Minor injuries add up!

Simple solutions to reduce your injuries and costs.

9 November 2016
Meet your moderator

Helen Creagh
Customer Experience Manager
WorkCover Queensland
How to interact today

- Click on the red button to hide and unhide the panel.
- Select audio on the control panel to change between computer audio or telephone.
- Your questions and comments will appear here throughout the webinar.
- Type your comments and questions here.
After the webinar

- A recording and presentation slides will be on worksafe.qld.gov.au within a week (Forms & Resources > Webinar and event videos)
- If we don’t answer all the questions, we will collect them and publish answers on our website
- Please complete a short survey at the end of the webinar. Your feedback will help us improve webinars and identify potential topics.
Meet your presenters

Peter Westcott
Principal Inspector
Workplace Health and Safety Queensland

Dr Cameron Mackay
Hand and Reconstructive Surgeon
Meet your presenters

Brent Cunningham
Exercise Physiologist
Konekt

Ross McConaghy
Partner
Jensen McConaghy Lawyers
Manufacturing in Queensland

- Over 11,300 Injury Claims
- Over $82.2m Compensation Payments (not including common law claims)
- 23 Average Days Off Work
- +25% Injured Workers Aged 20–30 Years Old

Wounds and lacerations

- One in three injury claims
- Over $13.7m Compensation Payments (not including common law claims)
- 14 Average Days Off Work

Most common injuries:
- Musculoskeletal injuries: 43%
- Wounds and lacerations: 31%

2015–2016 WorkCover Queensland data
Minor Injuries add up!

**Presenter:**
Peter Westcott - Principal Inspector

9 November 2016
Topics Covered

- Understanding your obligations
- Foreseeable Incidents / Injury Prevention / PPE
- Safety leadership at Work
- Best practice
- Summary
Statistics

Over 11,300 injury claims

Over $82.2m compensation payments (not including common law claims)

23 average days off work

+25% injured workers aged 20–30 years old

Most common injuries
- Musculoskeletal injuries 43%
- Wounds and lacerations 31%

Wounds and lacerations

One in three injury claims

Over $13.7m compensation payments (not including common law claims)

14 average days off work

2015–2016 WorkCover Queensland data
Obligations

Division 2 Primary duty of care

19 Primary duty of care

(1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of—

(a) workers engaged, or caused to be engaged by the person; and

(b) workers whose activities in carrying out work are influenced or directed by the person;

while the workers are at work in the business or undertaking.
Obligations

- Person conducting a business or undertaking with management or control of a workplace
- Upstream parties (design, manufacture, import, supply, install/construct)
- Officers of an business or undertaking
- Workers
- Other persons
Obligations

Persons conducting business or undertaking (PCBU) must ensure:

- Safe work environment
- Safe plant & structures
- Safe systems of work
- Safe use, handling and storage of plant
- Adequate facilities
- Information, training, instruction and supervision
- Monitor worker health and workplace conditions

WHS Act s 19
Obligations

- Eliminate risks to health and safety, so far as is reasonably practicable. (S.17 Act)

- If it is not reasonably practicable to eliminate risks, to minimise those risks so far as is reasonably practicable. (R.35 Reg)
What is Reasonably Practicable?

Deciding what is reasonably practicable to protect people:

- the likelihood of the hazard or risk occurring
- the degree of harm
- knowledge about the hazard or risk,
- the availability and suitability of ways to eliminate risk, and
- after assessing the extent of the risk,
- the cost associated.
How do we fix safety issues? – Hierarchy of Controls

36 Hierarchy of control measures

(1) This section applies if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.

(2) A duty holder, in minimising risks to health and safety must implement risk control measures under this section.

(3) The duty holder must minimise risks, so far as is reasonably practicable, by doing one or more of the following—
   (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;
   (b) isolating the hazard from any person exposed to it;
   (c) implementing engineering controls.

(4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.

(5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

Note—

A combination of the controls set out in this section may be used to minimise a risk, so far as is practicable, if a single control is not sufficient for the purpose.
How do we fix safety issues? – Hierarchy of Controls

- **Elimination**
  Control the hazard at the source

- **Substitution**
  Replace the hazard with another that has a lower risk

- **Isolation**
  Remove or separate people from the source of the hazard

- **Engineering**
  Change the physical characteristics of the plant/workplace

- **Training & Admin**
  Training & Administration

- **PPE**
  Personal Protective Equipment
Foreseeable Incidents

DEFECTIVE GUARDING

Cabinet Maker Workplace had a variety of plant for use by workers. One such item was a drop saw which was regularly operated by workers. The Drop Saw was defective in 2 ways –

(i) No maintenance to plastic guard i.e. would not move smoothly due to material build up in the saw’s guarding pivot point

(ii) Section of guarding had a hole in it exposing rotating blade. Such hole was simply taped over

A 30 year old worker used the drop saw, found that the guard was sticking in position, then assisted guard movement with his left hand resulting in worker’s thumb penetrating through the tape and into direct contact with the rotating blade causing severe lacerations to worker.

Had such guard been correctly rectified (competently repaired or replaced) to manufacturer’s specifications this incident would simply HAD NOT occurred.
Foreseeable Incidents

Learning outcome:
Due diligence - Development of Safe Work Instructions for correct usage and regular maintenance of drop Saw in addition to adequate training would have prevented this incident.
DEFECTIVE SAFE WORK PROCEDURE

A workplace that stored, handled and distributed hazardous substances to clients had developed a Safe Work Procedure (SWP) for workers to follow in order to manage risks associated with preventing workers coming into contact with harmful substances.

This SWP specified that workers were to wear firstly Safety Glasses & secondly Safety Goggles in order to protect workers’ eyes.

In principle it sounded like a double precaution was adopted by the Obligation holder however in practical terms the use of both devices created a further unidentified hazard with the arm of safety glasses preventing the goggles from sitting flush on the surface of the worker’s face, causing a gap which unfortunately provided a route for an uncontrolled spray of chlorine to enter and injure the worker’s eyes.

Learning outcome:

Due diligence re Information gathered and Safe Work Instruction given together with adequate Training & Supervision would have prevented incident
The film attached to this webinar gives several examples where Personal Protection Equipment has assisted in Injury Prevention -

- Window & Door supplier use of Stanley type Knives with Ceramic Blades which were a hit with workers and employers as they resulted in lowering hand injury incident rates

- A Metal Industry employer’s use of a certain type of glove that significantly reduced laceration injuries to workers

- A Steel Fabricator who deployed a specifically designed Plasma Cutter to get workers away from the more dangerous tasks of cutting steel
Where PPE has been identified as a requirement –

- Ensure management & workers *understand* manufacturers instructions / specifications about proper use & worker protection

- *Liaise* with suppliers of PPE

- *Refer* to relevant Australian Standards

- *Talk* to your local WHS Inspector
Foreign body and laceration Injury prevention

A recent *Preventing Eye & Hands Injuries Campaign* conducted by WHSQ Inspectors found…

- 34 per cent of workplaces visited had ad-hoc processes or gaps which included:
  - **NO** risk assessments documented
  - **AD-HOC** training and supervision
  - **IMPROVEMENTS** to hand tools and plant equipment only made after an incident has occurred rather than managed proactively
  - **PPE** provided was not fit for purpose
  - the **HIERARCHY OF CONTROL** was not followed and only PPE used to manage risks
  - **POOR CONSULTATION** practices with workers to communicate hazards and controls.
**Foreign body and laceration Injury prevention**

**HAZARD IDENTIFICATION CHECKLIST**

**Issues/Areas to Consider**

This list gives general guidance to the person conducting a business or undertaking (PCBU) about possible workplace health and safety hazards and issues. It is not intended to be exhaustive, nor will every item relate to every workplace. You should conduct risk assessments for work tasks and manage the risks you find. You must also ensure licensing and registrations are maintained as required by law.

<table>
<thead>
<tr>
<th>Manual Tasks</th>
<th>General Lighting</th>
<th>Electrical</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Are all hazardous manual tasks risks managed as far as reasonably practicable</td>
<td>□ Lighting levels appropriate for work tasks, location of work, times when work is performed and for access</td>
<td>□ Portable equipment and leads tested and tagged or connected to Safety Switch as required</td>
</tr>
<tr>
<td>□ Mechanical aids &amp; other assistance are used where necessary</td>
<td>□ Glare is minimised</td>
<td></td>
</tr>
<tr>
<td>□ Tools and equipment are maintained on a regular basis as recommended by the manufacturer and records are kept</td>
<td>□ Light fittings clean &amp; in good condition</td>
<td></td>
</tr>
<tr>
<td>□ Weight of goods are known</td>
<td>□ Emergency lighting is operable</td>
<td></td>
</tr>
<tr>
<td>□ Weights of loads &amp; safe handling procedures are known by workers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Load size and weight is reduced if possible on smaller packaging</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Wheeled equipment is fitted with large wheels or a device such as a tug</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Hand tools are lightweight, purpose-designed for the job and ergonomic in design</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Heavy tools used frequently are suspended or counter balanced</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Tools and work items are operated or placed in waist to shoulder range</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Materials are placed near where they are to be used</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Tilting work benches, spring loaded surfaces, rotating turntables or jigs are</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Plant is kept clean and adequately guarded</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Starting and stopping devices clearly marked and within reach of operator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Provision for storage of waste cut-offs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Drip pans on floor to prevent spillage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Adequate work space around machines and area kept clean and clutter free</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Lighting levels are satisfactory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ No prolonged bending or stooping is required to operate the machines</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Operators adequately trained in the use of machines and in safety procedures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Necessary equipment for safe use of machinery is provided</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Workers supervised so they are following safety instructions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Lockout procedures followed for maintenance and repair</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Vibration hazards controlled</td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Maintenance testing and inspection by a competent person</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Develop Safe Work Procedures

### Task Analysis - example

**Task:** Using an Angle Grinder  
**Date of task analysis:** 1st July 2014

**Task analysis done by:** T. Brown (supervisor), B. Green (WHSR) and G. White (operator)

<table>
<thead>
<tr>
<th>Steps of task:</th>
<th>What can go wrong (hazards / risks):</th>
<th>What to do about it (controls):</th>
</tr>
</thead>
</table>
| Turn on angle grinder| - Electric shock / electrocution  
- Grinding disc could explode because it is damaged  
- Grinding wheel could explode because it is not the correct disc for the job | - Check that the electrical lead has a current tag and is in good condition (as per work maintenance schedule).  
- Correctly position the guard over the grinding disc to protect the operator from any flying pieces from a broken disc or sparks.  
- Ensure that you are using the right sized disc for the size of the grinder (i.e. do not use a 5 inch disc on a 4 inch grinder).  
- Ensure that you use the right disc for the material being cut (e.g. a steel disc for grinding steel, masonry disc for bricks etc.).  
- Use only grinding discs for grinding (these are generally thicker) and the thinner cutting discs for cutting.  
- Check grinding disc for broken areas or damage. Replace damaged disc immediately.  
- Use only flanges specified for the machine.  
- Position the machine so that the power cord always stays behind the machine during operation.  
- Ensure personal protective equipment is available and used — i.e. safety goggles or face shield & safety glasses, apron and ear protection. |
## Develop Safe Work Procedures

<table>
<thead>
<tr>
<th>Grind Material</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Noise</td>
<td></td>
</tr>
<tr>
<td>• Projectiles hitting operator in the eye</td>
<td></td>
</tr>
<tr>
<td>• Could come into contact with / get caught up in grinding disc</td>
<td></td>
</tr>
<tr>
<td>• Grinding disc fractures and explodes during use</td>
<td></td>
</tr>
<tr>
<td>• Could trip over</td>
<td></td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Always wear eye and ear protectors, and an apron to protect against sparks during operation.</td>
<td></td>
</tr>
<tr>
<td>• Do not have the disc in contact with the work piece before the switch is turned on.</td>
<td></td>
</tr>
<tr>
<td>• Before using the machine on an actual work piece, let it run until it reaches full operational speed. It should run smoothly (i.e., with no vibration or wobbling). If it does not run smoothly, turn it off and check the attachment of the disc and the disc itself</td>
<td></td>
</tr>
<tr>
<td>• Don’t use cutting discs for surface grinding.</td>
<td></td>
</tr>
<tr>
<td>• Always use two hands to hold the grinder—one on the side handle and the other on the body of the grinder.</td>
<td></td>
</tr>
<tr>
<td>• Where possible have the job positioned so that the sparks travel away from the operator.</td>
<td></td>
</tr>
<tr>
<td>• Do not touch the work piece immediately after operation—it may be hot and could burn your skin.</td>
<td></td>
</tr>
</tbody>
</table>
- Trips on residue or waste
- Could come into contact with / get caught up in grinding wheel due to ‘run-on’

<table>
<thead>
<tr>
<th>Turn off angle grinder</th>
<th>Check leads for damage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Check disc and replace if necessary</td>
</tr>
<tr>
<td></td>
<td>Replace machine in tool cupboard</td>
</tr>
<tr>
<td></td>
<td>Clean off the work area if residue or waste exists</td>
</tr>
</tbody>
</table>
SAFE WORK PROCEDURE – example in Word format
USING AN ANGLE GRINDER

Safety risks from:
Electricity; manual tasks; slips and trips; moving parts; noise; projectiles.

PPE: You must wear this personal protective equipment when doing this task:

Blue and white signs have a mandatory meaning. Safety glasses (and face shield); steel capped boots; ear muffs or ear plugs must be worn.

Before operating:
- Check that the electrical lead has a current tag and is in good condition.
- Ensure that the guard over the grinding disc is correctly positioned to protect the operator from any flying pieces from a broken disc and sparks.
- Ensure that you are using the right sized disc for the size of the grinder (i.e., do not use a five inch disc on a four inch grinder).
- Ensure that you use the right disc for the material being cut (e.g., a steel disc for grinding steel, masonry disc for bricks etc.).
- Use only grinding discs for grinding (these are generally thicker) and the thinner cutting discs for cutting.
- Check grinding disc for broken areas or damage. Replace damaged disc immediately.
- Use only flanges specified for the machine.
- Position the machine so that the power cord always stays behind the machine during operation.
- Ensure personal protective equipment is available and used (i.e. safety goggles, apron and ear protection).

When operating:
- Always wear eye and ear protectors, and an apron to protect against sparks during operation.
- Ensure the disc is not contacting the work piece before the switch is turned on.
- Before using the machine on an actual work piece, let it run until it reaches full operational speed. It should run smoothly (i.e., with no vibration or wobbling). If it does not run smoothly, turn it off and check the attachment of the disc and the disc itself.
- Don’t use cutting discs for surface grinding.
- Always use two hands to hold the grinder - one on the side handle and the other on the body of the grinder.
- Where possible have the job positioned so that the sparks travel away from the operator.
- Do not touch the work piece immediately after operation - it may be hot and could burn your skin.

After use:
- Check leads for damage.
- Check disc and replace if necessary.
- Replace machine in tool cupboard.
- Clean up

Developed by:
Manager’s name: ............................................. Worker’s name: .............................................
Manager’s signature: ............................................. Worker’s signature: .............................................
Review date: .......................... /........... /....
Climate
- Experiences with systems, practices, and the environment.
- How co-workers and leaders behave.

Culture
- Why things are done.
- Unwritten ‘rules’ - how things are done.
- Shared importance/value.
Culture - Safety Leadership at Work

Program Goals
- Develop safety leadership capacity.
- Improve safety culture.
- Reduce work-related injuries and fatalities.

Safety Leadership at Work
- Safety leaders develop over time by learning from others.
- Gives members direct access to peers.
- Encourages active participation by sharing experiences.

Free membership, tools and resources
Affordable events and member specials!
So what is Safety Leadership at Work…?
Best Practice can be defined as...

...a method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior to those achieved by other means or because it has become a standard way of doing things, e.g., a standard way of complying with legal or ethical requirements...
Best Practice

Comprehensive safety management system process

The process should include:
- risk identification, assessment, and control

Safe Work Method Statements ➔ Hierarchy of hazard control ➔ Consultation with Workers ➔ trained and competent workers
Best Practice

2016 Safe Work and Return to Work Awards winner

Category 3 - Best work health and safety practices in small business

Winner – Metro Facades

Commended – HR Business Direction
Summary

• **Acquire knowledge** of WHS matters

• **Understand** the nature of the operation and associated WHS hazards and risks

• **Ensure** resources and processes to eliminate or minimise WHS risks

• **Ensure** processes for receiving, considering and responding to WHS information in a timely way

• **Ensure** processes and implementation for complying with WHS duties

• **Verify** compliance
More information

• Visit - [www.worksafe.qld.gov.au](http://www.worksafe.qld.gov.au)

• Call - 1300 369 915

• Follow -
DR CAMERON MACKAY
"It’s just a finger!"

THE IMPACT OF “MINOR” INJURIES ON HAND FUNCTION
OBJECTIVES

- Discuss common problems in hand injury management
- Discuss why seemingly minor hand injuries can have a major impact
- Suggest methods for streamlining care and optimising outcomes
CASE 1

- 25 Year old labourer
- 5mm laceration with glass from demolition site
- Seen in local clinic and sutured
- Fingers strapped
- Presents at 10 days for suture removal
- Reports pain in finger and palm – unable to move
- Diagnosed with CRPS and given TI certificate for 4 weeks
- Referred to pain specialist

For privacy reasons we are unable to show this image.
CASE 1 CONTINUED...

- Pain specialist starts medication
- After 3 months of treatment – no progress
- Finger stiff, painful and contracted
- Worker dismissed by employer
- Referred to IME
- No medical notes or summary in IME brief – diagnosis revised
- Delayed reconstruction unsuccessful
- Patient requests amputation at 9 months post injury
- etc ….
What went wrong?
THE HAND
For privacy reasons we are unable to show this image.
MAXIMUM RETURN OF FUNCTION IN MINIMUM TIME
HAND INJURY

OEDEMA

SCAR

IMMOBILITY

INFLAMMATION
HAND INJURY 101
ESSENTIAL ELEMENTS

- DIAGNOSIS
- PLAN
- DOCUMENTATION

For privacy reasons we are unable to show this image.
DIAGNOSIS

• Treatment cannot proceed without a diagnosis

• Missed diagnoses compound a problem

• “RSI” is not a diagnosis (“sprain” is pretty borderline)

• Quality of diagnosis is paramount

• Scientific and based in fact
BEWARE THE MRI!

- Overused
- Often ordered without thought
- Overdiagnosis
- Confusion
- Hostility
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
• Expedite treatment - Diagnosis

• No granulation tissue - [delayed healing, scar & stiffness]

• Scar is the hands’ worst enemy

• Inflammation/oedema/immobility

• Immobilisation for repair

vs

• Mobilisation for reducing stiffness
 TIMELINES

- Cannot speed biology
- Scar is the enemy
- Timelines are fixed (not all bad)
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
PLAN - HOLISTIC

- Outline path early
- Early SD program
- Intensive therapy
- Early intervention for deviation
OCCUPATIONAL / PSYCHOLOGICAL ISSUES

- Important to know work type / employed
- Host placement/Retraining may be required
- TI no more than necessary (one week max in 95%)
- Economic hardship
- Varied psychological response - not necessarily reflecting severity of injury
- Cultural issues
- Chronic pain
Patient priorities in the first 3 months post injury

Priority

High

INJURY

WORK

Low

LEGAL

Time (weeks)
THERAPY

- Oedema Management - coban, exercises, garments
- Stability/Protection
- Mobilisation - exercises, splints
- De-sensitisation
- Work hardening
- Counselling, encouragement (hypnotic suggestion)
HOW TO MANAGE

- Support microvascular and soft tissue repairs
- Adequate stability for bony fixation
- Joint ROM and tendon gliding
- Therapy engagement
- Positivity
- Joint plan
Every workplace injury is a medicolegal case

Documentation should reflect this

Unfortunately uncommon

Difficult for IME assessor
“There’s nothing wrong with a negative laparotomy.”

Unknown (old wise general surgeon)
What could possibly go wrong?
COMMON PITFALLS

- Neglect
- Neuroma
- Conflict
- Legal coaching
- Biology!
  - Fingertips, PIP joints, radial wrist

For privacy reasons we are unable to show this image.
Small lacerations can cause big problems

For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
For privacy reasons we are unable to show this image.
ACUTE OSTEOMYELITIS

For privacy reasons we are unable to show this image.
OTHER EXAMPLES

- Carpal tunnel syndrome
- deQuervain's tenosynovitis
- Trigger finger
- Dorsal wrist ganglion
CASE 2

- Worker injured when lifting objects of assembly line
- Diagnosis: deQuervains
- Presents after 4 months of physio (3 different therapists) – acupuncture, laser therapy, massage and taping
- Negative about condition and full of ideas:
  - “I’m overcompensating with my forearm muscles”
  - “We are trying not to do that”
- Remains off work. Frustrated by lack of recovery
- What went wrong?
WHAT CAN WE DO BETTER?

- Diagnosis
- Plan
- Documentation
- Clinical case report
- Monitor progress
- Identify deviation
Supporting Rehabilitation – Post Injury

Minor injuries add up
Lacerations require varying degrees of rehabilitation;

- Specifically deep or significant lacerations
- The early stages of rehabilitation begin with controlling pain and swelling, preventing infection, and minimizing any loss of function.
- The goal is to help the individual return to normal functioning as quickly as possible.
- The final step is to incorporate activities that will help the individual return to his or her previous work environment. They include exercises that resemble work requirements, along with individualized education to avoid recurrent injury. Modifications may need to be made by the physical therapist for those individuals who have experienced traumatic lacerations.
- RC would explore a work hardening program prior to re-commencement of suitable duties.
- Conduct risk assessment of duties to be undertaken to determination contamination risk.
- Recommend PPE, alternative duties until healing had occurred and contamination risk eliminated.

MD Guidelines
Accommodations may be necessary for work duties that require excellent visual acuity and depth perception.

RC explore alternative duties.

Risk analysis of duties.

Recommendation of eyewear PPE, should be used when the individual is engaged in any high-risk activities (e.g., using power tools, grinding, hammering, or working in a dusty or windy environment).
Crush injuries require a multilevel approach to rehabilitation since they involve damage to the muscle, bone, nerve, and soft tissue.

Exercise rehabilitation is progressed slowly in all cases. Therapy protocol varies greatly due to the wide range of possible outcomes. The individual may undergo treatments for both the upper and lower body simultaneously. All treatments are performed to pain tolerance.

Possible work restrictions and special accommodations are determined on an individual basis depending on degree of disability.

OT Assessment of functionality to determine workplace accommodations, vehicle modifications.

Medication impacts company policy on medication usage should be reviewed to determine if pain medication use is compatible with job safety and function.
Recommended strategies for employer to consider
- Leather coverings.
- More frequent dressing changes.
- Cotton glove inserts.
- Larger gloves.
- First aid resources.

Examples: Male finger laceration in a workshop, three months unfit for work following hospital. Rehabilitation Consultant became involved, organised a private NTD, organised weekly dressing reviews with the practice nurse (otherwise they were once a fortnight at the hospital). Organised purchase of a leather cap for the finger, coordinated a suitable duties plan and a larger glove to accommodate the leather cap. Additionally, several pairs of cotton inserts for the gloves were arranged to facilitate always having a clean pair of gloves. Successful RTW within about one week of sustaining injury.

Partial finger amputation within a manufacturing workshop. Taken to hospital and given four weeks off work. The wound became infected and the IW was referred to an orthopaedic specialist (local) for review, the outcome being a suggested who wanted stitching of fingers together to assist with skin graft. RC became involved and organised an urgent referral to hand clinic in Newcastle (i.e. day after INA). IW was operated day after. Amputation occurred but specialist advised that without barrier identification IW would have lost whole finger and not just a joint amputation. Following surgery, organised leather cap, cotton glove inserts, larger gloves and a graded RTW suitable duties plan.

Male worker within a sawmill lax regulation of WHS procedures. A worker had a serious de-gloving injury to his calf from a faulty forklift (one of the tines was broken and it should not have been used) which dropped its load. There were insufficient first aid supplies at the site, so the wound was wrapped in rags which were used for cleaning up oil and grease and the worker was taken to hospital in a utility. Not surprisingly, he developed significant secondary infection and the already serious injury was made a lot worse. Strategy for management: Having first aid supplies available, trained first aid officer and calling an ambulance.

A female sustained an unexpected needle-stick injury. She was immediately treated with appropriate puncture site treatment via first aid officer and attended hospital were she was screened for diseases, with regular follow up screening at appropriate incubation periods. She was also provided with extensive counselling while going through the screening process.
Understanding duties, tasks, demands of all roles of the employer.

Using this information to develop job dictionaries to guide employers with suitable duties.

Example: 33 year old male, working remotely. Added an accelerant to a burn off process resulting in significant third degree burns to 20% of body (affecting various areas). Outcome of burns were scar tissue adhesion issues affecting functionality (fine motor skills, thermoregulation, etc.). Identified host employer performing a different role, supervising a manufacturing operation. Originally designed to have workstation on the floor within the manufacturing space. A worksite assessment identified the ventilation concerns and requirements for scar management, duties and workstation requirements. Employer consultation with NTD and employer established specific requirements for IW. Outcome was a workstation within a ventilated and temperature controlled area, duties for specific times of the day to assist with thermoregulation and nil impact on scar tissue management. IW was successfully employer by host.
What is rehabilitation

- Multifaceted
  - Biopsychosocial factors considered and the influence on return to work

- Holistic
  - Viewing all aspects of the injured worker, and possible influences on return to work

- Individualised
  - Return to work is tailored to the injured worker, workplace, medical requirements and factors identified

- Transparent
  - Open lines of communication to ensure positive return to work outcomes and continuity of care. Resulting in successful return to work and injury recovery.

- Goal specific
  - Short, medium and long-term milestones developed to progress towards and monitor.

- Progressive
  - Continual review of progression to ensure positive return to work direction or early identification of barriers/concerns.
Supporting Rehabilitation

- **Complete an initial needs assessment**
  - Identify return to work needs, rehabilitation requirements, medical status, bio-psychosocial flags.
  - Engage with all stakeholders.

- **Worksite assessment (if identified)**
  - Review the work environment and determine appropriate suitable duties.

- **Develop return to work plan**
  - Identify suitable duties, alternate duties, alternate employment, barriers, work conditioning (feedback sought from all parties).

- **Monitor progress**
  - Against goals.
  - Recommend medical progression.
  - Liaise with key stakeholders.

- **Other requirements**
  - FCE, ergonomic assessments, work hardening programs, risk assessments and task analysis.
How do we keep employees at work?

- Promote appropriate and meaningful engagement / duties.
- Consultation and collaboration with employer and employee, face-to-face, onsite, to develop understanding of the role/duties previously undertaken. Involve all stakeholders in the process.
- Explore suitable duties and task modification.
  - Review existing job dictionaries to identify suitable roles.
- Explore alternative duties within workplace/employer.
- Source alternate employment options during rehabilitation (recover at work placement).
Indicators of limited progression

- Disengagement with work.
- Issues with injury rehabilitation, healing, and functionality progression.
- Issues with suitable duties or workplace supports.
- Passive attitude, limited proactivity, increased reactivity, low mood, reduced motivation.
- Communication breakdown between stakeholders.
- External factors – Family, financial, social, ADLs.

Case study: Male, 41 year, RC and Doctor were not able to progress RTW plan/hours as the IW continued to advise that he wasn’t able to tolerate an increase in hours, contrary to medical advice. RC identified that the IW was on reduced benefits and reduced income as a result and could no longer afford after-school care. The IW decided that it was easier to remain on reduced hours and collect child from school. Upon identification of this a solution was developed through an earlier start time with increase in hours to assist in collecting child from school.

Strategies: Using psychosocial tools for reassessment – e.g. use the OMPQ, K10, DASS, Oswestry at the start of a RTW program, then apply again if there is a failure to upgrade as anticipated, or at regular intervals. If the overall score is not decreasing, then attention needs to be paid to the psychosocial factors to allow further progress.

Having some particular psychosocial barriers present can cause plateau more quickly than others – for example, perception of an unsupportive employer makes a plateau or deterioration very likely, as would a self-belief that they will not return to full capacity. Asking the right questions around these can give an indication if tests like an OMPQ, K10, DASS, Oswestry or flags assessment can't be reapplied regularly.
Best practice suitable duties

Good
- Identified through consultation with all stakeholders.
- Consideration of reasonable adjustment to duties as work capacity increases.
- Specific.
- Improvisation.
- Support of direct line supervisor with suitable duties plan/RTW process.

Bad
- The opposite of above.
- IW has limited control or input in plan development.
- Not supported by stakeholders within the process.
- Vague and open to interpretation.

Best practice
- Focus is always on meaningful work to ensure positive engagement in the RTW process – perception of VALUE assists with compliancy and assisting in reduced duration of claim.
- Duties appropriate for the skill set of the person – Same duties/same employer, different duties/same employer, same duties/different employer, different duties/different employer.
- Further training and support requirements with the change.
- How to identify if duties are inappropriate – ongoing monitoring to ensure that duties are appropriate and early identification of disengagement, decreased productivity & changes in psychological state.
Good and bad suitable duties

- Good – a bus manufacturer who used the SD’s as an opportunity to increase mentoring to trainee staff – the worker was able to perform modified PID’s by shifting the trainee to be his assistant. The trainee completed the heavier tasks and learnt from one of their most experienced and competent staff at the same time.

- Good – a local council employee was still recovering from shoulder surgery and could not drive to work, with limited public transport options available due to the rural location. The council identified that as he was currently completing a workplace traineeship, they would arrange for the training provider to condense the theoretical component into a 4 week program which he could complete from home with support calls from work starting from 2 weeks post-surgery until he was able to drive again. This meant he would be a more highly skilled and qualified employee for the council in a faster timeframe and the worker felt that he was still in touch with his workplace.

- Bad – employees from a food product manufacturing company were asked to climb into large (and smelly) food waste bins after they were emptied to scrub them out. This task was usually completed using a high pressure hose with no need to climb into the bins. The workers complained to the regulatory authority and the employer was sent an improvement notice and advised that they needed to cease the practice.

- Bad – a registered nurse with a physical injury was shifted away from the heavy surgical ward she usually worked from into working in a Community and Staff health nursing role. The role was completely suitable for her condition however only minimal training was supplied despite her requests for more information on how to complete her SD’s role. She became so distressed after making multiple mistakes due to ignorance about how to complete her job that she developed a psychological condition as well as her physical injury.
Rehabilitation consultants can assist the RTW/rehabilitation process through;

- Early intervention.
- Provision of assistance/guidance to the employer
- Rehabilitation processes.
- Identify and modify duties to facilitate meaningful engagement.
- Preparation of suitable duties plan.
- Identify risks.
- Job dictionaries.
- Collaborative ongoing communication.
- Monitor biopsychosocial flags.
• Common Law Claims Involving Minor Injury

• 9 November 2016
Introduction

An employer’s WorkCover policy covers both statutory no-fault benefits AND common law damages claims.
What is ‘common law’?

- The common law is essentially law developed by judges as distinct from laws created by Parliament.
- The established principles from these previous decisions govern how current cases are treated, subject to statutory modification.
- Our current system is a hybrid model based upon common law principles as modified by statute, both in relation to the determination of liability and in relation the assessment of damages.
Why pursue common law and what’s the catch?

- Damages claimed successfully from a common law claim are generally much greater than compensation available through no-fault statutory benefits.
- The catch: the injured worker must prove the employer was at fault.
Common law – liability

A successful claimant will need to establish:

• The risk of injury was *reasonably foreseeable*

• The risk was *not insignificant*

• The injury was *preventable*

• The precautionary measure to prevent the injury was a *reasonable* response to the risk

• The claimant's injury was caused by the risk in question – aka *causation*
Duty of Care – established duties

- A non-exhaustive list of duties an employer owes a worker:
  - Provide, maintain and enforce a safe system of work;
  - Provide safe and appropriate plant and equipment free from patent defects;
  - Provide safe premises, free from all dangers as far as protection from them is reasonably practicable;
  - Instruct employees in the safe performance of their work, where instructions might reasonably be thought to be required; and
  - Provide adequate supervision and assistance.
Breach of Duty

- An employer will have breached its duty of care where:
  - The risk of injury to its worker was reasonably foreseeable & not insignificant; and
  - There were measures available to the employer to protect its worker from the risk; and
  - The employer unreasonably failed to adopt those measures

- It follows that not all risks present in a workplace require a response.
Contributory Negligence

• A Court may reduce an injured worker’s damages by the degree to which their own negligence has contributed to the injury. Examples include where the worker:
  • failed to comply with safety instructions given by the employer;
  • failed to use, protective clothing and equipment provided by the employer, in a way in which the worker has been instructed by the employer to use them;
  • Failed to use anything provided by the employer that was designed to reduce the worker’s exposure to risk of injury;
  • Inappropriately interfered with or misused something provided that was designed to reduce the worker’s exposure to risk of injury;
  • Was adversely affected by the intentional consumption of a substance that induces impairment;
  • Undertook an activity involving obvious risk or failed to take account of the obvious risk;
  • Failed to attend, without reasonable excuse, safety training organised by the employer at which the information given would probably have enabled the worker to avoid, or minimise the effects of, the event resulting in the worker’s injury.
How are damages assessed?

“Heads of Damage”:

1. **General Damages** – pain, and suffering (now calculated by ISV)
2. **Past Economic Loss** – past wages and superannuation
3. **Future Economic Loss** – future loss of wages/loss of earning capacity and superannuation
4. **Past Special Damages** – past expenses including medical and training costs
5. **Future special damages** – future expenses including treatment, medication, aids and retraining costs
Damages

Calculating damages

• Damages are intended to place an injured worker as near as possible in monetary terms in the same position as if they had never been injured.
• Damages are assessed on a ‘once and for all basis’.
• Damages are not subject to taxation.

Damages may include:

• Interest on past losses
• Past and future gratuitous/paid care.
Pre-existing conditions

• An employer will be exposed to damages where an incident results in the aggravation of a pre-existing condition. This includes where the incident brings to light a previously asymptomatic condition.

• It is up to the employer (WorkCover) to prove how the pre-existing condition would have affected the worker in the future, if the incident had not occurred. This is a difficult burden of proof to discharge and requires specific medical evidence.

• In other cases, an employer will remain liable where an underlying condition results in the injured worker suffering a far more serious injury than a person of reasonable fortitude. This is what lawyers refer to as the ‘egg-shell skull’ rule.
Some Case Examples:

• A 27 year old boilermaker suffers a compound fracture to the index finger of his dominant hand, resulting in an 8% impairment. He experiences pain, discomfort and stiffness in the finger. He returns to employment, but is unable to effectively use a welder with his injured trigger finger. He has to adapt to welding with his non-dominant hand. He has difficulty with manual handling.

• A 45 year old worker receives a penetrating eye injury while using a “hot saw” to cut a length of steel bar. The worker was wearing protective eyewear issued by the employer, however the steel splinter was able to enter the worker’s eye. The employer has not made any inquiries of the manufacturer to ascertain whether the eyewear was suitable for the relevant task.
Some Case Examples:

• A 36 year old female kitchen hand suffers a serious laceration to her hand when she reaches out to catch a falling drip tray with sharp edges. The laceration is repaired, however she develops complications from infection. She goes on to develop carpal tunnel symptoms – expert medical evidence establishes a causal connection to the original work injury.

• A 31 year old labour-hire worker suffers symptoms in both forearms after using a pneumatic wrench for up to 8 hours per day, 5 days per week for over 6 months. There is little to no rotation of duties. He develops bilateral carpal tunnel syndrome and subsequently complex regional pain syndrome and bone necrosis. He undergoes amputation of the left arm and several fingers of the right hand.