

'Just ask' process

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Claims administration

✓ Authority and consent on claims

✓ Communication with stakeholders

Quality assurance

✓ File and diary maintenance

✓ Receiving and actioning requests for claim file

✓ Suspensions, ceases and refusal to deal

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Introduction: What should I do if I notice inconsistencies, non-compliance or potential fraud on a claim?

This process is to assist and provide direction on what to do if you discover something that does not look right, feel right or when you discover concerning or previously undisclosed information either from the employee or another source (employer, rehabilitation provider etc) that is relevant and has the potential to impact the management of a claim.

Non Compliance and potential fraud are not always obvious or overt, most times it is an inconsistency that just does not quite add up. This process helps to understand or resolve the inconsistency and/or support decisions for any actions that need to be taken to achieve compliant claims management.

At any time, before, during or after this process is implemented, you can contact Claims Compliance and Assurance for advice or guidance.

For further information on fraud control refer to: [Comcare intranet: Fraud Control](#)

Why do we need to apply the “Just Ask” process?

This process is an opportunity to be open and transparent with the employee, to inform them of the information that Comcare is aware of, and advise of the information they need to provide which ensures that:

- Comcare has the correct information to achieve compliant claims management.
- the employee’s claim is being managed accurately; and
- the correct entitlements are afforded to the employee based on their current and historical circumstances.

When potential non-compliance, fraud or inconsistencies are observed on a claim file, it is important to afford the employee [Natural Justice](#). This means the injured employee, person, or organisation of whom the non compliance is centred, has an opportunity to explain, provide information and be involved in the process to achieve voluntary compliance. Natural justice demonstrates Comcare is acting in good faith and supports Comcare being a model litigant.

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Legal advice

Comcare's obligation to manage claims under the SRC Act, and its obligation to properly use resources under the Public Governance, Performance and Accountability Act 2013 (PGPA Act), continues irrespective of the existence of a related criminal fraud investigation. As such, Comcare claims managers can continue to exercise claims management powers under the SRC Act (including requesting information under s58 of the SRC Act) as and when required for claims management purposes. This process helps the employee gain voluntary compliance and continue compliance in the ongoing management of the claim.

Natural justice applies throughout a claim's life cycle, supporting open transparency with employees, this includes when we have concern that a claim or an element of a claim is non-compliant or invalid.

Examples of the type of information or documents that might be asked of or requested from an employee to achieve compliance include, but are not limited to:

- Current medical certificates
- Clinical notes and medical reports
- Records of earnings and hours, including payslips, business documents
- Financial statements including BAS statements, profit, and loss statements and ATO (Australian Taxation Office) group certificates
- Partnership agreements
- Incident reports

Note: You and any other Comcare employee should only request information from the employee required to conduct claims management functions. They should avoid any suggestion of bias as a result of requesting irrelevant information which may be related to a criminal fraud investigation.

The “Just Ask” approach is a conversation about concerns that may impact on the management of a claim, this is not an investigation or the assessment of fraud or non-compliance. Please do not take it upon yourself to seek to investigate or research any concerns you have using the internet or social media. If you feel internet or social media searches are necessary based on your concerns, refer to the compliance team for review and guidance.

Refer to: [Requesting information from employees](#)

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Considerations

Before proceeding with this process, you should have regard to the following considerations:

- Does the employee have capacity to receive information or answer questions about the concern? Should the request be delivered in the presence of or by the employee’s treating health professional?
- Is the claim a commitment claim with specific communication requirements?
- Does the employee have an Authority to Act on the claim file? Should the request be delivered in the presence of or by the employee’s nominated Authority to Act?
- Are you the right person to be making this request or to deliver this request?
- If there is concern the conversation may cause damage to the relationship or about the employee's responses in general, you can refer to Claims Compliance and Assurance team for assistance.

Note: If the above considerations, or any other concerns, indicate that this process may not be appropriate please discuss with your Team leader/Assistant Director or the Claims Compliance and Assurance team for guidance prior to next steps.

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'Just Ask' process

Step 1: Call employee (also employee's representative if applicable)

1. If the employee/person is particularly distressed or feeling unwell, explain that you need to discuss some elements of their claim and suggest a time that is more suitable to call back to have the discussion (within the next couple of days)
2. Advise the employee/employee representative the purpose of your call.

Example:

- *"Comcare conducts reviews of claims and following a recent review of your claim we have found." (State current facts, what we know).*
- *"As your new claims manager, I am required to review your claim to maintain your claim. In my review I found XXXXX and would like to discuss this with you further."*
- *We recently received information from your Work rehabilitation provider about [state facts], which impacts on your claim, do you have time to discuss it?*

Note: Allow time for the Employee to provide a response or explanation – assess the status of the employee, if they are becoming upset, offer to call back the following day.

3. Request the employee provide any relevant information or documents and advise of a due date for information/document/s to be provided (up to 10 business days).
4. (Where applicable) Advise the employee that providing information about earnings and activities may result in a recalculation of incapacity benefits payable, an overpayment being raised, a reassessment of capacity and condition, or review of their claims, including other benefits.
5. Confirm the details of the conversation with the employee and advise you will send an email to outline the conversation. Ask the employee to reply to the email confirming the information captured from the conversation is true/accurate (or not).
6. Ask employee/person if they have any questions.

Please read and familiarise yourself with the caller guides prior to making call.

Caller Guides:

[Handling and de-escalating difficult conversations Guide](#)

[Responding to Aggression Guide](#)

[Suicidal Caller Guide](#)

[Threatening Caller Guide](#)

Step 2 – Record and confirm conversation in Pracsys

1. Go to '*Manage Claim Comments*' (MCOM) and record the details of the conversation to ensure that the conversation has been fully documented.
2. Notes should include steps taken to verify Proof of identity, information/documents, requested, reasons why the information is required, agreed actions/timeframes and any questions raised by the employee.
3. Ensure to only record factual and objective information.

Step 3 – Prepare and send email

1. Prepare and send an overview email to the employee/employee representative confirming the conversation, information/documents requested, reasons why the information is required, agreed actions/timeframes, and summarise any other issues that may have been discussed.
2. Email should include a request that employee/employee representative reply to the email confirming the information captured from the conversation is true/accurate or not.

Step 4 – Create an action plan

1. Go to '*Manage Action Plan*' (MAP) and create an action plan diary stating you have spoken to the employee and requested information and documents within the next 10 business days (list the information/documents).
2. If information requested is not provided by the employee within the agreed timeframe (10 business days), attempt to contact the employee by phone to discuss the reasons why.
3. Where acceptable reason or excuse is provided, an extension of time (no more than 5 additional business days) can be agreed to. If additional time is agreed, update the action plan diary with agreed dates.
4. Document conversation, reasons for extension and newly agreed date for employee to provide information in claim comments.

Note: If the confirmation response can only be obtained verbally, make sure extensive detail of the conversation is documented, including reasons why written confirmation could not be obtained.

How many times should I attempt to contact employee by phone?

Three phone attempts on different days and times should be attempted before further formal requests are considered. If phone contact is unsuccessful, contact employee by email (if email provided) to arrange a time for phone contact.

If after all the above attempts have been unsuccessful and the information is still required for the management of the claim, a formal approach should be considered by way of Section 58.

Notify relevant teams of new information received

Inform the relevant parties such as CAIS, Rehabilitation Case Manager (RCM), Injury Manager, AD (Assistant Directors), and treating health professional (where appropriate) of the information received that impacts the compensation claim. For example, has the employee indicated that they have received income, superannuation, accessed Centrelink payments (or other Commonwealth allowances) or commenced other employment? If so, email the [CAIS - Income Support team](#).

Note: If the form is in the e-docs in Pracsys, you can send the notification of the form to the 'Incapacity Management' team tray in Pracsys.

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What if the employee has not provided or refuses to provide the information needed?

Follow Claims manual: S58: **Procedure for formally requesting information:**

[Requesting information from employees](#)

Information you may consider requesting under S58 includes but is not limited to:

- - Tax records, Bas Statements, Profit loss statements
 - Payslips or invoices to support reported income
 - Business records – hours, activities, income etc.
 - Valid medical documents
 - Valid invoices, receipts, or other proof of payment
 - Medicare summary or Medicare PBS (Pharmaceutical Benefits Scheme) summary
 - Partnership agreements/ contracts
 - Bank statements

Refer to: [S58 information request wording examples](#)

Note: All information requested under S58 must be for the purpose of supporting and achieving compliant claims management.

Scenarios

Scenario 1:

Sammy Smith has a compensable mental health condition and was recently certified fit for 20 hours of modified duties per week. Their medical certificate states “Sammy is unable to return to his preinjury employment.”

Sammy is referred to a Workplace Rehabilitation provider to assist him in preparing and obtaining suitable employment. Sammy attends his first appointment and advises he is going to start his own lawn mowing business, recently obtaining an ABN (Australian Business Number). The Rehab provider contacts RCM and CM to notify of the business status, acknowledging the employee does not have a client base and has not made any income.

CM contacts the employee to “Just ask,” provide support, acknowledge the business and to inform the employee of his obligations to report all gross income, providing definition of Gross income and what employment is. The CM explains the

Record of earning form and the Work Activity declaration form, which need to be completed. Copies of these forms are sent to the employee and returned with all relevant information.

In these types of circumstances where the employee is voluntarily compliant, there does not appear to be reasonable grounds to utilise this specific S58 notice. An informal approach such as a conversation could be utilised to obtain information about the employee's business and income. It is also an opportunity to educate employee on reporting obligations including ROE's.

Scenario 1a:

Sammy Smith has been operating his lawn mowing business for 2 years now, he has been lodging fortnightly ROE's and declaring 20 hours per week, earning \$400 (\$20 per hour).

Recent IME (Independent Medical Expert) notes employee is self-employed and has a weekly client base of 15-20 per week.

On receipt of this information, you conduct a review of the file and identify that the employee's hours and income have not varied at all in the past 18 months.

Medical certificates continue to certify him fit for 20 hours of modified duties per week.

You recognise that an employee's income and hours to not have varied in 18 months and 15-20 clients per week did not appear to be a reflection on what was being reported.

You then discuss this new information and concerns with your Assistant Director and decide to commence the "just ask" process.

You follow the "just ask" process specifically addressing concerns about the employee's hours, income, and activities.

Response 1 example:

The employee provides a valid explanation for his reported hours and income and supports his explanation by providing payslips, invoices, and bank statements.

Initial concerns are resolved, and no further action is required.

Response 2 example:

The employee responds and answers all the specific questions asked. The employee explains his hours and income fluctuate so he just provides an average. They provide previous financial year Tax statement and payslips. Tax statement clearly identifies employee has earned a far greater amount than reported.

You then discuss the response with your Assistant Director and consider claims management actions to continue supporting employee toward voluntary compliance through education. There does not appear to be any evidence on file of the employee being clearly instructed on reporting requirements. You then inform CAIS for potential recalculation of future incapacity payments and a discussion with relevant Assistant Director for consideration of overpayment.

Response 3 example:

The employee responds and answers **most** of the specific questions asked by the CM. The employee confirms the hours and income reported on ROE's to be true and accurate. The employee advises he has not completed his tax return for the previous financial year and therefore is unable to provide it. Despite follow up and direct questions about the employee's unchanging income and hours, the employee does not provide a satisfactory or justifiable reason. You still have a concern that the employee may not be disclosing all gross income and hours.

You discuss the response with your Assistant Director and consider referral to Claims Compliance and Assurance outlining your concerns of the employee's evasiveness.

You also make a diary entry reminder on claim file to request tax return on a later date.

Response 4 example:

The employee refuses to answer questions about their employment hours and income or uses avoidance tactics, becoming aggressive or changing the subject. Despite multiple attempts to gain the information needed from the employee verbally, you are unsuccessful. You discuss your concerns and conversation with your Assistant Director and make the decision to issue a Section 58 to obtain the information from the employee.

The due date for information request under S58 notice has passed and employee has made no attempt to provide information requested. Despite an offer to extend the due date by 14 days, the employee insist they do not have to provide Comcare anything.

You have been unsuccessful in obtaining information utilising S58 notice.

You discuss the response with your Assistant director and consider claims management actions and refusal to deal. Due to employee evasiveness and non-compliance with S58 Notice you also consider a referral to Claims Compliance and

Scenario 2:

Jane Doe has been certified fit for work 10 hours per week following an extended period of complete incapacity due to her compensable condition. Jane's certificate is about to expire, and you contact her to remind and request a new certificate, Jane acknowledges and provides a new certificate 2 days later.

The new medical certificate certifies Jane as totally incapacitated for work for 3 months due to her compensable condition. You notice that the certificate appears to be an older medical certificate that appears to have been altered, with dates and fitness for work whited out and new dates applied. The alterations are not verified by the doctors' initials or a signature.

You are concerned as this is the first time the employee has lodged a medical certificate from her normal doctor with alterations. You are also concerned that the medical certificate is non-compliant and decide to commence the "just ask" process.

Response 1 example:

The employee explains she called her doctor to request a new certificate, but the doctor was busy and agreed he would send her a new certificate in an email. The employee says she did not pay any attention to the certificate alterations or that it

certified her unfit for work. The employee confirmed she remained fit for 10 hours per week and would request a new medical certificate from the doctor, providing a new medical certificate 2 days later.

You are satisfied with the validity of the new medical certificate and documents the conversation in Pracsys claim comments and in an overview email to the employee.

Response 2 example:

The employee tells you that the medical certificate is valid and came from her doctor. The employee states she does not have time to go back to the doctor to request a new one and requested that you contact her doctor to confirm it. You then contact the relevant doctor and confirm that the medical certificate is valid. The doctor explains the employee has had a deterioration in her compensable condition since the previous certificate and will require surgery soon. The doctor further confirms the employee is unfit for work for 3 months, however, will continue to review her every month.

You are satisfied that the medical certificate is valid, and you document the conversation with the employee and doctor in Pracsys claim comments and in an overview email to the employee.

Response 3 example:

The employee states the medical certificate is valid and becomes upset that you are questioning it. The employee does not provide an explanation for the altered medical certificate and declines to provide a new one. You advise the employee that they will need to contact their doctor to verify the certificate.

You are not satisfied that the medical certificate is valid and then contact the employees' doctor for verification. The doctor advises he has not seen or spoken to the employee, nor has he provided a recent medical certificate, confirming the medical certificate is invalid.

You then contact the employee again to advise her of the information received by her Doctor and the impacts this may have on her claim. The employee acknowledges she altered the medical certificate and explains she does not feel ready to engage in work due to non-compensable reasons.

You provide the employee with information on how her claim will be impacted, continue management of the claim and refer this matter to Claims Compliance and Assurance team.

(In a scenario where the employee insists the medical certificate is valid, a referral to Claims compliance and assurance team can be actioned)

Response 4 example:

The employee is upfront and acknowledges she altered an old certificate because she did not have time to see her doctor and did not believe that she was fit for 10 hours per week. The employee apologises and says she has never done this before; she would go to her GP (General Practitioners) to get a valid medical certificate.

You then provide the employee with education and information on how her claim will be impacted. You continue management of the claim and refer this matter to Claims Compliance and Assurance team.

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