



Policy Amendment Proposal RE-01 Return to Work - Overview

This policy amendment proposal relating to an overview of the return to work process will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed amended Return to Work - Overview policy will reflect minor changes to ensure consistency with the provisions of the Act.

A five-year policy review plan will be developed later in 2022. After July 1, 2022, all amended policies to align with the new Act will be prioritized for a more detailed review.

The purpose of this policy is to provide an overview of the return to work process.

Relevant sections of the Act

The following sections of the Act are relevant:

- 91 duty to mitigate
- 116 rehabilitation assistance
- 117 return to work

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions

Board Orders/Regulations

N/A

Current policy

[RE-01 Return to Work - Overview](#)



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The Board of Directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the Board of Directors approving any amendments.

Engagement on this policy proposal closes on **May 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by May 31, 2022, by mail or drop off at
Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8

By the end of June a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



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Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation Act* establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy provides an overview of the return to work process.

Definitions

board means the Workers' Safety and Compensation Board

case management team means a team that assists the worker with their recovery, early and safe return to work plan and, if needed, vocational rehabilitation. The team always includes the worker and the board. Employers have a duty to co-operate in their worker's early and safe return to work and will be encouraged to use participation on the Case Management Team to facilitate that duty. The team can also include up to two representatives of the worker (chosen by the worker), case manager and the health care providers. Other members may be added depending on their specific roles and responsibilities.

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

health care provider means

- a. a medical practitioner; or
- b. a health care provider recognized by the board

medical practitioner means

- a. a person who is entitled to practice medicine in Yukon pursuant to the *Medical Profession Act*; or
- b. a person entitled to practice medicine under the laws of another province

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written or oral, express or implied and as further defined in section 77 of the Act



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Policy Statement

1. General

The board encourages workers, health care providers, employers and other parties to work co-operatively as a Case Management Team to explore all reasonable, creative and flexible solutions to design plans that facilitate the worker staying at work, when possible, or facilitate the worker's early and safe return to work when the worker, functionally, cannot stay at work.

When the employer or the worker does not fulfill the required obligations in relation to the early and safe return to work process, the system breaks down and fails to progress efficiently. Active participation from all parties is paramount to preventing disability. The board manages this process in the best interests of the employer and worker and takes corrective steps to encourage compliance.

2. Early and safe return to work

Return to work following a work-related injury starts during the recovery phase of the early and safe return to work plan. In this phase of return to work, workers and their employers will work together with **the board** and other appropriate parties to form the Case Management Team to accommodate a worker's functional abilities while recovery from the injury is occurring. Section **117** of the Act includes a duty to co-operate in early and safe return to work for all workers and their employers. The focus in this phase is on accommodating the worker in their job with the employer in accordance with the following hierarchy of return to work (see below).

3. Return to work hierarchy of objectives

Return to work services are provided according to the following sequential hierarchy of objectives to return the worker to:

- a. **employment held at time of work-related injury**;
- b. **employment held at time of work-related injury** with modifications/assistive devices;
- c. **employment held at time of work-related injury** with modified duties (including different duties while maintaining up to 50 per cent of duties at the time of the work-related injury);
- d. graduated Early and Safe Return to Work;
- e. an **alternate** job with the same employer;
- f. a similar or different job with a different employer;
- g. a combination of any of the above, dependent upon circumstances.



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Return to work statistics show that the majority of workers recover and are able to return to their employment held at the time of the work-related injury. The board may consider providing assistance to upgrade the worker's existing skill sets as part of a vocational rehabilitation plan, during recovery, where an early and safe return to work plan is not possible because of a work-related injury (see policy [RE-10 Vocational Rehabilitation](#)).

Early and safe return to work is explained further in policies:

- [RE-02-1 Duty to Co-operate Part 1 of 4: Early and Safe Return to Work Plans](#);
- [RE-02-2 Duty to Co-operate Part 2 of 4: Roles and Responsibilities](#);
- [RE-02-3 Duty to Co-operate Part 3 of 4: Functional Abilities](#); and
- [RE-02-4 Duty to Co-operate Part 4 of 4: Penalties for Non co-operation](#).

4. Vocational rehabilitation

In cases where a worker has reached (or is expected to reach) maximum medical improvement, but is unable to work at the earnings level at the time of the work-related injury, the worker may be offered a vocational assessment to identify current skills and abilities and to determine options to assist the worker to work at the employment at the time of the work related injury, preferably at the earnings level at the time of the work-related injury, given the residual level of function post-injury.

Some workers will require vocational rehabilitation (employment readiness, academic upgrading, re-training, on the job training,) in order to enable them, to the greatest extent possible, to work at the earnings level at the time of the work-related injury, preferably with the employer at the time of the work-related injury.

5. Estimating earnings capacity

The board's obligation to workers is to return them to their employability status to the greatest extent possible. This is achieved through return to work (early and safe return to work, re-employment obligation, employment readiness, vocational rehabilitation assessment, vocational rehabilitation plans) in conjunction with the provision of appropriate health care treatment, products and services as determined by the board.

In some cases the board must estimate a worker's earning capacity where the worker has reached maximum medical improvement and is not working at the earnings level at the time of the work-related injury, but is employable.

This process is explained in policy [RE-13 Determining Suitable Employment and Loss of Earnings Capacity](#).



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6. Employment readiness

When a worker is considered employable by **the board**, but is not job- attached to their employer, that worker may be eligible for an employment readiness program of benefits and services designed to improve the worker's ability to successfully re-enter the labour market.

Policy [RE-12 Employment Readiness](#) provides more information on this program.

Related Policies

[RE-02-1 Duty to Co-operate Part 1 of 4: Early and Safe Return to Work Plans](#)

[RE-02-2 Duty to Co-operate Part 2 of 4: Roles and Responsibilities](#)

[RE-02-3 Duty to Co-operate Part 3 of 4: Functional Abilities](#)

[RE-02-4 Duty to Co-operate Part 4 of 4: Penalties for Non co-operation](#)

[RE-10 Vocational Rehabilitation](#)

[RE-12 Employment Readiness](#)

[RE-13 Determining Suitable Employment and Loss of Earnings Capacity](#)
