



Injured worker legal practitioners engaging with accredited impairment assessors

Communication protocol

The Law Society, in collaboration with ReturnToWorkSA, has developed this Protocol to assist and guide legal representatives in their interactions with accredited impairment assessors when representing work-injured clients.

Background

The Law Society and ReturnToWorkSA are aware of issues in relation to workers' legal representatives directly contacting the consulting rooms of accredited impairment assessors, sometimes at their private consulting rooms, to obtain impairment assessment appointments.

Accredited impairment assessors and their practice staff report confusion about who the requestor is and unreasonable impacts on the practices where they are not established to check availability and deal with impairment assessment bookings outside of the registered assessor location.

Importantly, effective management of impairment assessments relies on a structured process for them to be fair, efficient and timely. The Impairment Assessment Guidelines (IAGs) establish the requestor for impairment assessments to be ReturnToWorkSA, its claims agents or self-insured employers.

Purpose

This Protocol is to assist with understanding and complying with the processes set out in the IAGs, specifically how accredited impairment assessors will be engaged in relation to appointment setting.

This Protocol is to be read in conjunction with IAG Chapter 17 - Assessor Selection Process.

Roles and responsibilities

In this Protocol the term worker refers to the injured worker and extends to the worker's legal representative where they are legally represented. The requestor acknowledges the role of the legal representative and is committed to engaging them when making and setting impairment assessment appointments.

It is a requirement of the IAGs that the worker undertake the process of selection of an accredited impairment assessor in consultation with the requestor.

The requestor is responsible for ensuring the worker is provided with a draft report request and all relevant documentation / information before it is sent to the accredited impairment assessor. The requestor will then give the worker at least 20 business days to consider the draft report request and relevant documentation / information and provide them with an opportunity to raise any issues, errors or omissions.

Once the accredited impairment assessor is chosen the requestor is responsible for booking an appointment with the accredited impairment assessor's rooms. This will occur as soon as reasonably practicable after conclusion of the consultation on the draft report request and once all relevant materials are available for the accredited impairment assessor to be able to carry out the assessment.

The requestor will then send written confirmation of the appointment to the worker.

Booking appointments

Workers' legal representatives shall not book, reserve or modify assessment appointment times for their clients because:

1. other workers who are ready to proceed to an assessment may be prevented from having access to that appointment time;
2. it exposes the process to an unnecessary risk that consultation has not occurred with the worker on the draft report request and / or the relevant documentation / information required for the assessment is incomplete;
3. of the potential for confusion as to who should be booking the appointment and sending through the request letter and documentation and, it may also mean that two appointment times are booked and there is reduced access for other workers.

Changing appointment times

The worker can seek a change to their appointment time through the requestor who will obtain the next available appointment time. Options for appointment times will be communicated to the worker for their selection.

An Accredited Impairment Assessor or requestor may seek to vary an appointment time. When this occurs, the requestor will inform the worker of the change, explain the reasons for the change, provide the next available appointment options, and work together with the worker to agree on a suitable alternative.

Reasons for Accredited Impairment Assessor or requestor appointment changes may include that the Accredited Impairment Assessor is no longer available or that not all relevant documentation has been received to enable the Accredited Impairment Assessor to complete the assessment.

Once a new appointment time has been agreed, the requestor will confirm this with the Accredited Impairment Assessor and send written confirmation of the new appointment time to the worker.

Contacting the accredited impairment assessor

If the worker wishes to contact the accredited impairment assessor prior to any appointment being booked by the requestor, contact is to occur via the requestor.

Referral by Tribunal or court to an Independent Medical Advisor

Once a matter is in litigation, the Tribunal or court may, on its own initiative or on an application by a party to the proceedings, refer any medical questions arising in proceedings before it to one or more Independent Medical Advisors (IMA) specified by the Tribunal or court for inquiry and report.

The selection of an IMA is made by the Tribunal or court following consultation with the parties to the proceedings and, if agreement on the selection cannot be reached within a period determined by the Tribunal or court, on the recommendation of the Minister's Advisory Committee.

In the case of a permanent impairment assessment, the IMA must be a person who is accredited to conduct whole person impairment assessments under section 22 of the *Return to Work Act 2014* (SA).

The questions to be referred to an IMA will be framed by the Tribunal or court after inviting submissions from the parties to the proceedings.

Further information

For further information, please contact ReturnToWorkSA Impairment Assessment Services on (08) 8238 5960.