



**Rehabilitation and Return to Work:
Australian Shipping Industry Symposium**

Summary of Outcomes

Melbourne

20 November 2000

Rehabilitation and Return to Work Symposium: Australian Shipping Industry

Introduction

On 20 November 2000, the Seafarers Safety, Rehabilitation and Compensation Authority (otherwise known as the Seacare Authority) conducted a highly successful Rehabilitation and Return to Work Symposium for the Australian Shipping Industry. The event – held at the Royal Brighton Yacht Club in Melbourne – was attended by nearly 70 delegates from shipping companies, maritime unions, WorkCover and other government organisations, rehabilitation providers, medical providers, insurers, lawyers and the press.

The purpose of the Symposium was to gather together a group of high level experts and interested parties to consider and discuss a range of issues including:

- developments in rehabilitation and return to work internationally and in Australia, including from a medical perspective;
- rehabilitation and return to work issues specific to the Australian shipping industry;
- case studies of rehabilitation and return to work practices in the Australian shipping industry and another high-risk industry — the mining industry; and
- employer and union views on opportunities to, and constraints in, improving rehabilitation and return to work in the Australian shipping industry.

During the day's proceedings, one delegate suggested to the Chairperson that the Seacare Authority ought to look more broadly at injury management, and not confine itself to rehabilitation and return to work. They suggested that this separation is false and outdated and is part of the problem with getting people back to work.

Members of the Seacare Authority broadly support this view, and approach the administration of the Seacare scheme with the overriding objective that the Authority's functions are addressed in an integrated manner. On this occasion, however, members believed it important that rehabilitation and return to work issues be placed under the microscope because of the unique problems that this industry presents in these areas. The difficulties with these issues are reflected in Seacare scheme's compensation data as was noted by the Hon Peter Reith MP, Minister for Employment, Workplace Relations and Small Business, in his opening address to the Symposium.

Feedback indicates that the Symposium was well received by delegates and contributed to their knowledge of rehabilitation and return to work.

The purpose of this document is to summarise the key discussion points raised at the symposium and to outline a best practice approach for shipping companies and their providers in when approaching rehabilitation and return to work for their employees. A summary of each speakers' address is provided.

Following the summaries is a suggested checklist of items for companies to consider in providing rehabilitation and return to work, which was developed from the day's key discussion points.

*Six Key Areas for Improvement in Rehabilitation and Return to Work
for the Australian Shipping Industry*

- Adoption of a more robust approach to **injury prevention**.
- Improved **performance reporting** to the Seacare Authority and the Australian Maritime Industry Compensation Agency (AMICA) to allow the Seacare Authority to consider and provide feedback to the industry on the strengths and weaknesses in rehabilitation and return to work performance.
- Visible **company commitment** to rehabilitation and return to work demonstrated by senior management involvement and support, development of in-house policies and practices for rehabilitation and return to work, and preparedness to ensure that suitable alternative duties are made available wherever possible.
- **Early intervention** and fostering of employee attachment to the workforce, including through continued close contact with and between the injured employee, the company and medical and rehabilitation providers.
- **Monitor, evaluate and review** rehabilitation and return to work policies and practices on a regular basis to ensure that the needs of all stakeholders are being met.
- Ongoing **information exchange** between companies, particularly to assist smaller companies to improve their rehabilitation and return to work performance.

The Hon Peter Reith MP, Minister for Employment, Workplace Relations and Small Business

The longer it takes to get an injured employee back into the workforce, the harder it is. They lose confidence, self-esteem, work fitness and are at risk of social isolation and depression. They are likely to develop a psyche of 'long term off duty', which can become a self-fulfilling prophecy. For these employees in particular, we need to foster their attachment to the workplace.

Minister Reith opened his speech noting that the Seacare Authority is comprised of expert and well qualified persons, and very fortunate to have as its Chairperson, Mr Geoff Gronow — a leading barrister and solicitor in accident prevention in Australia. Minister Reith welcomed the Seacare Authority's initiative in conducting the Symposium and thanked Mr Gronow for inviting him to open the day's proceedings.

In the Minister's view, the data presented in the 1999–2000 Seacare Authority Annual Report indicate that:

- shipping industry reform, including the abolition of the Seamans' Engagement System, has contributed to overall improvements in the Seacare scheme in recent years;
- injury rates and premium levels nevertheless remain high relative to other schemes and industries making it imperative for shipping companies give more attention to improving their records in accident and injury prevention;
- shipping companies appear to be engaging in an unsatisfactory amount of under-reporting, particularly with respect to rehabilitation and return to work but also in other areas;
- the Australian shipping industry has made solid inroads into rehabilitation and return to work in recent years, but there remain some obvious areas for improvement, particularly with regard to employee consultation and development of rehabilitation plans.

Minister Reith invited the industry to continue, and improve upon, its recent performance in OHS and workers' compensation and challenged employers to focus on new opportunities to further improve performance including through opportunities to benchmark and through closer contact with injured employees.

Mr Alan Clayton, Monash University Accident Prevention Centre

Each individual's return to work potential and needs should be assessed as early as possible. Transitional work opportunities should be offered to help ease employees back into the workforce.

Mr Clayton commenced his discussion by giving an historical overview of workers' compensation, and noting that there was a turning point in the area of rehabilitation as late as the 1970s but which had become entrenched by the 1990s. Key Government reports in this respect were the Conybeare, Woodhouse, Cooney and Doody Reports. In the Seafarers regime, there was no recognition of rehabilitation until the new *Seafarers Safety, Rehabilitation and Compensation Act 1992*.

Key focuses of rehabilitation include compensability of rehabilitation expenses, active service provisions (which are often centre-based and may involve experiment with mandatory rehabilitation) and workplace-based vocational rehabilitation.

Pioneering countries in the area of rehabilitation and return to work have been Germany (with the historical role of the Berufsgenossenschaften), Sweden (changes in Social Insurance Service) the United States of America (the disability Management Movement which involves benefit reduction, bases for cost control, and a holistic approach in that healthcare is seen as a company benefit) and Australia.

From these models, some international best practice strategies and practices emerge:

- early intervention — as soon as possible after an actual or potentially disabling event with the objective of identifying return to work goals from the beginning of an emerging disability;
- identify and provide necessary return to work assistance effectively. This should involve:
 - assessment of each individual's return to work potential and needs
 - use of case management techniques where appropriate
 - provision of transitional work duties that enable workers to ease back into the workforce
 - ensuring that medical providers understand the workers' essential job functions;
- structure scheme arrangements to assist return to work such as:
 - to structure benefits to assist workers to return to work
 - appropriate employer and employee obligations
 - arrangements to assist return to work where it is not feasible to return to work with the original employer.

Challenges for the shipping industry include structural factors, logistical factors, attitudinal factors and communication factors, each of which are discussed in the Seacare Authority's 1999–2000 Annual Report to the Federal Parliament.

The shipping industry has a history of industry problem solving (for example, Crawford and Maritime Industry Development Committee (MIDC)), so that company employment combined with the recent history of decline of the industry poses new problems. Fatigue is also a continuing issue as demonstrated by the AMSA commissioned study into fatigue.

There needs to be further encouragement of approaches to seagoing rehabilitation, including the development of supernumerary initiatives. There should be encouragement of re-employment with other industry employers (eg WISE, RISE, Employer-at-injury), a focus upon retraining and possibly the development of an industry fund (eg Berufsgenossenschaften).

Dr John Silver Consultant Occupational Physician

Dr Silver noted that rehabilitation and return to work are important issues not only for patient welfare but also because the bottom line is that they involve significant cost savings for employers and a range of other savings for the employee. A holistic approach is needed, and this is reflected in industry initiatives such as employee assistance programs and requirements for comprehensive medical assessment prior to return to work.

Dr Silver then discussed the main issue of his talk – ‘somatisation’ which means that psychological stress can manifest itself in physical symptoms.

Where injury occurs, common and reasonable employee responses may be that there is a short term exemption for normal duties, a right to care to be fulfilled by the employer, and that they will recover and return to work. Abnormal behaviour may arise which involves psychosomatic responses — the majority of which are unconscious and social in origin. Back pain is a good example. Abnormal behaviour is readily detectable by inconsistencies in an employee’s responses to questioning.

The key management principle is to manage the patient in a holistic way not necessarily look to a cure of the immediate symptoms.

If delegates were interested in reading more information about back pain, a useful document could be found on the Internet at www.facocmed.ac.uk under the publications/books menu.

Mr Lachlan Payne, Chief Executive Officer, Australian Shipowners Association

The Seacare Authority is just one brick in the fabric of shippers concerns.

Mr Payne noted that from a shipping industry perspective, the Government should be examining the burden of over-regulation in the Australian shipping industry, which arises largely from the number of federal and State laws which govern the industry. Much of this legislation, including the Seacare legislation, is disadvantageous to Australian shipping companies which are competing against foreign shipping companies not subject to the same amount of regulation. The Seacare Authority is just one small area of concern in shippers’ overall functions, and some industry participants perceive it to be well resourced in the light of the small number of employees covered by the scheme.

Mr Clive Davidson, Chief Executive Officer, Australian Maritime Safety Authority

AMSA is committed to assisting wherever possible in ensuring that viable strategies involving progressive return to work for seagoing staff are developed. For example, AMSA can provide advice on how a crew member, who has not returned to full fitness and who therefore does not have a valid certificate of medical fitness, can return to sea.

AMSA performs the role of OHS Inspectorate under the *Occupational Health and Safety (Maritime Industry) Act 1993* and considers that prevention of accidents and injury should be key focus for companies. The Maritime industry is the most inspected industry in Australia. The collection of valid and reliable data sets is imperative to ensure intelligent decision-making by AMSA, the Seacare Authority and companies themselves.

Dr Paul Pers, Health Consultant, Milliman Australia

Management of expectation is the key to early intervention in managing workers' compensation claims

Dr Pers opened his discussion by stating that communication is the key to successful return to work including an ongoing and bona fide dialogue between all stakeholders about their expectations and the process of the management of the claim. The key questions for stakeholders are:

- what can I expect to happen from now?
- what is optimally efficient treatment? and
- how can we create a positive environment to achieve an early return to work?

Dr Pers emphasised that early intervention works. Communication lines should be initiated early and maintained with a view to providing solutions to the predicament. In many instances, the injury is not serious but may be accompanied by psychosocial and industrial issues that underlie the 'real problem'. The answers require a clear understanding of the unique circumstances involved and the injury must be de-medicalised wherever possible.

As an example, back pain is a common injury which has been elevated to an emotive issue. This type of injury has been captured by 'surgical craft groups', yet there needs to be a realisation that the psychosocial problems will not be excised by a scalpel. A simple back strain may only require simple reassurance, paracetamol as an analgesic and then a return to normal activity as soon as possible. When asked by Dr Pers, not one delegate was able to state that they had never suffered back pain.

Dr Pers stated that the industry should aim for a zero injury rates. All should work towards creating a collaborative environment. An adversarial environment is a breeding ground for anger and blame. Healing cannot take place in such a climate. All are responsible for reducing the burden of injury and illness as a win for the employee is a win for all.

Claims management needs to take up the challenge of early intervention utilising high levels of knowledge of the context of work injury. It can be improved by:

- employing targeted strategies in risk assessment and streaming;
- identifying real risk early; identifying, aligning and managing expectation;
- establishing and maintaining close links with stakeholders; and
- by utilising dynamic claims management support tools.

Mr David Johnson, Quality, Safety and Systems Manager, Total Marine Services

As soon as the individual is onboard we ask them to do a functional test for an emergency evacuation. This has the effect of alleviating crew concerns and raises the confidence of the individual on the return to work plan.

Mr Johnson provided a case study of Total Marine Services' approach to rehabilitation and return to work noting that the key elements are:

1. Development of a company rehabilitation policy which affirms company commitment and management responsibility, working in cooperation and consultation with employees, to remain at work or return to work within the shortest possible time should injury or illness occur as a result of their employment

2. Development of company injury management plan covering the topics of: (a) rehabilitation policy; (b) occupational rehabilitation; (c) rehabilitation coordinator; (d) rehabilitation procedures; (e) return to work plans; ((f) work site assessments

3. Education and training. Total Marine Services is committed to ensuring that all employees are aware of its rehabilitation and return to work policy. Informing new employees of this policy is part of the Company's induction process.

4. Vessel selection. Total Marine Services selected one of its vessels on which employees could be readily rehabilitated. The vessel was selected on the basis that there is capacity to: (a) seek onshore medical assistance if urgently required; (b) facilitate regular contact with the rehabilitation and/or medical provider on a regular basis; (c) employ assistance from other vessels if necessary; (d) provide a good range of duties available for the return to work plan; (e) to provide medivac assistance if required.

5. Worksite assessment of the vessel. The company commissioned a rehabilitation provider to compile a workplace assessment document for the vessel which will be presented to treating medical practitioners for prior approval before commencement of the return to work.

6. Addressing safety concerns. To overcome safety concerns by the injured employee and other crew members: (a) the company doctor, who is an AMSA approved medical inspector, is asked to give final approval to commence with the plan; and (b) the individual is asked to do a functional test for an emergency evacuation. This helps to raise the confidence of all crew members, and especially the returning employee.

In the last 18 months, Total Marine Services has returned 4 out of 5 injured employees to seafaring duties, with the remaining employee now having been rehabilitated to another vocation.

Ms Heather Budd, Rehabilitation Officer, Pasmaenco Hobart Smelter

Line management plays an important role in the return to work process by managing the employee whilst working in suitable duties.

Ms Budd outlined injury management issues for Pasmaenco Hobart Smelter (PHS) noting that the PHS workforce is comprised largely of unskilled workers involved in heavy repetitive manual handling. The main issues involve attitudinal constraints including employee resentment when injury occurs, limited people management skills among line management, employee reluctance to undertake vocational rehabilitation and 'organisational reluctance' to make hard decisions about injured employees.

Pasmaenco senior management is committed to injury management, and this is borne out through, amongst other things, the appointment of a Senior Injury Management Adviser and the development of company based education programs for employees involved in injury management.

PHS approaches injury management in a way that encourages early and ongoing contact between the specialist injury management adviser, line management and the injured employee. All injuries/incapacity for work cases are managed and closely monitored by the Senior Injury Management Adviser. Line management is also involved in, and has responsibility for, the injury management process from the outset. PHS focuses on return to work as soon as is medically appropriate.

PHS provides formal communication to the employee of their rights and responsibilities. It provides assistance beyond that provided in the legislation to seriously injured employees and their families.

Mr David Parmeter, Director Human Relations, Australian Shipowners Association

Mr Parmeter commenced his discussion by noting the recent emergence of rehabilitation as a partial solution to the effects of compensated injuries in the shipping industry. Historically, the shipping industry has been painstakingly behind other Australian workers' compensation jurisdictions in this area. This is evidenced by the limited scope of the previous *Seamen's Compensation Act 1911* which never contained rehabilitation procedures despite a wave of amendments to State and Commonwealth laws in the 1980s.

There were two key turning points for the industry. The first was the inclusion of rehabilitation in the *Seafarers Rehabilitation and Compensation Act 1992* (the Seafarers Act), which the then Minister for Transport described as 'the most important feature of the new scheme'. Secondly, the development of a memorandum of understanding concerning the determination of return-to-work programs and 'suitable employment' under the Seafarers Act (the MOU). The signatories to the MOU are the Australian

Shipowners Association, the Australian Mines and Metals Association and the Maritime Union of Australia.

The MOU was an important document because it recorded industry level commitment to a range of rehabilitation and return to work issues including the process of return to work for short-term and long-term cases, the effect of return to work on weekly earnings (essentially describing the applicable legislative provisions), and dispute resolution procedures.

There are a number of issues which make rehabilitation and return to work difficult in the maritime industry. These include the hazardous nature of the industry, the long duration of swings, limited opportunities for redeployment, operational requirements in terms of safety, the generous nature of benefits, lack of redemption mechanism in the Seafarers Act, and the problem of the 'older worker'.

That said, there have been improvements in the claim rates and rehabilitation cases.

From the perspective of an employer association, a company level rehabilitation policy should:

- be developed in consultation with unions;
- be available and accessible;
- aim to effect early and sustainable return to work;
- define the management of rehabilitation;
- outline the accountabilities of managers;
- outline the rights and responsibilities of managers;
- describe the service delivery requirements of approved rehabilitation providers;
- provide for monitoring and evaluation cost/effectiveness;
- include RTW plan;
- involve participation by employee in the management of the injury and its rehabilitation;
- provide for alternate duties;
- provide for management of safety;
- provide for ongoing communication with medical practitioners.

Ms Maria Robbins, Human Resources Manager, BHP Transport & Logistics

BHP has found that critical success factors are communication, commitment and close liaison with the rehabilitation provider.

Ms Robbins outlined BHP's approach to rehabilitation and return to work, noting that the company has experienced close to 100% success rates over the past three years. This can be attributed in part to the company's adoption of a 7-phase approach. The overriding principles of this approach are to:

- establish immediate contact with the injured worker;
- start the rehabilitation process immediately;
- develop strong relationships with the injured worker and treating doctor; and
- return the employee to work as soon as possible.

The seven phases are:

Phase 1: Establish contact. This is done as soon as the worker returns home after injury. The employee is encouraged to visit a doctor, to discuss the incident, to be introduced to the concept of a rehabilitation plan, and introduced to the rehabilitation provider.

Phase 2: Set up a rehabilitation relationship. At this stage, the personal relationship with the injured employee is critical. The company will brief the rehabilitation provider who, in turn, contacts the injured employee to arrange a home visit. All necessary details should be established by the end of this stage.

Phase 3: Home Visit. The purpose of this phase is to achieve a short, medium and long term strategy. It involves a face-to-face discussion about the incident and consideration of a doctor's opinion as to how the worker is feeling. The rehabilitation provider will meet with the doctor to discuss strategies, with the employee's permission. At this point a rehabilitation strategy is developed between the worker, rehabilitation provider, doctor and company. Company authorisation is sought.

Phase 4: Development of a rehabilitation plan: This phase involves a consideration of physiotherapy, enrolment at a fitness centre, medical opinion and the development of a return to work plan.

Phase 5: Return to Work: The scope of suitable duties is discussed with the employee, the rehabilitation provider and the doctor, and the doctor's approval of return to work is sought at this stage. A suitable duties manual is consulted. A work plan is then developed for implementation in a supernumerary capacity.

Phase 6: Implementing Return to Work. At this stage, the return to work plan is signed off by the ship manager and master of the vessel. There is continuing communication with the employee regarding the return to work and administrative arrangements. The rehabilitation provider meets the employee at the airport to facilitate transfer to the vessel. There is an introduction to the master and a walk through of suitable duties and of the plan. The employee will then undertake 2 week swings on the nominated coastal vessel.

Phase 7: Voyage End: At the conclusion of the voyage, the employee is contacted at home to discuss the process. The doctor is contacted for an opinion as to the employee's fitness for work. Consideration is given to whether another swing in a supernumerary position is justified. The Rehabilitation and Return to Work Plan is reviewed.

Mr Paddy Crumlin, National Deputy Secretary, Maritime Union of Australia

Mr Crumlin made a number of observations about the Seacare scheme including that:

- responsibility for shipping rests with two federal Ministers which has the potential to create an amount of uncertainty within the industry unless there is close policy coordination
- another part of the problem with rehabilitation has been that there have been some significant reporting issues, which the Authority is now addressing. Data will allow stakeholders to assess what is actually happening in this area on a regular and ongoing basis. Identifying areas of risk quickly and conclusively is essential in the education process of the workforce and management.
- It is imperative that the indicators used by stakeholders are realistic and in uniform terms. Some companies make inappropriate use of lost time indicators, for example using them as their sole or primary indicator. There is a tendency then to ‘remove the symptoms’ by merely keeping the injured seafarer aboard to address the statistic.
- early intervention is the key to achieving timely return to work outcomes. Education of management aboard and ashore and the development of an active understanding among stakeholders that rehabilitation and return to work will positively impact on both the welfare of employees and the success of the business.
- employees find it difficult to remain motivated to return to work after injury when there is no guarantee that there is a job waiting for them upon their return. This is particularly the case given the significant decline in the size of the Australian shipping industry in recent years. If we are serious about seafaring reform at all levels then it must genuinely apply at all levels.
- some of the processes in the Seafarers Act are in urgent need of review including time limits and administrative review of decisions made with respect to claims. Time limits, for example, mean that some employees are left waiting for over sixty days without receiving payment. There are no guarantees that the new Administrative Review Tribunal will deliver a more simple and streamlined, or less adversarial, approach to reviewing seafarers’ compensation matters.

Mr Martin Byrne, Assistant Federal Secretary, Australian Institute of Marine and Power Engineers

Mr Byrne reminded delegates that the shipping industry has achieved significant reductions in key OHS and compensation indicators in recent years — for example, Minister Reith himself noted that the scheme has experienced no work related deaths in the past five years. This was in stark contrast to the two deaths due to an engine room fire on the foreign flag XL (Superb Shipping Services) off Port Hedland and the two deaths by asphyxiation on the tourist industry dive pontoon (Pure Pleasure Cruises) off Townsville.

Mr Byrne cautioned against comparisons, particularly international comparisons, because of difficulties in drawing like with like comparisons. He also noted that it is difficult to compare premium levels in the Seacare scheme — a proven high-risk industry — with

those of the State schemes in which premium levels reflect an amalgam low- and high-risk industries.

The Seacare scheme is not a centrally managed or administered scheme as was originally proposed by the review of the Seamens Compensation Act 1911. Claims are managed by employers. The Secretariat is really quite lean and not a burden on the industry.

There is some truth in the complaint that the costs associated with the Seacare scheme are partly attributable to the “long tail” of serious, permanent injuries. One of the only ways to contain this cost factor is vocational rehabilitation or re-training. Spending money on training someone with new skills for employment in an entirely different industry is baulked at by most employers. Any rational view of the cost involved however dictates that spending thousands now on such re-training can reduce long term outgoings by a far greater amount.

Larger companies in the industry are showing that they have good rehabilitation processes in place. However, the smaller companies appear to need more assistance. There are a number of mechanisms which could assist this process including:

- action by the Secretariat in conjunction with Comcare to make the list of rehabilitation providers publicly available.;
- recognition of vocational rehabilitation (or re-training) as a cost effective means of achieving better outcomes for injured seafarers and of containing long term costs;
- action to update AMICA’s claims management manual; and
- extended use of the Seacare Authority’s website as a means of providing timely and useful information in a relatively inexpensive and accessible way.



CHECKLIST FOR EFFECTIVE AND DURABLE RETURN TO WORK

- ☑ senior management commitment to early and durable return to work including active promotion of this commitment throughout the organisation;
- ☑ appropriate resourcing of the rehabilitation and return to work function within companies;
- ☑ development and promotion of company based rehabilitation and return to work policies (including objectives, targets where appropriate, and company requirements);
- ☑ information on rehabilitation and return to work should be freely available to all employees;
- ☑ early intervention and active case management in every case, including early assessment of each individual's return to work potential and needs;
- ☑ employment of high quality rehabilitation providers who engender trust and confidence in the employee about their capacity for rehabilitation and return to work, about the rehabilitation and return to work process and about company commitment to it;
- ☑ active dialogue between the employee, company and medical and rehabilitation providers about the nature of the employee's injury and their prospects for rehabilitation and return to work in the particular work environment;
- ☑ employee involvement in planning and decision-making throughout the rehabilitation and return to work process;
- ☑ develop a common understanding among all stakeholders about desired outcomes, processes, timeframes and expectations;
- ☑ provide work duties of any kind at the earliest opportunity;
- ☑ selective use of appropriate mechanisms to promote colleagues' confidence that an employee is ready, willing and able to return to work (for example, the injured employee might participate in a fire drill prior to their return to work);
- ☑ nurture employee morale with respect to availability of post-injury employment, particularly in the environment of a declining industry.
- ☑ monitor, evaluate and review rehabilitation and return to work policies and practices on a regular/ongoing basis.



Plan for return to work as soon as practicable.