

Disclosure of documents

Information for employers involved in the common law process

What is disclosure?

The workers' compensation legislation requires that during the common law claim process, all parties must exchange copies of any documents that are in their possession or under their control and are directly relevant to the claim. This is known as 'disclosure'.

The purpose of disclosure is to ensure there is open and early exchange of information. This disclosure obligation applies to the injured worker, their solicitor, WorkCover Queensland, and you.

What do I need to disclose?

You need to disclose any documents that are in your possession or control that are relevant to this claim. This includes documents held for you by someone else, such as your accountant.

As well as paper records, 'documents' include computer records, photographs, audio and video recordings, plans, and diagrams.

Documents will be relevant to the claim if they are about:

- how the incident or event happened
- the worker's injuries and their return to work
- their employment with you, including but not limited to their personnel file with information about their application for employment, resume, training, wages, overtime, promotions, awards, and warnings
- the earnings of a comparable employee since the incident
- documented safety processes and procedures, risk assessments, training manuals, and other policy documents
- statements, reports, and other internal investigations into the incident.

You must do a detailed search of your records so that we can advise the injured worker's solicitors that we have disclosed all relevant documents.

We cannot withhold documents simply because they may damage our case. If we fail to disclose documents properly this can cause delay, additional costs, and prevent us from properly assessing the strengths and weaknesses of the claim. We may be prevented from producing undisclosed documents as evidence in the claim.

We will review all of your documents prior to giving them to the injured worker's solicitors because, if any documents contain evidence of fraud or they contain legal advice, we do not need to disclose them.

Your obligation to disclose documents is an ongoing one. This means that if any new documents come into your possession during the life of the claim, you must provide copies of these to us.

What do you need to do?

You need to review all documents you have that relate to the claim. To help you identify all possible documents, please complete a disclosure checklist as you collate your documents.

For more information

If you would like more information on documents you need to disclose, please contact your in-house solicitor, customer advisor, or call us on 1300 362 128.