

# Duty to Cooperate – Worker perspective\*



Recent changes to the *Workers Compensation Act* outline new requirements such as the **Duty to Cooperate** and the **Duty to Maintain Employment for work-related (compensable) injuries**. Both employers and workers are now legally required to maintain communication with each other and WorkSafeBC, participate in suitable work, and maintain a worker's employment in many cases.

## Why is it important?

Return-to-Work (RTW) programs and participation allow workers to stay connected to the workplace and relationships with the employer and coworkers. They support the employer by having the worker perform beneficial and productive work; and based on studies, they increase the likelihood of a successful recovery.

Studies have shown that workers who are off work for too long due to an injury or illness have a poor chance of returning to work at pre-injury/illness levels. Studies suggest that when a worker is out of work for more than six months, they have less than a 50% chance of ever returning to work **in any capacity**.

Having a suitable RTW program can keep the worker active and engaged in the workplace. Hopefully, the worker can return to their original job or possibly a new position or career.

## Key characteristics

For the Duty to Cooperate, the workers must:

- Contact the employer as soon as reasonable following an injury, and maintain communication
- Assist the employer to identify suitable work
- Provide WorkSafeBC with information in relation to RTW or continuation of work

When it comes to communications and confidentiality, the employer may ask general questions such as:

- How are you?
- How can they help?
- What are your abilities and/or medical limitations or restrictions?
- What suitable work do you think may be appropriate or you could do?
- When can you return to work?
- When can we talk next?

Workers are not required to disclose details related to:

- Diagnosis
- Treatment
- Medical intervention

The employer can ask what body part was injured. These discussions should focus on your functional abilities and suitable work. Functional abilities refer to your physical and cognitive abilities e.g., how much weight can you lift safely, how long can you stand, etc.?

Suitable work is work that is safe, productive, and consistent with the worker's functional abilities and skills. In the past you may have heard it referred to as modified, light, or different duties. These could be your regular duties modified to accommodate your limitations, or entirely different duties available and within your abilities.

WorkSafeBC has a duty to determine compliance regarding the issue of Duty to Cooperate. While the legislation allows them to suspend or reduce compensation benefits to workers or apply administrative penalties to employers, WorkSafeBC has publicly indicated that they will attempt to coach, educate, and support both parties in the obligations of duty to cooperate. Suspension and administrative penalties are viewed as a last resort.



## For additional resources visit:

[Editorial on Bill 41](#) | Manufacturing Safety Alliance of BC

[New Return to Work Legislation](#) webinar | Manufacturing Safety Alliance of BC

[Workers: Return-to-work information](#) | WorkSafeBC

# Toolbox Talk

Name of Facilitator: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Employee feedback/questions/recommendations

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### Workers who attended

Name	Initial	Name	Initial
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### Key Talking Points (Facilitator Notes)

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