



ACT Health

Providing Suitable Duties for Injured Employees and Medical Redeployment Procedure

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Purpose

This procedure details the arrangements for:

- providing suitable duties for an injured employee with an accepted workers' compensation claim, in accordance with the *Safety Rehabilitation and Compensation Act 1988* (SRC Act), and
- redeploying incapacitated officers (permanent employees), who are unable to exercise functions appropriate to the officer's classification because of physical or mental incapacity, as defined by the *Public Sector Management Act 1994* (PSM Act))¹, and implementing the [ACTPS Medical Redeployment Policy](#).

Background

Where an employee has a health condition that significantly affects their ability to perform the duties of their nominal position, the priority is to support them to enable the employee to productively remain in their nominal position by applying [reasonable adjustment principles](#) and/or providing early intervention support in accordance with the [Early Intervention Procedure](#).

An employee may be required to undertake a health assessment to:

- assess their capacity to undertake their duties,
- identify any ongoing medical restrictions and support required for the employee, and
- determine if they should be redeployed.

This procedure details the arrangements that will be applied in the two situations where a health condition may require that an employee be considered for an alternative position:

1. when an employee has an accepted workers' compensation claim, or
2. when the employee has a personal (non-compensable) health condition.

The ACT Health Directorate (ACTHD) has responsibilities for providing suitable duties to employees who experience a compensable injury² or are incapacitated for their normal duties as a result of a health condition.

1 incapacitated—an officer is incapacitated if the officer is unable to exercise functions appropriate to the officer's classification because of physical or mental incapacity (*Public Sector Management Act 1994*)

2 Section 40(1) of the *Safety Rehabilitation and Compensation Act 1988* Act requires that:

Where an employee is undertaking, or has completed, a rehabilitation program, the relevant employer shall take all reasonable steps to provide the employee with suitable employment or to assist the employee to find such employment.

The [ACTPS Medical Redeployment Policy](#) (the Policy) details the arrangements for assisting employees who are incapacitated as a result of their personal health for an extended period. The Policy applies to employees who due to medical reasons have a reduced work capacity. Whilst the redeployment processes under section 122 of the PSM Act are only applicable to confirmed permanent officers in the ACT Public Service (ACTPS), the Policy also provides guidance for dealing with temporary employees and officers on probation whose medical capacity may require assessment.

This procedure supports managers and employees to meet ACTHD's responsibilities in providing suitable duties and managing medical redeployments. [Attachment A](#) provides more information about the agreement provisions and legislation that applies to the requirements for ill and injured employees.

Scope

This procedure applies to all ACTHD business units.

Roles and Responsibilities

Position	Responsibility
Director-General	Ensure that ACTHD takes reasonable steps to: <ul style="list-style-type: none">• find a vacant office that an incapacitated employee is eligible for in accordance with the Policy and this procedure, and• provide the employee with suitable employment or to assist the employee to find such employment, when an injured employee is undertaking, or has completed, a rehabilitation program in accordance with the SRC Act.

Position	Responsibility
Executive Group Managers, Executive Branch Managers Managers	<p>Provide support to injured and ill employees.</p> <p>Make arrangements to provide temporary modifications to an employee's duties, in line with medical and rehabilitation/injury management advice.</p> <p>Where a medical redeployment process has been initiated - assess the officer in isolation, to assess whether they are suitable for a vacant position.</p> <p>Where an employee has an accepted workers' compensation claim and is unable to return to their permanent position take reasonable steps to provide suitable employment.</p> <p>Support work trials for injured, ill, and incapacitated employees.</p> <p>Support incapacitated employees to apply for suitable positions.</p>
Shared Services (Recruitment)	<p>Work with the ACTPS Redeployment Team where an ACTPS medical redeployment process has been initiated to:</p> <ul style="list-style-type: none"> • check any requests to advertise across the ACTPS against the skills and abilities of an incapacitated employee, and • contact the employee and give them the details on the vacant position and put their details forward for the position.
People Strategy and Culture Branch (PSC)	<p>Provide advice to managers and employees about reasonable adjustment, early intervention, injury management, medical redeployment, and suitable duties.</p> <p>Assist managers to identify suitable duties/roles for medical redeployment within ACTHD.</p> <p>Provide support to injured and ill employees.</p> <p>Manage medical assessments in partnership with the Injury Management Team (CMTEDD).</p> <p>Support the process for declaring an officer to be incapacitated and refer the officer to the ACTPS Redeployment Team.</p>
Injury Management Team and ACTPS Redeployment Team (CMTEDD)	<p>Maintain the ACTPS rehabilitation management system.</p> <p>Manage the ACTPS medical redeployment process.</p> <p>Manage medical assessments in partnership with PSC.</p> <p>Provide case management services.</p>
Ill, incapacitated, or injured employees	<p>Provide information about their reasonable adjustment requirements.</p> <p>Participate in injury management, health assessment and rehabilitation processes, including work trials.</p> <p>Participate in redeployment processes, including applying for suitable positions.</p>

Procedure for Providing Suitable Employment (workers' compensation only)

This procedure supports the [ACTPS Work Rehabilitation Policy](#).

Where an employee experiences a work related injury and has a claim accepted in accordance with the SRC Act, the ACTPS, as the rehabilitation authority, will assess whether the employee should complete a rehabilitation program.

The Injury Management Team (in Chief Minister Treasury and Economic Development Directorate - CMTEDD) will allocate a rehabilitation case manager to assist the employee and to exercise the rehabilitation delegations under the SRC Act.

Where the employee has completed a rehabilitation program, or as part of the rehabilitation program, ACTHD has a responsibility to provide suitable employment and duties to assist the employee to return to work.

The objective of a rehabilitation program will be to return the injured person to their pre-injury hours and duties, in the first instance. The duties may need temporary modifications and need to be within their capacity and safe for them. The rehabilitation process uses advice from rehabilitation practitioners, independent medical advice, and the treating practitioner to identify an injured worker's abilities and restrictions. Managers are responsible for providing suitable duties to employees undertaking a rehabilitation program, including:

- changing tasks,
- changing hours of duty – often as part of a graduated return to work process,
- providing new or varied tasks,
- supporting requirements for additional equipment and aids, and
- redesigning work processes so that they can be performed safely.

When working out the rehabilitation objectives for a returning employee, the RCM will consider the following possibilities:

- the same employer - same, similar or new job, or
- a new employer (where appropriate) - same, similar or new job.

Where an employee is unable to return to work with the same business unit, the rehabilitation program will consider a return to work:

- in another business unit, or
- another directorate.

Where an employee is not a permanent officer in the ACTPS a return to work with a non-ACTPS employer will also be considered.

Where an employee's return to work is to another business unit, directorate or a non-ACTPS employer, a work trial may be established to assist the rehabilitation process. More information about work trials is at [Attachment B](#).

ACTHD will also host work trials for the injured employees of other directorates and directorates may identify mutually beneficial work trials or job swaps.

Procedure for Redeploying an Incapacitated Employee

The [ACTPS Medical Redeployment Policy](#) provides information about the ACTPS arrangements to support employees who are unable to work in their nominal position as a result of a health condition, including the arrangements for health assessments.

Where an employee is not able to undertake the employee's normal duties as a result of a health condition managers will provide temporary modifications to an employee's duties, in line with medical and rehabilitation/injury management advice and reasonable adjustment principles. This can include:

- changing tasks and duties,
- changing hours of duty (by approving flexible work or where the employee utilises personal leave),
- moving the employee to a different position or role (including assessing vacant positions within their business unit and consider transferring, with their consent, an employee to a suitable vacant position),
- supporting requirements for additional equipment and aids, and
- redesigning work processes so that they can be performed safely.

The arrangements in place to support the employee to remain at work, should focus on supporting the employee with the best opportunity to recover and work to full capacity.

Managers can contact PSC for support, such as implementing a reasonable adjustment or early intervention program. This may include engaging a rehabilitation provider for assistance.

Where an employee has a health condition that prevents them undertaking the inherent requirements of their nominal position on an ongoing basis, they may need to undergo a medical assessment. Where the medical assessment advises that an employee is incapacitated for their nominal position (refer to the definition of "Incapacitated") but has the capacity to undertake other work, ACTHD must take reasonable steps to find a suitable vacant position for which the employee is eligible.

PSC will provide advice to assist an incapacitated employee and the managers to support the process. A case manager from the Injury Management Team (CMTEDD) may also provide assistance with the medical assessment process.

If, following a medical assessment, the employee is found unfit to undertake their nominal position, the delegate may declare that the employee is incapacitated and commence a formal redeployment process.

PSC will liaise with a business unit, which has a temporary or permanent vacancy that matches the skills of an incapacitated employee, to enable the business unit manager to consider the suitability of the incapacitated employee, before the position is advertised.

Managers will consider the employee's suitability based on the employee's:

- skills,
- work experience,
- qualifications, and
- the medical assessment of work capacity.

If ACTHD has not been able to transfer the employee to a suitable vacant position, after a reasonable period of time (up to six months), the case will be referred to the ACTPS Redeployment Team (CMTEDD).

The referral to the ACTPS Redeployment Team (CMTEDD) can take place at any time if:

- a vocational assessment (or other information) shows the employee has very limited transferrable skills relevant to other work in ACTHD, or
- there is significantly limited work available that is within the employee's medical capacity.

PSC or the ACTPS Redeployment Team (CMTEDD) may recommend (at any time in the process) that the employee have a vocational or transferrable skills assessment (TSA), by rehabilitation provider, to provide information about the type of work or role that is suitable. Funding for the TSA is a business unit expense.

The ACTPS Redeployment Team (CMTEDD) and Shared Services Recruitment will identify ACTPS positions at a classification that is suitable for the employee, in accordance with the procedures detailed in the [ACTPS Medical Redeployment Policy](#).³

In the event that the ACTPS Redeployment Team (CMTEDD) is unable to identify a suitable position for the incapacitated employee the case may be referred back to ACTHD. Further action to manage the employee's employment will be undertaken in accordance with the provisions of the [ACTPS Medical Redeployment Policy](#).

³ In accordance with the Enterprise Agreements the classification of a suitable vacant position means a classification at either the same substantive level or an alternative equivalent classification in another classification stream where the maximum pay does not exceed the top increment of the employee's current classification by more than 10%. For clarity this does not allow for the transfer of an employee within the same classification stream e.g. a SOGB to transfer to a SOGA.

Records Management

Case management records and records of the assessment of the suitability of an incapacitated employee's suitability for a position must be maintained in accordance with the *Territory Records Act 2002* and the *Information Privacy Act 2014*.

Implementation

The procedure will be published on HealthHQ.

Related Documents

Legislation

- *Public Sector Management Act 1994*
- *Public Sector Management Standard 2016*
- *Safety, Rehabilitation and Compensation Act 1988*
- *Territory Records Act 2002*
- *Health Records (Privacy and Access) 1997*
- *Information Privacy Act 2014*
- [Guidelines for Rehabilitation Authorities 2019](#)
- Enterprise Agreements

Supporting Documents

- [ACTPS Rehabilitation Management System](#)
- [ACTPS Work Rehabilitation Policy](#)
- [ACTPS Work Rehabilitation Guide](#)
- [ACTPS Medical Redeployment Policy](#)
- [ACTPS Reasonable Adjustment Policy](#)
- [Early Intervention Procedure](#)
- [Delegations Manual](#)

References

- [Working for Recovery \(Comcare\)](#)

Definitions

Term	Definition
Incapacity	A non-compensable physical or mental condition that significantly reduces the public servant's capacity to exercise the functions of the public servant's position.
Suitable employment	<p>In relation to an employee who has suffered an injury in respect of which compensation is payable under the <i>Safety, Rehabilitation and Compensation Act 1988</i>, means:</p> <p>(a) in the case of an employee who was a permanent employee of the licensee on the day on which he or she was injured and who continues to be so employed - employment by the licensee as the case may be - work for which the employee is suited having regard to:</p> <ul style="list-style-type: none">(i) the employee's age, experience, training, language and other skills(ii) the employee's suitability for rehabilitation or vocational retraining(iii) where employment is available in a place that would require the employee to change his or her place of residence—whether it is reasonable to expect the employee to change his or her place of residence, and(iv) any other relevant matter. <p>NOTE: The ACT Public Service holds a self-insurance licence under the <i>Safety Rehabilitation and Compensation Act 1988</i>.</p>

Search Terms

Incapacity/medical redeployment/suitable employment.

Version Control

Version	Date	Comments
1.0	3 March 2023	First version
2.0	16 February 2023	Extension

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Attachment A - Health Assessments

Relevant legislation/instruments

ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2021-2022

In accordance with clause F4.30 the head of service may refer an employee for a medical examination by a nominated registered medical practitioner or registered health professional, or nominated panel of registered medical practitioners or registered health professionals, at any time for reasons including where:

- F4.30.1 the head of service is concerned about the wellbeing of an employee and considers that the health of the employee is affecting, or has a reasonable expectation that it may affect, the employee's ability to adequately perform their duties
- F4.30.2 the head of service considers that documentary evidence supplied in support of an absence due to personal illness or injury is inadequate, or
- F4.30.3 the employee has been absent on account of illness for a total of thirteen weeks in any twenty six week period.

Clause F4.31 provides that the head of service may require the employee to take personal leave after considering the results of a medical examination requested by the head of service.

In accordance with clause T3.1, the relevant head of service must direct an officer to attend a health assessment if the officer has been absent on account of illness, as a continuous period or in separate periods, for a total of thirteen weeks in any 26-week period. The other provisions of subclause F4.30 will continue to apply.

Public Sector Management Act 1994

Section 120 of the *Public Sector Management Act 1994* (the Act) defines:

Incapacitated - an officer is incapacitated if the officer is unable to exercise the functions appropriate to the officer's classification because of physical or mental incapacity.

Section 122 of the Act enables the Director-General (D-G) to take reasonable steps to find a vacant office and transfer a confirmed officer, where the D-G is satisfied on reasonable grounds that an officer is incapacitated. If the D-G does not locate a suitable vacant office, the D-G must refer the officer to the head of service. The head of service must take reasonable steps to find a vacant office and transfer a confirmed officer. If the head of service does not locate a suitable vacant office, the head of service must refer the unsuccessful redeployment to the D-G

Section 123 of the Act the enabled the D-G to reduce the classification of an incapacitated officer, unattached the officer of a lower classification or retire the officer from the service.

Section 124 of the Act stated that an officer cannot be retired on the grounds of invalidity unless the officer has reached the maximum retiring age or is eligible for an invalidity retirement benefit from

the relevant superannuation scheme. A certificate is usually provided by the relevant superannuation scheme.

Public Sector Management Standard 2016

Division 3.3 of the *Public Sector Management Standard 2016* (the Standard) includes detailed provisions for health assessments. The following information summaries the key provisions.

Definitions

Health assessment, of a public servant's physical or mental condition, means a written assessment about—

- (a) the condition, and
- (b) the public servant's capacity to exercise the functions of the public servant's position.

Non-compensable physical or mental condition means a physical or mental condition that is not the subject of a compensation claim under the *Safety, Rehabilitation and Compensation Act 1988* (Cwth).

Treating doctor, means any doctor chosen by the public servant to treat the public servant's physical or mental condition.

Head of service believes public servant has physical or mental incapacity

If either—

- a public servant's treating doctor advises the public servant is likely to be absent for more than 13 weeks; or
- the public servant is absent from work for 13 weeks or more; and
- the head of service believes that—
 - (i) the public servant is absent because the public servant has a non-compensable physical or mental condition; and
 - (ii) the condition significantly reduces the public servant's capacity to exercise the functions of the public servant's position.

The head of service must, in writing—

- tell the public servant about the belief, including the reason why the head of service believes the public servant's capacity to exercise the functions is significantly reduced; and
- ask the public servant for evidence to show the public servant is able to exercise the functions; and
- tell the public servant that without evidence that the public servant is able to exercise the functions, the public servant must have a health assessment; and
- give the public servant information about the possible health assessment; and
- tell the public servant that it may be misconduct to give false evidence; and
- tell the public servant that if the public servant is not able to exercise the functions because of a non-compensable physical or mental condition—

(ii) for an officer—the officer will be taken to be incapacitated under the act, Part 6 (underperformance and end of employment of officers); or

(iii) for an employee—the head of service may end the employee’s employment.

Requirement to undergo health assessment

If after considering any evidence given to the head of service by the public servant, the head of service believes the public servant has a non-compensable physical or mental condition that significantly reduces the public servant’s capacity to exercise the functions of the public servant’s position, the head of service must—

- arrange for the public servant to have a health assessment of the public servant’s physical or mental condition; and
- a reasonable time before the public servant is to have the health assessment, tell the public servant, in writing—
 - (i) the time and place of the assessment; and
 - (ii) the purpose of the assessment; and
 - (iii) about the relevant provisions of the *Health Records (Privacy and Access) Act 1997* relating to confidentiality of medical information and the public servant’s right to have access to any information provided to the person conducting the assessment; and
 - (iv) that the public servant may submit supporting material for consideration by the person conducting the assessment.

The head of service must keep records about the management of the public servant’s physical or mental condition.

Health assessment requirements

A health assessment must be undertaken by—

- (a) an authorised doctor other than the public servant’s treating doctor; or
- (b) a medical specialist authorised by the head of service; or
- (c) a medical review panel.

A health assessment must consider any previous assessment about the public servant’s non-compensable physical or mental condition.

The administrative unit in which a public servant was working at the time the physical or mental condition began must pay for the health assessment.

An authorised doctor means a doctor authorised by the head of service to—

- (a) perform medical examinations under the Act; and
- (b) make recommendations under this Act in relation to redeployment or retirement; and
- (c) make recommendations under this Act in relation to the health and physical fitness of officers whose appointment to the service on probation has not been confirmed.

Response to health assessment

As soon as practicable after receiving the health assessment, the head of service must give a copy of the health assessment to the public servant.

Having considered the health assessment, the head of service must—

- if satisfied the public servant has a non-compensable physical or mental condition that significantly reduces the public servant's capacity to exercise the functions of the public servant's position—do 1 or more of the following:
 - (i) approve further personal leave for the public servant;
 - (ii) plan for the public servant's return to work, in consultation with the public servant, in a way that supports the public servant's wellbeing;
 - (iii) declare the public servant incapacitated; or
- if satisfied the public servant does not have a non-compensable physical or mental condition that significantly reduces the public servant's capacity to exercise the functions of the public servant's position—notify the public servant, in writing—
 - (i) that the public servant must return to work within 14 days after the day the public servant receives the head of service's notification; and
 - (ii) if the public servant has new or more detailed medical evidence (additional evidence)—that the public servant may dispute the decision within 14 days after the day the public servant receives the head of service's notification.

If the public servant disputes the head of service's decision

If the public servant gives the head of service additional evidence within 14 days after the day the public servant receives the notification—the head of service must—

- (i) approve further personal leave for the public servant; and
- (ii) establish a medical review panel to make a final health assessment of the public servant's physical or mental condition.

If the public servant fails to give the head of service any additional evidence—the public servant must return to work within 14 days after the day the public servant receives the notification.

Health assessment by medical review panel

Before establishing a medical review panel, the head of service must tell the public servant, in writing—

- (a) that the medical review panel will be established; and
- (b) that the public servant may give evidence to the medical review panel; and
- (c) that the health assessment of a public servant's physical or mental condition made by a medical review panel is the final assessment of the public servant's physical or mental condition for the purposes of this division.

The members of a medical review panel are—

- (a) a chair who is an authorised doctor, with no previous involvement in assessing the public servant's physical or mental condition, nominated by the head of service; and

(b) a medical specialist, with no previous involvement in assessing the public servant's physical or mental condition, agreed by the head of service and the public servant; and

(c) a doctor or specialist nominated by the public servant.

The medical review panel must give the head of service a health assessment based on the majority opinion of the evidence considered by the panel.

A member of the medical review panel may give the head of service a separate report about the health assessment.

Having considered the health assessment and any separate report from a panel member, the head of service must—

(a) if satisfied the public servant has a non-compensable physical or mental condition that significantly reduces the public servant's capacity to exercise the functions of the public servant's position—do 1 or more of the following:

(i) approve further personal leave for the public servant;

(ii) plan for the public servant's return to work, in consultation with the public servant, in a way that supports the public servant's wellbeing;

(iii) declare the public servant incapacitated; or

(b) if satisfied the public servant does not have a non-compensable physical or mental condition that significantly reduces the public servant's capacity to exercise the functions of the public servant's position—

(i) notify the public servant, in writing, that the public servant must return to work; and

(ii) refer any further medical certificates in relation to the public servant's physical or mental condition to a senior authorised doctor for advice.

If the public servant fails to comply with a direction to return to work, the head of service must— for an officer—begin forfeiture of office procedures against the officer under the Act.

Attachment B – Work Trials

What is a work trial?

A work trial is a return to work strategy where an injured employee is placed with a host employer for a defined period 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.

In some cases, an employee undertaking a work trial may fill a vacant position, however a permanent position does not need to be created for an employee undertaking a work trial.

Purpose of a work trial

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 a worker needs new skills to improve their employability, and
- build their work relationships.

Designing a work trial

Work trials will have a fixed time frame and a work trial will not be used as a long-term arrangement. Three months is generally a reasonable time for an employee with a workplace injury to progress through the work trial goals and objectives.

The business unit where the employee was working at the time of the injury will fund the salary and administrative costs of the work trial for the first three months (incapacity, medical and rehabilitation costs being covered by workers' compensation insurance). Thereafter the gaining or host business unit will be expected to fund the salary and administrative costs of the work trial as the employee will be contributing to their operations and objectives. Extensions of work trial funding can be negotiated between business units on a case by case basis.

Work trial goals and progress will be reviewed regularly and adjusted, especially if the employee is not able to meet the work trial objectives and timeframes. The review process will aim to identify realistic return to work goals and changes will be designed so that they do not disadvantage the employee.

If an extended period for a work trial is indicated:

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

Monitoring the work trial

Stakeholders will schedule regular meetings (for example once a month) to monitor the progress of the work trial. It can be useful to arrange the workplace meetings following medical review appointments.

It is important that the employees and treating medical practitioner are involved in decision making if you are considering extending or ending the work trial.

The following should be considered when reviewing the progress of a work trial:

	Question
1.	Is the employee with a workplace injury actively participating in the work trial?
2.	Has the host employer (work area) been consistently able to offer the necessary suitable duties that meet the needs of the employee?
3.	Is the employee with a workplace injury 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 being offered employment with the host employer (work area)? Note: This should only be pursued if the employee is unable to return to work with their pre-injury employer in the future.
7.	What will the employee gain from continuing with this placement and with this host employer (work area)? Should a new host employer (work area) be investigated?
8.	Has the employee reached a level of work capacity that would allow them to return to the pre-injury employer or seek permanent employment elsewhere?
9.	Have the recommendations in the employee's medical certificates changed?