

# Self-insurance guidance

WHS performance reporting  
arrangements

# 1. Introduction

The Workers' Compensation Regulator (the Regulator) is the regulatory authority established under the *Workers' Compensation and Rehabilitation Act 2003* (WCR Act) to oversee workers' compensation insurers in Queensland, including WorkCover Queensland and self-insured employers. The Workers' Compensation Regulator is supported by the Office of Industrial Relations (OIR) and has delegated many of its statutory functions to appropriately qualified OIR officers under section 329 of the WCR Act.

As part of its Self-Insurer Performance Management Program, OIR, is responsible for the administration of work health and safety (WHS) performance requirements for current and prospective self-insurers in Queensland.

This role requires that OIR undertake the following functions:

- compliance checks of self-insurer WHS performance
- coordination of WHS management system audits with new and existing self-insured employers
- reporting of audit findings to the Regulator
- accreditation of suitably qualified WHS professionals to undertake WHS management system audits of potential and existing self-insured employers
- maintenance of a [register of accredited WHS management systems auditors](#) (self-insurance).

This guide has been developed to support the administrative requirements of these functions along with the [Self-insurance guidance – Auditor appointment procedures](#).

## 2. Purpose

The purpose of this document is to provide guidance on the procedures for WHS performance reporting.

As an applicant for a self-insurance licence, an employer can exercise complete control over the discharge of the liability to compensate injured employees. The rate at which claims are generated impacts directly on the employer's capacity to fund and manage claims and also on the wellbeing of workers. For this reason, the Regulator requires a report of satisfactory workplace health and safety performance in support of the application for a self-insurance licence, at the time of licence application or renewal.

As well as meeting self-insurance licensing requirements, self-insurers can benchmark their performance as a basis for continuous improvement of systems for managing workplace injury and disease. This ultimately benefits both the worker and employer by providing for healthier, safer and more productive workplaces.

## 3. Application to become a self-insured employer

Applications to become a self-insured employer should be lodged directly with the Regulator, through OIR. The Regulator may issue or renew a licence for a single or group employer to be a self-insurer if the employer meets a number of self-insurance criteria, including demonstrating a satisfactory workplace health and safety performance (s. 71, WCR Act).

During the application process, The Regulator will request an assessment of legislative compliance under the *Work Health and Safety Act 2011* (WHS Act), and seek a WHS performance assessment report from OIR.

## 4. Legislative requirements – WHS performance reporting

It is a requirement under the WHS Act schedule 2, part 3 that:

- The Workers' Compensation Regulator must apply for a report about the occupational health and safety performance of an employer or a group employer for the purpose of an application or renewal for self-insurance under the WCR Act.
- The employer or group employer must pay the fee calculated under the Work Health and Safety Regulation 2011 (WHS Regulation) for the preparation of the report.

- OIR must prepare the report having regard to the WHS performance standards published by OIR (see section five of this guide).
- OIR must give the report to the Workers' Compensation Regulator within three months after receiving the application for the report.

## 5. WHS performance standard

All applications for new or renewal of self-insurance licences undergo a two-stage WHS performance assessment process.

### Stage 1 - Legislative compliance review

This criterion represents a first stage assessment and involves a review of records of enforcement activity by the relevant authority. The records of all bodies corporate subject of the application will be assessed.

In determining an applicant's compliance with this criterion, OIR will seek necessary information from relevant authorities.

The following matters will constitute evidence of non-compliance for the purpose of the assessment:

- Conviction of breach of legislation relating to workplace health and safety in the two years preceding the date of the application. The applicant will be required to provide evidence of action taken to resolve the matters. This includes prosecution action undertaken by any authority, i.e. health or safety related breaches of the criminal code or the agency responsible for breach of provisions of mining safety legislation.
- Outstanding improvement or prohibition notices or any equivalent direction issued by any relevant authority. In these instances, the applicant will be required to provide evidence of action taken to resolve these issues.

If the response is not satisfactory to OIR, a report will be made to the Workers' Compensation Regulator accordingly. In these circumstances, the application will not proceed to stage two of the assessment.

The legislative compliance assessment applies to all applications whether in support of an initial licence for self-insurance or at the time of licence renewal.

Applicants meeting the requirements of stage one of the assessment are then subject to an evaluation of their WHS management systems detailed in stage two.

### Stage 2 - Audit of WHS management systems

The scope of the WHS management systems audit, in accordance with the key criteria outlined in *Section 7 – Audit criteria*, will focus on how effectively the self-insurer's systems, including the structure, policies, planning activities, resourcing, operating procedures and work practices combine together to manage the risks associated with the self-insurers' business.

Audits are to be undertaken by independent third-party auditors accredited by OIR. As part of the stage two audit, accredited WHS auditors (self-insurance) will complete three key deliverables including workplace assessment, presentation of preliminary findings and development of audit evaluation report. Please refer to *Self-insurance guidance – Auditor appointment procedures* for further information on the requirements to become a WHS auditor (self-insurance).

Self-insurance licence applicants nominate an auditor from a public register listed on [worksafe.qld.gov.au](http://worksafe.qld.gov.au) to undertake the audit, subject to the department's agreement that the nominee meets the terms and conditions of accreditation relating to matters of conflict of interest.

Before engaging the auditor, a sample of workplaces to be visited for the audit of management systems is agreed between the applicant organisation and OIR.

For applicants whose business activities are covered by mining or quarrying safety legislation, the performance assessment of such activities will be referred to the Department of Natural Resources

and Mines. The Department of Natural Resources and Mines will then forward the assessment outcome to OIR for inclusion in the report to the Regulator.

It is the responsibility of the self-insurer to undertake stage two of the audit assessment in sufficient time for OIR to meet the Regulator's licence renewal timeframes.

## 6. WHS assessment timeframes

### 6.1 New licence audit

All new applications for self-insurance licences must undergo the two-stage WHS performance assessment process as outlined in section five of this guide.

For new self-insurance applicants, stage two of the audit of WHS management systems should be undertaken within the 12 months prior to lodgement of an application for a self-insurance licence. The audit report must be available to OIR at least two months prior to the determination of the application.

The initial licence period granted by the Regulator for new applicants is two years.

### 6.2 Mid-term self-audit

During the licence period, four-year and three-year licence holders will be required to undertake a self-audit at the two-year interval.

Self-audits can be undertaken by internal personnel or by an accredited external auditor. Audits are to be undertaken in accordance with criteria defined in the [National Self-insurer Occupational Health and Safety Audit Tool](#) (Nat OHS audit tool). If undertaken internally, audit personnel must have the following competencies:

- understanding and knowledge of management systems and principles of workplace health and safety
- knowledge of relevant industry practices including hazards and management techniques
- the ability to assess management systems and workplace health and safety practices
- an understanding and knowledge of the WHS Act, WHS Regulation and [codes of practice](#)
- an understanding and knowledge of risk management processes.

The self-insurer will forward a summary report of audit results to OIR at least two months before the second-year anniversary of licence issue. Audit results and notification of completion of the self-audit will be forwarded to the Regulator by OIR at the two-year interval.

There is no requirement for two-year or less than two-year licence holders to undertake a self-audit during the term of the licence period.

### 6.3 Licence renewal audit

All applications for self-insurance licence renewal must undergo the two-stage WHS performance assessment process as outlined in section five of this guide.

The stage two licence renewal audit should be undertaken approximately six months before the self-insurance licence renewal date.

The self-insurer will forward a summary report of audit results to OIR at least three months before the licence renewal date. The report, issued by OIR to the Regulator, will provide a recommendations report outlining audit results to the Regulator prior to licence renewal.

The report prepared for the Regulator does not represent an employer's statement of compliance with the obligations under the WHS Act, nor does it provide any form of immunity from inspectorate enforcement activity.

The Regulator may grant a self-insurance licence for a period of up to four years.

The table in appendix one summarises the WHS reporting requirements for new and renewal self-insurance licences.

## 7. Audit criteria

By definition, a WHS management system audit is a ‘systematic examination against defined criteria to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve the organisation’s policy and objectives’.

In Queensland, the self-insurance WHS management systems audit is undertaken using the National OHS audit tool, which is based on Australian Standard 4801 and incorporates five major headings:

1. WHS commitment and policy
2. Planning
3. Implementation
4. Measurement and evaluation
5. Review and improvement

The elements under each heading are detailed in the user guide and workbook (contained in the Nat OHS audit tool document).

## 8. Evaluation scoring

Under headings 1, 2, 4, and 5 of the Nat OHS audit tool, the criteria are addressed by a conformance/non-conformance answer format.

Under heading 3 – *Implementation*, the auditor is required to determine a level of achievement by reviewing performance under 11 elements outlined in table one. A level of achievement is allocated by the WHS auditor after reviewing the responses to questions contained in each category.

**Table one**

<b>Implementation elements</b>
<b>3.1</b> Structure and responsibility-resources
<b>3.2</b> Structure and responsibility-responsibility
<b>3.3</b> Structure and responsibility- training and competency
<b>3.4</b> Consultation, communication and reporting-consultation
<b>3.5</b> Consultation, communication and reporting-communication
<b>3.6</b> Consultation, communication and reporting-reporting
<b>3.7</b> Documentation
<b>3.8</b> Documentation and data control
<b>3.9</b> Health and safety risk management program.
<b>3.10</b> Hazard identification, risk assessment and control of risks
<b>3.11</b> Emergency preparedness and response

The audit is an assessment of current management systems and in no way prescribes the form or type of management system to be used by a self-insurer.

### **Determining level of achievement**

A scoring system is used to determine the level of implementation of management systems used by the self-insurer. The scoring system and levels of implementation is summarised in table two.

**Table two**

<b>Levels of implementation</b>	
<b>Level achieved</b>	<b>Outcome achieved</b>
<b>0</b>	The criteria have not been considered.
<b>0.5</b>	Strategy/controls or management plans are under development.
<b>1.0</b>	Strategy/controls or management plans have been developed but not implemented.
<b>1.5</b>	Strategy/controls or management plans have been developed and partially implemented in all relevant areas.
<b>2.0</b>	Strategy/controls or management plans have been developed and implemented in all relevant areas.
<b>2.5</b>	Strategy/controls or management plans have been developed, implemented in all relevant areas and evaluated for effectiveness.
<b>3.0</b>	Strategy/controls or management plans have been developed, implemented in all relevant areas and evaluated for effectiveness against organisational goals.
<b>3.5</b>	Strategy/controls or management plans have been developed, implemented in all relevant areas, evaluated for effectiveness and resultant actions are achieving organisational goals.
<b>4.0</b>	Strategy/controls or management plans have been developed, implemented in all relevant areas, evaluated and reviewed for effectiveness, is achieving organisational goals and by using industry, interstate or international benchmark comparisons, is trending to 'best in class'.

Each element is then given a weighting with a score calculated by simply multiplying the level achieved by the weighting. Table three indicates the weighting attributed and maximum score for each element. To enable an assessment of satisfactory performance a score of 70 per cent against the elements under heading 3 is required.

**Table three**

<b>Scoring for implementation element</b>			
<b>Elements under heading 3</b>	<b>Proposed weighting</b>	<b>Max score</b>	<b>Total score</b>
<b>3.1</b> Structure and responsibility - resources	3	4	12
<b>3.2</b> Structure and responsibility - responsibility	8	4	32
<b>3.3</b> Structure and responsibility -training and competency	8	4	32
<b>3.4</b> Consultation, communication and reporting-consultation	5	4	20
<b>3.5</b> Consultation, communication and reporting-communication	4	4	16
<b>3.6</b> Consultation, communication and reporting-reporting	5	4	20
<b>3.7</b> Documentation	3	4	12
<b>3.8</b> Documentation and data control	4	4	16
<b>3.9</b> Health and safety risk management program	12	4	48
<b>3.10</b> Hazard identification, risk assessment and control of risks	12	4	48
<b>3.11</b> Emergency preparedness and response	8	4	32
<b>Total score</b>	<b>72</b>	<b>44</b>	<b>288</b>

## 9. Report preparation

After completing the audit, the accredited WHS auditor (self-insurance) will forward an evaluation report and summary to OIR. In addition to the level achieved under heading 3, the report will indicate any areas of the management system that does not meet the minimum standard outlined in section eight. The auditor will be required to indicate options for addressing the identified deficiencies, and the self-insurer will need to develop an action plan based on the auditor's recommendations.

The self-insurer will need to provide evidence of how they intend to rectify the deficiencies identified by the auditor and how they will achieve outcomes that meet the minimum score required, within a timeframe acceptable to OIR. Such arrangements are subject to confirmation by the accredited self-insurance auditor at the applicant's expense.

OIR will forward a final report detailing the level of workplace health and safety performance attained in both stages one and two to the Regulator for consideration. Upon completion of the report an account for the preparation of this report will be forwarded by OIR to the self-insurer.

## 10. Prescribed fees

### 10.1 Report preparation by OIR

As required by the WHS Act (schedule 2, part 3, section 24(2)), the employer or group employer must pay OIR a fee for preparation of the WHS performance report.

This fee is set in accordance with the WHS Regulation and is subject to increases in line with the consumer price index.

Refer to the [self-insurance fees and charges](#) for preparation of WHS performance fees.

### 10.2 Employer auditing costs

All costs associated with compiling the self-audit report or a report prepared by an external auditor is the responsibility of the self-insurer. The fees payable for audit services are negotiable between the WHS management systems auditor (self-insurance) and the applicant self-insurer.

Payment for the services of the accredited self-insurance auditor is the responsibility of the self-insurer. Costs associated with the audit component will be dependent upon the size, complexity and geographic locations of the applicant employer/s workplaces.

## 11. Review of decision

If a self-insurer applicant wishes to dispute the assessment findings in the workplace health and safety report prepared by OIR, the applicant may apply under part 12 of the WHS Act, for the decision to be reviewed.

## Appendix one

Self-insurance WHS performance reporting requirements/timeframes							
Licence status	2-year self audit		WHS performance assessment Stage one		WHS performance assessment Stage two		
	Required	Submission of summary report to OIR	Required	Completion of compliance check	Required	Completion of stage two audit	Submission of audit report to OIR
	RESPONSIBILITY: self-insured applicant		RESPONSIBILITY: Office of Industrial Relations		RESPONSIBILITY: self-insured applicant		
<b>New applicants</b>			Yes	Undertaken by OIR prior to determination of application	Yes	Within 12 months prior to lodgement of application	Two months prior to determination of application
<b>Four-year licence holders</b>	Yes	Two months prior to two-year anniversary of licence issue date	Yes	Undertaken by OIR prior to commencement of stage two	Yes	Six months prior to licence renewal	Three months prior to licence renewal
<b>Three-year licence holders</b>	Yes	Two months prior to two-year anniversary of licence issue date	Yes	Undertaken by OIR prior to commencement of stage two	Yes	Six months prior to licence renewal	Three months prior to licence renewal
<b>Two-year (or less) licence holders</b>	Not required	-	Yes	Undertaken by OIR prior to commencement of stage two	Yes	Six months prior to licence renewal	Three months prior to licence renewal