

# What you need to know

## Comcare



### If a member suffers an injury at work and they work for an organisation covered under the Comcare workers' compensation scheme they could be eligible to claim for compensation.

Australian public service employees of the Commonwealth Government and ACT Government, or employees of companies licensed to self-insure under the Comcare Scheme include organisations such as Telstra, Optus, Australia Post, Linfox, Border Express, K&S Freighters, TNT Australia, National Australia Bank, Commonwealth Bank, John Holland and Chubb.

Follow our top 10 commonly asked questions to make sure your members' rights are protected:

#### 1 What injuries are covered?

Compensation is payable for injuries sustained at work, or a disease significantly contributed to by a member's employment, including:

- physical injuries and aggravations, i.e. worsening of an existing injury or disease
- psychological injuries, as long as the injury wasn't caused by reasonable administrative action, and
- travelling for work or while travelling to or attending an approved place of work or education.

#### 2 How do members make a claim?

To claim compensation the member must:

- 1 Report their injury in writing to their employer as soon as possible and complete an incident report form.
- 2 Get a medical certificate signed and completed by the member's doctor. It should describe:
  - the injury and include the doctor's opinion about whether the injury is work related, and
  - detail any time off work and further treatment required.

3 Lodge a claim form. These are available from the AWU, their employer or visit [comcare.gov.au](http://comcare.gov.au).

4 The member's employer will make a decision either accepting or rejecting liability for their injury. There are no time frames for them to make this decision, so it's important to get the member to chase them every two to four weeks.

**Tip:** Advise members to keep documents related to their claim.

#### 3 What benefits are available if a member's claim is successful?

Once the member's employer has accepted liability for their injury, they're entitled to lodge claims on an ongoing basis for the following benefits:

- time off work
- reasonable medical expenses relating to their injury
- aids, appliances and modifications
- household and attendant care services
- death and /or funeral benefits
- costs related to travel to attend medical treatment (conditions apply), and
- permanent impairment and non-economic loss.

**Note:** Members may need to lodge separate claims for each benefit that they want paid or reimbursed.

#### 4 Will wages be covered?

If members can't return to work, they're entitled to receive 100% of their normal weekly earnings for the first 45 weeks they're off work. If a member can return to work but are earning less or working less hours, they may be entitled to a top-up payment. This includes regular overtime, penalty rates, higher duties and some other allowances. Superannuation is not covered.

After 45 weeks, if members are still unable to return to work, they will be entitled to 75% of their normal weekly earnings, or top-up payments depending on how much they're earning and working.

## 5 What is a lump sum permanent impairment benefit and when can a member claim it?

If a member suffers a permanent impairment due to their work-related injury, they may be entitled to claim a lump sum permanent impairment benefit. This is a set amount of money paid to the member for non-economic loss to compensate for the pain and suffering the permanent injury will have on them for the rest of their life.

A lump sum payment does not impact a member's ongoing Comcare benefits, such as medical expenses and time off work, however, members can't sue for common law damages and claim a lump sum permanent impairment – they have to choose – so it's important members seek legal advice.

To be entitled to receive a lump sum payment, a member's injuries must have stabilised, which usually happens 12 months from the date of their injury or their last operation. Members also need a medical assessment confirming their injury is permanent. A member must be assessed as having a percentage impairment of 10% or higher, with some exceptions being impairment to fingers, toes, taste and smell. Hearing loss claims require 5%.

## 6 What happens in the event of a death?

A lump sum compensation payment of up to approximately \$500,000.00 and a weekly pension payment may be payable to the dependents of a worker who has died of a work-related injury or illness.

Reasonable funeral expenses may also be claimed.

## 7 What if Comcare or the member's employer stops their benefits?

Comcare or the member's employer may decide to stop their benefits at any time. This may happen if they determine that the member no longer has an

incapacity for employment or they no longer need some or all of their benefits.

If members believe this is unfair and they want to appeal the decision, they must apply for reconsideration within 30 days.

## 8 Can a member appeal the decision?

After the member has requested a reconsideration of a decision, their employer will make a second decision. Members can appeal this within 60 days to the Administrative Appeals Tribunal. It's important members seek legal help if this occurs.

## 9 Can members sue their employer for damages under common law?

Suing an employer for damages is known as a common law claim for negligence. To be entitled to pursue a claim, members require a minimum level of permanent impairment of 10%, with some exceptions being impairment to fingers, toes, taste and smell. Hearing loss claims require 5%. The amount is capped at \$110,000.00 for pain and suffering only.

**Note:** Members generally have 3 years from the date of their injury to make a common law claim – this might be extended if their injury is not stable or they haven't been assessed for permanent impairment of at least 10%.

## 10 Can members claim common law damages against a third party?

Yes. A third party is a person or organisation other than the member's employer that may have caused or contributed to their injury.

Time limits are generally three years from the date of the member's injury. Common law claims against third parties can affect their ongoing Comcare entitlements and legal advice is essential.

<b>Our Victorian offices</b>	<b>Melbourne</b>	03 9605 2700	<b>Mildura</b>	03 5018 4000	<b>Visiting offices</b> Visit our website or call 1800 810 812 to find your nearest office.  We also offer online consultations and in most cases we can come to you.
	<b>Bendigo</b>	03 5444 4969	<b>Reservoir</b>	03 9462 2608	
	<b>Craigieburn</b>	03 8314 1200	<b>Ringwood</b>	03 9876 8555	
	<b>Dandenong</b>	03 9794 0403	<b>Sunshine</b>	03 9310 2966	
	<b>Frankston</b>	03 9784 6100	<b>Traralgon</b>	03 5174 8633	
	<b>Geelong</b>	03 5221 1152	<b>Wangaratta</b>	03 5720 1500	
	<b>Greensborough</b>	03 9431 7500			