

# Refusing to deal with a claim

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## Introduction

Under section 58(3) of the SRC Act, if an employee fails to comply with a section 58 request information without reasonable excuse, Comcare may choose to refuse to deal with the employee's claim until the information or documentation has been provided.

A refusal to deal is a discretionary power which means Comcare can decide whether to issue a refusal to deal notice or not. A refusal to deal should only be used where Comcare has been unable to identify any other reasonable means of obtaining the information.

[Natural justice](#) requires that an employee is clearly advised of the consequences of not complying with a request for information under section 58 of the SRC Act. Refusal to deal with a claim cannot lawfully occur if this advice is not provided.

From a procedural fairness perspective, employees should be given a fair opportunity to respond to the section 58 request, this may mean that more than one opportunity to respond is given. If you are unsure, talk with your Assistant Director.

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## Refusing to deal with an employee's claim under Section 58

When refusing to deal with a claim, consideration needs to be given to the nature of the information or documentation that has been requested, and whether the refusal should apply to all matters associated with the claim or just an individual benefit. A refusal to deal does not automatically apply to all claims that an employee may have, only to the claim for which information under section 58 of the SRC Act was sought.

A refusal to deal notice under section 58 of the SRC Act applies until the employee has provided the requested information or documentation. When an employee complies with the section 58 notice, any amounts of compensation that have been

withheld become payable in full.

Note: A decision to refuse to deal with a claim is not a determination made under section 60 of the SRC Act and therefore is not subject to reconsideration. If an employee wants to dispute the refusal to deal, they have to take the matter directly to the Administrative Decisions Judicial Review by making an application to the Federal Court of Australia.

For further guidance refer to the [Requesting information from employees](#) page.

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## Procedure for refusing to deal

To refuse to deal with a claim follow the steps below.

### Step 1: Check if non-compliance with a section 58 request is complete?

The refusing to deal with a claim process can only commence if the employee has failed to respond to a section 58 request:

- if yes, continue
- if no, further consideration is not required as the employee has not failed to respond to a section 58 request

## 2. Book triage

Discuss non-compliance and next steps. For further guidance refer to the [Triage](#) page and the [Claim Triage Process Guide](#).

## Step 2: Draft correspondence to the employee

Use the [Refusal to deal template letter in Pracsys](#) to draft advice to the employee. Your letter should include:

- the reason for the refusal to deal under section 58 of the SRC Act
- what the refusal to deal with applies to, for example: expenses for medical treatment under section 16 (note: a refusal to deal can only relate to the issue before you that prompted you to request the information)
- references to the correspondence previously sent to the employee.

Ensure that your draft letter is cleared by the delegate through the Quality Assurance process. You cannot proceed until the delegate has reviewed and cleared your draft refusal to deal. For further guidance refer to the [Quality assurance](#) page.

Ensure that you send the rehabilitation case manager a copy of the letter sent to the employee.

## Step 3: Contact the employee and the rehabilitation case manager

Your conversation with the employee should be by telephone and include:

- the reason for the refusal to deal under section 58 of the SRC Act
- what the refusal to deal with applies to
- references to the correspondence previously sent to the employee
- explanation that a decision to refuse to deal with a claim is not a determination under section 60 of the SRC Act and therefore is not subject to reconsideration (note: if an employee wants to dispute the refusal to deal, then they must take the matter directly to the Administrative Decisions Judicial Review by making an application to the Federal Court of Australia).

After contacting the employee, you should telephone the rehabilitation case manager and advise them of your conversation with the employee.

## Step 4: Update Pracsys

Go to 'Manage Claim Comment' (MCOM), enter a comment stating that you have issued a refusal to deal under section 58, include the reasons and record your conversations.

Go to 'Manage Denial of Benefit' (MDOB):

Click into the 'Refusal to Deal' tab.

- Select the 'New' button.
- Enter start date of the refusal to deal.
- Tick the medical evidence box.
- Click 'OK'.

Note: An Assistant Director will need to verify the refusal to deal in Pracsys.

Finalise letter in Pracsys.

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## Lifting a refusal to deal

If the employee subsequently complies with the Section 58 request and the information provided is satisfactory the refusal to deal should be promptly lifted.

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## Procedure for lifting a refusal to deal

To lift a refusal to deal with a claim follow the steps below.

### Step 1: Inactivate the refusal to deal in Pracsys.

Advise your Assistant Director that you have received the outstanding information and are proposing that Denial of Benefit restriction be lifted.

Go to *'Manage Denial of Benefit'* (MDOB) and:

- click on the 'Refusal to Deal' tab,
- highlight the relevant refusal to deal (line item)
- select 'Amend' from the right hand menu
- remove the tick on the active box
- select 'amend'.

Your Assistant Director will need to verify the inactivation in Inactivate Denial of Benefit (ADOB) function

Go to *'Manage Claim Comment'* (MCOM), enter a comment stating that the refusal to deal has been lifted as the employee provided the requested information.

### Step 2: Contact the employee and the rehabilitation case manager

Your conversation should include:

- that the refusal to deal has now been lifted

- the reasons for lifting the refusal to deal
- the date the refusal to deal is lifted from
- advice that a determination of liability will be made in relation to any claims that were received in the refusal to deal period and that you will phone to notify them of the decision(s).

After contacting the employee, you should telephone the rehabilitation case manager and advise them of your conversation with the employee.

### **Step 3: Send an email to the employee.**

Using the email function in Pracsys send an email to the employee detailing your conversation. You should copy the rehabilitation case manager into the email.

### **Step 4 Manage claim**

This includes determining liability for all applicable claims for compensation received for the period of the refusal to deal.

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