

Self-insurer tiering model

Workers compensation
regulation

2017

Contents

1. Purpose	3
2. Legislative requirements.....	3
3. Application of model.....	4
4. Assessment.....	6
5. Formal tiering	6
6. Conduct.....	7
7. Claims management	10
8. Financial ability	13
9. Confidentiality.....	16
10. Further information.....	16

1. Purpose

This document outlines the State Insurance Regulatory Authority (SIRA)'s expectations of self-insurers regarding their conduct, claims management and financial ability under Section 211 of the *Workers Compensation Act 1987* (1987 Act). It provides detail on what SIRA considers are the acceptable standards for self-insurers to meet their licence conditions and outlines how self-insurers will be formally tiered.

2. Legislative requirements

SIRA's licensing framework is structured to promote the NSW workers compensation system objectives. These objectives are outlined in section 3 of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act) and seek to:

- secure worker health, safety and welfare while preventing work-related injury
- provide prompt treatment and rehabilitation to assist injured workers to return to work
- provide income and treatment payments to injured workers and their families
- provide a fair, affordable and financially viable system
- deliver an efficient and effective system.

Section 211 of the 1987 Act states that the Authority (SIRA) may take into consideration the suitability (conduct and claims management) and financial ability of the self-insurer when reviewing their performance under licence.

The requirements in this document should be read in conjunction with the requirements outlined in NSW workers compensation legislation and the self-insurer licensing documentation.

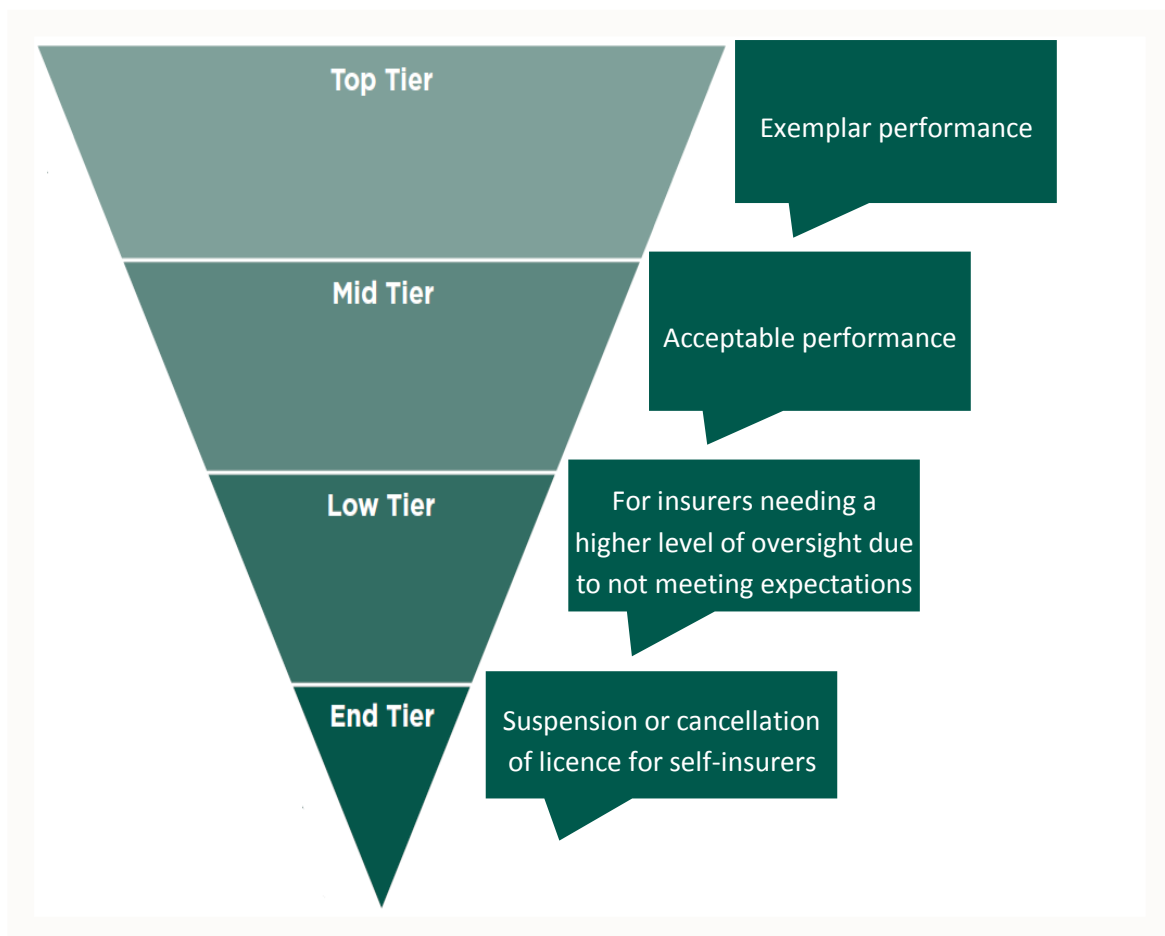
Note: SIRA adopts a collaborative and inclusive approach to educate and support insurers to meet their regulatory obligations and the workers compensation system objectives. Meeting the tier measures outlined in this document does not restrict SIRA from performing compliance, enforcement or investigation activities where it is identified that a self-insurer has breached the workers compensation legislation. Where non-compliance with workers compensation legislation is determined, the insurer may be subject to a range of sanctions including but not limited to warnings, penalties and/or prosecutions.

3. Application of model

SIRA adopts a risk based approach to determine the measures that inform tiering classifications for self-insurers.

SIRA regularly monitors self-insurer performance against the tier measures for **conduct**, **claims management** and **financial ability**. Self-insurers receive regular feedback from SIRA in relation to their performance against these standards.

This tiered supervisory model acknowledges exemplary and acceptable workers compensation performance. It also detects risks to the achievement of workers compensation system objectives, prompting a risk-based regulatory response from SIRA.



Tier Definitions

Tier	Definition	Outcome
Top	<p>Exemplary performance</p> <p>A self-insurer is classified as top tier if they meet top and mid-tier measures. To meet top tier measures, the self-insurer demonstrates exemplary performance in the following areas outlined in sections 6-8:</p> <ul style="list-style-type: none"> • Data quality (conduct 1.6) • Case management practice (claims management 2.1) • Focus on RTW outcomes (claims management 2.2) • Prevention and resolution of complaints (claims management 2.3) <p>SIRA also welcomes evidence that self-insurers wish to provide for consideration to being assessed as top tier by highlighting innovative or contributing projects with the potential to improve outcomes:</p> <ul style="list-style-type: none"> • within the NSW workers compensation system • to workers health, safety and welfare • to local communities or NSW aligned to the NSW Government's state priorities. 	<p>Publically recognised as exemplar self-insurer in NSW.</p> <p>Considered for a maximum licence period.</p> <p>Considered for a reduced security requirement.</p>
Mid	<p>Acceptable performance</p> <p>A self-insurer must meet mid-tier measures to receive a mid-tier classification.</p>	<p>Recognised as meeting SIRA's acceptable standards in accordance with the licence conditions.</p> <p>Considered for a longer licence period.</p>
Low	<p>Performance concerns</p> <p>A self-insurer is classified as low tier where they do not meet mid-tier measures. Regulatory action is taken with low tier insurers to ensure an improvement in performance to at least mid-tier standards. The low tier is intended to be a short term placement allocation for self-insurers that they are performing below the mid-tier standard. The self-insurer must improve their performance in order to move to a higher tier or risk losing their licence.</p>	<p>When considering the most effective regulatory response, SIRA assesses the significance of the non-compliance or performance issue.</p> <p>SIRA's regulatory intervention depends on the level of risk. Regulatory interventions could include:</p> <ul style="list-style-type: none"> • additional information requests such as management reports, improvement and implementation plans • verification activities and audits • meetings with senior executive • legislative sanctions including additional licence conditions or penalties

Tier	Definition	Outcome
		<ul style="list-style-type: none"> shorter licence periods provided upon renewal a shorter licence period imposed on the current licence.
End	Exiting self-insurance Self-insurers are classified as end-tier when regulatory intervention has not resulted in an improvement in performance to SIRA's mid-tier requirements.	The end tier marks the suspension or cancellation of a self-insurer licence under section 183 of the 1987 Act.

4. Assessment

SIRA regularly engages with self-insurers on their performance against the tier measures. Additionally, self-insurers receive a regular performance report showing the outcomes of their performance against these measures. Self-insurers should use this report in conjunction with discussions with portfolio managers to track and understand their performance.

The tier measures serve to guide SIRA to assess and tier self-insurers. In addition to, and where appropriate, SIRA may also consider other aspects of a self-insurer's performance that are not outlined within this tiering model to inform the assessment and tiering of the self-insurer.

SIRA will review self-insurers' results against each of the tier measures and will form an overall view about the performance of the self-insurer. In every case, SIRA will apply regulatory discretion, fair and professional judgement in the assessment and tiering of self-insurers.

5. Formal tiering

At a minimum, SIRA formally tiers each self-insurer on an annual basis. Formal tiering can also occur at any other time where SIRA applies professional judgement and regulatory discretion against any particular circumstance or risk. This may include, but is not limited to a licence renewal, a significant change in the performance of a self-insurer (either an improvement or deterioration in performance) or a self-insurer entering liquidation.

Prior to formally tiering, SIRA validates any identified risks or issues with the self-insurer. Self-insurers are also provided with natural justice and have the opportunity to submit information to SIRA for consideration prior to any formal tiering.

The formal tiering takes into account the self-insurer's performance over the previous 12 months, or relevant period where appropriate.

The final decision to allocate a self-insurer to a tier is made at SIRA's discretion.

6. Conduct

Licence requirement

Self-insurers must conduct themselves in accordance with the legislation and demonstrate reporting of a standard acceptable to SIRA.

Conduct: Acceptable standards

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
1.1	Secure workers' health, safety and welfare to prevent work-related injury.	The self-insurer must comply with the legislative requirements of the <i>Work Health and Safety Act 2011</i> .	No major or severe risks were identified in the work health and safety performance of the self-insurer.	
1.2	Uphold the intent of, and comply with, the workers compensation legislative framework and give due regard to workers' interests.	The self-insurer must comply with the workers compensation legislative framework.	<p>The self-insurer has not been successfully prosecuted or had a penalty notice or direction issued by SIRA in regards to non-compliance with the workers compensation legislation.</p> <p>The self-insurer actively responds to and resolves issues raised by SIRA.</p> <p>No major or severe risks were identified in the self-insurers workers compensation performance.</p>	

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
1.3	Provide timely notification of changes to corporate structure.	The self-insurer must provide corporate information as required within the timeframes set out in the licence.	Notifications are provided to SIRA within ten business days. No major issues identified as a result of the change in corporate structure.	
1.4	Proactively notify significant matters for regulatory monitoring and possible intervention.	SIRA must be formally notified of all significant matters in accordance with <i>Self-insurer general information requirements</i> .	Significant matters are notified to SIRA within five business days.	Significant matters are managed appropriately by the self-insurer.
1.5	Provide timely and accurate claims information for effective regulatory oversight of the workers compensation system.	Claims information must be recorded and reported to SIRA accurately.	Acceptable claims data submissions are provided to SIRA within fifteen days. No critical data errors are outstanding for more than two months at any time. No suspect data errors are outstanding for more than three months at any time.	
1.6	Verify data quality is of a high standard.	The self-insurer is expected to ensure that their data is of a high quality by receiving an acceptable audit result in their data quality audits conducted in accordance with the <i>Insurer claims management audit manual</i> (either self or SIRA-initiated).	The self-insurer has achieved an 80% - 89% result for the data quality component of the <i>Insurer claims management audit manual</i> .	The self-insurer has achieved a 90% - 100% result for the data quality component of the <i>Insurer claims management audit manual</i> .
1.7	Provide annual business information when required.	Information must be lodged with SIRA in accordance with <i>Self-insurer s189 business information requirements</i> .	The self-insurer's s189 submission has been received in full by SIRA. SIRA has received the complete s189 submission on time.	

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
1.8	Lead a corporate culture that undertakes appropriate risk management practices to deliver planned outcomes and NSW workers compensation objectives.	The self-insurer must submit a business plan that has been developed in accordance with the <i>Self-insurer s189 business information requirements</i> .	The self-insurer's business plan meets SIRA requirements. SIRA has received the business plan on time.	Quality of the risk management practices of the self-insurer (as set out in the business plan).
1.9	Provide timely and accurate contribution information to determine contributions.	The self-insurer must report accurate annual wages and employee information in the format and date requested by SIRA. Workers Compensation Operational Fund and Dust Diseases Fund contributions must be paid by the due date.	The self-insurer has provided the requested information in full and on time. Workers compensation levy contributions are paid in full by the due date.	
1.10	Ensure legislative standards around privacy and confidentiality are met.	The self-insurer must ensure that they have processes and procedures in place to protect the worker's rights to privacy.	The self-insurer has procedures in place that detail the measures they will take to ensure compliance with legislated privacy requirements. No substantiated privacy breaches identified.	

7. Claims management

Licence requirement

Licensed self-insurers must perform their obligations and functions in accordance with the legislation, and demonstrate performance in injury and claims management of a standard acceptable to SIRA.

Claims management: Acceptable standards

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
2.1	<p>Handles claimants in accordance with claims management principles:</p> <ul style="list-style-type: none"> • focus on work • provide effective communication • make evidence based decisions • use a tailored, cost effective approach • timely intervention. 	<p>The self-insurer is expected to ensure that their claims management is of a high quality by receiving an acceptable audit result following case management audits conducted in accordance with the <i>Insurer claims management audit manual</i> (either self or SIRA initiated).</p>	<p>The self-insurer has achieved:</p> <ul style="list-style-type: none"> • $\geq 95\%$ result for the compliance component of the <i>Insurer claims management audit manual</i>. • 80% - 89% result for the case management practice component of the <i>Insurer claims management audit manual</i>. 	<p>The self-insurer has received a 90% - 100% result for the case management practice component of the <i>Insurer claims management audit manual</i>.</p>
2.2	<p>Verify claims management performance is of an acceptable standard.</p>	<p>The self-insurer is expected to receive results within the range acceptable to SIRA in response to return to work (RTW) and liability determination tests (see table 1).</p>	<p>SIRA applies a number of tests to the data received from insurers:</p> <ol style="list-style-type: none"> 1. RTW measures at 4, 13 and 26 weeks (see table 1) - \geq system average. 2. Timeliness of determining liability (see table 2) - $\geq 95\%$ compliance. 	<p>SIRA applies a number of tests to the data received from insurers:</p> <ol style="list-style-type: none"> 1. RTW measures at 4, 13 and 26 weeks - $\geq 5\%$ above system average.

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
2.3	<p>Actively seeks to minimise complaints and disputation in claims. Where complaints or disputes do occur, the self-insurer seeks to improve customer experience by handling complaints and disputes fairly:</p> <ul style="list-style-type: none"> • responding and investigating quickly • providing reasonable information • resolving issues promptly • participating actively within the complaints and disputes process. 	<p>Complaints</p> <p>The self-insurer is required to proactively manage and resolve complaints.</p> <p>SIRA expects the insurer to resolve the majority of complaints at a level one stage, however where a complaint progresses to level two, the self-insurer will promptly respond and resolve it within the required timeframe.</p> <p>Disputes</p> <p>The self-insurer is required to make sound evidence based decisions. Where a decision results in a dispute, the self-insurer is required to:</p> <ul style="list-style-type: none"> • fully and fairly participate in the disputes process including providing the information required in a timely and accurate manner • implement and honour the resolution or directions arising from the dispute. 	<p>Complaints</p> <p>The self-insurer resolves 85% of level two complaints within 20 business days.</p> <p>Minimal compliance issues (in relation to total claim number) are identified from escalated complaints. Where issues are identified, the self-insurer proactively resolves the matter.</p> <p>Disputes</p> <p>Qualitative information obtained through decisions issued by SIRA, Workers Compensation Independent Review Officer (WIRO) or the Workers Compensation Commission (WCC) that indicates sound decision making by insurers.</p> <p>The self-insurer gives effect to determinations or binding findings and recommendations in a timely manner.</p>	<p>Complaints</p> <p>The self-insurer resolves 95% of level two complaints within 20 business days.</p> <p>Minimal practice issues (in relation to total claim number) are identified from escalated complaints. Where issues are identified, the self-insurer proactively resolves the matter.</p>

Table 1: RTW measure

Test	Description
RTW rate*	$\frac{\text{Number of claimants working using Work Status Codes=1,2,3,4 at the point in time (4, 13 or 26 week) from the date entered into insurer system}}{\text{Number of claimants with an entered date ceased work (DCW) and at least 1 day time lost in the measured cohort (4, 13 or 26 week)}} \times 100$

Table 2: Timeliness in determining liability

Test	Description
Number of days taken to determine provisional liability or reasonable excuse*	<p>Looks at where the first liability status is entered as 'initial notification date' and the second liability status is entered as 'provisional liability accepted' or 'reasonable excuse' and calculates the number of days between the two.</p> <p>When the number of days exceeds seven this indicates non-compliance with legislative timeframes.</p>
Number of days taken to determine claim liability (where provisional liability not used)*	<p>Looks at where the first liability status is entered as 'initial notification date' and the second liability status is entered as 'liability accepted' or 'liability denied' and calculates the number of days between the two.</p> <p>When the number of days exceeds seven this indicates non-compliance with legislative timeframes.</p>
Number of days taken to determine claim liability after reasonably excusing a notification whereupon a subsequent claim is made*	<p>Looks at where the first liability status is entered as 'reasonable excuse' and the second liability status is entered as 'liability accepted' or 'liability denied' and calculates the number of days between the date claim made and liability accepted/denied.</p> <p>When the number of days exceeds 21 this indicates non-compliance with legislative time frames.</p>

*SIRA validates the data with the self-insurer prior to determining performance.

8. Financial ability

Licence requirements

The self-insurer must demonstrate ongoing financial ability and strength. The continuity of the licence is subject to review by SIRA if, in the opinion of SIRA, the financial position of the self-insurer is such that it may make vulnerable the self-insurer's ability to undertake its obligations as a self-insurer.

Financial: Acceptable standards

Reference	Expectation	Requirement	Mid-tier	Top tier
3.1	Maintains strong financial ability to meet workers compensation obligations.	<p>The self-insurer is required to demonstrate financial ability and strength. SIRA will undertake a financial analysis which takes into consideration the self-insurer's particular circumstances including but not limited to its corporate structure, industry and business activities. SIRA will also be guided by the industry financial benchmarks:</p> <ul style="list-style-type: none"> commercial self-insurers – see Table 2 council self-insurers – see table 3. <p><i>Government employers are exempt from the financial ability analysis.</i></p>	SIRA undertakes a financial strength analysis that demonstrates the ongoing financial ability and strength of the self-insurer.	
3.2	<p>Maintains financial protection measures:</p> <ul style="list-style-type: none"> security appropriate 	The self-insurer is required to maintain or provide a security deposit in a form approved by SIRA, within a timeframe directed by SIRA (unless exempt).	<p>The self-insurer lodged the security determined by SIRA.</p> <p>The self-insurer's re-insurance requirement meets SIRA's</p>	

Reference	Expectation	Requirement	Mid-tier	Top tier
	reinsurance arrangement <ul style="list-style-type: none"> cross/holding company guarantee (if applicable). 	The self-insurer must maintain reinsurance arrangements for their NSW workers compensation business in accordance with SIRA requirements. A group self-insurer must maintain a holding or cross company guarantee in a form approved by SIRA.	requirements. The self-insurer has an adequate holding or cross company guarantee.	

Table 2: Commercial self-insurers

(SIRA assesses financial strength taking into account the self-insurer's particular industry and operations.)

Indicator	Definition		Industry benchmarks				
	Calculation	Description	Manufacture /Mining	Transport	Retail	Finance	Other
1. Balance sheet test	Balance sheet = total tangible assets/ total liabilities	<ul style="list-style-type: none"> Measures self-insurer's balance sheet strength and financial situation. Indicates whether self-insurer has tangible resources to meet the payment of liabilities. The higher the indicator result, the better. 	1.4	1.2	1.0	1.0	1.1
2. Current liquidity (working capital)	Liquidity = current assets/ current liabilities	<ul style="list-style-type: none"> Measures self-insurer's ability to meet short term obligations. The greater the working capital, the more likely the self-insurer will be able to pay liabilities on time. The higher the indicator result, the better. 	1.2	0.8	0.9	N/A	1.0
3. Quick liquidity	Liquidity = (current assets - stock)/ current liabilities	<ul style="list-style-type: none"> Indicates the relationship between the amount of assets that can be quickly turned to cash, versus short term obligations. The higher the indicator result, the better. 	0.8	0.6	0.5	N/A	0.6
4. Gearing	Gearing = loan capital/total capital	<ul style="list-style-type: none"> Measures the proportion of a company's assets supplied by creditors versus 	60%	55%	50%	N/A	50%

Indicator	Definition		Industry benchmarks				
	Calculation	Description	Manufacture /Mining	Transport	Retail	Finance	Other
ratio	employed (Loan capital is defined as external third party loans. Total capital employed is the sum of loan capital and total equity)	shareholders. <ul style="list-style-type: none"> Indicates self-insurer sensitivity to interest rates and economic changes in the business cycle. The lower the indicator result, the better. 					
5. Cash-flow margin	Cashflow = operating cashflow/ revenue (net sales)	<ul style="list-style-type: none"> Measure of cash the self-insurer generates from core operations per dollar of sales. Indicates self-insurer high-earnings quality and efficiency converting sales to cash. The higher the indicator result, the better. 	3%	6%	3%	N/A	5%

Table 3: Local Government Councils

Indicator	Benchmark
1. Own source operating revenue ratio	60%
2. Unrestricted current ratio	1.5 times
3. Debt service cover ratio	2 times
4. Cash expense cover ratio	3 months

9. Confidentiality

Where information is provided to SIRA, the information is protected by provisions in the 1998 Act, and may only be disclosed externally in very limited circumstances.

These provisions do not inhibit SIRA's ability to:

- create comparative data to conduct research and assess the performance of the workers compensation system
- publish de-identified statistical, performance and research reports
- provide information to the responsible minister or as directed by the minister
- provide information to the Australian Prudential Regulation Authority.

Aside from these protections, personal information or health information provided to SIRA can only be handled in accordance with the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

Although the *Government Information (Public Access) Act 2009* (GIPA) favours disclosure of government information when an access application is made, there is an overriding public interest against disclosure if the disclosure could be reasonably expected to prejudice the business interests of any person or corporation.

GIPA provides a consultation mechanism for a person or corporation, if an access application is made for information that concerns their business, commercial or financial interests. Any objection to disclosure received in the course of consultation must be taken into account when deciding whether there is an overriding public interest against disclosure.

If SIRA decides to make that information available following an objection, it must notify the person who lodged the objection of the decision. The decision to release over objection is also subject to a right of review by the Information Commissioner or by the NSW Civil and Administrative Tribunal. Information cannot be released while review rights are pending.

10. Further information

For any questions regarding the tiering model, please contact your SIRA portfolio manager.

Phone: 13 10 50

Email: self&specialisedinsurers@sira.nsw.gov.au.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident third party (CTP) insurance and home building compensation in NSW. It may include details of some of your obligations under the various schemes that the State Insurance Regulatory Authority (SIRA) administers.

However to ensure you comply with your legal obligations you must refer to the appropriate legislation as currently in force. Up to date legislation can be found at the NSW Legislation website legislation.nsw.gov.au

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

This material may be displayed, printed and reproduced without amendment for personal, in-house or non-commercial use.

State Government Regulatory Authority, Workers Compensation Regulation, Locked Bag 2906, Lisarow NSW 2252

General phone enquiries 13 10 50, email contact@sira.nsw.gov.au, or visit www.sira.nsw.gov.au

Catalogue no. SIRA08779 | ISBN 978-0-7347-4544-6 © State Insurance Regulatory Authority NSW 09/17