



## Policy Amendment Proposal

### RE-02-2 Duty to Co-Operate, Part 2 of 4 Roles and Responsibilities

This policy amendment proposal relating to roles and responsibilities in 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 Duty to Co-Operate Part 2 of 4, Roles and Responsibilities 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 outline the roles and responsibilities of the worker, employer, health care providers and the board in supporting the early and safe return to work of workers.

#### **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-02-2 Duty to Co-Operate Part 2 of 4: Roles and Responsibilities](#)

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## Policy Amendment Proposal RE-02-2 Duty to Co-Operate, Part 2 of 4 Roles and Responsibilities

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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](mailto:Policy.Feedback@wcb.yk.ca)
2. Emailing comments directly to [Policy.Feedback@wcb.yk.ca](mailto: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](http://www.wcb.yk.ca)

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## Policy Amendment Proposal

### RE-02-2 Duty to Co-Operate, Part 2 of 4

#### Roles and Responsibilities

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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.

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#### **Purpose**

This policy outlines the roles and responsibilities of the worker, employer, health care providers and the board in supporting the early and safe return to work of workers.

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#### **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

**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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### Roles and Responsibilities

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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.

##### 2. Roles and Responsibilities

###### *Role of the health care provider*

In addition to diagnosing and treating the worker, health care providers are responsible to:

- a. provide the employer and worker and **the board** with functional abilities information;
- b. provide the worker and **the board** with relevant objective medical information;
- c. identify the most appropriate method of treatment for the **work-related** injury;
- d. ensure the worker receives timely treatment; and
- e. ensure the benefits of early and safe return to work are discussed, encouraged and supported throughout recovery.

###### *Role of **the board***

The **board's** role is to assist both the worker and the employer in developing a plan for the early and safe return to work of a worker. **Board** staff are responsible to use their expertise in presenting information and options with likely outcomes, timelines, practical expectations and to help the worker and employer make choices in developing and implementing a return to work plan.

They are responsible for monitoring the effectiveness of the plan and determining when the plan is completed.

In order to facilitate the shared responsibilities of the workplace parties in the early and safe return to work process, **the board** will:

- a. establish the Case Management Team;
- b. manage the medical recovery of the worker. In doing so, **the board** will:



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#### Roles and Responsibilities

- i. determine the expected duration of injury recovery;
  - ii. monitor health care reports and communicate appropriate information to the Case Management Team;
  - iii. expedite health care appointments;
  - iv. confer with a **board** medical consultant if recovery or milestones to recovery are of longer than expected duration;
  - v. determine when the worker has reached maximum medical improvement; and
  - vi. provide other appropriate services, as needed, to facilitate the worker's recovery.
- c. communicate to the employer and worker their statutory obligations to co-operate and the early and safe return to work process;
  - d. ensure early and safe return to work (ESRTW) plans are progressing along the hierarchy of return to work objectives (see policy [RE-01 Return to Work – Overview](#)), are consistent with the worker's functional abilities and, where appropriate, are rehabilitative in nature;
  - e. monitor activities, progress, and co-operation of the employer and worker;
  - f. determine compliance with the obligation to co-operate. Penalties for non co-operation will be determined in accordance with the provisions outlined in the Act and in policy [RE-02-4 Duty to Co-operate, Part 4 of 4: Penalties for Non Co-operation](#);
  - g. resolve disputes; and
  - h. communicate regularly and effectively with the employer, worker, health care providers and, where appropriate, other members of the Case Management Team.

#### ***Role of the worker***

Worker involvement in the development of their own return to work plan is essential. It provides a sense of ownership of the program and commitment to return to work in a timely and reasonable manner. Return to work services provide early assistance to workers to help the worker maintain a positive connection to the workplace and alleviate any of the concerns, experienced by the worker following a **work-related** injury. It is incumbent upon the worker to take responsibility for their own recovery and return to work. This includes accepting suitable early, safe return to work offers of accommodation by the employer. In recognizing the worker's key role in the return to work process, the Act sets out minimum requirements for workers regarding co-operation in rehabilitation and the safe return to work process. Workers are expected to co-operate fully in return to work measures.



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#### Roles and Responsibilities

The Act requires that a worker must co-operate in their early and safe return to work by:

- a. contacting their employer as soon as possible after the work-related injury occurs and maintaining communication with them throughout the period of their recovery;
- b. assisting the employer, as may be required or requested, to identify suitable employment that is available and consistent with the worker's functional abilities and that, where possible, restores the worker's average earnings before the work-related injury;
- c. accepting suitable employment that is identified under paragraph (b);
- d. giving the board any information that the board may request concerning their return to work; and
- e. doing any other things that the board may determine in order to facilitate their early and safe return to work.

Workers are entitled to receive appropriate benefits while co-operating in their active recovery and the progressive early and safe return to work process.

#### *Role of the employer*

Co-operation and commitment by the employer in the return to work process is essential. Early involvement by the employer is crucial as well as ongoing communication and consultation in order to develop and support the return to work plan for the worker. Commitment by the employer will ensure success and reduce costs due to injuries for all stakeholders. In recognition of the important role of the employer, the Act sets out the minimum requirements for employers of workers regarding co-operation in the early and safe return to work process. This includes:

- a. contacting the worker as soon as possible after the work-related injury occurs and maintaining communication with them throughout the period of their recovery;
- b. providing suitable employment that is available and consistent with the worker's functional abilities and that, if possible, restores their average earnings before the work-related injury;
- c. giving the board any information that the board may request concerning the worker's return to work; and
- d. doing any other things that the board may determine in order to facilitate the worker's early and safe return to work.



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#### Roles and Responsibilities

#### *Role of self-employed individuals who **have a work-related injury***

A proprietor who has purchased optional coverage and has experienced a work-related injury must cooperate and commit to their ESRTW plan as both the worker **and** the employer.

When roles of the worker and employer are in conflict in these situations, the matter will be resolved by the **board** decision-maker.

### **3. Responsibility for payments during early and safe return to work plans**

Numerous options are available for the development of an ESRTW plan for a worker. ESRTW plans promote a worker's return to fitness for employment and ultimately employment. Whether the **board** pays compensation benefits, the employer pays employment earnings, or a cost-sharing arrangement is negotiated and is determined based on the hierarchy of return to work options.

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## Related Policies

[RE-01 Return to Work – Overview](#)

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

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