

Memorandum of Understanding

Between

Office of Industrial Relations

Queensland Treasury

and

WorkCover Queensland

"Working together"

Version 6.0

As at June 2016

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Part 1 Introduction

Definitions

1.1 Parties:

- (a) Office of Industrial Relations ("OIR")
- (b) WorkCover Queensland ("WorkCover")

1.2 Representative(s): The representatives from OIR and WorkCover (the "Parties")

1.3 Information: A written collection of facts, opinions, data or other knowledge.

Purpose

To establish an arrangement where WorkCover and OIR representatives continue to work together to help employers improve their workplace health and safety practices and provide a robust workers' compensation scheme by:

- Developing working relationships with each other;
- Discussing local industry developments;
- Developing technical knowledge to assist the performance of their respective roles;
- Developing an understanding of each party's function, roles and objectives; and
- Understanding how Information may be released between the Parties.

Legislative Scope

The relevant legislation that applies to this Memorandum of Understanding is the:

- *Workers' Compensation and Rehabilitation Act 2003*; and
- *Right to Information Act 2009*.

Part 2 Responsible agencies for this Memorandum of Understanding

The agencies responsible for the administration of this Memorandum of Understanding are:

- WorkCover;
- Business units within the Office of Industrial Relations (OIR).

This Memorandum of Understanding has been developed at the agency level. If there is a change to the department responsible for an agency due to portfolio reassignment or redistribution, or there is a change to the name of a department or agency, there should be a negligible effect on the operation of the Memorandum of Understanding. That is, Machinery of Government changes or changes to the name of agencies will not void the Memorandum of Understanding or automatically necessitate renegotiation.

An amendment or replacement of legislation administered by the agencies, to the extent that the new legislation has consistent objects to that which it amends or replaces, will not limit the application of this Memorandum of Understanding.

Any such Machinery of Government or legislative changes will be incorporated at the time of the scheduled review.

Part 3 Privacy

This agreement is subject to Information Standard 42 (IS42) and associated guidelines. Any personal information which may be shared or disclosed between the Parties must be treated in a manner consistent with the 11 Information Privacy Principles set out in IS42.

Part 4 Co-Operation between agencies

The parties agree to observe and comply with this Memorandum of Understanding.

Each party will:

- Ensure that agency officers affected by the Memorandum of Understanding are provided with appropriate training and resources to enable them to give effect to the Memorandum of Understanding
- Develop mechanisms to enable each agency to give effect to and monitor the implementation of the Memorandum of Understanding within the respective agencies.

Operational framework

4.1 Release of Information from WorkCover to OIR:

- a. Under section 573(3) of the *Workers' Compensation and Rehabilitation Act 2003*, WorkCover may disclose statistical or other information to OIR for the purpose of performing OIR's administrative functions, and such Information may not be used in relation to prosecutions.
- b. WorkCover will disclose Information under this clause according to its existing administrative release procedure.
- c. Employer performance information will be released by WorkCover to OIR to assist in effectively targeting industry and business engagement programs. As a minimum, this information will enable OIR to locate and contact the employer and prioritise employers based on their claims frequency and costs. Such Information may not be used in relation to prosecutions.
- d. Requests for additional Information (such as industry sub-sector or geographical area performance data) by OIR to WorkCover must be made in writing by the relevant OIR representative to WorkCover.

4.2 Release of Information from OIR to WorkCover

- a. Under Section 573(1A) of the *Workers' Compensation and Rehabilitation Act 2003*, OIR may disclose to WorkCover and agents for WorkCover any information they have which may relate to any matter under the *Workers' Compensation and Rehabilitation Act 2003* or the administration of that Act.
- b. Requests for information by WorkCover to OIR must be made in writing by the relevant WorkCover representative or an authorised person under Chapter 8 of the *Workers' Compensation and Rehabilitation Act 2003*.
- c. Requests for information by WorkCover agents to OIR must be made in writing by the relevant representative for those agents and emailed to OIR.RTI@justice.qld.gov.au
- d. Information that does not require approval under clause 4.2 (d) prior to release includes any material that contains facts relating to the investigation that is not subject to legal privilege e.g.:
 - Witness statements obtained;
 - Other scene of incident evidence;
 - Photographs taken of the scene;
 - Sketches made of the scene;
 - Inspector's statement (if one exists);
 - Measurement facts;
 - Documents obtained that are required to be kept under the *Work Health and Safety Act 2011 and*
 - Other facts pertaining to the incident.
- e. Information that is not to be released without the approval of the Director, OIR RTI Unit includes:
 - Legally privileged documents e.g. expert reports;
 - Commercially sensitive material (e.g. tender documents, project specifications, contracts

and safety plans);

- Documents that have been received from another Department or Agency (e.g. Transport, EPA, Electrical Entities etc.);
- Documents that contain statements provided "In Confidence" (e.g. where a person wants their confidentiality retained etc.).

f. OIR may disclose other Information under Section 573(1A) according to its existing administrative release procedure.

4.3 In regard to Clause 4.1 and 4.2, the Parties acknowledge and agree:

- a. The release of Information is subject to review and not taken as an automatic entitlement;
- b. To be as specific as possible about the information being sought;
- c. To provide an explanation of why the Information is being requested;
- d. Any Information released may only be used for the purposes specified under the terms of this MOU and/or the purposes limited by section 573 of the *Workers' Compensation Act 2003*;
- e. Information that is subject to legal professional privilege and/or the privilege of the Crown will not be released;
- f. Requests should be directed to the most relevant OIR or WorkCover representative by the relevant representative.

Part 5 Relationship

Neither Party:

- a. is the agent or representative of the other;
- b. may represent itself as or act as the agent or representative of the other;
- c. may do anything purporting to bind the other; and
- d. may enter into, vary, or terminate a contract on behalf of the other.

Part 6 Governance

Conditions of the Memorandum of Understanding

- a. This MOU is not intended to create or be deemed to create or constitute a legally binding relationship between the Parties.
- b. The Parties agree to act in good faith and cooperate with each other in the performance of this MOU.
- c. Each Party will at all times comply with all applicable legislative requirements relating to the *Workers' Compensation and Rehabilitation Act 2003*.
- d. This MOU will be governed by and construed in accordance with the law of Queensland.
- e. Both Parties agree to provide each other the fullest mutual assistance.
- f. The Parties agree that notices issued by electronic, such as email and facsimile are permitted for the purposes of this MOU.
- g. No fees or costs are payable to either Party in regards to this MOU.

Term of Memorandum of Understanding

This Memorandum of Understanding will commence and be operationally effective from the date of execution by both parties.

Either party may terminate this MOU:

- a. Immediately upon notice in writing; or
- b. Immediately upon notice where the termination is pursuant to a court order.

Maintenance, review and evaluation of Memorandum of Understanding

This memorandum of Understanding may be varied or withdrawn at any time by an agreement in writing executed by the agencies.

The agencies agree to maintain the currency of this Memorandum of Understanding as required.

Minor information updates which do not affect the operation or validity of the Memorandum of Understanding may be undertaken at any time with the updated information forwarded to the other agency and appended to this Memorandum of Understanding. For example, updating the contact details listed in Schedule 1.

The agencies agree to review and evaluate the operation of the Memorandum of Understanding within three years of the Memorandum of Understanding commencing. Following the evaluation, the agencies will, where appropriate or necessary, develop mechanisms to discuss, share learnings and improve the Memorandum of Understanding and/or ways in which the agencies are operating under the Memorandum of Understanding.

Availability of Memorandum of Understanding

The agencies agree to circulate the signed Memorandum of Understanding to all affected officers in their respective agencies.

The agencies agree to publish the signed Memorandum of Understanding on their respective web sites.

Resolution of issues regarding the application of the Memorandum of Understanding

If there is an issue between OIR and WorkCover in relation to the application of the Memorandum of Understanding, the agencies will:

- firstly, ensure agency contact officers, listed in Schedule 1, use their best endeavours and act in good faith to resolve the issue in a timely manner;
- secondly, if the issue(s) cannot be resolved in the first instance, the agency that has an issue with a component of the Memorandum of Understanding refers the matter in writing to the relevant chief executive officer of the other agency to which this Memorandum of Understanding applies and;
- finally in the event that the issue(s) cannot be resolved to the satisfaction of each agency, each agency will refer the issue to its departmental chief executive for timely resolution.

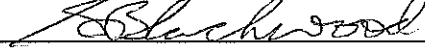
What is not intended

This Memorandum of Understanding is not intended to:

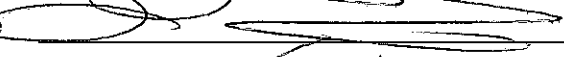
- Be legally binding. An alleged or real breach of any provision of this agreement is not intended to give rise to a legally enforceable cause of action.
- Entitle or require a person to disclose information that is the subject of legal professional privilege or affect the law or practice relating to legal professional privilege.
- Restrict the statutory duties, directions and powers available to the Queensland Government agencies impacted by the Memorandum of Understanding.

Signatories

Signed for and on behalf of the State of Queensland acting through Queensland Treasury by:

Authorised Signature 
Name Simon Blackwood
Title Deputy Director - General
Date 27/6/16

Signed for and on behalf of WorkCover Queensland by:

Authorised Signature 
Name ANTHONY JOHN HAWKINS
Title CEO
Date 8/6/16

Version History

Version	Notes	Author	Date of change
1.0	Updated to replace the 2004 MOU: Approved by CEO WorkCover and DDG OIR	Cameron Young	November 2014
2.0	Reviewed: format changes made, nil changes to content	Senior Executive Officer, ODDG	May 2016

Schedule 1 Contact Details

WorkCover Queensland

rti@workcoverqld.com.au

OIR RTI Unit

OIR.RTI@justice.qld.gov.au