

A guide for injured workers

Introducing WorkSafe

April 2014



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The information presented in *Introducing WorkSafe*, *A guide for injured workers* is intended as a guide only. Should any differences arise over the interpretations of the content of this document and the law, the law applies.

If you have a work-related injury or illness and your WorkSafe claim has been accepted, this brochure contains important information. It covers some of the support services provided by WorkSafe Victoria that can help with your recovery. You may wish to refer to his brochure from time to time, so keep it with your other WorkSafe claim information.

Unless otherwise specified, a reference to WorkSafe is also a reference to an approved self-insurer. Where you read 'WorkSafe' and 'Agent' also read 'self-insurer' and 'approved Agent of a self-insurer'.

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About WorkSafe Victoria

WorkSafe Victoria (WorkSafe) is responsible for administering Victoria's workers compensation legislation and occupational health and safety legislation. WorkSafe provides compensation to workers for work-related injuries or illnesses. WorkSafe also aims to ensure the health and safety of people at work and reduce the social and economic costs to the Victorian community of workplace injuries and illnesses.

How to make a WorkSafe claim

If you have a work-related injury or illness, you may be able to claim WorkSafe entitlements.

You are entitled to claim whether you are permanent or casual, full time or part time, employed by the people where you work or by an employment agency. Your work-related injury may be new or an aggravation of a pre-existing injury or illness.

For information about making a claim, see *How to Make a WorkSafe Claim*.

Your WorkSafe Agent

WorkSafe Agents perform some of the functions associated with managing WorkSafe claims. Your employer is required to choose a WorkSafe Agent. The functions performed by Agents on behalf of WorkSafe include:

- managing claims to ensure you receive your entitlements
- assisting people return to work
- collecting employer premiums.

The Agent will work with you and your employer to ensure that you receive appropriate assistance with your claim. Contact details for all Agents appear at the back of this brochure.

Self-insurers

Self-insurers are employers approved by WorkSafe to manage their own workers' compensation claims. If your employer is a self-insurer, they are responsible for managing your claim and assisting with your return to work. When reading this brochure, any reference to 'your Agent' should be replaced by 'your employer'.

To find out if your employer is a self-insurer, call the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444.

A list of the currently approved self-insurers can also be found at worksafe.vic.gov.au.

Working together

Your recovery and return to work is a team effort involving you, your Agent, employer and doctor or healthcare provider. A work-related injury or illness can have a big impact on your life. You might not be able to do what you used to at work or home, but support is available to help you recover. Everyone's circumstances and experiences may differ, but actively participating in your rehabilitation will help you to get better.

2.

Weekly payments (income entitlements)

If you lose income because of a work-related injury or illness, you may be entitled to weekly payments based on your pre-injury average weekly earnings (PIAWE). You don't have to be working full time to be eligible for weekly payments. You can be permanent or casual, full time or part time, employed by the people where you work or by an employment agency. You may also have more than one job.

How to access weekly payments

If you are unable to do your normal job and you are claiming weekly payments, your employer is usually responsible for paying your weekly payments.

To access weekly payments, you must provide your employer with a valid *WorkSafe Certificate of Capacity*, which you need to obtain from your doctor.

Your employer should pay you on your normal pay day. They will be reimbursed by your Agent, unless they are self insured.

WorkSafe Certificates of Capacity

- Your doctor has *WorkSafe Certificates of Capacity* and can complete one for you at an appointment. Your first certificate covers a maximum of 14 days and can only be obtained from a medical practitioner.
- **√**
- Ongoing certificates can be obtained from healthcare providers, such as a medical practitioner, chiropractor, physiotherapist or osteopath, and can cover a maximum of 28 days. It is your responsibility to obtain ongoing certificates by the time the previous certificate has expired.
- \checkmark
- In certain circumstances, your Agent can authorise ongoing certificates for periods longer than 28 days.
- \checkmark
- You must declare any work you have done in any job during the period covered by ongoing certificates. The patient declaration is on the back of the certificate. If you have more than one job and you are still working in one of the jobs, make sure you detail and attach this information to your certificate.

What WorkSafe pays

Your weekly payments are calculated as a percentage of your pre injury average weekly earnings (PIAWE), capped at a maximum rate and indexed annually. If you were with the same employer for 52 weeks before your injury, your PIAWE is calculated using your average weekly earnings for the last 52 weeks. If you were with your employer for less than 52 weeks, your average weekly earnings for the period of your employment are usually used.

PIAWE is based on your ordinary earnings for your normal number of hours per week.

Your PIAWE may include all of the following:

- your base rate of pay
- overtime and shift allowances (for the first 52 weeks only)
- piece rates (payments based on your output)

Weekly payments (income entitlements)

- commissions
- the monetary value of certain non-pecuniary (non-cash) benefits
- the value of any part of your salary that you requested your employer to direct to another party commonly referred to as a salary sacrifice.

Items such as incentive based payments or bonuses, loadings, monetary allowances and any other separately identifiable amount are excluded.

If you receive a non-pecuniary (non-cash) benefit or have a salary sacrifice arrangement, this may be included in your PIAWE. Non-pecuniary benefits may include residential accommodation, a motor vehicle, private health insurance or education fees.

If you continue to receive non-pecuniary benefits or salary sacrifice arrangements after your injury, the monetary value of these benefits or sacrificed amounts will be deducted from your PIAWE. This deduction will also occur if you start receiving non-pecuniary benefits or enter into salary sacrifice arrangements while receiving benefits.

The percentage rate of your PIAWE changes if you have returned to work and is based on the number of weeks of paid or payable weekly payments.

Your WorkSafe Agent will assist you to accurately calculate your PIAWE and let you know if these items are included in the calculation of your weekly payments. A form to assist you and your employer to record the information needed to calculate your PIAWE, Calculating Pre-Injury Average Weekly Earnings, is available at worksafe.vic.gov.au

Percentage rate changes from 5 April 2010

	If you have returned to work (and you are earning less than your PIAWE)	If you have not yet returned to work
For the first 13 weeks	95% of your PIAWE (capped at a maximum rate), less what you are currently earning a week	95% of your PIAWE (capped at a maximum rate)
14 weeks to 130 weeks (If your claim for weekly payments was received by your agent before 1 January 2005, your entitlement will be based on these rates for a maximum of 104 weeks)	80% of your PIAWE (capped at a maximum rate), less 80% of what you are currently earning a week	80% of your PIAWE (capped at a maximum rate)
After 130 weeks (If your claim for weekly payments was received by your Agent before 1 January 2005, your entitlement will be based on these rates after 104 weeks)	Your weekly payments cease being paid at 130 weeks If you have returned to work at least 15 hours a week (minimum earnings apply) and you continue indefinitely to be incapable of working beyond this level in any job as a result of your injury or illness, you can apply to WorkSafe for your weekly payments to continue beyond 130 weeks	If you still have no capacity for suitable alternative work and this is not likely to change, 80% of your PIAWE (capped at a maximum rate) Payments can continue until either the earlier of:
	If you meet these conditions, your weekly payments will be 80% of your PIAWE (capped at a maximum rate), less 80% of what you are currently earning a week	a change in your capacityyour reaching 65 years of age

^{*}For claims made on or after 5 April 2010.

You may also be entitled to additional or 'top up' pay through your award or enterprise bargaining agreement. You should talk to your employer, your union or Wageline to get more information.

For more information about maximum rates and indexation, visit **worksafe.vic.gov.au**, call the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444, your Agent or your union.

3. Services to help you get better

The most important person in your recovery is you. Actively participating in your treatment can help you get better sooner.

What WorkSafe can pay

WorkSafe can pay the reasonable costs of medical and like services for your work-related injury or illness. Your treating healthcare practitioner is primarily responsible for identifying the medical and like services that are appropriate for your work-related injury or illness. You can choose which treating healthcare practitioner you visit.

As you recover, your needs will change and you can expect your treatment to reduce.

Examples of some of the medical and like services you may be entitled to are:

- medical treatment
- medical imaging such as CT scans and x-rays
- physiotherapy
- ambulance
- occupational rehabilitation
- hospital services
- nursing
- chiropractic
- osteopathy
- pharmacy
- transport to and from medical treatment
- psychology and psychiatry
- personal and household services.

Payment of the reasonable costs of medical and like services does not necessarily mean payment of the full costs. In some cases there may be a gap between what the provider charges you and what WorkSafe determines to be the reasonable costs for the service. Where this is the case, any amount charged by a provider in excess of WorkSafe's fees may be incurred by you.

To avoid being out of pocket you should check whether the provider intends to charge more than the WorkSafe fee before undergoing your treatment or service.

A full list of WorkSafe's fees can be found at worksafe.vic.gov.au/fees

For more information call the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444, your Agent or your union.

Services to help you get better

What WorkSafe cannot pay

- Treatment or services unrelated to your work-related injury or illness.
- Treatment or services provided outside Australia, unless you obtain approval from your Agent in advance.
- Treatment or services that are not clinically justified for your injury or illness.
- Treatment that is considered experimental or not covered by the Medical Benefits Scheme.
- Treatment from a person who isn't appropriately registered, qualified or authorised by WorkSafe to provide the service.

Your Agent will regularly review your progress and the effectiveness of ongoing treatment when deciding whether paying for these services is reasonable.

How to access services

You generally don't need to seek approval from your Agent before starting treatment if it:

- relates to your work-related injury or illness and will contribute to your recovery or rehabilitation
- follows straight on from the incident that caused the injury or illness
- is a treatment that doesn't require a medical referral (chiropractic, dental, osteopathy, optometry, physiotherapy or podiatry service)
- is provided by a healthcare provider registered with WorkSafe
- is not considered to be experimental.

Your Agent may require a referral from your doctor for some services such as massage, acupuncture and psychological counselling. For these services, your doctor should send a copy of the referral to your Agent for approval except in a medical emergency where it is not reasonable to do this.

If your doctor thinks you will need a particular treatment or assistance, such as help with household tasks that you did before your injury or illness, you can ask them to make a written recommendation. Your Agent will then review this request.

The information required in a written request from your doctor includes:

- why the service is required
- how the service or treatment is related to your work-related injury or illness
- how many sessions and for how long you will need the treatment
- the work-related and rehabilitation goals of the service or treatment
- what you intend to do yourself to manage or rehabilitate from the injury
- any further supporting medical evidence that you think should be considered.

Prior approval for some services

Some services require prior approval from your Agent. A full list of these services is available at worksafe.vic.gov.au. If your doctor thinks you need modifications to your car or home as a result of your work-related injury, prior approval must be obtained from your Agent before commencing any modifications. If prior approval is not obtained, the cost of such modifications will not be payable by WorkSafe or a self-insurer.

Services to help you get better

How services are paid

WorkSafe prefers your treating healthcare practitioner to invoice your employer or Agent directly. Make sure they have your correct WorkSafe claim number so they can include this on their invoice.

If you pay for your own treatment or services, forward the original invoice and receipt to your employer, unless you have arranged to forward these directly to your Agent.

It is recommended that you also keep copies for yourself. If you haven't been reimbursed within 30 days, call your employer or your Agent. You should send invoices and receipts to your employer or agent as soon as possible or at least within six months of the date of the treatment or service.

If you pay for an account and seek reimbursement, your Agent is only liable to reimburse what has been determined as the reasonable costs for the service.

How progress is monitored

WorkSafe's Clinical Framework contains a set of principles for the provision of health services to injured workers. The framework has been established to:

- optimise your return to work outcomes
- inform health professionals about WorkSafe's expectation for the management of your injury or illness
- ensure the provision of health services that are goal orientated, supported by evidence and clinically justified.

To understand your needs and whether your treatment is improving your injury or illness, your Agent might ask for information about your progress and goals from you and your doctor or healthcare provider. Your Agent or your employer's Return to Work Coordinator may also call your treating healthcare practitioner about your future treatment plan.

WorkSafe has appointed a number of independent medical practitioners and other healthcare professionals to provide independent medical opinions. Your Agent can select from these healthcare professionals to provide assistance with reviewing a range of matters such as:

- claim eligibility
- work capacity
- MRI requests
- surgery requests.

In these cases, you might be asked to attend one or more medical examinations.

If there is a dispute about these matters, see Section 5 of this brochure: What should I do if I disagree with a decision?

Services to help you get better

Your privacy

Your privacy is important. To find out about WorkSafe's Privacy Policy, refer to the collection statement on your claim form, visit **worksafe.vic.gov.au** or call the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444.

Getting the most from your treatment

Getting the most from your consultations with your doctor or healthcare provider is vital to getting better. These are some of the questions that might be useful for you to ask your treating doctor or healthcare provider:

- What is my treatment plan?
- What are my rehabilitation goals?
- How do I know if my treatment is effective?
- How do I know if I'm making progress?
- Should I be able to do more now than I did a month ago?
- When can I return to work?
- What can I do to continue my recovery at home?
- Has my treatment plan changed in line with my recovery?
- How will I know when treatment is complete?

If your treatment is working for you, you should notice improvement. If you don't, the treatment might not be right for you and you should talk to your doctor or healthcare provider.



4.

Getting back to work

Talking regularly with your employer can help get you back to work

Everyone's circumstances and experiences may differ, but it is important that you continue to focus on your recovery. While a work-related injury or illness can have a big impact on your life, getting back to work can be good for your health and wellbeing, so actively participating in your rehabilitation and return to work is important.

You may not have to wait until you are 100 per cent recovered to return to work. It's important to keep positive and motivated – focus on what you can do rather than what you can't.

The earlier you start planning to return to work, the better your chances of getting back sooner. Whether it's on reduced hours in your normal job or on modified or alternative duties, getting back to work can be a crucial part of your rehabilitation.

Return to work is a team effort and communication between everyone involved in your return to work is important. By working together, solutions can be found.



Start planning early to get back to work

What you need to do

As part of your return to work, you must:

- make reasonable efforts to return to work in suitable employment
- make reasonable efforts to actively participate and cooperate in planning for your return to work
- to the extent that it is reasonable to do so, actively use an occupational rehabilitation service if provided and cooperate with the provider of that service
- to the extent that it is reasonable to do so, actively participate and cooperate in assessments of your capacity for work, rehabilitation progress or future employment prospects
- to the extent that it is reasonable to do so, actively participate and cooperate in an interview for the purpose of enhancing your return to work opportunities, if requested to do so by the Agent.

These are important obligations. If you don't meet them, your entitlement to weekly payments may be affected and could ultimately lead to the termination of your weekly payments. If your Agent believes you are not meeting one or more of these obligations, they will contact you to discuss their concerns and explain what is required of you.

If there is a dispute about any of these matters, see section 5 of this brochure: What should I do if I disagree with a decision?

What your employer needs to do

Planning for your return to work will depend on your injury or illness, your capacity for work and other relevant circumstances. Your employer has obligations to:

- provide you with suitable or pre-injury employment for a minimum of the employment obligation period.
- plan for your return to work
- assess and propose suitable employment options for your return to work
- consider reasonable workplace support, aids or modification to assist in your return to work
- provide you with clear, accurate and current details of your return to work arrangements
- monitor your return to work progress
- consult directly with you about your return to work, as well as with your doctor or healthcare provider and occupational rehabilitation provider, if one is involved
- appoint a Return to Work Coordinator who has an appropriate level of seniority and is competent to assist them in meeting their return to work obligations
- make specific return to work information available to all workers in your workplace.

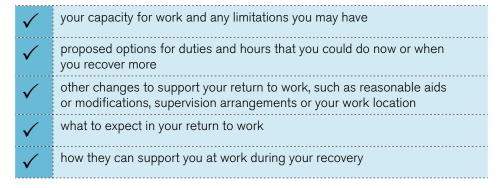
Your employer must undertake these activities as often as necessary to support your return to work consistent with your capacity. The aim is to get you back to your pre-injury role wherever possible.

Your employer also has obligations under the *Occupational Health and Safety Act* 2004 (OHS Act) to provide a safe work environment. They will need to consider their obligations under the OHS Act when planning your return to work.

Consulting about return to work

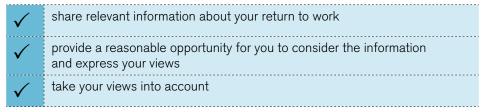
To plan for your return to work, it is essential that your employer consults with you directly. Your employer also needs to consult with your doctor or healthcare provider and occupational rehabilitation provider, if one is involved.

The types of things your employer should discuss with you include:



Depending on what is appropriate in the circumstances, consultation with you may include face to face discussions, telephone contact or written communications.

When consulting with you, your employer needs to:



Consultation may often lead to agreement about aspects of your return to work; however, agreement is not required as part of consultation.

You can be represented, assisted and supported in the return to work process by a family member, friend, colleague or union representative. They may assist you during any consultation with your employer, but they cannot meet your return to work obligations for you.

Returning to work in suitable employment

Getting back to work that is safe and matches your capacity for work is part of your rehabilitation while you are recovering. The aim is to help you stay at work until you can do your normal job.

Suitable employment could mean taking on different duties or making reasonable changes to the tools or equipment you use. It could mean working reduced hours while you recover or modifying your duties until you can return to your normal job. Suitable employment is the sort of duties your employer has identified you can do, taking into account your current work capacity, medical advice and your individual circumstances.

As part of planning your return to work, your employer needs to assess and propose suitable employment that is appropriate to your capacity for work, or likely capacity in the future.

If you, your doctor or healthcare provider have concerns about the proposed suitable employment, you should discuss these with your Return to Work Coordinator and Agent. Your doctor or healthcare provider can also suggest modifications to your return to work arrangements.

Your employer must provide you with clear, accurate and current details of the return to work arrangements to be implemented. Usually, this will be provided to you in writing. If you are unclear about the arrangements, talk to your Return to Work Coordinator to clarify the arrangements or ask for them in writing.

Over time, as your capacity for work changes, your employer needs to reassess the suitable employment options and update the return to work arrangements so they remain current and appropriate.

Sometimes an issue may arise about your return to work that you feel is not being addressed through normal communication between you and your employer. If this happens, you can ask if your employer has an agreed issue resolution procedure to help resolve it. If they don't have one, there is a Return to Work Issue Resolution process specified in the law that you can use. For more information, contact your Agent or refer to the *Steps to resolving return to work issues* fact sheet available at **worksafe.vic.gov.au**.

You can contact your Agent at any point to discuss any aspect of your return to work progress and to raise any gueries or concerns that you may have.

If you have any concerns about your workplace's occupational health and safety, you should talk to your Health and Safety Representative, supervisor, employer or union.

Ongoing employment

If you are unable to return to your normal job, your employer has an obligation to provide you with pre-injury or suitable employment when you have some capacity for work.

The obligation continues for 52 weeks. This may not be 52 consecutive weeks as it only takes into account those periods that you are not able to do your full pre-injury duties and hours as a result of their work-related injury. This period starts from when you provide your employer with either a claim for weekly payments or your first WorkSafe *Certificate of Capacity*, whichever is earlier, or your employer is advised by their Agent that they have received these documents.

If you're having problems returning to work, talk to your Agent, employer or union.

If you recover sufficiently and are able to return to your normal job and hours during this 52 week period, your employer is required to provide you with your pre-injury or equivalent employment.

Employers must meet these requirements to the extent it is reasonable to do so. In most circumstances, it is expected that it will be reasonable for employers to fulfil this obligation. Many employers continue to support their injured workers by providing suitable employment for a longer time, but there is no legal obligation to do so.

WorkSafe Agents will write to workers who have an incapacity for more than 30 weeks to ensure they are aware of the duration of the employer obligation to provide suitable or pre-injury employment.

If you are unable to return to work and stay at work with your pre-injury employer, assistance may be available through occupational rehabilitation services designed to help you find a suitable job with a new employer.

Hints for getting back to work and staying at work

- Ask your doctor or healthcare provider to write the details of the work you can do on your WorkSafe Certificate of Capacity. This should include details of limitations; for example, difficulty with bending, lifting or the requirement for regular breaks

 Ask your doctor or healthcare provider and employer to talk to each other about what can be done to help you get back to work. Your employer's Return to Work Coordinator is the best contact for these discussions

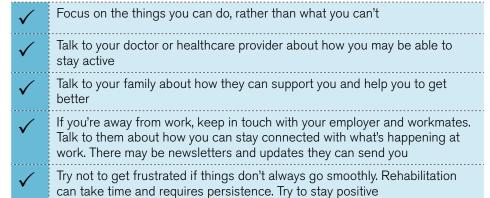
 Talk to your employer about your progress and the parts of your job you think you can do
- An occupational rehabilitation provider can help you get back to work.

 If you feel that the services of an occupational rehabilitation provider may help you stay at work or return to work, you should talk to your employer or Agent. The use of an occupational rehabilitation provider needs to be approved by your Agent
- Your employer should be planning and reviewing your return to work regularly. You, your doctor or healthcare provider can request that your return to work arrangements be reviewed at any time
- If you need additional help to return to work, contact your Agent, employer or union

Staying positive

Staying positive and keeping active after an injury can benefit your rehabilitation as well as your general wellbeing. If you feel that your employer, doctor, healthcare provider or WorkSafe Agent can do more to assist you to get back to work, talk to them.

The following tips may also assist your rehabilitation:



If you need additional help with returning to work, more information is available at **worksafe.vic.gov.au/rtw** or by contacting your Agent, employer or union.





Frequently asked questions

How do Agents make decisions?

When making decisions about your claim, your Agent must follow the relevant legislation and WorkSafe's policies and procedures. These set out the services that can be paid for and any conditions that might apply. The information that your Agent obtains from your doctor or healthcare provider will be used to help make decisions about your entitlements.

Your Agent will endeavour to make a decision on any request for services within 10 working days of receiving all relevant information.

What should I do if I disagree with a decision?

If you disagree with a decision on your claim, you can do the following:

- Talk to your employer, union or Agent.
- Contact the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444 or email info@worksafe.vic.gov.au.
- Use the Accident Compensation Conciliation Service (ACCS). This is a free service that can help resolve your dispute without a solicitor or going to court. The ACCS is independent of WorkSafe, Agents, employers, solicitors and unions. For more information or to get a Request for Conciliation form, call the ACCS on (03) 9940 1111, freecall on 1800 635 960 or visit conciliation.vic.gov.au.
- If the dispute is not resolved through the conciliation process, you can go to court.

Where can I go to get assistance?

There are a number of places to turn for assistance regarding disputed claims and the ACCS process. These include:

Your union	Some unions provide free help to their members with claims and any disputes relating to claims. Contact your union for further information.
Union Assist	A free service set up and run by the Victorian Trades Hall Council. Call (03) 9639 6144.
WorkCover Assist	A free service provided by WorkSafe that operates without its influence to help if you have a problem with your claim. Call (03) 9941 0537.

Frequently asked questions

What are impairment benefits?

The term impairment means loss of a body part or function. If you have a permanent impairment directly resulting from a work-related injury or illness, you may be entitled to a lump sum payment if your impairment is greater than the minimum threshold. This is a payment separate from and in addition to weekly payments and medical and like services. For more information, call your Agent.

What are common law damages?

If your injury occurred on or after 20 October 1999, you may be able to sue for damages under common law. To be eligible, your injuries must reach a certain impairment rating or you must satisfy the 'serious injury' test. For more information, call your Agent.

Who can help me with safety at work?

If you have any workplace health and safety concerns, you should talk to your Health and Safety Representative, supervisor or employer. For more information about workplace health and safety, call WorkSafe Victoria through the WorkSafe Advisory Service on freecall 1800 136 089 or (03) 9641 1444, visit **worksafe.vic.gov.au** or contact your union.

Where can I go to make a complaint?

If you have a complaint about the service or management of your claim, there are a number of ways to be heard. You can contact your Agent, the WorkSafe Advisory Service, the Victorian Ombudsman or your union.



WorkSafe Advisory Service

The WorkSafe Advisory Service is a free service that:

- explains return to work and rehabilitation rights and obligations
- helps to resolve worker and employer concerns
- answers general occupational health and safety enquiries
- advises workers on their rights, including health and safety and what to do if injured or ill.

Telephone: 1800 136 089 or (03) 9641 1444

Email: info@worksafe.vic.gov.au

Visit

WorkSafe Victoria 222 Exhibition Street Melbourne, Victoria 3000 worksafe.vic.gov.au

Write to

WorkSafe Advisory Service GPO Box 4306 Melbourne, Victoria 3001

Contact

- your union representative
- your employer's WorkSafe Agent



WorkSafe Victoria

WorkSafe Agents

Agent contact details are all available at worksafe.vic.gov.au/agents

Advisory Service

Phone	(03) 9641 1444
Toll-free	1800 136 089
Email	_info@worksafe.vic.gov.au
Head Office	
222 Exhibition	Street, Melbourne 3000
Phone	(03) 9641 1555

For information about WorkSafe in your own language, call our Talking your Language service

廣東話	.1300	559	141
Ελληνικά	.1300	650	535
Македонски	_1300	661	494
ltaliano	.1300	660	210
普通话	.1300	662	373
Српски	_1300	722	595
Español	.1300	724	101
Türkçe	.1300	725	445
Việt Ngữ	.1300	781	868
العربية	.1300	554	987
English	.1300	782	442
Other	.1300	782	343