



University of  
South Australia

# Non Work Related Illness/Injury (NWRI) Frequently Asked Questions for Employees Amended January 2020



## Introduction

The University of South Australia (the University) values all employees and recognises that at times people may need support through circumstances that are unplanned. Non work related injury or illness (NWRI) is one example of an unforeseen circumstance that may require support for staff to manage their health while remaining at, or returning to work. This can result in periods of planned, unplanned leave and in some cases temporary incapacity.

The University is committed to supporting staff with an illness, injury, medical condition or disability and assisting them, where appropriate, to remain and/or return to work. Wherever possible, the University will make reasonable adjustments to allow staff to continue at work or resume their duties within a reasonable time period.

In supporting staff who are unable to attend work due to non-work related injury or illness, the University must also balance its responsibilities associated with a range of legislative requirements. These include occupational, health, safety and welfare obligations for the employee and others at work, relevant anti-discrimination legislation, and industrial provisions included in relevant Enterprise Agreements. It is important to note that the core business and operational needs of the relevant Unit or Portfolio areas also need to be properly considered and provided for when balancing these responsibilities.

These Frequently Asked Questions are designed to provide information on rights and responsibilities for employees who may require assistance from the University in these circumstances.

Further information for employees and managers can be obtained by contacting your local People, Talent and Culture (PTC) Business Partner.

Amended January 2020

## FREQUENTLY ASKED QUESTIONS (FAQs)

### FAQs for Employees

#### NON WORK RELATED ILLNESS OR INJURY (Excluding Workers Compensation Claims)

#### FREQUENTLY ASKED QUESTIONS FOR EMPLOYEES

Question	Answer
What is a non-work related illness or injury (NWRI)?	<p>This refers to an illness or injury (including physical, mental or psychological condition) that does not arise out of the course of employment. A NWRI</p> <ul style="list-style-type: none"> <li>• has the potential to impact on the health, safety and welfare of yourself and/or others at work, and/or</li> <li>• may require temporary or permanent modification to your duties or the way you go about your duties, and/or</li> <li>• may result in significant periods of absence, and/or</li> <li>• has the potential to inhibit your ability to fulfil the full requirements of your substantive role and responsibilities.</li> </ul>
What is a 'significant' non work related illness or injury (NWRI)?	<p>This means that the illness or injury may result in significant</p> <ul style="list-style-type: none"> <li>• periods of personal leave and / or absence from work (as a guide longer than 1 month)</li> <li>• impact on the level of adjustment required to support you at work</li> </ul>
What are my responsibilities if I have a non-work related illness or injury?	<p>Employees have an ethical and common law Duty of Care (Sec 28 Work Health &amp; Safety Act 2012) to</p> <ul style="list-style-type: none"> <li>• provide relevant information about their health status when this could impact upon their capacity to perform the essential (inherent) requirements of the job and/or where the illness/injury has the potential to place yourself, colleagues and/or students at risk</li> <li>• resume duties at the pre-illness/injury worksite or a negotiated alternative site</li> <li>• provide relevant information to ensure the appropriate assessment of reasonable adjustments that may be required</li> <li>• participate in the development and implementation of a confidential negotiated 'Work Support Plan'</li> <li>• comply at all times with any relevant medical restrictions</li> <li>• address any issues which may arise in consultation with your local manager.</li> </ul> <p><b>Tip:</b> Let your manager know about your circumstance. Ask your doctor to provide a letter confirming any restrictions or changes that UniSA can consider to allow you to undertake your role. If unsure, contact local PTC Business Partner for advice.</p>
What are my rights if I have a non work related illness or injury?	<p>You have a right to</p> <ul style="list-style-type: none"> <li>• be treated fairly. This means to be involved in conversations about your capacity and/or any restrictions you may have to undertake your role</li> <li>• not have decisions made about your employment or changes to your employment based on assumptions about your ability or inability to perform your role</li> </ul>

	<ul style="list-style-type: none"> <li>• have UniSA consider reasonable adjustments for you to undertake your role provided these do not impose an ‘unjustifiable hardship’.</li> </ul>
What does the term ‘reasonable adjustments’ mean?	<p>This term refers to changes or accommodations that can be made by UniSA to ensure you are able to perform your role. These may include</p> <ul style="list-style-type: none"> <li>• the provision of additional equipment/tools or rearrangement of an office space/work area</li> <li>• adjusting work-related communication or introducing appropriate software for a vision or hearing impaired person</li> <li>• or introducing flexibility which may include changes to your working hours</li> </ul>
What does the term ‘unjustifiable hardship’ mean?	<p>This term refers to what level of impact the reasonable adjustments or changes would have on you, UniSA or colleagues and students. While this term is ultimately decided by a Tribunal or Court, consideration must be given the particular context. This means while UniSA considers what changes they can make to assist you to undertake your role, they will also have to consider:</p> <ul style="list-style-type: none"> <li>• Any benefits for others</li> <li>• Any disadvantages for others</li> <li>• The particular needs and circumstances of the person</li> <li>• The costs involved in making the accommodations/adjustments and how affordable they would be for UniSA</li> </ul>
A UniSA officer asked me to complete an ‘Authority to Exchange Medical Information’ Form, to obtain a report from my doctor, clearing me to return to work. Can they do this?	<p>Yes. It is important that UniSA receive a medical certificate (or other documentation) from your treating medical practitioner, stating you are fit to return to full duties without restriction or to return to work with some restrictions. The documentation should include specific reference to what the restrictions (if any) may be. This will provide the basis for planning assistance for an employee to return to work if it is medically feasible and possible to be accommodated by the University.</p>
What if I refuse to provide the ‘Authority to Exchange Medical Information’ Form?	<p>It is in your interest to provide information that is relevant to your ability/capacity to undertake your role. In this situation UniSA will have to make decisions based on the amount of information they have at the time. If UniSA assesses that there continues to be a risk to your health, safety and wellbeing they may request that you remain absent from work until such medical information is provided.</p>
What if UniSA do not agree with what my doctor says?	<p>In some circumstances, UniSA may request additional information be provided from your medical practitioner and/or request that an independent medical assessment be undertaken to determine your fitness to carry out the ‘inherent requirements of the job (role)’. In this situation you should receive a full copy of the report for your records. The cost for such a report is borne by UniSA. You also have a right to provide an alternative medical report.</p>
What does the term inherent requirements of the job (IROJ) mean?	<p>This refers to the core or essential components of the role you were engaged to undertake. This requires UniSA and yourself to look at the following:</p> <ol style="list-style-type: none"> <li>1) <b>Defining</b> ‘the job’ (the position description is usually the starting point)</li> <li>2) <b>Identifying</b> the essential elements of the position – not just the duties, but past training, experience, performance prior to injury, and other relevant factors as well.</li> <li>3) <b>Assessing</b> what adjustments may be required and whether they are reasonable</li> </ol>
What if I am unable to perform the Inherent Requirements of the Job (IROJ)?	<p>In this situation UniSA will look at other options that are available. For example, can the job be undertaken part-time; are there elements that can be removed from the job; can adjustments be made to the workplace to accommodate special requirements. Sometimes UniSA will engage an Occupational Therapist</p>

	to undertake a Workplace Assessment to review the elements of the job and identify any adjustments that may be needed.
If I am unable to return to the same work as before the illness or injury, what other options are there?	UniSA will focus on what you <b>are</b> able to do and attempt to find suitable work that is within the scope of your role or position. Flexible work practices could be considered, or a gradual return to work could be an option with reduced hours/part-time work. This will be detailed in a Work Support Plan.
What is a Work Support Plan?	This is simply a plan developed in consultation with you, your manager and your local Manager Business Partnerships or the Employment Relations team. The plan should outline some details regarding how, when and what supports will be put in place to ensure you can resume your role.
I have been off work for a substantial period of time and have lost confidence particularly if there are new processes that I am not familiar with. Will UniSA accommodate my needs in this case?	UniSA has an obligation to consider how best to reintegrate you back at work. A Work Support Plan will assist with pacing your return to work. Any new training required will be considered as part of the assessment of reasonable adjustment.
What if I return to work and it is too hard, my illness or medical condition returns, and I can't cope or something similar?	The reason we seek medical advice and develop a Work Support Plan is to give you the best chance of a successful return to work. Your role in that process is very important, your communication with the University and your ability to maintain a positive attitude will help you to achieve success.
Who should I liaise with about my return to work?	Generally, it would be the local PTC Business Partner or your supervisor. However, if a case manager is appointed to support you they will contact you and provide you with their details.
What options do I have if UniSA conclude that I am unable to perform the role I was employed to do?	If based on the available medical information, UniSA believes you are unable to perform your duties and that it is unlikely you will be able to do so within the next 12 months, your options may include the following; <ul style="list-style-type: none"> <li>You may consider applying through your relevant superannuation fund for any income assistance available for temporary incapacity support</li> <li>If all avenues have been examined and UniSA have assessed that they are unable to provide the reasonable adjustments, the Vice Chancellor (VC) may terminate your employment. The VC must provide you with the relevant notice period in accordance with your contract of employment. Prior to undertaking this action, the VC may offer you the chance to resign from your employment.</li> </ul>
Why can't UniSA simply take my word that I am fit and able to come back to work?	UniSA has a duty of care to you (your colleagues and students) and others to ensure that you are fit to return to work. This requires a written assessment by a medical practitioner. Sometimes your genuine opinion that you are able to undertake the full requirements of your role may not be supported by your treating practitioner.
Who from UniSA can contact my medical practitioner?	In most cases, it will be the local Manager: Business Partnerships that contacts the medical practitioner to obtain a written clearance for you to return to work. This must be made with your consent. The request for clearance should clearly state the requirements of the job to enable an accurate assessment of the person's ability to perform in the role. In some cases, someone from central PTC will act as the Case Manager for your situation.
Can my doctor, or other treatment provider, come in to my workplace to assess it if necessary?	Yes, whilst this is uncommon, it is possible for a treatment provider to see your workplace for themselves before providing advice. We can also provide them with duty statements and photographs to provide clarity around your role.

Where can I obtain help if I am a Manager who has to support an employee with a NWRI?	You can contact your local Manager Business Partnerships for information and advice on managing these situations.
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**Additional Information:**

UniSA Disability Action Plan:

<http://www.unisa.edu.au/Disability/Welcome/>

UniSA Enterprise Agreement 2019:

<https://i.unisa.edu.au/staff/ptc/employment-conditions/enterprise-agreements/enterprise-agreement/>

Australian Human Rights Commission:

<https://www.humanrights.gov.au/our-work/disability-rights>

Workers with Mental Illness: a Practical Guide for Managers:

<https://www.humanrights.gov.au/our-work/disability-rights/publications/2010-workers-mental-illness-practical-guide-managers>

Equal Opportunity Commission of SA:

<https://eoc.sa.gov.au/what-discrimination>