

# Conditions of Approval South Australian Return to Work Service providers

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# Conditions of Approval

## General Conditions

1. **Commencement.** An Approval commences on the date of the Certificate of Approval;
2. **No Transfer.** An Approval is personal to the Provider and cannot be transferred without the consent of ReturnToWorkSA which may be withheld in its entire discretion. In the case of a corporate Provider, a change in control of the Provider shall be deemed to constitute an assignment or transfer of Approval requiring consent of ReturnToWorkSA which consent can be withheld;
3. **No Subcontracting.** The Provider will not subcontract the performance of any of the Services;
4. **No Entitlement on Termination.** The Provider is not entitled to recover any loss, costs or damage arising from any termination of an Approval, and a termination does not release liability accrued before termination;
5. **Non-exclusive.** ReturnToWorkSA is permitted to approve other Providers entirely in its discretion;
6. **No Guarantee of Referrals.** The Provider acknowledges that irrespective of this Approval there is no guarantee of any request for Services to the Provider but these Conditions of Approval remain in effect unless terminated;
7. **Waiver.** No waiver of any condition will be effective unless in writing;
8. **Indemnity.** The Provider indemnifies and keeps indemnified ReturnToWorkSA and the Claims Agents from and against all actions, claims, demands, losses, damages, proceedings, costs and expenses of any nature whatsoever made by a third party arising out of, or as a consequence of, the performance or non-performance of any Services by the Provider;
9. **Statutory Payments.** The Provider will promptly pay all payroll tax and workers compensation premiums and remuneration due to Provider's personnel;
10. **Continuing Obligations.** The obligations set out in clauses 8, 9, 16, 20, 30, 39 and 49 continue beyond the expiry of any Approval of the Provider and continue to apply unless ReturnToWorkSA notifies the Provider of its release from those clauses.

## Provider Obligations

The Provider must -

11. **Work Health & Safety.** Provide an accessible and appropriate environment for workers, staff and visitors and comply with workplace health and safety Law at all locations where Services are delivered;
12. **Solvency.** Remain financially solvent;
13. **Insurance.** Maintain in force, in its own name and at its own expense, public liability insurance of \$10 million minimum and professional indemnity insurance of \$5 million minimum;
14. **Principal Consultant.** At all times the Provider must have a nominated Principal Consultant, who has, in ReturnToWorkSA's view, at least 5 years of relevant experience and appropriate professional qualifications. The Principal Consultant will be the Provider's representative and primary point of contact for the purposes of the Services;
15. **Continuous Disclosure.** Notify ReturnToWorkSA via [providers@rtwsa.com](mailto:providers@rtwsa.com) in advance, or as soon as practical, if any of the following arise:
  - a. a change of Principal Consultant, with the provision of documentation confirming the incoming Principal Consultant meets the following requirements - must have in ReturnToWorkSA's view, at least 5 years of relevant experience and appropriate professional qualifications,
  - b. the Provider's business is sold or another party acquires a controlling interest in the business or otherwise assumes control of that business,
  - c. a change of the Provider's trading name or business name,
  - d. a change of location in South Australia at which the Provider operates,
  - e. affiliations, contractual or other relationships or arrangements arise in relation to Services provided to injured workers where the Provider may be perceived to have or does have a Conflict of Interest. In assessing whether an actual or potential Conflict of Interest exists, the Provider must consider at minimum:

- any personal, professional or business-to-business financial gain or benefit being received;
  - any existing relationships with clients or family;
  - businesses in which the Provider or its staff have an interest; and
  - any financial or other personal interest that could, or could be perceived to, influence the Provider in the performance of the Services,
- f. a major change in the service delivery model and/or staff which may impact on the delivery of Services,
- g. any other change that affects, or may affect, the Provider's service quality and procedures,
- h. the Provider has entered into voluntary financial administration, becomes insolvent or is the subject of bankruptcy proceedings,
- i. any professional misconduct proceedings being taken against the provider or any individuals employed or engaged by the Provider;
- 16. Confidential Information.** Not disclose Confidential Information except as authorised by section 185 of the *Return to Work Act 2014 (SA)* and must notify ReturnToWorkSA via [providers@rtwsa.com](mailto:providers@rtwsa.com) as soon as possible after becoming aware of, or suspecting, any disclosure of Confidential Information other than that authorised by section 185 of the *Return to Work Act 2014 (SA)*, regardless of whether such disclosure was caused by the Provider. The Provider is permitted to disclose Confidential Information to a third party for the sole purpose of allowing that third party to conduct a quality assurance audit of the Provider's files. In such a case:
- a. the Provider must ensure that the third party agrees to maintain the confidentiality of the Confidential Information; and
  - b. the Provider remains responsible for the Confidential Information and is liable for the acts and omissions of the third party in respect of the Confidential Information as if they were the acts and omissions of the Provider;
- 17. Information System Security.** Maintain high quality information security in relation to all referrals and worker related records;
- 18. Termination Notice.** Request termination of an Approval by giving at least 50 business days notice in writing to ReturnToWorkSA via [providers@rtwsa.com](mailto:providers@rtwsa.com);
- 19. Transition on Termination.** On any termination of an Approval:
- a. do all things necessary to facilitate a smooth transition relating to ongoing treatment or assessment of an injured worker by another Provider including following all reasonable directions of ReturnToWorkSA or a Claims Agent; and
  - b. return all such documents and records as are requested by ReturnToWorkSA;
- 20. Use of ReturnToWorkSA name and logo.** Not use ReturnToWorkSA's name or any similar name in its legal or trading name or use any logo or product name of ReturnToWorkSA;
- 21. Service Standards.** Comply with the service standards as set out in Schedule 5 of the *Return to Work Act 2014 (SA)* (see Annex A);
- 22. Procedures Guidelines Compliance.** Comply with the requirements of all policies, procedures or guidelines issued by ReturnToWorkSA, including ReturnToWorkSA's Return to Work Services Performance Monitoring Framework and all applicable Laws in the performance of any service;
- 23. Quality Assurance and Continuous Improvement.** Ensure a quality assessment and improvement system is in place with consideration for service delivery which is high quality, timely, independent and appropriate for informing and supporting the worker's recovery and return to work;
- 24. Approved Charges.** Not seek to charge or recover any amount for any Service in excess of the applicable amount for that service in the ReturnToWorkSA's Return to work services Fee Schedule and Guidelines;
- 25. Service Delivery.** Comply with all requirements of the relevant ReturnToWorkSA's fee schedule and guidelines at all times;
- 26. Service Category.** Not provide Services outside the Provider's Approved Category(s) of service;
- 27. Authorised Region.** Where relevant, not provide Services to an injured worker who resides outside the Provider Authorised Region except with the consent of ReturnToWorkSA via [providers@rtwsa.com](mailto:providers@rtwsa.com);

28. **Qualifications.** Ensure that all Services are delivered by person(s) who hold the minimum qualification and experience standards as defined in the latest version available of ReturnToWorkSA's Fee Schedules and Guidelines;
29. **Hours.** Provide Services at a minimum between the hours of 9 am to 5 pm on business days and other times as specified in any Approval;
30. **Records.** Maintain records for 10 years of all matters pertaining to the Services provided under an Approval, and provide copies of any document to ReturnToWorkSA within 3 business days of a request unless required earlier;
31. **Cessation Process.** Promptly comply with any process and timing requested by ReturnToWorkSA or a Claims Agent for cessation of Services in relation to a worker and/or transfer of all information in relation to that worker to another provider nominated by ReturnToWorkSA or otherwise as directed;
32. **No Benefits for Referrals.** Not seek to influence the acquisition of referrals or orders for Services by any understanding or agreement by virtue of which any employer or Claims Agent is encouraged or bound to promote any preferred provider, exclusivity, minimum quota, or other similar arrangement with any employer or employers in respect of referrals;
33. **Online Services.** If accepting or declining a referral sent to the Provider by ReturnToWorkSA and/or a Claims Agent through Online Services, accept or decline the referral through Online Services and in no other manner;
34. **Accept Referrals.** While an Approval is current for the Provider, accept (subject to clause 33 above) a referral from ReturnToWorkSA or Claims Agents within an applicable Approved Category unless:
  - a. the referral does not meet the referral criteria in the Fee Schedules and Guidelines
  - b. the Provider does not have the capacity to provide the service in the time required;
  - c. an actual, potential or perceived Conflict of Interest exists or may reasonably arise relating to performance of any part of the service set out in the referral; or
  - d. the referral is non-compliant with the form of referral required by ReturnToWorkSA as previously notified to the Provider,
35. **Notification.** If declining a referral, notify the Claims Agent within 2 business days, with reasons;
36. **Directed Activity and Instruction.** Complete and/or attend any activities related to the Services as reasonably required by ReturnToWorkSA;
37. **Remedial Actions.** Complete any remedial actions that are reasonably sought by ReturnToWorkSA;
38. **Review Co-operation.** Cooperate fully in any review, audit or investigation by ReturnToWorkSA of the Provider's performance of these conditions and ReturnToWorkSA's Return to Work Services Performance Monitoring Framework;
39. **Data.** Promptly provide to ReturnToWorkSA and Claims Agents such data, records or other information as is reasonably requested relating to Services provided in the form and manner specified including data, records or other information to allow performance measurement of the Provider against other Providers;
40. **Disclosure.** Promptly notify ReturnToWorkSA at [providers@rtwsa.com](mailto:providers@rtwsa.com) of any breach of these conditions, or any fact or circumstance that may affect the Provider's ability to provide Services or the quality of the Services.

## **Rights of ReturnToWorkSA**

ReturnToWorkSA may:

41. **Information Usage.** Use the information provided in the Application or under the Conditions of Approval for any purposes related to ReturnToWorkSA's functions;
42. **Variation.** Vary these conditions by written notice to the Provider at least 20 business days before the variation is to become effective;
43. **Performance Reviews.** Upon 7 business days notice conduct inspections, tests, reviews or audits as it deems necessary to assess compliance with these conditions and the Provider must provide a suitably qualified person to assist. The review may be at the cost of the Provider if a material or persistent breach is revealed by the process;
44. **Performance.**
  - a. monitor, measure and evaluate the Provider's performance against the requirements of these Conditions of Approval, ReturnToWorkSA's Return to Work Services Performance Monitoring Framework and the ReturnToWorkSA's Fee schedule and Guidelines,

- b. initiate an independent evaluation at any time during the period of the Approval which may involve an evaluation of conformance to the Conditions of Approval,
  - c. consult with the relevant professional or industry associations in determining what are reasonable expectations regarding performance,
  - d. impose additional requirements,
  - e. exchange information with other workers' compensation authorities on Provider performance,
  - f. revoke approval status if Conditions of Approval are not met;
- 45. Performance Failure Termination.** Terminate an Approval by giving at least 30 business days notice in writing if the Provider fails to meet the performance requirements set by ReturnToWorkSA from time to time that have application to that Provider;
- 46. Termination for Breach.** Terminate an Approval forthwith by notice in writing where the Provider has repeatedly or materially breached these Conditions of Approval or if the Provider has engaged in fraudulent or unlawful conduct or conduct that would bring ReturnToWorkSA into disrepute;
- 47. Termination without Cause.** Terminate an Approval for any one or more Approved Categories without cause by giving at least 50 business days notice in writing to the Provider;
- 48. Suspension.** If ReturnToWorkSA reasonably suspects that a breach of these Conditions of Approval has occurred, temporarily suspend an Approval whilst investigating the potential breach.
- 49. Return Certificate.** On any termination require the return of any Certificate of Approval issued to the Provider;
- 50. Set off.** Deduct from any amount payable by ReturnToWorkSA to the Provider, any amount that the Provider owes to ReturnToWorkSA or against which the Provider has indemnified ReturnToWorkSA whether under these conditions or otherwise.

# Definitions

**Approval** means approval as a South Australian Return to Work Services provider or a Job Placement Services provider (as the case may be) subject to these Conditions of Approval.

**Approved Category(s)** means those categories of service which ReturnToWorkSA approved in writing.

**Authorised Region** means a region, if any, approved by ReturnToWorkSA for a particular Provider.

**Claims Agents** means those private sector bodies with whom ReturnToWorkSA has contracted under section 14(4)(d) of the *Return to Work Corporation of South Australia Act 1994 (SA)* to provide claims management services from time to time.

**Confidential Information** means any information disclosed by ReturnToWorkSA to the Service Provider prior to or after the Commencement Date, that is, by its nature confidential, is designated as confidential or which the Provider knows or ought to know is confidential, and which is not in the public domain (other than as a result of breach of a condition of Approval).

**Conflict of Interest** means circumstances where the Provider receives a referral concerning any of the Provider's personnel or any of their family members, associates or friends, or any other fact or circumstance whether similar or not that may give rise to a conflict or perceived conflict between, on the one hand, the Provider's duty under this Agreement and to an injured worker to whom the Provider is providing Services, and, on the other, the Provider's interest in some other respect.

**Fee Schedules and Guidelines** means the ReturnToWorkSA fee schedules published at [www.rtwsa.com](http://www.rtwsa.com) as amended from time to time.

**Law** means the common law, legislation of the State of South Australia and of the Commonwealth of Australia, as amended, or any substitute therefore, and any regulation, order or statutory instrument made under any of the laws at paragraph above and any determination of ReturnToWorkSA exercising a statutory power or discretion under the *Return to Work Act 2014 (SA)* or any former legislation.

**Online Services** means the online portal provided by ReturnToWorkSA which facilitates, amongst other things, the sending of referrals by ReturnToWorkSA and/or Claims Agents to the Provider and the accepting of such referrals by the Provider, as well as the sending of invoices by the Provider to ReturnToWorkSA and/or Claims Agents.

**Referral** means a request for the provision of Services within an Approved Category from ReturnToWorkSA or a Claims Agent to the Provider in respect of a particular injured worker.

**Return to Work Services Performance Monitoring Framework** means the performance monitoring framework published by ReturnToWorkSA at [www.rtwsa.com](http://www.rtwsa.com) as amended from time to time.

**Services** means services that the Provider is approved to provide and are provided in accordance with the Fee Schedules and Guidelines.

# Annex A:

## Schedule 5 – Statement of service standards

### Part 1—Introduction

#### 1—Aim of these standards

1. These standards are intended to meet the reasonable expectations of workers and employers about how the Corporation should deal with them by—
  1. setting out principles that will be observed by the Corporation when it is dealing with a worker or an employer; and
  2. providing a procedure for lodging and dealing with complaints about breaches of these standards; and
  3. providing consequences and remedies for breaches of these standards.
2. These standards recognise that when a worker or an employer deals with the Corporation, it is reasonable for the worker and the employer to expect the highest standards of service and fairness.

#### 2—Interpretation

Unless the contrary intention appears, a reference in these standards to the Corporation includes—

1. a reference to a self-insured employer; and
2. a reference to a Claims Agent or to a provider of services engaged by the Corporation or a self-insured employer.

#### 3—Spirit of these standards

These standards encourage positive relationships between the Corporation, workers and employers and acknowledge that the Corporation, workers and employers need to work together in order to achieve the best outcomes for all, especially by adopting early intervention and return to work processes when a worker is injured at work.

### Part 2—The standards

#### 4—The standards

The Corporation will—

1. view a worker's recovery and return to work as the primary goal if a worker is injured while at work;
2. ensure that early and timely intervention occurs to improve recovery and return to work outcomes including after retraining (if required);
3. with the active assistance and participation of the worker and the employer, consistent with their obligations under this Act, ensure that recovery and return to work processes focus on maintaining the relationship between the worker and the employer;
4. ensure that a worker's employer is made aware of, and fulfils, the employer's recovery and return to work obligations because early and effective workplace-based coordination of a timely and safe return to work benefits an injured worker's recovery;
5. treat a worker and an employer fairly and with integrity, respect and courtesy, and comply with stated timeframes;
6. be clear about how the Corporation can assist a worker and an employer to resolve any issues by providing accurate and complete information that is consistent and easy to understand (including options about any claim, entitlements, obligations and responsibilities);
7. assist a worker in making a claim and, if necessary, provide a worker with information about where the worker can access advice, advocacy services and support;
8. take all reasonable steps to provide services and information in a worker's or employer's preferred language and format, including through the use of interpreters if required, and to demonstrate respect and sensitivity to a person's cultural beliefs and values;
9. respect and maintain confidentiality and privacy in accordance with any legislative requirements;



10. provide avenues for feedback or for making complaints, and to be clear about what can be expected as a response;
11. recognise a right of a worker or an employer to be supported by another person and to be represented by a union, advocate or lawyer.



The following free information support services are available:

If you are deaf or have a hearing or speech impairment you can call ReturnToWorkSA through the National Relay Service (NRS):

1. **TTY users** can phone 13 36 77 and ask for 13 18 55.
2. **Speak & Listen (speech-to-speech) users** can phone 1300 555 727 and ask for 13 18 55.
3. **Internet Relay users** connect to NRS on [www.relayservice.com](http://www.relayservice.com) and ask for 13 18 55.

ReturnToWorkSA

13 18 55

[info@rtwsa.com](mailto:info@rtwsa.com)

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