

Self-insurer tiering model

Workers compensation regulation

June 2017



State Insurance
Regulatory Authority

Contents

1. Purpose	3
2. Legislative requirements	3
3. Application of model	4
4. Formal tiering	6
5. Conduct	7
Licence requirements	7
Conduct: Acceptable standards.....	7
6. Claims management	11
Licence requirements	11
Claims management: Acceptable standards	11
7. Financial ability	14
Licence requirements	14
Financial: Acceptable standards.....	14
8. Confidentiality	17
9. Further information	17

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 deems are the acceptable standards for self-insurers to meet their licence conditions and how the self-insurer will be formally tiered.

2. Legislative requirements

The SIRA licensing framework is structured to achieve the NSW workers compensation system objectives. Outlined in section 3 of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act) these objectives 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 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. Meeting the tiering requirements, 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.

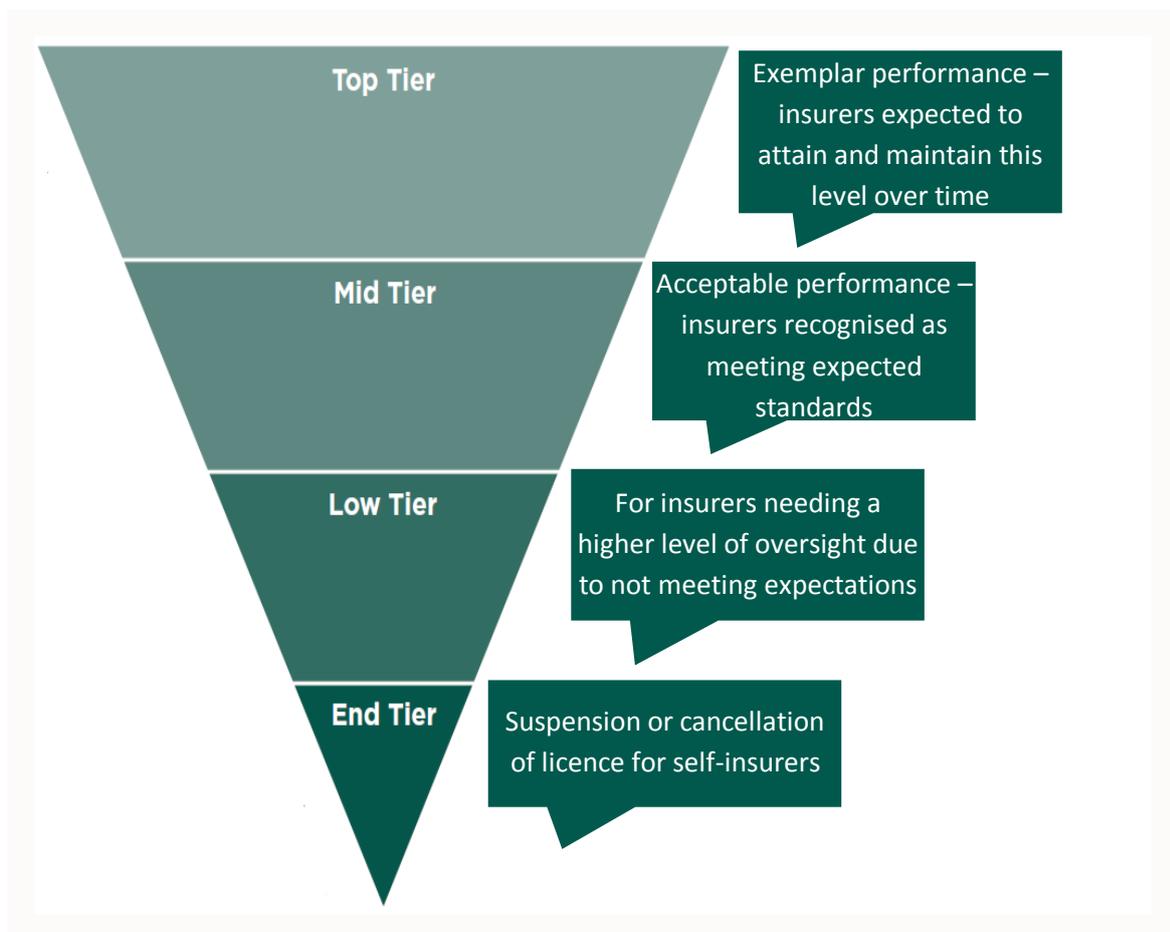
3. Application of model

SIRA has adopted a risk based approach to determine the measures that will inform the tiering classification of self-insurers.

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

SIRA will place self-insurers into a tiered category based on their performance against the established tier measures. In tiering self-insurers, SIRA will be guided by the measures detailed in section five to seven of this document. SIRA will also consider other aspects of a self-insurer's performance where appropriate in order to classify the insurer in a higher or lower tier.

The tiered supervisory model will acknowledge exemplary and acceptable workers compensation performance. It will also detect risks to the achievement of workers compensation system objectives that will prompt a risk-based regulatory response from SIRA.



Tier Definitions

Tier	Definition	Consequences
Top	<p>Exemplary performance A self-insurer will be classified as top tier, if they meet top and mid-tier measures. To meet top tier measures, the self-insurer must demonstrate exemplary performance in the following areas outlined in sections 5-7:</p> <ul style="list-style-type: none"> • Prevention of injuries and illnesses (conduct 1.1) • 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 will also welcome evidence that self-insurers wish to provide for consideration outlining innovation or contribution to improving outcomes:</p> <ul style="list-style-type: none"> • within the NSW workers compensation system • to workers health, safety & welfare • to local communities or NSW aligned to the 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 The self-insurers 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 A self-insurer will be classified as low tier where they do not meet mid-tier measures. Regulatory action will be 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 performing below 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 will assess the significance of the non-compliance or performance issue.</p> <p>The SIRA regulatory response will depend on the level of risk. Regulatory responses 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

Tier	Definition	Consequences
		penalties <ul style="list-style-type: none"> shorter licence periods provided upon renewal.
End	Exiting self-insurance Self-insurers will be classified as end tier where 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. Formal tiering

SIRA will regularly assess and engage with self-insurers on their performance against the tier measures.

At a minimum, SIRA will formally tier each self-insurer on an annual basis. Formal tiering may occur more often where circumstances warrant e.g. significant change in performance, licence renewal, self-insurer entering liquidation. The formal tiering will take into account the self-insurer's performance over the previous 12 months, or relevant period where appropriate.

SIRA will be transparent and engage with self-insurers on a regular basis in relation to their performance against the tiered measures. Self-insurers will also have the opportunity to submit information to SIRA for consideration prior to any formal tiering. The final decision to allocate a self-insurer to a tier will be made at SIRA's discretion.

5. Conduct

Licence requirements

Self-insurer licences have the following conduct 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> .	<p>The self-insurer has not been successfully prosecuted by SafeWork NSW for non-compliance with the work, health and safety legislation.</p> <p>The self-insurer has not had a workplace incident or injury that has resulted in an enforceable undertaking.</p> <p>No major or severe risks were identified in the self-insurers work health & safety performance.</p>	<p>Minimal risks identified in the self-insurers work health & safety performance.</p> <p>In this assessment SIRA will consider:</p> <ul style="list-style-type: none"> • SafeWork NSW interaction with the self-insurer • incidence and claim related data • self-insurer information about their exemplary performance to secure workers' health, safety and welfare.

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
1.2	Uphold the intent 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>	
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 five business days.	
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> .	Notifications are provided to SIRA within five business days.	
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.	<p>Acceptable claims data submissions are provided to SIRA within six business days.</p> <p>No critical data errors are outstanding for more than two months at any time.</p> <p>No suspect data errors are outstanding for more than three months at any time.</p>	

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
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 through receiving an acceptable audit result of the 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 a 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.	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. SIRA has received the full s189 submission on time.	
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.	
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.	Self-insurer provided the requested information in full and on time. Workers compensation levy contributions are paid in full by the due date.	

Reference	Expectation	Requirement	Mid-tier measures	Top tier measures <small>*must also meet mid-tier requirements</small>
1.10	Ensure privacy and confidentiality legislation standards are met.	The self-insurer must ensure that they have processes and procedures in place to protect the worker's rights to privacy.	<p>The self-insurer's injury management program details measures that the insurer will take to ensure workers privacy and the confidentiality of the workers information cognisant of the link between an organisation being both an employer and an insurer.</p> <p>No substantiated privacy breaches identified.</p>	

6. Claims management

Licence requirements

Self-insurer licences have the following claims management requirements:

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 • have timely intervention. 	<p>The self-insurer is expected to achieve a level one audit result of 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"> • >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 RTW and liability determination tests (see table 1).</p>	<p>SIRA will apply a number of tests to the data received from insurers:</p> <ol style="list-style-type: none"> 1. RTW measures at 4, 13 & 26 weeks. <i>Note: these measures will form part of face to face consultation with the SIA</i> 2. Timeliness of determining liability (see table 1) - >95% compliance 	<p>SIRA will apply a number of tests to the data received from insurers:</p> <ol style="list-style-type: none"> 1. RTW measures at 4, 13 & 26 weeks. <i>Note: these measures will form part of face to face consultation with the SIA</i>

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 The self-insurer is required to proactively manage and resolve complaints. 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 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 The self insurer resolves:</p> <ul style="list-style-type: none"> • 70% of level one complaints. • 85% of level two complaints within 20 business days. <p>Minimal (in relation to total claim number) compliance issues identified from escalated complaints. Where issues identified, insurer proactively resolved matter.</p> <p>Disputes Qualitative information obtained through decisions issued by SIRA, WIRO or 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 The self-insurer resolves:</p> <ul style="list-style-type: none"> • 85% of level one complaints. • 95% of level two complaints within 20 business days. <p>Minimal (in relation to total claim number) practice issues identified from escalated complaints. Where issues identified, insurer proactively resolved matter.</p>

Table 1: Timeliness of 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>This indicates non-compliance with legislative timeframes when the number of days exceeds seven.</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>This indicates non-compliance with legislative timeframes when the number of days exceeds seven.</p>
Number of days taken to determine claim liability after reasonable excusing claim*	<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>This indicates non-compliance with legislative time frames when the number of days exceeds 21.</p>

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

7. Financial ability

Licence requirements

Self-insurer licences have the following financial ability 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 meet the financial ratio benchmarks for its industry:</p> <ul style="list-style-type: none"> commercial self-insurers – see table 2 council self-insurers – see table 3. 	<p>The self-insurer meets the benchmarks as defined in table 1 for:</p> <ol style="list-style-type: none"> balance sheet test current liquidity (working capital) quick liquidity gearing ratio cash-flow margin. 	
3.2	<p>Maintains financial protection measures:</p> <ul style="list-style-type: none"> security appropriate reinsurance arrangement cross/holding company guarantee (if applicable). 	<p>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 exempted).</p> <p>The self-insurer must maintain reinsurance arrangements for their NSW workers compensation business in accordance with SIRA requirements.</p> <p>A group self-insurer must maintain</p>	<p>The insurer lodged security as determined by SIRA.</p> <p>The insurer's re-insurance requirement meets SIRA's requirements.</p> <p>The insurer has an adequate holding or cross company guarantee.</p>	

Reference	Expectation	Requirement	Mid-tier	Top tier
		a holding or cross company guarantee in a form approved by SIRA.		

Table 2: Commercial self-insurers

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 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 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 ratio	Gearing = loan capital/total capital employed (Loan capital is defined as external third party loans. Total capital employed is the sum of loan capital and total equity)	<ul style="list-style-type: none"> Measures the proportion of a company's assets supplied by creditors versus shareholders. Indicates self-insurer sensitivity to interest rates and economic changes in the business cycle. The lower the indicator result, the better. 	60%	55%	50%	N/A	50%

Indicator	Definition		Industry benchmarks				
	Calculation	Description	Manufacture /Mining	Transport	Retail	Finance	Other
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

8. 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.

9. 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 Insurance Regulatory Authority, Workers and Home Building Compensation Regulation

Level 6, McKell Building, 2-24 Rawson Place, Sydney NSW 2000

Customer Service Centre 13 10 50

Website www.sira.nsw.gov.au

ISBN xxx-x-xxxx-xxx-x © Copyright State Insurance Regulatory Authority NSW 0517.