



Premier  
& Cabinet

**PROCEDURES FOR MANAGING  
NON-WORK RELATED INJURIES OR  
HEALTH CONDITIONS**

*December 2010*

NSW Department of Premier and Cabinet  
Level 15, 4-6 Bligh Street SYDNEY NSW 2000  
Phone: (02) 9228 4444  
Email: [psw@dpc.nsw.gov.au](mailto:psw@dpc.nsw.gov.au)  
Website: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

<b>Introduction.....</b>	<b>4</b>
Coverage.....	5
Interaction of Guidelines and Procedures with legislation and Industrial Instruments	5
Overview of the procedures.....	6
<b>INITIATING A MEDICAL ASSESSMENT.....</b>	<b>7</b>
General basis for referrals.....	7
Employee initiated Medical Retirement.....	7
Costs of Referral.....	8
Employee's treating doctor.....	8
Specific referrals based in legislation, an industrial instrument or policy.....	8
Direction to cease duty - allocation of leave pending medical assessment.....	9
Direction to attend a medical assessment.....	9
<b>NOMINATED MEDICAL ASSESSOR.....</b>	<b>9</b>
<b>Referral of employees.....</b>	<b>9</b>
Referrals to a nominated medical assessor.....	9
Referrals to be made by a duly authorised person.....	9
Written report.....	10
Referrals must be based on health related issues.....	11
Security and confidentiality of documentation.....	11
Employee to be consulted and provided with copies of documentation.....	11
Employee may provide information.....	11
Employee consent form.....	12
Supplementary information.....	12
Timeframes.....	12
Employee Assistance Programs.....	12
<b>The medical assessment.....</b>	<b>13</b>
The report.....	13
Implementing the medical advice.....	13

## Procedures for Managing Non-Work Related Injuries or Health Conditions

---

Sick leave .....	13
Workplace adjustments .....	13
Alternative duties.....	14
Unjustifiable hardship .....	14
Medical retirement.....	15
Other health risks.....	15
<b>Review of MEDICAL assessment .....</b>	<b>16</b>
Independent Review Panel – administered by the nominated medical assessor.	16
Criteria for review .....	16
Review of medical assessment .....	17
<b>APPEALS AGAINST A DECISION/ ACTION OF THE AGENCY .....</b>	<b>17</b>
Grievance procedures .....	17
External tribunals and bodies .....	17
<b>RELATED POLICIES AND PROCEDURES .....</b>	<b>17</b>
Pre-employment health assessments .....	17
Other related policies and procedures .....	18
<b>Appendix 1 .....</b>	<b>19</b>

## INTRODUCTION

These procedures have been developed to assist all public sector agencies to apply a consistent approach in managing situations where an employee is suffering from a non-work related injury or health condition only which is impacting on their ability to perform the inherent requirement/s and demands of their position.

Work related health issues are to be managed through the Return to Work program that exists within each agency and the workers compensation legislation.

These procedures are based on the following principles:

1. An **employer is responsible** for ensuring the health, safety and welfare of all employees at work.
2. An **employee is responsible for their own health**, well being and ability to perform the duties for which they are employed. This includes taking appropriate steps to address any non-work related health issues they may have/develop, if these impact on their capacity to safely perform the inherent requirements and demands of their position.
3. An **employer has the right to request** an assessment of the employee's non-work-related injury or health condition where it impacts on their ability to safely perform the inherent requirements and demands of their position.
4. The **employee is to seek medical or other appropriate advice** when directed to do so by the employer in the case of an employee having reduced capacity to safely perform the inherent requirements and demands of their position.

The objectives of these procedures are to:

1. Provide clarity in respect of the action to be taken where an employee's non-work related injury or health condition impacts on their ability to safely perform the inherent requirements and demands of their position.
2. To set out rights and obligations of agencies and employees when taking action in respect of the employee's non-work related injury or health condition.
3. To minimise costs associated with an employee's non-work related injury or health condition and to assist such employees to be able to safely perform the inherent requirements and demands of their position.
4. To provide a transparent and consultative procedure that supports the employer, the employee and consulting medical practitioners in deciding the most appropriate course of action to ensure the employee can safely perform the inherent requirements and demands of their position.

## Coverage

These procedures apply to all agencies and employees in the Government Service (Public Service Departments, Non-Public Service Divisions and Special Employment Divisions), the Teaching Service, NSW Police Force and the NSW Health Service.

All other agencies including Statutory Authorities in NSW and State Owned Corporations are encouraged to adopt provisions consistent with these procedures.

Public Service Departments (Principal Departments and Other Agencies) listed in Part 1, Schedule 1 of the *Public Sector Employment and Management Act 2002* are required to use the nominated medical assessor as nominated by the Director of Public Employment and advised by Circular issued from time to time. All other agencies may select another medical provider or elect to use the nominated medical assessor.

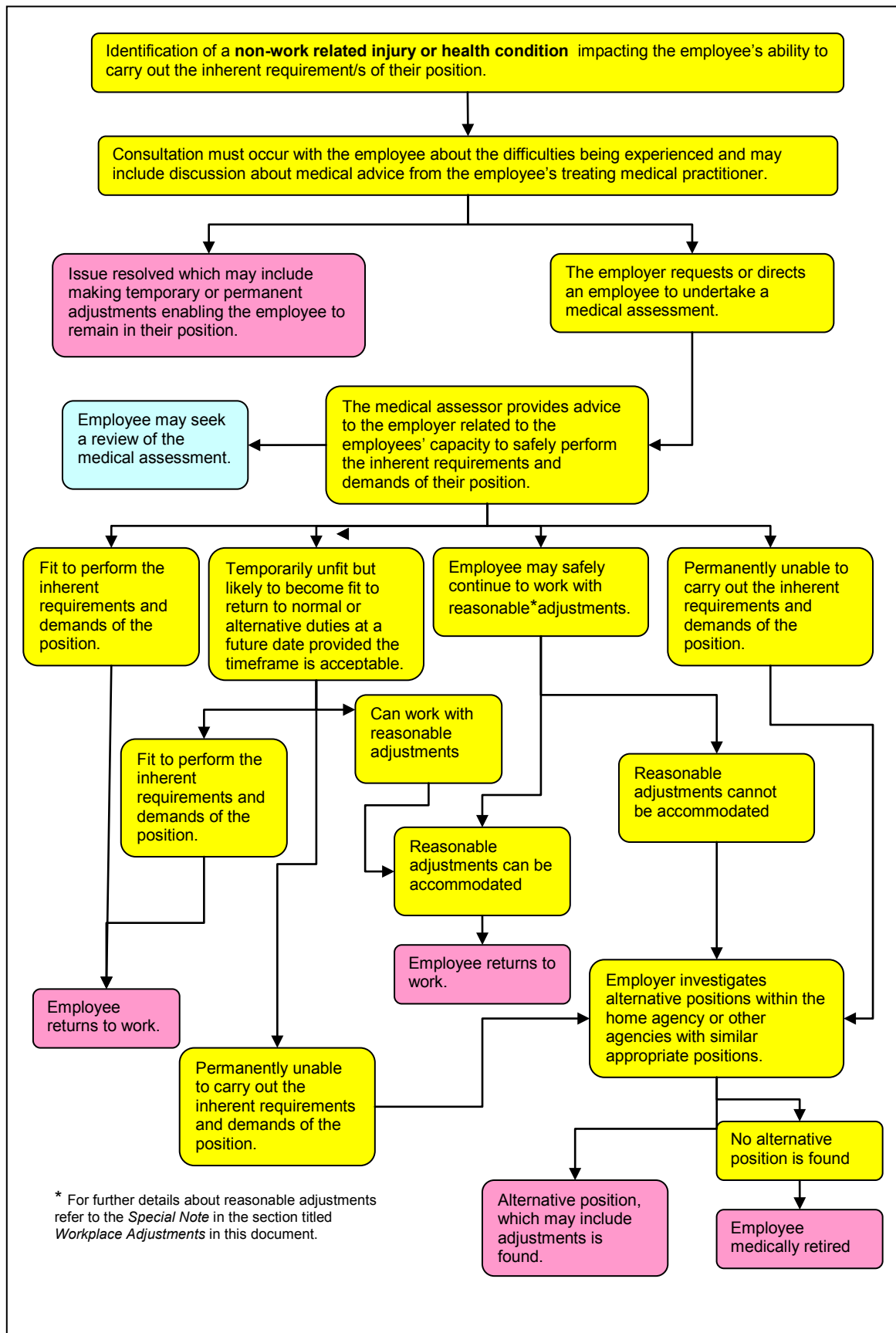
## Interaction of Guidelines and Procedures with legislation and Industrial Instruments

These procedures should be read in conjunction with the relevant legislation and industrial instruments and, in the event of an inconsistency, the condition outlined in the relevant legislation or industrial instrument will prevail.

These procedures do not exclude agency obligations to give effect to the Government's EEO and Diversity policies. Information on Government policies is available from [http://www.eeo.nsw.gov.au/about\\_eeo](http://www.eeo.nsw.gov.au/about_eeo).

The [Premier's Memorandum 2001-11 Revised Fitness to Continue Procedures](#), is superseded by these procedures.

Overview of the procedures



## INITIATING A MEDICAL ASSESSMENT

### General basis for referrals

An agency may need to seek medical advice on how to safely manage a non-work related injury or health related issue that is affecting an employee's ability to perform the inherent requirements and demands of the position for which they were engaged. Any advice sought must be in accordance with:

- the overriding legislative responsibility under the *Occupational Health and Safety Act 2000* for agencies to manage risk and ensure the health, safety and welfare at work of employees; and
- a Chief Executive Officer's responsibilities and functions for ensuring the effective, efficient and economical management of their agency.

The type of medical advice requested may relate to an employee's:

- ability to safely carry out the inherent requirements and demands of the position for which they were employed, in the short or long term
- safe return to work
- medical restrictions that may apply in the workplace
- temporary or permanent adjustments that may need to be made in order to facilitate a safe return to work or to remain safely on duty

It may also become necessary to seek medical advice relating to:

- whether a medical condition has contributed to a conduct or performance issue
- whether a second opinion is required, for example, in respect of advice from an employee's medical practitioner which seems inconsistent with other available evidence
- any impact the health of the employee may have on the health and safety of other employees in the workplace, or on non-employees, for example visitors or clients .

### Employee initiated Medical Retirement

Where an employee who is suffering a non-work related injury or health condition requests an independent medical assessment with the view of accessing medical retirement benefits an agency may:

- (a) If the employee is employed in Public Service Departments (Principal Departments and Other Agencies) listed in Part 1, Schedule 1 of the *Public Sector Employment and Management Act 2002*, request the nominated medical assessor to provide the assessment.
- (b) If the employee is employed in the Public Sector agencies, the agency may rely on the employee's treating doctor's advice supporting medical retirement.

Where an agency has a separate procedure or entitlement within an industrial instrument, the provisions of that instrument take precedence.

This advice relates solely to a medical retirement from the position held by the employee. Any superannuation processes are independent to this process and is between the employee and their superannuation provider.

## Costs of Referral

The referring agency is liable to pay for the cost of the medical assessment for the employee only and any reasonable associated costs including travel, reports, accommodation, meals, and wages.

## Employee's treating doctor

In the first instance the agency must rely on the available medical advice from the employee's treating doctor in relation to the doctor's assessment of their capacity for work. Additional advice may be sought by the agency where it is unclear or there are concerns about the practicality of implementing the doctor's advice. The agency should discuss this with the employee first, and then, request additional information or clarification from the employee's treating doctor.

Agencies should obtain a signed general consent from the employee to enable appropriate advice to be sought from the employee's medical practitioners (the *Authority to Release Medical Information* Form is at Appendix 1).

All requests for employees to attend their treating doctor must be consistent with the "*Referral of Employees*" section in this document. The agency is to provide the treating doctor with a contact name and phone number of an appropriate person in the agency who will be available to be contacted in case clarification is required of the questions being asked.

If the information is not made available from the employee's treating doctor or is inconsistent with other available evidence, or inadequate, or would result in an unreasonable delay, then the agency may seek independent medical advice from the nominated medical assessor. (It should be noted that appointments with specialists may take time, depending on the availability of the specialist).

## Specific referrals based in legislation, an industrial instrument or policy

Referrals for medical advice may also be initiated under specific legislative, industrial or policy provisions. Agencies must specify when they are referring employees under a specific provision which applies to the employee and provide information on the standards which are to be met or procedures required under the instrument, for example see:

- Section 25 of the Public Sector Employment and Management Act 2002
- Clause 13 of the Public Sector Employment and Management Regulation 2009
- Clause 80.5 of the Crown Employees (Public Service Conditions of Employment) Award 2009
- Clause 76(e) Crown Employees (NSW TAFE Commission - Administrative and Support Staff Conditions of Employment) Award 2005
- Clause 16.10 of the Crown Employees (School Administrative and Support Staff) Award
- Clause 9 of the Crown Employees (Police Officers Death and Disability) Award 2005
- Clause 13 of the Crown Employees (NSW Fire Brigades Firefighting Staff Death and Disability) Award 2009
- Clause 11 of the Ambulance Services Regulation 2005
- Superannuation Act 1916
- Police Act 1990
- Managing Sick Leave Policy

## Direction to cease duty - allocation of leave pending medical assessment

For staff employed in Public Service Departments (Principal Departments and Other Agencies) listed in Part 1, Schedule 1 of the *Public Sector Employment and Management Act 2002*, if a direction has been given to an employee to cease duty pending a medical assessment, paid special leave should be granted. Following the medical assessment, should the employee be deemed unfit and the nominated medical assessor advises that sick leave is appropriate, then available sick leave is to apply from when the employee was directed to cease duty.

For employees in other agencies, leave shall be granted in accordance with the relevant industrial instrument's provisions for leave or discretionary leave.

## Direction to attend a medical assessment

Whether a referral for a medical assessment is under an agency's general OH&S obligations or other specific provision, employees are required to comply with an agency's reasonable direction to attend **and participate** in a medical assessment. Employees should remain aware that if they fail to comply with such a reasonable direction they may be subject to disciplinary procedures.

An agency should take reasonable steps to check that an employee is capable of attending a medical assessment.

## NOMINATED MEDICAL ASSESSOR

The Director of Public Employment determines the nominated medical assessor/s that must be used by Public Service Departments (Principal Departments and Other Agencies) as listed in Part 1, Schedule 1 of the *Public Sector Employment and Management Act 2002*.

Other agencies may still elect to use the nominated medical assessor but are not required to do so. These agencies may use another appropriately qualified medical provider to undertake independent medical assessments of employees.

## REFERRAL OF EMPLOYEES

All agencies must provide objective, accurate and relevant information to the employee's treating doctor or nominated medical assessor. The minimum standards listed below apply to all referrals.

### Referrals to a nominated medical assessor

A nominated medical assessor may require agencies to provide referral information in a standard format, in addition to the written report.

### Referrals to be made by a duly authorised person

The CEO or a specifically authorised delegate, such as, the Human Resources Manager, must authorise all referrals and sign the written report.

## Written report

A written report that contains all of the following information must always accompany a referral:

1. **Basis for referral** - refer to *General basis for referrals* and *Specific referrals based in legislation, an industrial instrument or policy* in this document under the section *Initiating a Medical Assessment*.
2. **Inherent requirements and demands of the position** - information which documents the inherent requirements and demands of a position and the work performed including both items below:
  - a description of the common tasks performed, any tools and technologies commonly used and the work environment (eg outdoor work)
  - the knowledge, skills, abilities and other characteristics required which are commonly contained in a position description.
3. **Outline the health-related issue(s) that is/are affecting the ability to perform the inherent requirement/s and demands of the position** - agencies should refrain from making any assumptions about a medical condition in the absence of a diagnosis from a qualified medical practitioner. Include all sick leave records in chronological order and any recent medical certificates and related information.
4. **How the injury or health condition is affecting the ability to perform the inherent requirement/s and demands of the position** - Reports should be based on factual information on how work performance relating to the inherent requirement/s of the position is being affected by the injury or health related condition provided by the employee's immediate supervisor. Information needs to be provided on both positive and negative aspects of the employee's performance.
5. **Specific question(s)** – state the agency's specific question(s) that require an answer from the medical provider. Unless clinical advice is particularly being sought on an employee's ability to safely continue in a particular job, it is not sufficient to simply request an assessment of an employee's "fitness to continue" or assume the question(s) will be inferred from the general background. If clinical advice is being sought on an employee's ability to continue in a particular job or to undertake alternative employment this must be made clear in the referral.
6. **Agency proposals** - outline any proposal to facilitate the employee safely continuing or returning to duty including:
  - temporary or permanent alternative or modified duties either in the substantive position or another work area
  - flexible working arrangements appropriate to the workplace or operations of the unit
  - support or protective mechanisms (eg equipment or additional assistance in the workplace)
7. **Previous referrals** - detail any previous referrals and the outcome of any action to implement the previous advice. This must include copies of employee's treating doctor reports where provided and where the employee has consented to their inclusion. If a treating doctor report has not been made available this should be noted in the report for the assessor's information.
8. **Workers compensation** – include a statement that this referral, in so far as the agency understands, is only related to a non-work related health issue and should it be identified that the health issue is related to an employee's compensable health matter then the referring agency should be contacted immediately.

9. **Summary of documents** – a summary of the documents in checklist format.

### Referrals must be based on health related issues

It is not the role of the nominated medical assessor to undertake medical assessments arising from non health related matters that must be managed by the agency.

There may be occasions where an agency seeks medical advice to confirm it is safe for an employee to be involved in a complaints resolution, performance management or disciplinary process. In providing contextual information for a referral, it is only necessary to provide relevant details of the discipline, investigation or performance appraisal process, unless those details are prevented from being disclosed due to confidentiality requirements. Any information provided must not pre-empt the outcome of the process and allegations or complaints should not be brought to the employee's attention for the first time as a result of the referral.

### Security and confidentiality of documentation

Agencies must ensure that all referral records are secure against loss, unauthorised access, modification or other misuse in accordance with the *Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002*.

### Employee to be consulted and provided with copies of documentation

The employee must be made aware of the reason for the referral and where possible, in person (particularly if their ability to continue in a particular job is raised).

Agencies must provide the employee with copies of all information sent to the nominated medical assessor by either registered post or courier. If the employee wants to elect an alternative form of delivery they must advise the employer in writing. If the employee is absent from the workplace, the agency should securely deliver the material to the employee.

Agencies are to advise employees that they may be accompanied by a support person **at the medical assessment**. This may be a union representative. The agency is to inform the employee that they may request an interpreter if required.

When copies of referral documents are sent to the employee they must be accompanied by a form requiring the employee to sign and return to the agency acknowledging receipt of the documentation. If this acknowledgement cannot be made or is not received, the agency should make reasonable attempts to contact the employee to confirm receipt. Any lack of formal acknowledgement is not an indication that the employee has not received the documentation and this should not delay the assessment process. However, the agency should notify the nominated medical assessor of the lack of acknowledgement.

### Employee may provide information

Employees have the right to send a written response to the nominated medical assessor about the information in the agency's referral. Any such response must be relevant and confined to the same health-related issues contained in the referral.

Employees should ensure the nominated medical assessor is provided with any additional **medical information** not contained within the referral **at the earliest possible opportunity and no later than the day of the appointment**.

Employees are strongly encouraged to also provide the additional information to their agency to ensure that any future decisions are based on all relevant information. To this end employees may need to consider the balance between their desire for confidentiality and the need for the agency to have sufficient information to ensure that the agency can provide a safe place of work for the employee, to enable appropriate support to be offered and to address any specific workplace issues affecting the employee.

### Employee consent form

The employer should make available to the employee at the time of referral the *Authority to Release Medical Information* Form (Appendix 1). The employee may sign the consent form at the time of referral or sign at a later date after discussing with their treating doctor or specialist as to what information should be made available to the employer to provide the best outcome for the rehabilitation of the employee.

### Supplementary information

Agencies may provide the nominated medical assessor with relevant supplementary information at any time following the initial referral. The agency must provide the supplementary information to the employee in the same way as the initial referral documentation. The agency should provide this information no later than 5 working days prior to the employee's appointment to see the nominated medical assessor or as soon as possible thereafter.

### Timeframes

The time taken to conduct a medical assessment and implement the advice will vary due to a range of factors including any of the following:

- whether the employee provides information or the agency provides supplementary information
- the time taken to get an appointment with a practitioner
- the number and complexity of the health issues
- the need to refer matters to specialists and the promptness in which reports from other practitioners are provided
- the emergence of additional issues as the assessment or implementation of the advice proceeds
- whether the employee has sought a review of the medical assessment or the time taken for the agency to be notified that an employee has not sought a review.

### Employee Assistance Programs

An employee may feel anxious about the process and may require additional support. Managers should encourage employees to use the Employee Assistance Program (EAP) made available through their agency.

Separately from the EAP there are many community and general welfare support services that can be accessed by individuals. An example is the Commonwealth's 'Job in Jeopardy' program which provides access to the Commonwealth Rehabilitation Service (CRS).

Welfare and other advice may also be available from the employee's relevant union

## THE MEDICAL ASSESSMENT

### The report

Following a medical examination, the nominated medical assessor will provide a report to the agency and the employee which sets out the basis for the advice.

The nominated medical assessor's advice may include any of the examples listed below depending on the reason for referral, the basis of the referral and the agency's specific question(s):

- fit to undertake the inherent requirements and demands of their position
- may safely continue to work with reasonable adjustments, restrictions and/or a rehabilitation program
- temporarily unfit but is likely to become fit to safely return to their normal duties within an approximate time frame or date.
- temporarily unfit but is likely to become fit to safely return to modified or alternative duties within an approximate time frame or date.
- permanently unable to carry out the inherent requirements and demands of the position
- permanently unfit for any duties.

The nominated medical assessor may discuss the advice with the agency but it will be limited to health matters that relate to the employee's ability to safely undertake the inherent requirements and demands of the position and any rehabilitation or adjustment issues. The nominated medical assessor must not disclose any other health matters without the employee's written consent.

### Implementing the medical advice

Options for managing the health related issue are listed below and will depend on the outcome of the assessment.

### Sick leave

The assessment may recommend that the employee be absent from work on sick leave for a specified period. This may be to allow the employee time to recover or meet certain health targets. A further medical assessment may be required to determine how the return to work is to be managed and when it can safely occur.

### Workplace adjustments

The agency needs to provide to the nominated medical assessor factual information on the physical environment of the workplace, the operational requirements of the work unit and any other unique characteristics of the workplace that the medical assessor should be aware of in making any recommendations on workplace adjustments.

The types of adjustment which may be recommended by the nominated medical assessor could include one or more of the following:

- implementing flexible work arrangements such as flexible working hours
- vocational retraining and/or job redesign aimed at ensuring the work is adjusted to assist the employee to perform their duties
- purchasing equipment to assist the employee to perform their duties

- providing services or facilities to assist the employee to undertake their duties, for example by re-arranging workplace access
- redesigning the position - this could be undertaken in consultation with an occupational health practitioner

An agency may wish to use the services of an appropriate medical or allied health professional to assist with workplace adjustments.

Special Note:

The *Anti-Discrimination Act 1977 (NSW)* and the *Disability Discrimination Act 1992 (Commonwealth)* both require employers to make reasonable adjustments (services or facilities) to enable a person with a disability who was selected on the basis of merit to carry out the inherent job requirements and job demands of a position.

Many forms of adjustment can be made to the workplace to reduce or eliminate the effects of a disability upon a person's ability to carry out the inherent requirements of a job. This can be undertaken by supporting the capabilities of people with disabilities and assisting them to perform the inherent job requirements and job demands of the position.

The nature of adjustment required needs to be determined in consultation with the person concerned and should not be based on generalisations about particular disabilities. Such an approach acknowledges that there are variations between individuals with particular types of disability, as to the degree of disability experienced by them as well as other characteristics, such as skills, qualifications and experience.

### Alternative duties

Another type of workplace adjustment is alternative duties whether on a temporary or permanent basis.

Where the medical advice states that an employee could fulfil alternative duties, the agency is obliged to investigate whether alternative duties exist in the agency.

Agencies may investigate the employee's transfer to a more suitable position elsewhere in the public sector through an agency level negotiation either on a temporary or permanent basis. This is possible through a transfer under section 86 to section 88 of the *Public Sector Employment and Management Act 2002*. A transfer may be considered when:

- it is not possible to offer suitable employment within the same agency
- the employing agency cannot retrain the employee
- it is not possible to redesign the position in order to provide them with meaningful work at their pre-injury/illness level of employment.

### Unjustifiable hardship

Unjustifiable hardship is a legal defence to a complaint of disability discrimination. An employer must provide services or facilities to enable an employee or potential employee to carry out the inherent requirements and job demands of a position. However, an employer may in some circumstances claim that the provision of such services or facilities would cause the employer 'unjustifiable hardship'.

This defence may only apply in relation to a job applicant or dismissed employee. It does not apply to an existing employee. An existing employee who has a disability and requires services

or facilities in order to carry out the inherent requirements and job demands of a position must be provided with those services or facilities.

Unjustifiable hardship is a stringent standard for employers to meet. All the relevant circumstances must be taken into account when determining whether the provision of services and facilities would cause unjustifiable hardship to the employer, including:

- an assessment of the adjustments required;
- the nature of the benefit and detriment likely to accrue or be suffered by any person;
- the benefits or detriment likely to accrue to others;
- the costs of the adjustment and the financial situation of the agency;
- in the case of the provision of services or the making available of facilities, the existence of an action plan given to the Australian Human Rights Commission pursuant to the *Disability Discrimination Act 1992 (Commonwealth)*.

No single factor alone is likely to constitute unjustifiable hardship.

### Medical retirement

The nominated medical provider may assess that the employee has long-term health issues affecting their ability to safely continue in their position or fulfil the inherent requirements of their position, or the employee's unfitness or incapacity appears likely to be permanent.

In this case the CEO or delegate is to decide whether an employee is to be medically retired. This decision should happen on receipt of the advice and following the expiry of any review period. Before deciding, the CEO or delegate must:

- be satisfied that the elements set out in the relevant legislation and policy have been met
- be clear on the medical basis on which the proposed medical retirement will be based
- be satisfied that the proposed medical retirement is the last resort and the employee is genuinely unable to carry out the full inherent requirements and demands of the position
- be satisfied that reasonable attempts have been unsuccessful in identifying duties commensurate with identified medical restrictions, and there are no suitable alternative positions in which the employee can be placed.

### Other health risks

The CEO or delegate is responsible for managing risks under the *Occupational Health and Safety Act 2000*. If the CEO or delegate is of the opinion that the employee is considered to be a health risk to themselves or others in the workplace the CEO or delegate may direct the employee to cease duty immediately or, if absent from duty, to not resume duty.

The CEO or delegate may decide on this action in the following circumstance:

- where evidence in the workplace contradicts the treating doctor's initial advice and clarification is being sought from the treating doctor, or

- while waiting for the employee's assessment by the nominated medical assessor, or
- after the employee's assessment by the nominated medical assessor and in accordance with their advice. In this case, the agency should inform the employee and, if necessary, direct the employee verbally and in writing to cease duty immediately.

This list is an example only and does not constitute all the circumstances that a CEO or delegate may have to take into consideration when carrying out their responsibility under the *Occupational Health and Safety Act 2000*.

## REVIEW OF MEDICAL ASSESSMENT

### Independent Review Panel – administered by the nominated medical assessor

The nominated medical assessor will administer requests for a review of a medical assessment to be undertaken by an independent review panel. An employee may lodge a request with the appropriate officer of the nominated medical assessor and/or must notify the agency. Where the request for review has been provided to the agency first, then the agency should notify the appropriate officer of the nominated medical assessor. A review of the medical assessment can only be lodged if it meets the criteria for review below.

The review will be conducted by a panel of three members which include a senior occupational physician who did not undertake the primary medical assessment of the employee. The other two panel members will be determined on the basis of their clinical management and occupational health knowledge, public sector management skills and knowledge of the principles of advocacy and natural justice.

The review panel will only take into account matters that impact on the medical assessment.

The panel, will then make an independent decision regarding the appropriateness of the medical assessment and recommendations.

### Criteria for review

A request for a review must be lodged by an employee within 21 days from the date of the Medical Assessment Report and on the basis that:

- a) the employee can demonstrate that relevant information about their medical condition was available and offered but not considered at the time of assessment ; and/or
- b) the employee can demonstrate that the reasons for the nominated medical assessor's recommendation were not consistent with the available information.

The review is limited to an examination of the appropriateness of the medical assessment and associated recommendations and the process of the assessment by the nominated medical assessor. The review does not consider other issues such as actions taken or not taken by the employer either before or after the assessment.

## Review of medical assessment

Agencies must provide a review process in relation to an employee's medical assessment.

1. Staff who are employed under Chapter 2 of the *Public Sector Employment and Management Act 2002* in Public Service Departments (Principal Departments and Other Agencies) as listed in Part 1, Schedule 1, will be able to lodge a request for a review with the nominated medical assessor administering the independent Review Panel
2. Agencies who are not required to use the nominated medical assessor may either:
  - (a) elect to use the nominated medical assessor and its review process , or
  - (b) continue to use their own medical assessment process.

Agencies that do not have an existing review mechanism will need to develop a review mechanism in consultation with the relevant union/s.

## APPEALS AGAINST A DECISION/ ACTION OF THE AGENCY

### Grievance procedures

Agencies must manage all work-related concerns and grievances in accordance with the grievance and dispute resolution procedures contained in the relevant industrial instrument.

### External tribunals and bodies

An employee may have recourse to other appropriate tribunals and bodies. Examples include any of the following:

- Employee's union
- NSW Industrial Relations Commission
- Anti-Discrimination Board of NSW
- Australian Human Rights Commission
- NSW Ombudsman
- Independent Commission Against Corruption.

## RELATED POLICIES AND PROCEDURES

### Pre-employment health assessments

These procedures deal with managing employee health related issues that impact on the ability to perform the inherent requirement/s and demands of the position. Pre-placement medical assessments and health monitoring is dealt with in [C2000-26 Employment Health Assessment Policy and Guidelines](#).

## Other related policies and procedures

- *Circular 2009-16 Managing Sick Leave Policy*
- *Circular 2007- 39 A Healthy Workforce – Policy on improving the health and well being of public sector employees*
- *Circular 1998-80 Premier's Department Policy and Guidelines: Alcohol and Other Drugs*
- *Memorandum 2007-02 Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying*
- *Circular 2003-37 Occupational Stress - Hazard Identification and Risk Management Strategy*
- *Memorandum 2005-14 Working Together: Public Sector OHS & Injury Management Strategy 2005-2008*
- *Circular 2007-48 Leading Well: The role of leadership in improving the prevention and management of psychological injury*

**APPENDIX 1**

**Authority for Release of Medical Information**

I ..... of .....  
(employee's full name) (employee's full address)

I ..... give permission to .....  
(employee's full name) (name of agency where employee is employed)

in accordance with the procedures set out in "Managing Non-Work Related Injuries or Health Conditions", to obtain any relevant medical information and advice from my medical or other health practitioners, concerning my fitness to safely undertake the duties of my position and other health related matters that have been identified by my employer that need to be considered in respect to my employment.

Further, should I be referred to a nominated medical assessor in accordance with the procedures set out in "Managing Non-Work Related Injuries or Health Conditions", I consent to any or all of the information obtained by my employer being provided to that nominated medical assessor for the purpose of the assessment (and to the Independent Review panel if I seek a review of that assessment).

Listed below are details of my current (and previous) treating medical and health practitioners and my consent is provided to my employer to obtain any relevant medical information and advice from them concerning my fitness to safely undertake the duties of my position and other health related matters that have been identified by my employer that need to be considered in respect to my employment.

Type of health/medical practitioner			
Name			
Address			
Telephone			

(\*If the space provided above is insufficient please list on a separate page and attach to this form)

I approve a copy of the authority, including an electronic version or facsimile, being treated as the original. The authority is valid for the duration of my rehabilitation or my return to the full duties of my substantive position.

Signed ..... Date / /  
(employee's signature)

**Important information**

- The employee may wish to discuss with their treating medical or health practitioner as to what information should be made available to the employer to assist with addressing any health related matters that need to be considered in respect to the employee's employment.
- Withholding consent may compromise your employer's ability to formulate an appropriate work plan to accommodate your health condition and a return to full duties. If all relevant medical details can be considered, your employer can consider all options available if there are any health issues affecting your fitness to safely undertake the duties of your position.