

		POLICY
SECTION: HUMAN RESOURCES		NO: HR-HS-45
REFERENCE: HEALTH AND SAFETY		Date: May 4, 2020
		Next Review Date: May 2022

TITLE: EARLY AND SAFE RETURN TO WORK (ESRTW)

1.0 Purpose

1.1 The City of Dryden will make every reasonable effort to help an injured or ill worker/employee to stay at work (SAW) or an early and safe return to work (ESRTW) whether the injury or illness is work related or not. The City of Dryden is committed to providing temporary modified/accommodated or suitable alternative duties to a worker who is disabled because of an occupational or non occupational injury or illness. Our goal is to provide workers with the opportunity to return to work within their level of ability as soon as possible following the injury/illness, where possible and without undue hardship.

1.2 Disclosure of Information:

- (a) In order to facilitate an effective and appropriate Return to Work Case Plan for an injured/ill worker/employee, the immediate supervisor and the Manager of Human Resources will be allowed access to:
 - (i) Restrictions; and,
 - (ii) Functional Abilities Evaluation (cognitive, environmental and physical).
- (b) In cases where it is for non work-related injury or illness, - disclosure of information is limited to restrictions/functional limitations.
- (c) It is the responsibility of all parties involved to ensure privacy and confidentiality of the injured or ill worker/employee.

2.0 Application

- 2.1 This policy applies to all workers/employees with an injury, illness or disability regardless of its cause, type or nature which results in absence from work.
-

3.0 Scope

- 3.1 The Human Resources Department, in collaboration with other department managers, has implemented a modified duty program. The program will assist in promoting a timely return to work of employees with injuries/illnesses. The program will reduce the impact of Workplace Safety and Insurance costs where it is work related.
-

4.0 Accommodation Obligation

- 4.1 While the workplace parties attempt to identify and secure suitable work, it may become apparent that the worker requires modifications/accommodations. If this is the case, everyone involved, including the Manager of Human Resources, immediate supervisor, union and worker are required to cooperate by:
- (a) Sharing information; and,
 - (b) Actively seeking solutions that will make the accommodation process successful.
- 4.2 Under the Ontario Human Rights Code (OHRC) all employers have a duty to accommodate the work or workplace in order to meet the needs of the disabled person to the extent of undue hardship. This duty may arise through the:
- (a) Obligations to re-employ as set out in the Act; and/or obligations under the Code.

Early and Safe Return to Work - HR-HS-45

- 4.3 During the return to work process, WSIB expects employers and when relevant the union and the worker to:
- (a) Comply with the human rights legislation and associated policies; and,
 - (b) Make reasonable efforts to accommodate a worker's pre-existing and work-related disabilities/impairments in the absence of a re-employment obligation; and,
 - (c) Where re-employment obligation exists, accommodate the work or the workplace for the worker to the extent of undue hardship.
- 4.4 Where a permanent impairment prevents the worker from returning to their pre-injury/illness position, the City of Dryden will seek a permanent accommodation for the worker.

5.0 Modified Duty

5.1 Definition:

Modified duty is the modification of an employee's position (Work Hardening or Transitional Work) that allows for the employee to carry out the work assignment within the employee's capabilities. This might include, but not limited to, changing of work tasks (transitional work, hours of work) sometimes referred to as Work Hardening.

5.2 Specifically:

- (a) The work must be productive, and the result must have value.
- (b) The work provided must not aggravate the employee's condition.
- (c) The employee's condition must not constitute an additional hazard to the employee or fellow employee(s) while performing the duties assigned.
- (d) The work must assist the employee in returning to their original position, if possible.

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

Early and Safe Return to Work - HR-HS-45

- (e) The duration of the modified duty will be determined at the commencement of the program, wherever possible.
- (f) Prior to starting the modified duty, the employee and employer will sign an agreement with respect to the hours of work, the reporting requirements and the nature of the modified duty position.
- (g) The Functional Abilities Evaluation Form, if applicable and the requirements of the employer will be reviewed for the modified duty.
- (h) The employee is required to supply medical progress reports every two weeks or as frequently as may be needed.

6.0 Training

- 6.1 All Managers and Supervisors are responsible to ensure that any employees under their supervision, know and understand this policy.
- 6.2 Anyone hired or promoted into a management position must receive training on this policy.
- 6.3 This policy and procedure must be reviewed by all employees on an annual basis.

7.0 Procedures

7.1 Definitions:

- (a) **Suitable alternative work means** post injury work that is ***safe, productive, consistent with the worker's functional abilities*** and that when possible, ***restores the worker's pre-injury earnings***. It is also considered work that the worker can do which is consistent with his/her limitations and capabilities and which can be performed without aggravating the injury/illness.

Early and Safe Return to Work - HR-HS-45

The chart below outlines the **required activities** of workers and employers based on legislative obligations, including accommodation obligations, set out below:

Worker	Employer
To provide the employer with functional abilities info when requested	To offer suitable work that is available (reason for not offering must be legitimate)
To identify work opportunities he/she believes match his/her functional abilities	In the absence of a re-employment obligation, to make reasonable efforts to accommodate a worker's pre-existing and work related disabilities/impairments
To attend the worksite and attempt to perform those aspects of the work which both parties agree are safe	To be specific about the offer of work including clearly stating: • What work is being offered • The nature of the work • Hours of work/location of worksite • Associated remuneration
To discuss how the workplace or the available work could be accommodated	To discuss how the workplace of the available work could be accommodated and the accommodation to be provided Discuss what suitable jobs are available
To report any difficulties during the RTW process to his/her supervisor	To monitor the worker's progress during the RTW process

(b) **Productive Work** means that it is work that:

- (i) The worker has, or is able to acquire, the necessary skills to perform; and,
- (ii) Whose tasks provide an objective benefit to the employer's business.

The general type of work tasks that can be expected to provide an objective benefit to the employer's business include but are not limited to tasks that:

- (i) Form part of the employer's regular business operation; and,

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

Early and Safe Return to Work - HR-HS-45

- (ii) Permit the worker to acquire new job skills; and,
 - (iii) Generate revenue (aside from reducing WSIB costs); and/or,
 - (iv) Increase business efficiency or lead to business improvements; and,
 - (v) Determine whether the productive tasks are for the entire shift or a portion thereof.
- (c) **Temporary modified work** is where the worker's regular job is modified for a designated time period to assist in rehabilitation following an injury or illness. The worker is able to perform the essential duties of the job, but some of the other duties are modified to suit the worker's limitations/capabilities.
- (d) **Temporary alternative work** is other suitable work that is provided to a worker for a designated time period to assist in rehabilitation following an injury or illness.
- (d) **Permanent impairment** is a disability that a health care practitioner advises that is not likely to improve significantly over time.
- (e) **Functional Abilities Form** for Early Return to Work is a form that the health care practitioner completes stating the worker's current limitations and capabilities.
- (f) **Health Care Practitioner** includes a medical doctor, chiropractor, physiotherapist or dentist.

8.0 Responsibilities

8.1 Shared Responsibilities:

Workers and employers are primarily responsible for planning return to work, identifying return to work opportunities and issues in the workplace. Other participants can play a key role in the return process as well; these may include but are not limited to:

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

Early and Safe Return to Work - HR-HS-45

- (a) The worker's immediate supervisor;
- (b) A union representative or authorized worker representative;
- (c) Manager of Human Resources as the authorized employer representative;
- (d) The treating health professionals;
- (e) WSIB and its representative; and,
- (f) Co-workers, if applicable.

8.2 Employer Responsibilities:

- (a) Develop knowledge and understanding of the program and disability management.
- (b) Ensure that all workers understand the early intervention and modified work program with the expectation that the WORKER participating in the program will fully participate and cooperate with the objective to return to regular duties.
- (c) Participate in the promotion and provision of modified work, provide continued support and encouragement to worker participating in the program.
- (d) Participate in program meetings as required.

8.3 Supervisor Responsibility:

- (a) Remain in regular contact with the injured/ill worker during the period of absence from work.
- (b) Provide the injured/ill worker with appropriate forms (WSIB Functional Abilities Form) to take to the health care practitioner at the first opportunity, preferably at initial treatment.
- (c) Try to identify temporary modified or alternative duties where required in accordance with the terms of the Collective Agreement or agreement of

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

Early and Safe Return to Work - HR-HS-45

like nature when forms have been received outlining the worker's fitness for work.

- (d) Meet with the worker and other parties where possible, to discuss the terms of the return to work.
- (f) Notify appropriate parties of the worker's return to work (either modified , alternative or full duties) so that the WSIB can be advised.

8.4 Worker Responsibilities:

- (a) Obtain medical approval from a health care practitioner for a modified work program using the WSIB Functional Abilities form and return same to supervisor as soon as possible.
- (b) Participate and cooperate in the program by maintaining regular personal contact with the supervisor regarding the ability to work, physical capabilities and treatment plans.
- (c) Follow the treatment plan outlined by the health care practitioner.
- (d) Communicate any concerns to the supervisor so that potential problems or concerns are openly addressed in a timely manner.

9.0 Return to Work Process

- 9.1 The worker shall report the injury/illness to their immediate supervisor and provide appropriate health care practitioner's certificate for time off or return to modified work.
- 9.2 When the worker is able to return to modified duties, he/she will provide documentation from the health care practitioner outlining his/her current physical capabilities and the expected date of recovery or return to regular duties.
- 9.3 A Return to Work meeting will take place to determine what work might be available to suit the worker's capabilities and limitation. The meeting should include the injured worker, the immediate supervisor and any other appropriate parties. Modified duties should be offered within the worker's department.

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

Early and Safe Return to Work - HR-HS-45

- 9.4 Temporary modified/alternate work will be offered for a limited period of time as outlined in the modified work plan. In the case where return to regular duties does not occur as expected, the workplace parties will meet to revise and reassess the continuing need for and availability of modified duties.
- 9.5 If medical documentation is received indicating that the injury/illness is likely to be permanent and the worker is not ever expected to recover sufficiently to perform the essential duties of their regular work, appropriate parties will be notified and will assist in the process of attempting to provide permanent job accommodation.
- 9.6 A Return to Work Plan will be developed outlining the goals and details of the worker's return to work. The final goal is to return to regular duties, with short-term goals of modified work, modified hours or other suitable and available duties as required. The details of the plan should include a start and end date, physical restrictions, hours of work, and scheduled review dates of the plan (at least every 4 weeks). The plan should be written, and a copy provided to each of the parties including the WSIB. Where possible the health care practitioner should be provided with a description of the worker's regular duties (job description) and the modified duties being offered.

10.0 Sustained Return To Work

- 10.1 In cases where a worker has a permanent impairment (present or likely); and,
- (a) His/her clinical condition is stable; and,
 - (b) He/she is unable to return to the pre-injury job; or,
 - (c) Is only able to return to the pre-injury job with accommodations,
- the workplace parties and WSIB consider whether the work the worker is currently performing is sustainable ie. is likely to restore pre-injury earnings on a long term basis. Generally speaking unless the post accident work is sustainable, it will likely not present the best return to work outcomes in view of all the circumstances.

Early and Safe Return to Work - HR-HS-45

10.2 Consideration should be given to the following factors to determine whether the post accident work is sustainable:

- (a) Significant work or workplace accommodations have been made;
- (b) Rate of pay is significantly higher than what the employer pay for similar jobs;
- (c) The productivity required of the worker is significantly lower than would normally be expected; and/or,
- (d) The job was created especially for the worker; and therefore,

if such a job were no longer available, it would be difficult for the worker to find new employment with similar clinical restrictions/accommodations in the general labour market.

In these cases, WSIB will discuss with the workplace parties whether to provide a labour market re-entry (LMR) assessment to the worker in order to determine whether a better return to work outcome can be achieved.

10.3 Where sustainability concerns are present, the provision of the LMR assessment can be used to ascertain if other work more comparable in nature and earnings to the pre-injury is available with:

- (a) The accident employer; or,
- (b) In the general labour market world.

10.4 With respect to LMR assessments that look to the general labour market, the benefits and advantages associated with employment at the accident employer (such as seniority rights and/or entitlement to employment/retirement benefits) should be carefully considered by the worker, in conjunction with WSIB, when considering his/her best long term option.

History			
Approval Date:	November 19, 2007	Approved by:	Council Resolution
Amendment Date:	April 24, 2017	Approved by:	CAO
Amendment Date:	May 4, 2020	Approved by:	CAO
Amendment Date:		Approved by:	
Amendment Date:		Approved by:	

This procedure is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.