



CLAIMS INVOLVING WORKING FROM HOME



Many Australians are now working from home (WFH) to help contain the spread of COVID-19 and homes have become a new workplace for many employees. It is therefore likely that during this period, more workers compensation claims will involve WFH circumstances than previously.

To support employers in managing these kinds of claims, please see further information below about some issues that Comcare may need to consider when assessing a WFH claim.



Considerations for assessing WFH Claims

The same statutory tests apply to WFH claims as any other claim. So, for the most part, WFH claims will be assessed in the same way as other claims. Comcare's website contains information about [how a claim is assessed](#). As usual, Comcare will need information to:

- confirm the claimant is an employee;
- establish whether they suffer an injury or disease resulting in death, incapacity for work or impairment; and if so,
- whether there is a connection between that injury and the employee's employment; and
- whether any exclusionary provisions apply (e.g. reasonable administrative action).

For WFH claims, it may be more complex to assess whether there is an employment connection with the injury.



Employment connection

To be compensable, the employment connection required is:

- for disease - employment 'contributed to a significant degree';
- for injury - it arises either:
 - 'out of employment' - i.e. is the injury caused by what the employee is employed to do? or
 - 'in the course of employment' - i.e. did it occur during employment?

For the 'in the course of employment' test, Comcare needs to consider (among other things), where the employee was and what they were doing at the time of the injury. Specifically, was the employee:

- at their place of work for the purposes of employment?
- temporarily absent from their place of work during an ordinary recess?
- doing something they were reasonably required, expected or authorised to do in order to carry out their duties?

During the WFH period, the employee's home is likely to be their 'place of work' but this does not mean that they will be 'in the course of employment' continuously while at home, or that the whole home will be the 'place of work'. Both will depend on the specific arrangements made in each case so Comcare is likely to need detailed information about this.

The assessment of liability for an injury incurred during a break while working from home could be particularly complex.



EMPLOYER INFORMATION



Comcare is likely to request the following information for a WFH claim

From the employee

- medical certificate and other information about the injury
- Statement about the circumstances of the injury:
 - what happened, how and why?
 - where did it happen?
 - when did it happen – date and time? while performing duties? during a break?
 - were there any witnesses (physical or virtual)?

From the employer

- Employer guidance, policies, procedures, rules or directions about working from home:
 - guidance for working safely at home e.g. workstation set up, mental health
 - expectations for adherence to workplace policies and procedures when WFH
 - WHS Risk assessment for WFH arrangements
 - support available for employees WFH
 - employer communications about establishing and supporting WFH arrangements
- Documents setting out terms of employment and WFH arrangements for the employee:
 - enterprise Bargaining Agreement;
 - position description or other documents setting out employment duties
 - directions given to the employee individually or generally
 - authority to work from home
 - [WFH checklist](#), risk assessment, flexible working agreement or other documents setting out arrangements for:
 - place of work – specific location in the home
 - workstation set up including equipment provided by the employer or agreed to be provided by the employee & support offered to ensure appropriate
 - duration of the WFH agreement, hours of work and ordinary recesses
 - carer responsibilities
 - communication between employee and manager
 - support where the employee has a pre-existing condition
 - employee statements about pre-existing conditions
 - records of hours worked - flexitime records, tax logs, computer logs, emails and phone records to confirm the employee's work activities at time of injury
 - if the employee was injured while travelling, the travel itinerary and workplace approval to travel

For further information about working from home, view our [Guidance and resources](#).

