

The NWRI Management Process at Justice Health

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The NWRI Management Process at Justice Health - Overview

Justice Health encourages all workers, where able, to remain in the workplace following an injury, illness or health condition. This includes supporting workers with a condition that is not work related and reasonably practicable workplace adjustments can be made to their usual duties. These adjustments can be made until such time as the worker is fully recovered and able to safely achieve their pre-injury status. If a worker is unable to return to their pre-injury duties within a reasonable timeframe, this procedure provides guidance on what options worker's have regarding their ongoing employment.

Whilst Justice Health is committed to providing a safe and durable recovery at work, due care must be applied to ensure that any provision of a reasonable workplace adjustment does not aggravate the workers condition and/or place other workers or the organisation at an unacceptable level of risk. The recovery at work process for non work related injuries, illnesses or health conditions is not a substitute for a lack of available sick leave. The worker must be demonstrably fit enough to safely undertake their duties when there are objective medical restrictions so that this does not risk adversely affecting their overall recovery. When a worker who has a non-work related injury or health condition asks to return to work with medical restrictions, the worker's circumstances must be reviewed by their manager, including discussion around planned absences to reduce the delay in developing a Recover @ Work Plan.

This can be done in consultation with the relevant HR Business Partner, Work Health and Safety Advisor and if required the Workers Compensation Coordinator (WSC). If the provision of a reasonable workplace adjustment is considered a viable option, then a signed, time-limited Recover @ Work Plan (attachment X) must be in place prior to commencement. This must take into account any planned absences to reduce delay in the development of the Recover @ Work Plan.

Importantly, while the NWRI process is considered separate to the Workers compensation process, the NWRI process can be used as a way to support workers and avoid aggravation of health concerns that may result in Workers Compensation. Further, in many instances, the NWRI process can be used to support workers who have progressed back to work after a workers compensation matter has been finalised.

Policy and Legislative frameworks

The Ministry of Health's 'Rehabilitation, Recovery and Return to Work' PD2023_016 provides guidelines for Public Health Organisations within NSW in applying a consistent approach in managing situations where an worker has a non-work related injury or health condition which is impacting on their ability to perform the inherent requirement/s and demands of their position. Justice Health also has a duty of care under the Work Health and Safety Act and supporting regulations to manage risk and to ensure the health, safety and welfare of workers and others in the workplace and to minimise any organisational and corporate risk as a result of worker related injuries, illness or health conditions.

Responsibilities

The worker will:

- Not put themselves or others at risk by undertaking work that they do not have capacity to perform safely;
- Immediately report to their manager any non-work related injury, illness or health condition that has the potential to temporarily or permanently affect their ability to safely undertake the inherent requirements of their role, not limited to any planned absences or surgery;
- Take responsibility for their own health, safety, wellbeing and their ability to perform the duties for which they are employed. This includes taking appropriate steps to address any non-work related health issues they may have/develop whether it be permanent or temporary. This responsibility extends to the consideration of the safety of others in the workplace;
- Cooperate with their manager to meet obligations;
- Make all reasonable efforts to return to work based on current medical advice;
- Apply for and utilise leave appropriately to ensure they can manage their non-work related injuries and/or health conditions;
- Provide notice as soon as possible if upcoming leave is required ie: planned surgery and or treatment along with obtaining details on expected recovery and gaining the relevant medical clearance prior to their return to work;
- Keep their manager regularly updated when on sick leave;
- Provide updated medical certificates for any incapacity or partial incapacity sustained as a result of a non-work related injury/condition. This includes a clearance certificate that must be provided before returning to work following an extended absence or period of treatment as directed by their treating practitioner. Note: certificates must be provided regardless of leave entitlements as soon as practicable;
- Seek medical or other appropriate advice when directed to do so by their manager or other delegate in the instance that they have reduced capacity to safely perform the inherent requirements and demands of their position
- Comply with all relevant legislation or related policies.

The line manager will:

- Ensure the health, safety and welfare of all workers at work;
- Commence a Chronology once a non-work-related injury or health condition is known, to ensure accurate documentation the sequence of actions, events and progress throughout (attachment X)
- Ensure a timely, objective risk assessment of the workers non-work related injury, illness or health condition is conducted where it impacts on the workers ability to safely perform the inherent requirements, and demands of their position; and/or the ability of the site or service to deliver services. This risk assessment is undertaken on the basis of objective medical or factual information and/or observations or assessments made of the worker's presentation;
- Direct a worker on sick leave where the risk has been assessed as being too high to allow the worker to remain in the workplace whilst obtaining the required medical information to support a safe recovery at work, where able;

- Implement actions required to ensure this process is followed, in consultation with the Human Resources Business Partner, Work Health and Safety Advisor or the Workers Compensation Coordinator as required;
- Maintain confidentiality regarding the workers medical condition in accordance with the authority provided;
- Regularly monitor and write non-work related Recover @ Work plans and/or any flexible workplace arrangement to ensure they remain current and viable;
- Monitor and support the worker in the workplace whilst on a Recover @ Work plan, with guidance and advice from others
- Regularly liaise with the worker to review progress and wellbeing particularly when they are on leave;
- Consider any specific personal or cultural needs that may need to be put in place to support the workers well-being
- Document all correspondence pertaining to the non-work related injury, illness or health condition and TRIM to the workers personnel file, including history of contact and communication; and
- Ensure the worker is aware of and can access all relevant support services available to assist them if needed during the process.

The Human Resources Business Partner will:

- Provide legislative or policy based advice on complex employment related matters
- Liaise with the Workers compensation team on any matters that may be relevant to the employee including current medical restrictions; or to source medical providers that may assist with independent medical examinations;
- Provide expert advice in relation to referrals for an independent medical examination;
- Provide advice to the relevant manager to assist with the development of a Recover @ Work Plan as needed;
- Assist when requested, with the implementation of any complex or difficult Recover @ Work Plan's, also including if there are other workplace matters being managed (such as Performance or Conduct concerns)
- Provide expert advice on complex or long term sick leave matters within the context of this procedure and in line with 'Leave Matters for NSW Health Service
- Provide advice to the Line Manager on what supports are available including leave entitlements and employee assistance services including but not limited through EAP
- Where required, provide advice in relation to redeployment and job-seeking for workers who are unable to return to their pre injury role due to permanent medical restrictions;
- Support any workplace meetings that require involvement by the Workplace Relations team, and;
- Provide assistance with explaining the NWRI process, and where appropriate, identification of options for workers who are unable to return to their substantive position. This may include assistance with job seeking on a merit basis or providing advice on medical separation in cases where alternate employment is not possible.

The Work Health and Safety advisor will:

- Provide expert advice in relation to work health and safety (WHS) matters within the context of this process
- Provide expert advice in the completion of a risk assessment and management of WHS hazards. It is important that Line Manager's consult with the WHS team to ensure that proposed mitigation measures are practical and effective;
- Assist in the identification of WHS concerns in relation to any suggested or actual workplace adjustments; and
- Provide expert advice in relation to any work station assessments or job demand activities including recommendations relating to workplace adjustments.

Senior Managers will:

- Provide high-level support and advice to Line Managers regarding issues such as impact on service delivery, budget considerations and governance of non-work related Recover @ Work Plan's as appropriate;
- Provide authorisation of temporary or permanent workplace adjustments to ensure consistency, appropriateness and overall organisational viability;
- Ensure adjustments, plans and risk assessments are regularly monitored by the relevant Line Manager; and
- Provide authorisation for costs related to Independent Medical Examination's (IME's).

Consideration of reasonable workplace adjustments including a modification of usual duties

A manager may consider making reasonable workplace adjustments to enable a worker to remain at work whilst recovering from a non-work related injury, illness or health condition if (workers are encouraged to refer to - [attachment XX])

- A worker requests a temporary or permanent modification to their duties or hours;
- A manager receives medical evidence that suggests a worker may benefit from reasonable workplace adjustments;
- A worker indicates they have an injury, illness or health condition that is currently affecting or has potential to affect their ability to undertake their usual duties. This includes planned surgery;
- A Line Manager or colleague is concerned about the way a worker undertakes their usual duties noting that: An observation is made that a worker appears affected by an injury, illness or health condition, the Line Manager must in the first instance have a discussion with the worker to determine if there are any underlying injuries, illnesses or health conditions to consider. Should the worker deny any injury, illness or health condition as the cause of the change in performance, consideration should be made to determine if the worker is to be managed through a performance or misconduct related process (or any other policy based process that may be relevant).
- Where a worker confirms an injury, illness or health condition, they are to be managed in accordance with the process outlined here. For clinical workers, consideration may also need to be given to requirements related to mandatory reporting.
- NOTE: In the case of a psychological illness/condition, if medical information has been obtained and it has been confirmed that there is no diagnosable illness/condition in line with accepted psychological diagnostic manuals, matters in relation to unacceptable or

harmful workplace behaviours will still need to be risk managed, and the concerns managed in accordance with the relevant policy framework.

Actions for Line Manager following confirmation of non-work related injury, illness or health condition

- Letter sent to worker confirming notification (attachment X)
- The Line Manager is to arrange a meeting with the worker to discuss their intentions including whether they will be applying for leave or requesting workplace adjustments to support their recovery.
- This meeting should include a discussion around the site or services ability to provide reasonably practicable workplace adjustments to their duties in line with operational demands.
- It is important to clarify that leave will not be supported indefinitely, and consideration also needs to be made to the operational impact of any adjustments being sought. Where any period of leave is supported, this should be managed to allow for regular review points. This discussion is best to occur following undertaking of an initial risk assessment.
- Discussion about the request should also include:
 - Nature of the injury, illness or health condition, if relevant any incidents that contributed to the risk of further aggravation of the injury/illness to the employee if they remained at work without a Recover @ Work Plan or Risk Assessment;
 - Any relevant medical advice or evidence;
 - The impact of the injury, illness or health condition on the worker's day to day home and work activities;
 - The inherent demands of the worker's position as identified in the 'Position Description' and 'Job Demands Checklist' and whether these are impacted by injury/health condition; and
 - Length of time for which reasonable workplace adjustments are being requested.
- During the meeting, the Line Manager needs to provide the worker with a covering letter (attachment X), copy of their Position Description, Job Demands Checklist and Capability Assessment (attachment X) and request they complete and return following consultation with their Doctor or treating professional.
- The Line Manager should also provide the worker with the Authority to Release Information Consent Form (attachment X) for their consideration. If the employee refuses to sign the consent, please seek advice from the Human Resources Business Partner.
- Following the initial risk assessment, if it is deemed unsuitable for the worker to remain at work the worker must commence and/or remain on leave until the required medical information is received and the risk assessment updated in consultation with the worker (attachment X).

- It is expected that a worker will comply with any reasonable direction given by their Line Manager. Timeframes to review the risk assessment along with its recommendations and an ongoing communication plan should be agreed between the Line Manager and Senior Manager to support the workers recovery at work. If an employee does not comply with a direction, advice should be sought from the Human Resources Business Partner.

Reasonable adjustments to the workplace

- In cases where an injury, disability or illness is not covered by workers compensation, employees can ask for assistance in making changes to the workplace to accommodate any disability.
- Any decision regarding reasonable adjustment in a workplace will be taken with regards to what is practicable and the timeline of any adjustment. A workplace adjustment is a change to a work process, practice, procedure or environment that enables an employee to perform their job in a way that minimises the impact of their injury, disability or illness.
- Workplace adjustments allow a person to:
 - perform the inherent or essential requirements of their job safely in the workplace
 - have equal opportunity in recruitment processes, promotion and ongoing development
 - experience equitable terms and conditions of employment
 - steadily return to their pre-injury productivity, and
 - maintain a safe working environment for all staff.
- Under the Disability Discrimination Act 1992 (Commonwealth), Justice Health is obligated to make adjustments to accommodate an individual's disability, unless that adjustment would result in unjustifiable hardship.

Undertaking an Assessment of the Request For Workplace Adjustments

- Once the worker provides the relevant medical information or it is received from the Doctor, the Line Manager undertakes another risk assessment in consultation with the worker and safety advisor if required (attachment X) to determine if any modifications are able to or can be made.
- Consideration of the safety of the worker and others in the workplace must take priority over all other factors. Due care must be applied to ensure the organisation is not exposed to any additional safety risk, and at times this may also need to be balanced against the requirement to make reasonable adjustment. In some cases, particularly where the health concern is psychological in nature, consideration should be made to how the worker can be supported either at work or while away from the workplace. Consideration may also need to be made to a person's personal responsibility or to cultural safety concerns.
- The HR Business Partner, Work Health and Safety Advisors or Workers compensation team are available to provide advice with respect to the interpretation of medical reports, risk identification and reasonably practicable workplace modifications. Relevant contact details are available on the intranet (People and Culture page).

- Following the risk assessment, a decision is made regarding any workplace adjustments that can be made during the workers recovery. Consideration may also be given to a permanent modification if required. Due care must be applied to ensure that any temporary adjustments do not aggravate the non-work related injury, illness or health condition or inadvertently impact other workers at the site or service. Should the Line Manager form an opinion that it is not appropriate or practicable to allow the worker to remain at work with workplace adjustments it is important that they consult with the HRBP or others to discuss why this is not possible and arrange a meeting with the worker, a relevant support person (if the worker requires one) to outline the reasons for this decision.
- Records of decisions or discussion at meetings needs to be documented and kept. All relevant documentation should be added to the workers personnel file and advice also provided to the Senior Manager.
- A review of the risk assessment should be undertaken when and if the workers condition changes and the worker is able to provide updated medical advice to the Line Manager. Any concurrent issues related to the management of the employee are the responsibility of the Line Manager in consultation with the Senior Manager and with support from the relevant subject matter experts in the People and Culture team.
- Ongoing employment with Justice Health and viability of return to work plans should be reviewed regularly, and/or where the prognosis is that an employee will not be able to return to work.

Provision of Reasonable Workplace Adjustments

An adjustment is considered reasonable unless it causes “unjustifiable hardship” to the employer. Unjustifiable hardship could be in the form of financial cost, an amendment to the physical building that is not possible due to council or other restrictions, or an adjustment that would disadvantage other workers.

The Non-Work-Related Injury/ Illness process is not to be used with declined workers compensation claims where liability is in dispute.

Agreement to provide a reasonable workplace modification or changes to rostering by way of a Recover @ Work Plan (attachment X) must be made after careful consideration of the circumstances surrounding the request. Once all the relevant information is received from the worker and their treating practitioners, the Line Manager must consider:

- The availability of the duties;
- Considerations to change rostering, reduced hours, etc.
- The impact of workplace adjustments on other site or service workers;
- Length of time for which the workplace adjustment is requested/anticipated (medical prognosis);
- The impact to service delivery;
- The potential need for additional workers to backfill;
- Factors regarding the workers employment and employer’s ability to meet their duty of care to the worker; and
- Industrial or workforce implications around the worker’s request. This may include but is not limited to
 - a consideration of if the worker can meet the inherent requirements of their role
 - what options there are for redeployment

- compliance with any industrial instruments
 - if a 'Show cause' and termination of employment on medical grounds is appropriate.
- Any concerns the Line Manager has should be discussed with the Senior Manager. If required the Human Resources Business Partner can also provide advice during this phase.

Factors to consider when considering whether an adjustment is reasonable

- the effectiveness of the adjustment in assisting the worker with disability to perform their job
- the practicality of the adjustment
- the extent of any disruption caused to business operations
- the financial or other costs of the adjustment
- the extent of the employer's financial and other resources
- The availability of financial or other assistance to help make the adjustment, such as the employment assistance fund
- the nature of business activities and size of the organization
- the impact of the adjustment on other employees.

Examples of workplace adjustments that create an inclusive environment include:

- allowing a worker with disability to have some flexibility in their working hours, such as working part-time or starting and finishing later, or teleworking for part of the week
- redistributing minor duties, non-inherent requirements of a job, that a worker with disability finds difficult to do
- purchasing or modifying equipment, such as speech recognition software for someone with vision impairment, an amplified phone for a person who is hard of hearing, or a digital recorder for someone who finds it difficult to take written notes
- providing additional training, mentoring, supervision and support
- providing agendas in electronic formats for people who find it difficult to manipulate pages
- height-adjustable workstations

NWRI Recover @ Work Plan Parameters

- The Line Manager completes a Recover @ Work Plan (attachment X) for consideration and approval of all parties. Generally, Non-work related Recover @ Work plan's should not exceed twelve (12) weeks. If a worker cannot upgrade to pre-injury duties and hours at this time, a review of the NWRI R@ Work plan should occur. This may include
 - A review of risk and consideration of reasonable adjustments. This may also include consideration of leave, or workplace flexibility
 - A review of operational impacts
 - seeking additional medical information

- seeking a clearance from the employees health practitioner
 - exploring options for redeployment
 - a review of on-going employment
- Following notification of the health concern, where the risk identifies a need to make adjustments to The Line Manager MUST ensure the treating Doctor/professional has either signed the Recover @ Work Plan, or has indicated, through the Capability Assessment that the workers capacity meets the inherent requirements of the duties being offered, prior to the worker returning to the workplace.
- It is important that the worker seeks clarity from the Line Manager should they not agree with the Recover @ Work Plan. A copy of this plan and all relevant documentation must be saved in HP Content Manager in the workers personnel file. Any disputes can be referred to a moree Senior Manager, or to seek input from a subject matter expert.
- If the worker has no physical or task restrictions and is cleared to perform the inherent requirements of their position, however is unable to resume their pre-injury hours, a review will be undertaken to ascertain the possibility of a 'Flexible Work Practice'. In some cases, a change in contracted hours may also be supported.

Long-term Stable Medical Conditions

A Flexible Work Arrangement for up to one year may be the alternative arrangement in instances where the following conditions apply:

- the worker has an illness that is long-term but relatively stable (for example, undergoing treatment following a diagnosis of cancer), and;
- is able to work the inherent requirements of their role, and;
- is able to work a full shift length, but;
- requires a reduced number of shifts per week.

A Recover @ Work Plan is not required in this instance.

The use of a Flexible Work Arrangement reduces the utilisation of leave entitlements and preserves this for situations of unplanned leave. Further information regarding this is provided within NSW Health Flexible Workplaces Policy

Monitoring the Recover @ Work Plan

- Once the Recover @ Work Plan has been developed and approved by all parties, regular monitoring of the Recover @ Work Plan will be the responsibility of the Line Manager. The Human Resource Business Partner team are able to provide advice should it be required during this process
- The Line Manager will monitor the worker in the workplace and will conduct regular wellbeing check ins to ensure viability of the plan
- Prior to the worker completing their Recover @ Work Plan, the Line Manager is to provide them with a return to full duties letter (attachment X) which directs them to obtain a final clearance from their Doctor as well as have them update the Capability Assessment (attachment X)
- This information is required to be obtained and returned prior to completion of the current plan

- Should the worker not be able to upgrade to full unrestricted duties and hours by the completion of the Return to Work Plan, refer to next section below
- The Line Manager must continue to regularly complete wellbeing check ins, especially if the worker is absent from the workplace.

Certification for Return to 'Full' Pre-Injury Duties (Normal Duties)

- A worker may return to pre-injury duties and hours after having been certified as fit to return to those duties following review of the Position Description and Job Demands Checklist by the treating practitioner.
- It is important that the medical information that underpins the decision for a return to pre-injury duties is clear and enables Justice Health to ensure a worker's safety in the workplace. If this information is unclear, this must be clarified with the worker's treatment Doctor and/or professional in the first instance.

Unsuccessful completion of the Recover @ Work Plan

- A meeting is to be convened by the Line Manager AND Human Resources Business Partner, where appropriate, to discuss options and ongoing employment.
- A further risk assessment should be undertaken at this point. Advice can be provided by the relevant subject matter experts where applicable, prior to the meeting.
- The meeting will discuss the risk assessment and the proposed actions that are recommended to manage the worker's safety in the workplace.
- Worker's will be given the opportunity to discuss concerns and ask questions regarding the procedure and next steps.

The prognosis is still a return to full unrestricted duties and hours, but in a longer timeframe

Should the worker be unable to return to pre-injury duties at the conclusion of the 12 week Recover @ Work Plan, but the prognosis clearly indicates return to pre-injury duties is achievable within a short-term timeframe, then the Line Manager in consultation with the Senior Manager may choose to extend the plan beyond 12 weeks.

A review of the risk assessment should be undertaken to ensure continued viability of the Recover @ Work Plan and any workplace adjustments. The details and duration of the subsequent Recover @ Work Plan will be agreed to by the Line Manager and Senior Manager with a copy provided to the worker for them to sign.

Should the line manager be unable to accommodate an extension of the 12 week Recover @ Work Plan, the worker should be advised to remain at home for the remainder of the time until certified fit for a return to 'full' pre-injury duties.

The worker is entitled to use their available leave entitlements for this period.

Prior to advising workers to remain or commence sick leave, it is encouraged that the Line Manager obtain advice from the Human Resources team. Note: The worker's consent/request is required before using these entitlements in lieu of sick leave. Worker's must still apply for periods of leave, including sick leave and produce medical certificates. Where a worker is directed to take sick leave and they do not have any, it would be expected that the employer supports this through Special Leave, and this will require approval in accordance with the delegations.

The prognosis is now for permanent workplace adjustment

The Line Manager should review the risk assessment and discuss whether a permanent adjustment is able to be made to the workers substantive role with the Senior Manager and the Human Resources Business Partner. Assessment of this option must consider what flexibility and resources are available to support any such request, the demands of the site or service, the impact on and safety of other staff, and the grading of the position should the duties be materially altered.

Where appropriate, further advice and input may also be required from the Workers Compensation and the Work health and Safety Team. It is important that the medical prognosis is conclusive and clearly documented and a copy of any decisions relating to risk or the prognosis is kept in TRIM. This is required in cases where the decisions are contested, and also to allow continuity of management over time. Should workplace adjustment not be practicable or reasonable, the Line Manager should advise the worker that the remaining options are:

- Temporary placement into a role or to assist with a project or task
- Applying for an alternate suitable position within JH
- Review of vacancies and positions (this may include placement into the mobility scheme) or
- Medical Separation

Independent Medical Examinations

The Line Manager is able to refer the worker for an independent medical examination (IME) to determine fitness for work where they require further and independent medical advice, when there is conflicting medical evidence or the workers observed capacity is different from the medical evidence being supplied.

An IME must only be considered following receipt or attempts at receipt of comprehensive information from the workers treating practitioners. It is not to be used in the absence of the worker providing relevant information in the first instance. If a worker has been non-compliant in providing medical information, remains absent from the workplace for an extended period of time or continues to demonstrate difficulty in undertaking the inherent requirements of their role, an IME may be pursued and a worker can be directed to attend. Such requests are arranged by the Line Manager in consultation with the Human Resources Business Partner and any referrals for these assessments must be approved by a Senior Manager. The relevant department cost centre will be responsible for meeting the costs associated with the IME which

includes the provision of wage payments for the time associated with the appointment. This may include any reasonable travel expenses. Examples of conflicting information can be:

- If an worker presents a medical certificate or clearance that is at odds with their observed functional capacity;
- If sequential medical certificates have vastly different capacity indicated i.e.: total incapacity until the worker runs out of sick leave and subsequent certificate is full capacity.

This assessment will clarify the diagnosis, recovery and return to work timeframes – taking into account the permanency or temporary nature of medical restrictions. The information may be utilised to take into consideration any reasonable workplace adjustments that may need to be made.

Preparing the referral documentation

The referral documentation (attachment X) should be drafted by the Line Manager and must:

- Include a current and accurate Position Description which sets out the inherent requirements of the role and job demands of the position along with comprehensive details of the actual work undertaken;
- Provide all received medical information including medical certificates and Capability Assessment;
- If relevant, any objective information in relation to how the workers performance has been affected and how this is preventing the worker from performing the inherent requirements of the role. This may include further sick leave or other leave records, and-
- Include objective evidence to support any assertions or conclusions the Line Manager makes in regards to the workers ability to perform the work. The Workers Compensation team should be consulted when an IME is being considered and can assist with preparation of referral paperwork if needed.

The need for consultation with the worker

Whenever the employer initiates a referral to an IME, clear reasoning must be provided to the worker with respect to the reason/s for referral. Prior to referral, the Line Manager must ensure they have sufficient grounds to proceed.

Following referral, the Line Manager must provide the worker with:

- A formal letter advising of the referral (attachment X)
- The Fact Sheet (attachment X)

The IME Report

The independent medical report will be made available to the Line Manager and Human Resources Business Partner and maintained in the workers secure TRIM Personnel File. If requested, the employee can also be provided with a copy.

The Line Manager and Senior Manager will discuss the recommendations in the report and available options before meeting with the worker to discuss next steps.

The Human Resources Business Partner or the Workers Compensation team may be requested to provide advice should the Line Manager require clarification of the report's recommendations.

Where a report is being provided to a worker, it is recommended that the report is also provided to the worker's nominated treating Doctor. This will need to be confirmed with the worker, or else they can be asked to do this.

NOTE: Other independent assessments may also be sought including functional, workplace, ergonomic and others as required. These assessments can also be referred to when assessing medical advice to clarify whether a worker can perform specific duties and functions

Appealing an IME Assessment

If the worker does not agree with the IME outcome or believes there is conflicting evidence about fitness for duty, the worker can appeal the IME assessment. In this instance, the worker must be able to provide additional medical information and or comment from their treatment providers which can be considered or else sent to the IME Doctor for further consideration.

Where the IME Doctor is asked to undertake further consideration, that Dr will then provide a supplementary report which is funded by the relevant cost centre – it is important that the worker understands and complies with any decisions made based on this information.

If further medical information is provided that contradicts this, an assessment would be made on a case by case basis.

Priority Placement

Priority Placement is at the discretion of the relevant Senior Manager of the service/site and can only be provided on a case by case basis, depending on the circumstances of the injury/health condition and whether it is reasonably practicable to do so.

Further, priority placement of any non-work related injury/health condition is superseded by those who have compensable injuries or health conditions.

Once it is determined that a worker will not be able to return to their substantive position, the Line Manager will need to ensure appropriate written confirmation has been received from the Nominated Treating Doctor, Nominated Treating Specialist or other medical practitioner.

Once this is received, a meeting will be held with all relevant parties and to explore options, including where a priority placement may be available. A review of current vacancies and/or short term projects may assist. Where a suitable match/opportunity is identified, an assessment process should be completed by the line manager responsible for the opportunity, with assistance from the substantive Manager and the Human Resources Business Partner as required. In any case where transfer or appointment to a vacancy or temporary position is being considered, the process of assessment should be in accordance with the Priority Assessment process (and a suitability assessment completed).

The worker may be transferred to the role if they are deemed suitable against the essential criteria or provided with a work trial for up to 12 weeks if they are likely to fulfil the requirements of the role through training and support during this period. If the work trial is unsuccessful at any time, a meeting will be held to discuss this, and medical separation will proceed. Any decision

made needs to be documented and supporting information kept, and this must be stored in TRIM.

Where the priority assessment is sought outside the worker's site/service, the Chief Executive of both organisations must also approve the transfer/work trial. Where there are issues with workers, or disputes with respect to a person's suitability for placement, matching and/or redeployment position, a review of those matters can be undertaken by the relevant Workforce Relations team lead, and for final decision.

Alternative Employment Options

A worker who is not able to upgrade to full unrestricted duties and hours by the completion of the NWRI Recover @ Work plan and where reasonable adjustments cannot be sustained, may need to be considered for medical separation. It is reasonable to discuss this pathway early on in any routine Return to Work meetings, particularly where the prognosis for recovery is poor or where there may be difficulty in identifying reasonable adjustments.

While the process of seeking medical separation is being undertaken, discussions with the employee should identify how any period of absence will be managed, and if they will apply for sick leave, other leave or absence at their own expense, with the view that they will participate in any efforts that JH makes to redeploy them and they commence independent job seeking.

In the short term, a decision may also be made to have the worker assist with a task or project that may be a priority. Any such decision will only be taken with consideration to the workers restrictions, and in consultation with them.

The employee will be notified about any recommendation being made that may seek to end their employment, and will be given the opportunity to respond to such recommendation, prior to any decision being made. Wherever possible, a meeting should be held with the employee to discuss this process when issuing any correspondence that involves discussion of medical separation. The Line Manager will facilitate this meeting with assistance from the Human Resources Business Partner, and the Senior manager where required. The worker must be given the opportunity to bring a support person.

Workers are able to obtain support from their Line Manager or the Employee Assistance Program's 'Job Assist' for assistance in job seeking. Should the worker find and apply for a suitable alternative position, their appointment would be assessed based on merit only as per the 'Recruitment and Selection of Staff to the NSW Health Service'. The worker must declare any health related restrictions within the recruitment process and provide authority for the current Line Manager to release that information to the convenor should they be the preferred applicant. In some cases, referral to the **Mobility Scheme** may also be appropriate. Advice about that should be sought from the Human Resources Business Partner.

Medical Separation

If a worker is unsuccessful in gaining alternative employment or where no reasonable adjustments can be made, the Line Manager, in consultation with the Human Resources Business Partner will commence processes for medical separation.

A worker can be advised that they are able to resign during this process, but it is important that they understand the supports Justice Health are able to offer before they make a decision regarding their employment. In any case, workers should also be reminded to access support through the EAP, and where they consider it appropriate, to seek independent advice about their options.

Worker's are encouraged to reach out to their Line Manager, support person, EAP, union delegate or family/friends, Superannuation fund and anyone else they consider appropriate, to ensure that they understand varying perspectives, so that they can make a well informed decision.

Confidentiality

All information and records collected during the injury management process will be kept confidential in accordance with the Privacy Principles and will only be disclosed in accordance with these and/or, where appropriate, the provisions under information collection and sharing of the Workplace Injury Management and Workers Compensation Act 1998 (NSW).

Injury management information is information that involves the treatment, rehabilitation, retraining, claims management and employment management practices that are directed to assist a worker to return to work.

The worker is responsible for giving consent for the sharing or exchange of information for the purposes of managing the injury/ illness. This is done by signing an authority to release form.

The worker may withdraw consent at any time, assistance to support the workers return to work may be hindered.

Information covered by the authority to release includes, but is not limited to:

- File notes, letters, faxes, emails and recover at work plans developed by the R@WC
- NTD reports, medical information, file notes and assessments
- Specialist assessments and reports if the worker was referred to the specialist by the NTD, and
- Approved workplace rehabilitation provider documents.

Retention of records and maintaining confidentiality

Records of all conversations held with various stakeholders and copies of all documents and reports used in the rehabilitation and recovery process, plus all case notes relevant to the management of the NWRI R@W Plan, will be maintained by the Line Manager. These documents should support and align to the chronology (attachment X) maintained since the notification of injury.

These records will be kept and maintained in confidence in accordance with the State Records Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW). The Human Resources Business Partner will assist by creating a confidential TRIM file for each worker. Workers are entitled to view certain records held on file and which are not used for the purposes of seeking legal or compliance advice.

Where requested, the Human Resources Business Partner will provide any such documents, and will meet with the worker to review the records and explain the documents, notations and

abbreviations as part of providing such records. The worker may bring a support person to this meeting.