicable after the occurrence of the injury and to participate in the incident investigation reporting process.
2. Undertake appropriate treatment, as recommended by your treating medical / health practitioner of your choice that will facilitate a safe return to work.
3. Participate actively in the planning, implementation and review of your Recovery/Return to Work Plan and with the agreed primary goal being a return to work.
4. Accept the provision of suitable duties where they form part of your Recovery/Return to Work Plan.
5. Make every reasonable effort to return to work in suitable employment.
6. Abide by your medical restrictions, both during and outside of working hours.
7. Notify your Manager/Supervisor, ICC/IRC immediately if unable to attend work for which you are cleared to undertake.
8. Provide your Employer with a Work Capacity Certificate and a Claim Form if you wish to make a claim for compensation and complete a Return to Work Kit / Skytrust Claim with your employer.
9. Provide your Employer with Work Capacity Certificates immediately on receipt, for the duration of any period of incapacity (that is from the time of incident until a final Work Capacity Certificate has been issued).
10. Avoid disruptions to your return to work activities by arranging, where possible, appointments outside agreed working hours or where not possible at the beginning or end of your normal working day.
11. Notify relevant parties (i.e. Manager/Supervisor, ICC/IRC, LGAWCS Return to Work Consultant) when cancellation of an appointment is necessary and reschedule the appointment at the first available time.
12. Attend medical examinations arranged by the LGAWCS.

Should you have any questions concerning your responsibilities outlined above please speak with your employer directly or alternatively raise it with your LGAWCS Return to Work Consultant (where appointed) or LGAWCS Claims Consultant.

# PARTICIPATION IN RETURN TO WORK

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When the return to work process has started, you will be provided with a written Recovery/Return to Work Plan. You will be consulted as to the terms of your Recovery/Return to Work Plan as will your employer and relevant medical / health practitioner(s) to instigate a plan and seek signed consent by the relevant parties involved in your return to work. Once signed by the LGAWCS it then becomes an approved Recovery/Return to Work Plan under the Return to Work Act 2014. Should you realise at a later date you cannot complete the actions agreed within the timeframes stated in your Plan, it is your responsibility to contact your Employer and LGAWCS Return to Work Consultant to review the document.

A Recovery/Return to Work Plan does not need to be signed by you, to be valid under the Return to Work Act 2014. The Recovery/Return to Work Plan will be developed in consultation with yourself, your Return to Work Consultant and your Employer. Once developed, your obligation is to comply with that Recovery/Return to Work Plan, regardless of whether your claim has been accepted or not. If you feel your Recovery/Return to Work Plan is unreasonable, you should discuss this with your Employer and LGAWCS Return to Work Consultant.

All attempts will be made to reach an agreement satisfactory to all parties prior to signing and implementing. If no agreement can be reached you have the right to lodge an Application for Review with the South Australian Employment Tribunal (SAET), who will then review the Recovery/Return to Work Plan as being reasonable or not. Please note that whilst the matter is still under review by the SAET you are still bound by its terms until the outcome of such dispute is finalised.

If you decline to undertake your Recovery/Return to Work Plan or change the agreed actions without telling your Employer or LGAWCS Return to Work Consultant, your entitlements to weekly payments may be discontinued or reduced.



# YOUR EMPLOYER'S ROLE IN THE RTW PROCESS

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All members of the LGAWCS have a Work Health Safety & Return to Work (WHS & RTW) Policy that is reviewed and updated on a regular basis.

This Policy requires all Employers to be committed to:

1. Providing support and assistance to injured employees.
2. Providing suitable employment wherever possible.
3. Ensuring injured employees resume their position of employment depending on medical advice.

These commitments will not be prejudiced during any period in which your claim for compensation remains undetermined or subject to an Application for Review with the SAET. Underpinning your Employer's WHS & RTW Policy is a Workplace Return to Work Procedure that details the step by step processes that are to be undertaken within your workplace.

For further information or to review these documents relevant to your workplace please contact your Manager/Supervisor, ICC or IRC.

## CONFIDENTIALITY

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Information collected in relation to your work related injury is strictly confidential and disclosure is not permitted unless consented to or allowed in accordance with the Return to Work Act 2014. Please note that confidentiality requirements apply to both the LGAWCS and your employer. Should you have concerns about the collection of personal information either directly or indirectly related to your work related injury please contact the LGAWCS.

# COMPENSATION ENTITLEMENTS

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For compensation to be paid under the Return to Work Act 2014 your injury must arise from employment. Specifically, Section 7 of the Act (extracted below) defines this as:

## **7—Injury must arise from employment**

- (1) *This Act applies to an injury if (and only if) it arises from employment.*
- (2) *Subject to this section, an injury arises from employment if—*
  - (a) *in the case of an injury other than a psychiatric injury—the injury arises out of or in the course of employment and the employment was a significant contributing cause of the injury; and*
  - (b) *in the case of a psychiatric injury—*
    - (i) *the psychiatric injury arises out of or in the course of employment and the employment was the significant contributing cause of the injury; and*
    - (ii) *the injury did not arise wholly or predominantly from any action or decision designated under subsection (4).*

On receipt of your claim for compensation the LGAWCS will review your claim to determine whether it meets the above criteria. Please note that some additional criteria may apply for certain other injury claims (e.g. hearing loss and journey accidents). Should the LGAWCS be satisfied that your claim meets this criteria based on the initial information received your claim will be accepted within 10 business days of receipt. Entitlements for accepted claims are detailed below.



# ACCEPTED CLAIMS

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If your claim for compensation is accepted your entitlements may include:

## WEEKLY PAYMENTS

If you have been certified unfit for work for any period of time, you may be entitled to weekly payments. These payments are based on either your current Award or Enterprise Bargaining Agreement or your average earnings calculated over the 12 months preceding your date of injury. The rate of weekly payments calculated is commonly referred to as your Average Weekly Earnings.

Your entitlement to weekly payments is limited (unless you are deemed to be a Seriously Injured Worker) and will be paid at the following rates:

### First Designated Period:

- 0 – 52 weeks, will be paid at 100% of your determined average weekly earnings

### Second Designated Period:

- 53 – 104 weeks, will be paid at 80% of your determined average weekly earnings

Please note that at the conclusion of 104 weeks following your initial date of incapacity your entitlement to weekly payments will cease (if not previously discontinued) unless you:

- Have been assessed as a Seriously Injured Worker (refer to page 16)

or

- Have submitted a request for further surgery prior to the conclusion of 104 weeks of incapacity for work and this has been approved by the LGAWCS. In this circumstance you may be entitled to receive up to a further 13 weeks of income support following the approved surgery being performed.

## MEDICAL EXPENSES

Under the Return to Work Act 2014 reasonably incurred and necessary medical expenses are payable for a maximum of 12 months following the cessation of any weekly payments entitlement. Where you do not have any weekly payments entitlement (e.g. claim for medical expenses only) your entitlement to medical expenses is limited to 12 months from the date of your injury.

Please note that this provision does not apply in the following circumstances:

- If you have been classified as a seriously injured worker (refer to page 16).

or

- If you have submitted a request for surgery prior to the conclusion of the second designated period (as detailed above).

or

- If you are claiming the cost of any therapeutic appliance required to maintain your capacity (e.g. hearing aids).

## **HOSPITAL, HEALTH PRACTITIONER, CHEMIST & OTHER MEDICAL EXPENSES**

Where services are reasonably incurred and relate to your compensable injury these will be paid by the LGAWCS. Invoices received must be promptly supplied to your employer who will forward to the LGAWCS.

## **SURGERY & THERAPEUTIC APPLIANCES**

Should you require surgery or any therapeutic appliances in relation to your injury prior approval from the LGAWCS is required. Dependent on the information received at the time of the request the LGAWCS may complete further investigations prior to determining whether to meet such an expense.

## **PHYSIOTHERAPY, CHIROPRACTIC & PSYCHOLOGY**

In relation to physiotherapy, chiropractic and psychology treatment the LGAWCS will require the provision of a Treatment Management Plan following your initial appointment from your Health Practitioner where it is determined that you will require more than 4 (four) treatment consultations. The Treatment Management Plan details the overall number of sessions required and goals of such treatment. Subsequent Treatment Management Plans may be required to be completed dependent on your progress and the nature of your injury. A Treatment Management Plan is available within the Return to Work Kit for you to provide to your relevant Health Practitioner where referred. Completed Treatment Management Plans must be forwarded to the LGAWCS immediately by the Health Practitioner so that appropriate treatment can be authorised.

## **TRAVELLING EXPENSES**

Reasonable travelling expenses incurred whilst undertaking medical treatment are claimable. The LGAWCS will reimburse travel in your private vehicle on the basis of the number of kilometres travelled and paid in accordance with the gazetted rate set by RTWSA. When using public transport, please keep your receipts for reimbursement. In exceptional circumstances, taxi fares may be reimbursed however prior approval is to be obtained from the LGAWCS.

Travel expenses cannot be claimed for travelling to and from work. Should you undergo treatment on the way to or from work, only the extra kilometres travelled (if any) will be paid. In order to claim any travelling expenses incurred in relation to your claim for compensation please complete the Travel Expenses Claim Form within your Return to Work Kit. Additional copies of the Travel Expenses Claim Form can be requested from your employer should you require.

## **NON-ECONOMIC LOSS LUMP SUM**

This relates to a lump sum payment for non-economic loss in cases where permanent work related impairment has been sustained. To be entitled to this payment, there needs to be medical evidence that the injury has caused a permanent loss of functional capacity. The injury needs to also be stable and reached maximum medical improvement which means it is unlikely to either deteriorate or improve. Non-Economic Loss lump sum payments are only available for physical injuries with

psychiatric injuries specifically excluded. Consequential mental harm (e.g. psychological injury resulting from an initial physical injury) is also excluded when assessing any Non-Economic Loss lump sum payment.

Non-Economic Loss entitlements are assessed by an accredited RTWSA Permanent Impairment Assessor and are undertaken in accordance with the Impairment Assessment Guidelines as published by RTWSA. For compensation to be payable the extent of your permanent impairment is to be at least 5% Whole Person Impairment (WPI) or higher. Should your degree of impairment be assessed as 5% WPI or higher you may also be entitled to a further lump sum payment for Economic Loss.

Should you have a question concerning Non-Economic Loss lump sum payments please contact your LGAWCS Claims Consultant.

## **ECONOMIC LOSS LUMP SUM**

An entitlement to a further lump sum for economic loss may arise should your degree of permanent impairment be assessed in the range of 5% - 29% Whole Person Impairment. In accordance with the Return to Work Act 2014 certain injuries such as hearing loss and psychiatric injuries are excluded from any Economic Loss Lump Sum. The amount of a lump sum payment for economic loss is determined by the prescribed sum for the year in which your injury was sustained, your age at the time of injury and finally the number of hours you were working at the time of injury. Should an entitlement arise to an economic loss lump sum you will be advised of the calculation of this entitlement by the LGAWCS.

Should you have a question concerning Economic Loss lump sum payments please contact your LGAWCS Claims Consultant.

## **REDEMPTION**

A redemption is a lump sum amount offered to an injured employee for future weekly payments and medical expenses, in order to finalise a claim for compensation. The amount offered is specific to each individual's circumstances and there is no obligation on behalf of a worker to accept the offer nor is there any obligation on the LGAWCS to make a redemption payment. If you are deemed to be a seriously injured worker (refer to section below) a redemption agreement can only be made for any liability to pay weekly payments only.

If you require further information in relation to redemptions, please contact your LGAWCS Claims Consultant.

# SERIOUSLY INJURED WORKERS & COMMON LAW

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Should your degree of permanent impairment equal 30% Whole Person Impairment or higher you will be deemed to be a Seriously Injured Worker for the purposes of the Return to Work Act 2014. Should you be deemed to be a Seriously Injured Worker you may also be entitled to seek damages from your employer if it is found that your injury arose as a result of negligence on the part of your employer. This is called a Common Law claim and you will need to consider your legal rights before undertaking such an action. Should you proceed with a Common Law claim you will be electing out of the Return to Work Scheme and all other entitlements owed to you under the Act (as detailed above for accepted claims) will cease with exception to reasonably incurred future medical expenses and care.

Seriously injured workers who elect to remain within the Return to Work Scheme also have different obligations with respect to returning to employment. Should you have a question about seriously injured workers or you believe you may be a seriously injured worker please contact your LGAWCS Claims Consultant in the first instance to discuss. You may also make an application to the LGAWCS to issue an interim determination on your eligibility to be considered as a seriously injured worker under the Act.



# DEFERRED CLAIMS

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The LGAWCS on review of your claim for compensation may defer making a determination within 10 business days of receipt. Reasons that a determination may not have been made include:

## **1. Insufficient information about the incident**

When this happens the LGAWCS Claims Consultant may instruct an Independent Assessor to investigate and gather information about the incident. This may include the Assessor visiting you at a mutually agreed time and place to obtain a statement. Statements may also be required from witnesses. Where applicable your statement may also be discussed with the witnesses to enable a response to your assertions.

## **2. There is insufficient or conflicting medical information**

The LGAWCS Claims Consultant requires a medical authority signed by you to obtain a report from your treating medical / health practitioner(s). In some cases, the LGAWCS Claims Consultant may also arrange an independent medical assessment. If this is required you will be notified of the details regarding the examination in writing.

A determination will be made as soon as reasonably practicable, following the receipt of relevant information (i.e. medical reports, assessor's reports, independent specialist reports). Should you be dissatisfied with the delay in determining your claim for compensation you may lodge an application for an expedited decision at the South Australian Employment Tribunal. Prior to doing so we encourage you to contact your LGAWCS Claims Consultant in the first instance to discuss the cause for the delay.

# REJECTED CLAIMS

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If your claim is rejected you will be contacted and advised of the basis of the rejection. This will then be followed with the determination in writing and your right to apply for a review of this decision to the South Australian Employment Tribunal. Prior to lodging any Application for Review with the Tribunal you are encouraged to contact the LGAWCS and/or a Union Representative, to discuss the issues.

# DISCONTINUANCE OF WEEKLY PAYMENTS

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There are a number of instances where weekly payments may be discontinued. These include:-

- Recovery from your injury
- Return to work
- Failure to provide Work Capacity Certificates
- Failure to undertake suitable work that is available to you
- Failure to participate in your Recovery/Return to Work Plan
- Failure to attend medical appointments
- Claim is greater than 2 years of age
- Dismissal from employment for serious and wilful misconduct
- Temporary suspension of entitlements whilst on annual leave
- Consent to the discontinuance (e.g. whilst absent for non-work related reasons)

If your payments are to be discontinued, you will be advised in writing together with the date the decision will be effective from. Your rights to seek a review of the decision will be provided in the letter advising you of the decision to discontinue your payments.

# INDEPENDENT MEDICAL EXAMINATIONS

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The LGAWCS may request you attend an independent medical examination throughout the life of your claim. This involves you attending the medical practitioner's rooms for assessment, after which the assessing doctor will forward a written report to the LGAWCS. A copy of the report will be sent to you following the assessment within 7 days of receipt by the LGAWCS. If you refuse to attend an assessment without reasonable grounds, your entitlement to weekly payments may cease or your claim may be rejected if not previously determined.

Where you have been requested to attend an independent medical examination please ensure that you notify your Manager/Supervisor and advise of any absence from work duties and the anticipated duration. Please note that reasonable travel expenses in order to attend such assessments will be reimbursed to you by the LGAWCS.

# COMPLAINT RESOLUTION

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## CONCERNS REGARDING CLAIM DETERMINATIONS

If you have a concern about a decision made in relation to your claim it is recommended that you first discuss your concern with your Manager / Supervisor, ICC / IRC, or LGAWCS Claims Consultant.

If the matter cannot be resolved to your satisfaction you may lodge an application for review with the South Australian Employment Tribunal against the decision made. All claim determinations from the LGAWCS are in writing and will detail your appeal rights and timeframes to lodge an application for review.

## CONCERNS REGARDING MANAGEMENT OF YOUR CLAIM / RETURN TO WORK PROCESS

If you have a concern, complaint or suggested improvement with respect to the management of your return to work or claim, which is not subject to the dispute resolution process detailed above, you are encouraged to discuss your concerns with the following persons where relevant:

- LGAWCS Claims Consultant
- LGAWCS Return to Work Consultant

These personnel will explain to you the internal complaint resolution process and assist to address your concerns. If the matter is not addressed to your satisfaction you may formally escalate the matter to the Manager – Injury Management. In this instance the LGAWCS will advise you of the steps being taken in relation to the relevant concern and the procedure that can be followed to lodge a complaint with the South Australian Ombudsman (see below) if you are not satisfied with resolution of the matter by the LGAWCS.

The LGAWCS will provide a response to a complaint within 10 business days after the complaint is lodged. Where a complaint requires further investigation beyond 10 business days the LGAWCS will provide an interim response and an indication as to when a final response will be provided to your complaint.

## SOUTH AUSTRALIAN OMBUDSMAN

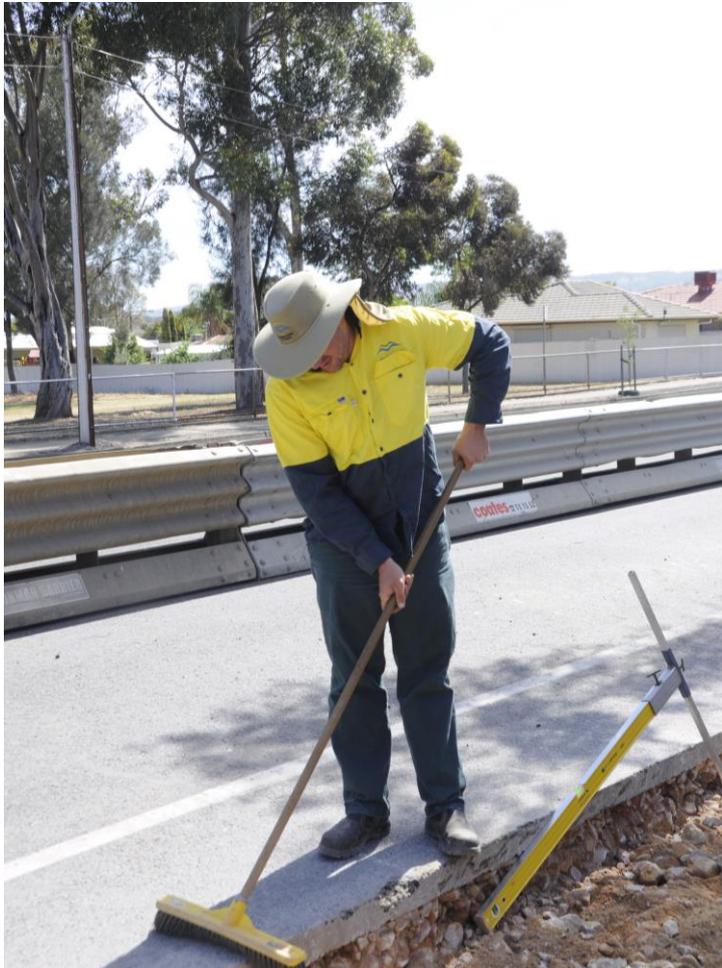
Should you believe there has been a breach of the Service Standards (as detailed on page 8) in relation to your claim for compensation, the SA Ombudsman is able to complete an investigation into your complaint. The LGAWCS encourages however that prior to lodging a complaint with the SA Ombudsman that you complete the Internal Complaint Resolution process as summarised above as there may be instances to which your concern can be addressed without the intervention of a third party. Where the Internal Complaint Resolution Process has not been completed the SA Ombudsman may elect to await the outcome of that process prior to commencing any inquiry of its own kind.

Should you wish to contact the SA Ombudsman concerning a complaint pertaining to your claim and the provision of the Service Standards you can do so as per the following details:

Telephone: (08) 8226 8699  
Toll free: 1800 182 150 (outside metro SA only)  
Facsimile: (08) 8226 8602  
Email: [ombudsman@ombudsman.sa.gov.au](mailto:ombudsman@ombudsman.sa.gov.au)  
Address: Level 9, 55 Currie Street, Adelaide SA 5000  
Postal address: PO Box 3651 Rundle Mall SA 5000  
Website: [www.ombudsman.sa.gov.au](http://www.ombudsman.sa.gov.au)

**CHANGE OF LGAWCS RETURN TO WORK CONSULTANT**

A request for a change in Return to Work Consultant is not automatic. In the first instance you are encouraged to talk to the person(s) involved to clarify any perceived issues or misunderstandings. If this is unsuccessful a more formal process will begin. The reasons for requesting a transfer are to be submitted in writing to the Manager – Injury Management of the LGAWCS, then following this, a meeting with all parties may be arranged to try and resolve any issues. After this process has been completed, only then will the LGAWCS make a decision regarding a change in Return to Work Consultant. Until this decision is made, your Return to Work Consultant will continue assisting you until the matter is resolved. You will be notified of the final outcome by the LGAWCS.



# ROLE OF THE SA EMPLOYMENT TRIBUNAL

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The SA Employment Tribunal (SAET) is the dispute resolution body established to hear and determine disputes relating to certain return to work matters and workers compensation decisions. Its role is to provide a forum for resolving disputes that may occur between the parties.

When an application for review of a decision has been lodged the first step is for the SAET to request the LGAWCS to reconsider its decision. If you are not satisfied with the outcome the next step is attendance by all parties at an Initial Directions Hearing followed by compulsory Conciliation Conference(s) before a Commissioner of the SAET. The aim of a compulsory conciliation conference(s) is for all parties to openly discuss the issues and attempt to resolve them.

If compulsory Conciliation Conference(s) are not successful, the matter can be referred to a Presidential Member of the SAET to review the decision and undertake a hearing of the issues in dispute. The application can also be referred to mediation, where appropriate.

You are entitled to be represented in these proceedings by a Solicitor, Union Representative, Family Representative or a friend.

## DISHONESTY

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Under Section 196 of the Return to Work Act 2014, a person is guilty of an offence who:

- Obtains by dishonest means any payment or other benefit under the Act, or
- Dishonestly claims to be entitled to a payment or other benefit under the Act, or
- Dishonestly makes a statement about a claim under this Act knowing the statement is false or misleading, or
- Dishonestly makes an application, or gives a return, under this Act knowing the application or return to be false or misleading.

Please note that it is also an offence for a person to aid, counsel, abet or procure the commission of an offence, or solicit or incite the commission of any such offence. If you need more information please contact the LGAWCS. Any information received or enquiries made shall be treated in confidence.

# LGAWCS WORK HEALTH SAFETY WHS & RISK TEAM

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The WHS & Risk team include both Metropolitan WHS Consultants and Regional Risk Coordinators to deliver services with the aim of assisting Scheme Members reduce the number of incidents and injuries occurring in the Local Government Industry.

To achieve this, the WHS & Risk team provides services to all Scheme Members including their Managers, Supervisors, WHS Committees, WHS Representatives and Workers.

Services include but are not limited to supporting the establishment of systems and providing advisory services regarding:

1. System design and implementation.
2. Hazard management processes for all workers (including Employees, Contractors and Volunteers) including incident reporting and investigation, hazard identification, risk assessments and implementing control measures to reduce or eliminate the hazard, systems of work, safe plant, substances, materials and welfare facilities for employees.
3. Monitoring processes, such as worksite inspections, legislative, internal and system audits and appropriate reporting processes.
4. System review processes, including analysis of metrics and setting of appropriate continuous improvement objectives and actions.
5. Consultation with Scheme member's management and WHS committees.

Should you have any questions about the role of the WHS & Risk team, please contact your workplace WHS Coordinator, Representative, Supervisor / Manager or the LGAWCS WHS & Risk team directly on (08) 8235 6460.



# IMPORTANT THINGS TO REMEMBER

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1. Always keep copies of any notice forms, claim forms, letters or documents you have received from the LGAWCS, your employer, union or treatment provider.
2. You have the right to seek advice from a third party before signing any document in relation to your workers compensation claim.
3. You have the right to have an appropriate support person of your choice at any meeting regarding your workers compensation claim.
4. You are to undertake duties offered by your Employer, provided the duties are consistent with the advice of medical practitioners.
5. Prior to lodging an application for review of a decision, it is recommended you discuss the matter with the LGAWCS.

## WHO TO CONTACT

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Should you require any additional information about this booklet, or any matter related to returning to work, please contact your employer or the LGAWCS on (08) 8235 6460.

# GLOSSARY OF KEY TERMS

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**Average Weekly Earnings** Is the initial rate of weekly payments calculated on receipt of your claim for compensation. Your AWE is calculated on your Award / EB Agreement / pre-injury average weekly earnings calculated over the previous 12 months.

**Common Law** An entitlement to seek damages available only to employees classed as Seriously Injured Workers due to negligence on the part of your employer or third party.

**Compensable Injury** Any physical or psychiatric injury including disease or disfigurement which arises from employment and in the case of a physical injury employment was a significant contributing factor or in the case of a psychiatric injury employment was the significant contributing cause of the injury.

**Determination** A decision made on a claim for compensation to defer, accept or reject the claim and ongoing claim management decisions.

**Health Practitioner** A recognised Health Practitioner is a person registered under the Health Practitioner Regulation National Law (other than as a student) and is a Dentist, Psychologist, Optician, Physiotherapist, Chiropractor, Podiatrist, Occupational Therapist or Osteopath. Speech Pathologists are also recognised Health Practitioners provided they are registered by The Speech Pathology Association of Australia Ltd.

**Independent Assessor** An accredited person instructed by the LGAWCS to gather information and facts to assist with the claim determination process.

**Medical Practitioner** A recognised Medical Practitioner is a person registered under the Health Practitioner Regulation National Law (other than as a student) and is a doctor (e.g. GP, surgeon, physician).

**Return to Work Kit** A Kit which contains all of the documentation and information required to submit a claim.

**Redemption** An agreed capital payment.

**Return to Work Services** A managed process involving early intervention and provision of services directed by a LGAWCS Return to Work Consultant to an injured employee that will assist the employee to return to work.

**Seriously Injured Worker** An injured employee whose work injury has resulted in permanent impairment and the degree of whole person impairment has been assessed to be 30% or more.

**Service Standards** A set of standards to which your employer and the LGAWCS are responsible to comply with and implement in relation to your claim for compensation.

**Weekly Payments** Is the amount of gross income compensation you will receive on a weekly basis where incapacitated for work.

**Whole Person Impairment** Describes the level of permanent loss of functional capacity arising from a compensable injury. The level of impairment is assessed by an accredited assessor.