

# Written notice of injury

## Liability

- ✓ Legislative tests and initial liability

---

- ✓ Decision making under the SRC Act

---

- ✓ Making an initial liability determination

---

## Jump to:

[Written notice of injury](#)[Relevant authority](#)[Prejudice](#)[Exceptions](#)

## Written notice of injury

Section 53 of the SRC Act states an employee must provide a written notice of their injury to the relevant authority as soon as practicable after the employee becomes aware of the injury.

Lodgement of a [Workers' Compensation Claim Form](#) is usually the way Comcare is given notice of an injury.

[Return to top of page](#) | [Return to top of section](#)

## Relevant authority

Comcare is the relevant authority for injured Commonwealth government employees.

Normally an employee would give notice of injury to their employer by completion of an incident report at the time the injury was sustained. This generally constitutes sufficient notice.

[Return to top of page](#) | [Return to top of section](#)

## As soon as practicable

Notice of injury must be given to Comcare 'as soon as practicable' after the employee becomes aware of the injury. However, the SRC Act does not specify a timeframe for when a notice of injury must be given.

Usually employers have their own internal mechanisms in place for their employees to follow when reporting workplace accidents, incidents, injuries, diseases and other occurrences. An employee's obligation to notify their employer of an injury, disease or workplace occurrence is usually when the injury was initially sustained.

Note: If an employee lodges a claim significantly after an event, but there is evidence to support the employee notified their employer of their injury when it was initially sustained, this may be sufficient to indicate that written notice of injury was given as soon as practicable.

[Return to top of page](#) | [Return to top of section](#)

## Prejudice

Notice of injury will be taken to be given unless the employee's failure to provide notice, as soon as practicable, prejudices Comcare. If Comcare is unable to adequately investigate the claimed injury circumstances, it has been prejudiced.

Prejudice to Comcare is more likely to be established if the delay is extensive and it is difficult to obtain witness statements, locate or obtain records or other evidence that would have been available had the employee given notice of injury or lodged their claim earlier.

Comcare may also consider itself prejudiced if the delay in providing notice of injury would cause financial impacts, such as where the opportunity to rehabilitate the employee, or support them in minimising the effects of their injury, has been adversely affected, or where the opportunity to instigate third party proceeds has been lost.

[Return to top of page](#) | [Return to top of section](#)

## Exceptions

Section 53(3) of the SRC Act provides circumstances where a notice of injury may be deemed to have been given because the failure to give notice resulted from:

- **death or absence from Australia** – only needs to contribute to the failure to provide notice and does not have to be the sole cause
- **ignorance** – not knowing of the right to claim compensation at all or for a particular injury
- **mistake** – acting on the basis of incorrect knowledge or facts
- **any other reasonable cause** – if an employee provides another cause (excluding death or absence from Australia, ignorance or a mistake) for their failure to provide notice of injury, the reasonableness of the cause will need to be considered.

Any other reasonable excuse could include receiving medical treatment via another mechanism or extreme ill health.

[Return to top of page](#) | [Return to top of section](#)