



Government of South Australia



Return to *work*.
Return to *life*.

Access to Information – s180 of RTW Act

Agenda

- Intent of section 180 of the Return to Work Act (2014)?
- Validating section 180 requests
- Scoping section 180 requests
- Determining section 180 requests
- Internal Reviews
- External Reviews
- Handy Hints



Validating a s180 request

- Injured worker / legal representative
- Personal legal representative
- Is the information held by the agency?
- Acknowledging the application



Scoping a s180 request

- What documents are accessible under s180?
- What is a document?
- What searches were conducted?
- Keeping record



Determining a s180 request

- Consider section 180 (1) (a)
- Consider section 180 (3) (a)
- Consider section 180 (3) (b)
- Consider section 180 (3) (c)
- Prepare determination and exemption schedule
- Registered Post



Internal Review

- Internal review under s180(4) of the Act
- 30 days for a review to be lodged by applicant
- 14 days for the agency to respond to internal review (internal review determination)
- External review



External Review

- External review under s180 (8) of the Act
- 30 days for a review to be lodged by applicant
- Ombudsman Act 1972 (only section 17 (1) does not apply)



Handy Hints

- Keep factual records
- Keep all records relevant to a claim in an orderly manner
- Misfiled documents
- Do not include other claimants' details
- Ensure all your dealings are open and transparent
- Section 180 (14) of the Act



180- Worker's right of access to claims file

- (1) Subject to this section, the Corporation or a delegate of the Corporation must, at the request of the worker-
 - (a) provide the worker, within 45 days after the date of the request, with copies of all documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker; and
 - (b) make available for inspection by the worker (or a representative of the worker) all non-documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker.

- (2) Non-documentary material is to be made available for inspection-
 - (a) at a reasonable time and place agreed between the Corporation or delegate and the worker; or
 - (b) in the absence of agreement – at a public office of the Corporation or delegate nominated by the worker at a time (which must be at least 45 days, but not more than 60 days, after the request is made and during ordinary business hours) nominated by the worker.

- (3) However, the Corporation or delegate is not obliged to provide copies of material, or to make material available for inspection by the worker if –
 - (a) the material is relevant to the investigation of suspected dishonesty in relation to the claim; or
 - (b) the material is protected by legal professional privilege; or
 - (c) the disclosure of the material could reasonably be expected to endanger the life or physical safety of any person.



180- Worker's right of access to claims file

- (4) A worker who is aggrieved by a decision under subsection (3) is entitled to a review of the decision by the Corporation or the delegate (as the case may be).
- (5) An application for review under subsection (4) –
 - (a) must be made in accordance with the regulations; and
 - (b) must be made within 30 days after the day on which notice of the decision was given to the worker or within such longer period as the Corporation or delegate may allow.
- (6) On an application for review, the Corporation or delegate may confirm, vary or reverse the decision under review.
- (7) If the Corporation or delegate fails to make a decision on a review under subsection (6) within 14 days after the application for review is received under subsection (5), the Corporation or delegate will be taken to have confirmed the decision under review.
- (8) A worker who is aggrieved by a decision under subsection (6) may apply to the Ombudsman for a review of the decision.
- (9) An application for review under subsection (8)-
 - (a) must be made in a manner and form determined by the Ombudsman; and
 - (b) must be made within 30 days after the day on which notice of the decision was given to the worker or within such longer period as the Ombudsman may allow.



180- Worker's right of access to claims file

- (10) The Ombudsman may, in relation to a review under subsection (8) –
- (a) exercise the powers of the Ombudsman under the *Ombudsman Act 1972* as if carrying out an investigation under that Act, subject to such modifications as may be necessary, or as may be prescribed; and
 - (b) at the conclusion of the review confirm, vary or reverse the decision under review.
- (11) For the purposes of a review of a decision of a self-insured employer under subsection (8), the self-insured employer will be taken to be an agency to which the *Ombudsman Act 1972* applies.
- (11a) Section 17(1) of the *Ombudsman Act 1972* does not apply in relation to a review under subsection (8).
- (12) It will be taken to be a condition of registration as a self-insured employer that the employer will comply with any decision of the Ombudsman that relates to the employer under subsection (10).
- (13) If the Ombudsman becomes aware that a self-insured employer has failed to comply with a decision of the Ombudsman that relates to the employer under subsection (10), the Ombudsman must advise the Corporation of the failure.
- (14) If the Corporation or delegate of the Corporation mistakenly provides material to a worker which the worker is not entitled, the worker must return the material within a reasonable time after requested to do so by the Corporation or the delegate.
Maximum penalty: \$2 500.
- (15) In this section, a delegate of the Corporation includes a self-insured employer.



