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Workers Compensation Regulation
State Insurance Regulatory Authority
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Dear Sir/Madam

CSR Limited is a licensed Group Self-Insurer under the Workers Compensation Act 1987. We welcome the opportunity to provide feedback of the review of Self-Insurance Licensing Framework, issues paper.

As a self-insurer we strive to ensure best outcomes for injured worker's and the business in the return to work process, recovery from injury and commercially. An employer's choice to be a self-insurer demonstrates their commitment to personally manage their liabilities and provides the best incentive for injury prevention.

Self-insurance should be encouraged, not burdened with over regulation that discourages employers from self-insurance. Simplification of the licensing framework is required, not further regulation and enforcement.

We provide the following feedback in regards to the specific questions outlined in the issues paper:

1. IS LICENSING APPROPRIATE?

- 1.1 To what extent are the requirements of the self-insurance licensing framework proportionate to any risks posed by self-insurers above and beyond those posed by other employers?

We believe the current licensing framework is disproportionate to risks posed by self-insurers beyond those risks posed by other employers. Companies that are self-insured are the only employers in New South Wales that carry the direct and immediate costs that arise when an employee is injured. For this reason the self-insured companies have a clear and positive incentive to minimise the risk of injuries to workers, to maximise return to work opportunities at the earliest available time and to deliver the payment of statutory workers compensation benefits in a timely and efficient way in order to minimise costs. For this reason the risk profile of self-insured companies is minimal.



- 1.2 What should the government's objectives and expectations be in relation to self-insurance? How does this differ to current practices?

The only objectives and expectations of the Government in relation to self-insurance should be to confirm the prudential capability of self-insurers to meet claims as and when they arise. This difference from the current practise in that the current practises impose substantial over-regulation in areas which are irrelevant to prudential considerations.

- 1.3 What is the value of self-insurance to an employer?

There are many value elements of self-insurance to an employer. Of great value is having direct responsibility for risks for workplace injury and a concurrent direct incentive to reduce costs. Self-insurance also provides an enhanced ability to manage structured return to work for injured employees and generally results in an improvement in relations with employees. Additional benefits arise by reason of improved flexibility in the provision of assistance to injured workers together with reduced costs and a reduction in the administrative burden in regard to such things as injury notification and claims.

- 1.4 What are the intrinsic costs of being self-insured?

The most significant intrinsic cost of being self-insured are those substantial costs imposed as a result of regulatory compliance. In addition, there are costs associated with systems for workplace injury and compensation management (such costs being increased at least in part by reason of the regulatory burden) together with substantial costs for levies paid to the regulator. Finally, additional intrinsic costs arise by reason of the requirements for bank guarantees and for setting aside a provision for outstanding liabilities.

- 1.5 How does an employer demonstrate its senior executive's commitment to self-insurance and achieving better outcomes for their injured workers?

Choosing to be self-insured demonstrates the senior executive's commitment to better outcomes for injured workers. Workers compensation and safety forms a part of monthly board reporting plus annual reporting. Commitment is shown by resourcing a qualified and dedicated workers compensation team and supporting ongoing training, development and improvement.

2 IS LICENSING WELL DESIGNED?

- 2.1 Is there an appropriate minimum number of employees or another entry level requirement that an Applicant should have in order to be eligible and guarantee being able to perform as a self-insurer? If so, please explain why.

We do not believe there should be any minimum number of employees required for the purpose of becoming self-insured. Employees' numbers are largely irrelevant to considerations of self-insurance. The primary considerations are prudential and financial issues. Otherwise it is generally the case that administrative costs relative to workers' compensation liabilities will usually dictate the viability or otherwise of self-insurance.

- 2.2 What feedback do you have about the effectiveness and efficiency of the licensing entry requirements?

The current licensing entry requirements are onerous. The present requirements currently act as a specific dis-incentive to new Applicants.

- 2.3 What would define a self-insurer as a high performer?

We believe being self-insured places us in a high performer category. Being able to meet the cost of claims, adhering to legislation and guidelines, and providing personal service to our injured workers.

- 2.4 What impact would a shorter or longer renewal period have on self-insurers, their employees and the broader system? What should be the maximum term of a license?

Longer licensing terms will have the immediate effect of reducing regulation. The licensing term should be unlimited (as it is in Western Australia) or at the very least 10 years.

- 2.5 What would be the impact of implementing an open-ended licence renewal period in NSW?

This would be very positive and very welcomed as it would reduce regulation and provide long-term security.

FINANCIAL

- 2.6 What would be the benefits of greater transparency around the calculation and use of licence fees and levies?

The calculation and amounts of levies should be entirely transparent as should the specific manner in which such fees and levies are spent.

CLAIMS MANAGEMENT

- 2.7 What regulatory changes to claims management licence requirements should be made to incentivise better injury prevention and return to work outcomes? Please state the change and impact.

We do not believe that the licensing policy should be associated with claims management. Claims management is already heavily regulated by the Workers Compensation Commission, by the review process for work capacity decisions including by merit review, by the WorkCover Independent Review Officer and by the complaints process.

- 2.8 What indicators or risk factors should SIRA use to measure claims management performance?

Monthly data provided to SIRA plus the information provided in the yearly renewal process is sufficient for claims management performance measurement.

- 2.9 What would be the impact of limiting claims management audits to those self-insurers that exhibit lesser performance?

The impact should be minimal as self-insurers already self-audit and have additional regulatory oversight in claims management as identified in 2.8.

- 2.10 How should SIRA promote best practice and/or innovation in claims management to deliver better return to work outcomes?

Only possibly in the arranging of education sessions by relevant experts. SIRA should not be involved in claims management for self-insurers. Oversight of claims management should not form any part of the functions of the licence regulator.

WORKPLACE HEALTH AND SAFETY

- 2.11 Do any factors make self-insurers a greater risk to maintaining a safe workplace compared with other employers? Please describe any relevant factors and how they could be mitigated.

We do not believe there are any factors that make self-insurers any greater risk and rather self-insurers are generally a lesser risk because they are subject to the total direct cost of all claims and therefore have a greater incentive than other employers to improve safety outcomes. At present the only matter that has a negative impact on safety issues for self-insurers is requirement to deploy substantial work health and safety resources away from safety initiatives at the time of and leading up to Work Health Safety Audits by the regulator.

- 2.12 Are OHSMS audits improving WHS outcomes? How might this be improved?

These audits are not improving Work Health Safety outcomes. Many components of the OHSMS audit process is simply driving unnecessary process and over the top compliance. For example, WHS requirements in the purchase of goods and services (some elements of NAT V 3 3.10.2-3.10.5). At the very least a full review of the NAT 3 audit criteria is required to reduce the burden of unnecessary compliance. We do not believe the regulator should conduct WHS audits.

- 2.13 How should high WHS performance be defined?

Lead indicator activities.

Specific safety initiatives that target specific hazards and risk within a BU.

Objective measures relevant to these initiatives.

Presence and effectiveness of a safety system, measured via a realistic, value add audit and modified NAT tool.

- 2.14 What other indicator or compliance activities (such as prosecutions or infringements) could be considered to determine and manage WHS performance throughout a licence term?

It is unnecessary for the regulator to be involved in the consideration of Work Health Safety performance so far as the issue of licensing is concerned.

FINANCIAL

3 IS LICENSING ADMINSTERED EFFECTIVELY/EFFICIENTLY

- 3.1 The current retention amounts for reinsurance are \$100,000.00 to \$1,000,000.00 per event. Should the excess for reinsurance be increased? If so, to what dollar amount?

We believe these amounts are appropriate for present purposes but that they should be indexed.

- 3.2 Should the security amount continue to be determined as 150 per cent of the central estimate (or forward central estimate if greater) or should employers be allowed to adopt a prudential margin based upon a probability of adequacy?

We believe the present security arrangements are appropriate.

CLAIMS MANAGEMENT

- 3.3 To what extent are there potential conflicts of interest where an organisation is both the insurer and the employer?

We do not believe there are any conflicts of interest where an organization is both the insurer and employer, rather it serves all parties positively. This point should not be a licensing consideration.

- 3.4 What evidence is there of issues associated with the privacy of claimant information? How could these issues be addressed?

Dealing with privacy issues are no different for employers generally and self-insured employers.

- 3.5 What evidence is there of a conflict of interest when an employer is also the insurer in relation to the appointment of independent medical examiners? How should any conflict be managed?

We are unaware of any evidence at all of any such conflict of interest.

- 3.6 What should SIRA's claims management compliance monitoring and enforcement activities look like and how do they differ from your experiences?

SIRA should have no involvement in case management compliance for the reasons previously identified.

- 3.7 How could the claims management audit tool be improved to deliver improved assessment on the compliance of case management practices and to improve performance?

The view of the Association is that the audit tool does nothing to improve performance and rather, if anything, detracts from performance.

- 3.8 What regulatory action should be taken to improve claims management practices and return to work outcomes?

The Association's view is that regulatory action is not appropriate in the areas of claims management and return to work outcomes. These are not matters for consideration in a licensing policy.

- 3.9 What benefits and costs would be created if an employer that ceases to be a licensed self-insurer was able to pass on its long-tail liabilities to the Nominal Insurer?

In the view of the Association this is a matter which should be dealt with on a case by case basis having regard to the operational requirements of each business.

WORKPLACE HEALTH AND SAFETY

- 3.10 How could OHS management system (OHSMS) audits be changed to improve their effectiveness in lifting WHS performance?

Modified NAT tool, eliminating components that drive pointless compliance processes, annual submission of audits, completed by external auditor and action plans for review by regulator. Remove requirement for regulator to conduct WHS audits completely.

COLLECTION AND PROVISION OF INFORMATION

- 3.11 Do the current requirements surrounding provision and quality of data to the regulator enable SIRA to adequately monitor self-insurer claims management and WHS performance?

The current data requirements are already too onerous and labour intensive and therefore, in the view of the Association, certainly provide more than enough information to enable SIRA to monitor all areas of performance.

- 3.12 How could transparency of performance data be improved and should it be improved?

Efforts regarding the provision of data should be directed at simplification and reduction of frequency.

4 IS THE LICENSING SCHEME THE BEST RESPONSE?

- 4.1 What impact does self-insurance have on the broader NSW system and the Nominal Insurer?

Self-insurance has a very positive impact on the broader NSW scheme and the Nominal Insurer by improving standards in case management and return to work. Self-insurance provides a critical area of competition to the Nominal Insurer which drives improved performance and lower costs.

- 4.2 Is there any evidence of adverse outcomes from self-insurers not reporting significant matters to the regulator? How could these risks be mitigated?

We are not aware of any evidence of any adverse outcomes from self-insurers not reporting significant matters to the regulator. We believe all significant matters are reported to the regulator by self-insurers.

- 4.3 What other policy options should be considered by the NSW State Government to improve the workers compensation system in the context of the self-insurance licensing arrangements?

The Government should have a policy that mandates self-insurance licensing for Government entities and state owned corporations where they otherwise qualify. In addition, Government policy should actively encourage the granting of self-insurers' licence to all organisations.

CONCLUDING REMARKS

We believe that the current licencing framework is driving substantially increased costs for businesses in New South Wales and imposes a regulatory burden that is simply too onerous in a large number of respects. The only considerations relevant to the licensing or otherwise of a company for self-insurance should be prudential considerations and the prudential (as opposed to the) elements of the current licensing policy deal with this adequately.

We hope the views of self-insurers and the Self-Insurer Association are genuinely taken into consideration in the review of the licensing framework.

Yours faithfully



Linda Wright
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