



# Health and Safety Guideline

## HSG 5.5 Non-Workers Compensation

### Injuries and Illnesses

#### 1. Purpose

This document provides guidance to assist with managing and supporting workers who have a non-workers compensation related injury or illness which impacts on their ability to perform the inherent requirements of their position.

#### 2. Scope

This Guideline applies to all health, safety and wellbeing activities of staff, students, visitors (including volunteers and contractors), Council members, and other persons interacting with the University of Newcastle (workers); the operations of staff of University aligned Research Centres and controlled entities; and all activities conducted by or on behalf of the University of Newcastle on and outside of the University's campuses.

#### 3. Guidelines

##### 3.1. The University's Commitment

The University of Newcastle, Leaders and Supervisors recognise the value its workers provide to the organisation. In the unfortunate event that a worker has a pre-existing, or sustains, a non-work related-workers compensation injury or illness, the University is committed to providing a safe, sustainable and supportive workplace.

The University will manage employees with non-workers compensation injuries, illnesses or health conditions with a consistent risk management approach in consideration of the period of time to achieve pre-injury status, availability and approval of suitable duties and whether workplace modifications are required and able to be accommodated. Whilst the University is committed to providing a safe Well to Work program, due care must be applied to ensure that any provision of duties does not aggravate the injury or health condition, and/or place the worker or the organisation at an unacceptable level of risk.

The University is committed to:

- providing appropriate support and assistance to workers who have a non-workers compensation injury/illness, disability or medical condition which impacts on their ability to carry out the inherent requirements of their position.
- ensuring the worker can remain safe and well in the workplace without risk of exacerbation, where reasonably practicable, and to ensure that they are not treated unfavourably because of their injury, illness or disability.
- providing suitable and reasonable workplace adjustments to support the worker. Where practicable, this may include the provision of equipment, a short term change of the inherent requirements of the position, working from home for an agreed period of time and/or the use of accrued leave to return to work in a graded way.

### **3.2. Notification**

Where a worker becomes injured or ill with a non-workers compensation condition, they should advise their leader or supervisor and contact the Health, Safety and Wellbeing Team or the HR Business Partner for their area.

Where an injured worker is unable to do this themselves, the worker's supervisor should contact the Health, Safety and Wellbeing Team on their behalf and with their consent to do so. Prompt notification allows timely support for the worker, assistance to the work area and contact with the Nominated Treating Doctor (NTD) to provide advice regarding supporting the worker with a Well to Work Plan (Appendix 1).

### **3.3. Well to Work Coordinator**

The Well to Work (WTW) Coordinator assists workers and supervisors to develop safe and sustainable plans for the period they are unfit to carry out the inherent requirements of their position or ongoing workplace adjustments where it is identified they are required. Workers can contact the Health, Safety and Wellbeing Team who are available to assist injured and ill workers.

The WTW Coordinator has the authority to represent and make decisions for the University in relation to preparing, monitoring and reviewing Well to Work Plans (see Appendix 1) in consultation with all stakeholders.

### **3.4. Informed Consent and Confidentiality**

- a) Informed consent is when a worker is provided all the relevant information before consenting to the release and exchange of information relating to their injury/illness. This is to ensure the worker understands the benefits of providing consent and the risks of not.

- b) The injured worker can provide consent for the NTD, employer, Insurer other treatment providers to exchange information for the purpose of supporting the worker to manage the injury/illness in the workplace and prevent an exacerbation. A Consent Form for Release of Personal Information (see Appendix 2) will be provided to the worker to allow this to occur, but it is their right to decline to provide consent.
- c) Information obtained during the Well to Work process will be treated with sensitivity and confidentiality in line with the Commonwealth and State Privacy provisions and the University's [Privacy Management Plan](#).
- d) Approval to access or release medical or other information relevant to a worker's Well to Work program, will be sought from the worker using the Consent Form for Release of Personal Information (see Appendix 2).
- e) The WTW Coordinator will release information to key parties on a 'need to know' basis only where information is required for the worker's rehabilitation and Well to Work Plan, and the worker has consented.
- f) The worker may withdraw consent at any time in writing to the WTW Coordinator. However if consent is withdrawn this may impact support that can be provided due to access of relevant medical or other information.

### **3.5. Rights, obligations and support**

Workers will be provided support by their supervisor and Well to Work Coordinator in relation to non-workers compensation injuries and illnesses.

- a) The University will:
  - Consider their Work Health and Safety obligations to ensure the health and safety of the worker. This will be done via a risk based approach through the identification of risks associated with the worker's injury or illness and an assessment as to whether these can be managed to ensure a safe work environment to prevent an exacerbation of the injury/illness.
  - Ensure they can provide a safe working environment for everyone that may be impacted the injury or illness of the worker, including colleagues, clients and other stakeholders.
  - Assess the impact of the injury on the work tasks and any use of equipment and or workplace adjustments so that the worker can safely perform the inherent requirements of their position.
  - Request consent from the worker to liaise with the NTD as to whether the worker can do their job safely and seek feedback on what equipment and or workplace adjustments may be required and for what duration.

- Comply with the Disability Discrimination Act 1992 and be responsible for providing equipment and or workplace adjustments to help the worker perform the inherent requirements of their substantive position where reasonably practicable.
  - Comply with the SafeWork NSW [Code of Practice for Managing Psychosocial Hazards at Work](#) and refer to it for practical guidance on the process that could be used to identify and to manage psychosocial hazards in the workplace.
  - Where it is identified that the work health and safety risks are not able to be managed, the worker will be supported to access accrued leave entitlements (personal or annual leave) or sick leave without pay where these have been exhausted.
- b) It is advisable for workers with a non-workers compensation injury or illness to co-operate and comply with the Well to Work program and adhere to the restrictions as outlined on the Well to Work Plan, to ensure their own safety whilst returning to the workplace. In doing so workers are responsible for:
- Not putting themselves or others at risk by undertaking work whilst injured or ill that they do not have the capacity to perform safely;
  - Reporting a pre-existing injury and illness, on commencement of employment with the University, as per the directions provided during the onboarding process;
  - Reporting a non-workers compensation injury or illness to their supervisor, as soon as possible and or the Health, Safety and Wellbeing Team, and includes any injury or illness that has the potential to temporarily or permanently affect their ability to safely undertake the inherent requirements of their position;
  - Take responsibility for their own health, safety, wellbeing and their ability to perform the inherent requirements of the position for which they are employed. This includes taking appropriate steps to address any health issues they may have/develop if these impact on their capacity to safely perform the inherent requirements and demands of their position whether it be permanent or temporary;
  - Staying in touch with the University and keeping their supervisor and or Well to Work Coordinator updated regarding the expected date of return to work, and recommended adjustments, if necessary, to aid the return to work;
  - Providing medical certificates for workplace absences in line with the relevant Enterprise Agreement or contract of employment;
  - Ensuring their medical certification is current and is forwarded to the supervisor and or Well to Work Coordinator;
  - Adhering to all stipulations documented in the Well to Work Plan;

- Advising their supervisor and Well to Work Coordinator if they experience difficulty performing the duties in the Well to Work Plan or if they have an exacerbation of the injury or illness;
  - Where practicable, attend treatment outside of normal working hours. Where this is not possible workers should try and schedule appointments first thing in the morning or later of an afternoon and advise their supervisor.
- c) Workers have the right to:
- Be consulted and involved in identifying suitable duties and developing their Well to Work Plan;
  - Privacy and confidentiality;
  - Access to mechanisms for resolving complaints and disputes;
  - Access to an interpreter service where possible; and
  - Protection from dismissal for temporary absences in line with Fair Work standards.
- d) Leaders and Supervisors are responsible for:
- Ensuring a timely risk assessment of the workers injury or health condition is conducted where it impacts on their ability to safely perform the inherent requirements, and demands of their position; and/or business continuity. This risk assessment is undertaken in consultation with the employee and the Health, Safety and Wellbeing Team;
  - Consulting and working with the worker and WTW Coordinator in the development of a Well to Work Plan by identifying suitable duties that are both appropriate consistent with the NTD's recommendations, where reasonably practicable;
  - Where the worker is unfit for duties, establishing the worker's preferred method of contact and regular check-in timeframes. Once the worker has returned to the workplace, the supervisor should regularly check-in with them to ensure they are managing;
  - Maintain confidentiality regarding the worker's medical condition in accordance with the authority provided;
  - Identifying the resources available through the University and the help that is available to the worker;
  - Taking all reasonable steps to return the worker to their substantive position; and
  - Overseeing the worker on their return and throughout the return to work period and providing necessary support.
- e) The Well to Work Coordinator is obliged to:
- Providing expert advice and interpretation of complex medical restrictions;

- Providing expert advice in relation to referrals for an independent medical examination;
- Providing expert advice to the relevant supervisor to assist with the development, implementation, identification of suitable duties, monitoring and reviewing of a Well to Work Plan as needed;
- Liaising with external stakeholders, such as the Nominated Treating Doctor, treatment providers and relevant union contacts; and
- Keeping confidential case notes and records in line with laws and guidelines.

### 3.6. Workplace Adjustments

Workplace adjustment(s) are personalised and tailored to meet the individual requirements and circumstances of the worker, where reasonably practicable. They may be temporary or long-term and therefore need to be reviewed regularly as part of a Well to Work Plan.

The WTW plan, signed by both the supervisor and worker, will clearly outline the following:

<p><b>Treating medical Practitioner’s advice regarding</b></p>	<ul style="list-style-type: none"> <li>• the variation in days per week, hours per day, and medical restrictions;</li> <li>• duties from the inherent requirements of the position that can be safely performed;</li> <li>• medical/relevant specialist review dates; and</li> <li>• WTW review dates - to occur routinely during the WTW process.</li> </ul>
<p><b>Workplace adjustments that may be implemented where reasonably practicable</b></p>	<ul style="list-style-type: none"> <li>• physical: such as modifying workstations or sites, seeking a temporary alternate work location to improve accessibility or providing ergonomic equipment or tools.</li> <li>• technological assistance; such as speech recognition software;</li> <li>• work arrangements, such as adjustments to work hours, flexibility in hours worked and assistance with managing workload; and</li> <li>• adjustments to a job; such as modifying duties, work methods, additional training or modifying work patterns.</li> </ul>

Where the workplace adjustment options for an injured or ill worker are ongoing the following applies:

**Return to work with adjustments to the physical workplace**

- the worker is required to provide supporting evidence of the need for a workplace adjustment;
- the supervisor and WTW Coordinator will assist with identifying, implementing aids and educating the work area; and
- Services such as Job Access or an external allied health provider may be engaged to assist with the acquisition and implementation of workplace adjustment(s) including equipment and training.

### **3.7. Temporary Incapacity**

Where a staff member successfully lodges a claim for temporary incapacity under their superannuation or other insurance policy, the University is committed to supporting a safe and sustainable return to work. This will include the use of accrued leave to return in a graded way and workplace adjustments as outlined above.

### **3.8. Incapacity**

Where a staff member's capacity to perform their duties is in doubt due to ill health, the University will consider mechanisms such as workplace adjustment and appropriate use of leave options to support the worker's return to full duties within the timeframes outlined by Fair Work. Consideration will be given as to whether the duties may be permanently modified. This process will be undertaken in consultation with the worker.

Where issues of incapacity cannot reasonably be resolved the University may require the worker to undergo a medical examination by a medical practitioner chosen by the University at the expense of the University.

Further information regarding this process can be found outlined under the Incapacity Clause of the relevant [Enterprise Agreement](#).

### **3.9. Use of Leave**

When a worker has a non-workers compensation injury/illness, they are able to access accrued leave including personal, sick, annual and long service leave. Where this has been exhausted they may be able to access sick leave without pay.

For longer term absences, workers should contact their superannuation provider to see what inbuilt insurance may be available. To obtain full leave balances available and discuss leave options, workers should contact their HR Client Services team member.

### **3.10. Job Access**

JobAccess is an Australian Government initiative that provides workplace and employment information and resources for people with disability, employers and service providers. JobAccess provides funding through the [Employment Assistance Fund](#) (EAF) to cover the costs of making workplace changes. This can include buying equipment, modifications or accessing services for people with disability.

The EAF is available to eligible people with disability who are about to start a job, are self-employed or who are currently working. It is also available to people with disability who need Auslan assistance or special work equipment to look for and prepare for a job. The EAF could help to buy work-related modifications and services like:

- The cost of making adjustments to the physical workplace
- Modifications to work vehicles
- Special equipment for the workplace
- Information and communication devices
- Auslan interpreting services
- Specialist services for Workers with specific learning disorders and mental health conditions
- Disability awareness training for the workplace
- Mental health awareness training

Further information is available via the [JobAccess](#) website or contact the Health, Safety and Wellbeing Team.

### **3.11. Unions**

Unions may help a Worker who is a member in relation to dispute prevention and resolution regarding the Well to Work process.

### **3.12. Disputes**

For further information refer to the University's [Complaint Management Procedure](#).

## 4. Definitions

In the context of the Health and Safety Management System Framework:

Employer	Means the University of Newcastle (the University).
Executive Committee	Consisting of the Vice-Chancellor, the Deputy Vice-Chancellors, the Pro Vice-Chancellors, the Chief Operating Officer, Chief People and Culture Officer and the Chief Financial Officer, the University Secretary and the President of Academic Senate.
Independent Medical Examination	Provides the University an independent opinion regarding a worker's injury and treatment to assist with decisions about their rehabilitation and recovery at/return to work. An independent medical examiner (IME) is a specialist with qualifications relevant to the worker's injury.
Inherent requirements	Are the essential outcomes that must be achieved as part of a position. They are the tasks or skills that are a major part of the job; they cannot be allocated elsewhere or done a different way and have significant consequences if not performed.
Leader / Supervisor	Any member of the University who is responsible for supervising staff and/or undergraduate or postgraduate students and/or for leading research projects.
Nominated Treating Doctor (NTD)	Refers to the doctor responsible for treating an injured or ill worker and who makes recommendations regarding fitness for duty. Further information on the role and responsibilities of the NTD are available on the SIRA Website.
Non Workers Compensation injury/illness	Refers to a pre-existing injury or illness that did not arise out of, or in the course of the workers employment and includes all workers' compensation claims where liability has been disputed by the relevant insurer or the employee has decided not to lodge a claim for their injury or illness.
Reasonably Practicable	The requirement for an employer to make adjustments to the workplace is measured against reasonableness. Relevant factors might include practicality, complexity, effect on service delivery, the degree of disruption or benefit to the business or other people, cost and time. Adjustments are not required where it would impose unjustifiable hardship on the employer or where it is not reasonable.
Suitable duties	Duties identified as suitable on the basis of restrictions set out in the worker's medical certificate. Restrictions can be physical and/or psychological. Suitable duties may relate to a workers usual position or another position and be reasonably practicable
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 employees.
Well to Work (WTW) Coordinator	Is a person responsible for well to work administration and coordination of the well to work support program.

Well to Work (WTW) Plan	Is a documented, temporary and time-limited plan aimed at assisting the Worker to recover their physical and/or psychological capacity in order to return to their substantive position with no restrictions on duties and hours of work. The Well to Work Plan includes the details about workplace adjustments, work restrictions and work hours and is formulated in consultation with the worker, their Nominated Treating Doctor and management, in accordance with the medical certification.
Well to Work (WTW) Program	Means the University's workplace support program for workers with non-workers compensation-work-related injuries and illnesses (where practicable).
Worker	Includes an employee, conjoint, student on work experience, contractor, sub-contractor, and volunteer. A person is a worker if the person carries out work in any capacity for the University or another person conducting a business or undertaking, including work as: (a) an employee, or (b) a contractor or subcontractor, or (c) an employee of a contractor or subcontractor, or (d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking, or (e) an outworker, or (f) an apprentice or trainee, or (g) a student gaining work experience, or (h) a volunteer, or (i) a person of a prescribed class.
	Worker is a person identified as a 'deemed worker' under the Workplace Injury Management and Workers Compensation Act 1998, who is employed by the University under a contract of employment. Workers are commonly referred to as Staff Members in other University policies and procedures.
Workplace	Means any recognised or defined area, location or vehicle where workers carry out their work.
Workplace Adjustment	Previously referred to as a 'reasonable adjustment', is a change to a work process, practice, procedure or environment that enables an employee with disability to perform their job in a way that minimises the impact of their disability. Under the Disability Discrimination Act 1992 (DDA), employers are obligated to make adjustments to accommodate an individual's disability, unless that adjustment would result in unjustifiable hardship. Workplace adjustments can be permanent or temporary, depending on the circumstances of the worker.
Working Capacity	Is the ability of the Worker to perform the inherent requirements of a work position, including hours they are able to work.
Workplace Rehabilitation Providers	Workplace rehabilitation providers help address risk factors which may affect a worker's ability to recover at work. These factors may include difficulty identifying suitable work, complex injury, delayed recovery or communication breakdown.

## 5. Responsibilities

A comprehensive list of health, safety and wellbeing responsibilities is provided in the guideline [HSG 1.2: Roles and Responsibilities](#).

## 6. References & Related Documents

The following documentation is referenced in, or applicable to this Guideline:

[HSG 1.2: Roles and Responsibilities](#)

[HSG 5.1: Health, Safety and Wellbeing Event Notification and Investigation](#)

[HSG 5.2: First Aid](#)

[University of Newcastle Privacy Management Plan](#)

[University of Newcastle Enterprise Agreements](#)

[SafeWork NSW Code of Practice for Managing Psychosocial Hazards at Work](#)

## 7. Amendment History

Version	Date of Issue	Approval	Section(s) Modified	Details of Amendment
1	December 2020	CPCO	-	1. Original version with latest amendment HSG 7.5 Non-Work Related Injuries and Illnesses
2	July 2023	CPCO	All	2. Renamed and renumbered from HSG 7.5 to HSG 5.5 Non-Workers Compensation Injuries and Illnesses 3. Updated all content in all sections 4. Added new/renamed Related Documents 5. Added Amendment History 6. Amended document control header and footer

## 8. Appendices

Appendix 1 Well to Work Plan (Sample)

Appendix 2 Consent Form for Release of Personal Information (Sample)

# Appendix 1 Well to Work Plan



## WELL TO WORK PLAN

<b>DATE OF PLAN:</b>	From: _____ To: _____
<b>INJURED/ILL WORKER:</b>	_____
<b>POSITION</b>	_____
<b>COLLEGE/DIVISION/UNIT:</b>	_____
<b>SUPERVISOR:</b>	_____
<b>NOMINATED TREATING DOCTOR:</b>	_____
<b>DAYS/HOURS OF WORK:</b>	<p>Fit for full hours? <input type="checkbox"/> Yes <input type="checkbox"/> No, if <u>no</u> please indicate hours below:</p> <p>Mon <input type="text"/> Tue <input type="text"/> Wed <input type="text"/> Thu <input type="text"/> Fri <input type="text"/></p> <ul style="list-style-type: none"> <li>- As per &lt;worker's name&gt;'s doctor, &lt;worker's name&gt; has been advised they can continue to work their normal hours however to work from home.</li> <li>- Workload restrictions:             <ul style="list-style-type: none"> <li>o _____</li> </ul> </li> <li>- Other notes:             <ul style="list-style-type: none"> <li>o _____</li> </ul> </li> </ul>
<b>DUTIES BEING UNDERTAKEN:</b>	Inherent duties adhering to restrictions as listed below:
<b>RESTRICTIONS/ CONSIDERATIONS:</b>	<ul style="list-style-type: none"> <li>• Specialised equipment required <input type="checkbox"/> Yes <input type="checkbox"/> No, if Yes please detail.</li> <li>• Temporary Accessibility Parking Permit Required <input type="checkbox"/> Yes <input type="checkbox"/> No.</li> <li>• Manual handling restrictions? <input type="checkbox"/> Yes <input type="checkbox"/> No, if Yes please detail.</li> <li>• Walking restriction <input type="checkbox"/> Yes <input type="checkbox"/> No, if Yes please detail.</li> <li>• Workload restriction <input type="checkbox"/> Yes <input type="checkbox"/> No, if Yes please detail:</li> <li>• Other restrictions required? <input type="checkbox"/> Yes <input type="checkbox"/> No, if Yes please detail.</li> </ul>
<b>DATE OF REVIEW:</b>	<p>&lt;Worker's name&gt; is aware that they are to contact their supervisor and &lt;WTW Co-ordinator&gt; immediately if:</p> <ul style="list-style-type: none"> <li>▪ They have trouble performing the duties outlined on this plan</li> <li>▪ They deviate from the well to work plan</li> <li>▪ They have any concerns regarding the plan.</li> </ul>

*Note: Well to Work Plans can be amended subject to nature of the injury or illness.*

## Well to Work Responsibilities

**Employee (*Agreed actions & expected outcomes*)**

- Comply with the terms of the plan and ensuring that all restrictions are adhered to.
- Advise Supervisor and/or HR Business Partner if there are any difficulties at work.

**Supervisor (*Agreed actions & expected outcomes*)**

- Maintain regular contact with the worker to follow up on progress
- Advise WTW Co-ordinator of any changes in circumstances

**HR Business Partner (*Agreed actions & expected outcomes*)**

- Maintain regular contact with the worker to check on progress
- Ensure the Supervisor is kept up to date with all developments

*Well to Work Plan is agreed to by:*

<b>INJURED STAFF MEMBER:</b>		<b>DATE:</b>	
<b>SUPERVISOR:</b>		<b>DATE:</b>	
<b>WTW CO-ORDINATOR:</b>		<b>DATE:</b>	

## Appendix 2 Consent Form for Release of Personal Information



### STANDARD CONSENT FORM FOR RELEASE OF PERSONAL INFORMATION

Worker details			
Claim number			
Given name(s)		Surname	
Employer details			
Organisation	University of Newcastle		
Contact name		Position	
Phone		Email	@newcastle.edu.au

#### Worker's declaration

I have discussed this consent form with my employer. I understand that any information collected will be kept in a confidential case file, with access restricted to those who are directly responsible for coordinating and monitoring my recovery at work.

I understand that my employer will:

- only collect health information that is relevant and necessary to manage my recovery at work and coordinate the workers compensation claim
- only use and disclose information for the purpose for which it was collected
- keep any information collected separate from my other personnel records
- take reasonable steps to protect my information by ensuring it is stored securely, kept no longer than necessary and disposed of appropriately
- allow me to access my information without unreasonable delay, unless providing access would be unlawful or pose a serious threat to another person's life or health.

Considering the above, I ~~agree~~ and consent to the collection, use and disclosure of personal and health information relevant to managing my injury and workers compensation claim.

This ~~information may~~ be exchanged between my employer, my treating doctor(s), the insurer, the workplace rehabilitation provider and the State Insurance Regulatory Authority (SIRA).

I understand that my workers compensation entitlements may be affected if I withdraw my consent.

Worker			
Signature		Date	
Employer representative			
Signature		Date	
Interpreter			
Signature		Date	
Name			