



WorkCover WA Insurer and Self-insurer Compliance Policy

An equitable and fair guide for action

Contents

Introduction	3
WorkCover WA.....	3
Guiding principles.....	3
Compliance approach	4
<i>Compliance approach breakdown</i>	4
Education	6
Formal direction	6
Conditions	7
Enforcement	7
Suspension	8
Cancellation	8
Further information and advice.....	9

Introduction

1. The *Insurer and Self-insurer Compliance Policy: An equitable and fair guide for action* communicates how WorkCover WA regulates insurer and self-insurer compliance with legal obligations under the [Workers Compensation and Injury Management Act 2023](#) (the Act).
2. This Policy should be read in conjunction with the Act, [Workers Compensation and Injury Management Regulations 2024](#) (the Regulations), the [Insurer and Self-insurer Principles and Standards of Practice](#) (Principles and Standards), and the [Insurer and Self-insurer licence criteria and operational conditions](#).
3. To understand how WorkCover WA regulates employer compliance with the Act, see the [Employer Compliance and Enforcement Policy](#).

WorkCover WA

4. WorkCover WA is the government agency responsible for regulating the workers compensation and injury management scheme in Western Australia.
5. The scheme ensures workers suffering a work-related injury or illness are compensated for loss of income, medical expenses, and other associated costs.
6. The scheme's primary objective is to assist workers with achieving a safe and sustainable return to work after an injury in the workplace.
7. The role of compliance at WorkCover WA is to identify suspected breaches of statutory obligations, to investigate and pursue appropriate enforcement action where required.

Guiding principles

8. As a regulator, WorkCover WA recognises the important role our compliance activities play in ensuring insurers and self-insurers comply with statutory obligations under the Act.
9. Whilst undertaking compliance activities WorkCover WA staff will operate in accordance with the agency's values of Service, Excellence, Respect, Integrity and Collaboration, the agency's Code of Conduct and the WA Public Sector Code of Ethics.
10. Compliance initiatives are focused on areas of highest risk, while enforcement is informed by the severity of harm or potential harm, the degree of negligence and/or the need for deterrence.
11. The following principles guide the compliance and enforcement activities:
 - a. Equity and transparency.

We ensure equity and transparency in our enforcement action by consistently applying our policy.

b. Accountability and responsiveness.

When an insurer and self-insurer has been identified as breaching the Act, our enforcement actions are guided by our policy. A strong framework of accountability and responsiveness underpins the policy.

c. Consistent and fair.

We review our policies to ensure compliance outcomes are consistent with our changing operational environment. We aim to maintain an appropriate balance between administrative efficiency and operational independence for insurers and self-insurers.

Compliance approach

12. WorkCover WA seeks to use an effective mix of positive motivators, compliance monitoring, performance indicators and deterrents to encourage and secure the highest possible levels of insurer and self-insurer compliance.

13. There is a need to balance several considerations, including:

- a. community expectations related to monitoring and holding to account non-compliance
- b. the need to support industry and stakeholder bodies and build capability to achieve compliance
- c. meeting insurer and self-insurer performance indicators representing the significant areas which have the most potential to impact worker and employer experience
- d. positive motivators employed by WorkCover WA, including:
 - i. communicating with, engaging and supporting stakeholders
 - ii. providing practical and constructive advice, information, and education about rights, duties, and responsibilities
 - iii. fostering cooperative and consultative relationships with insurers and self-insurers.

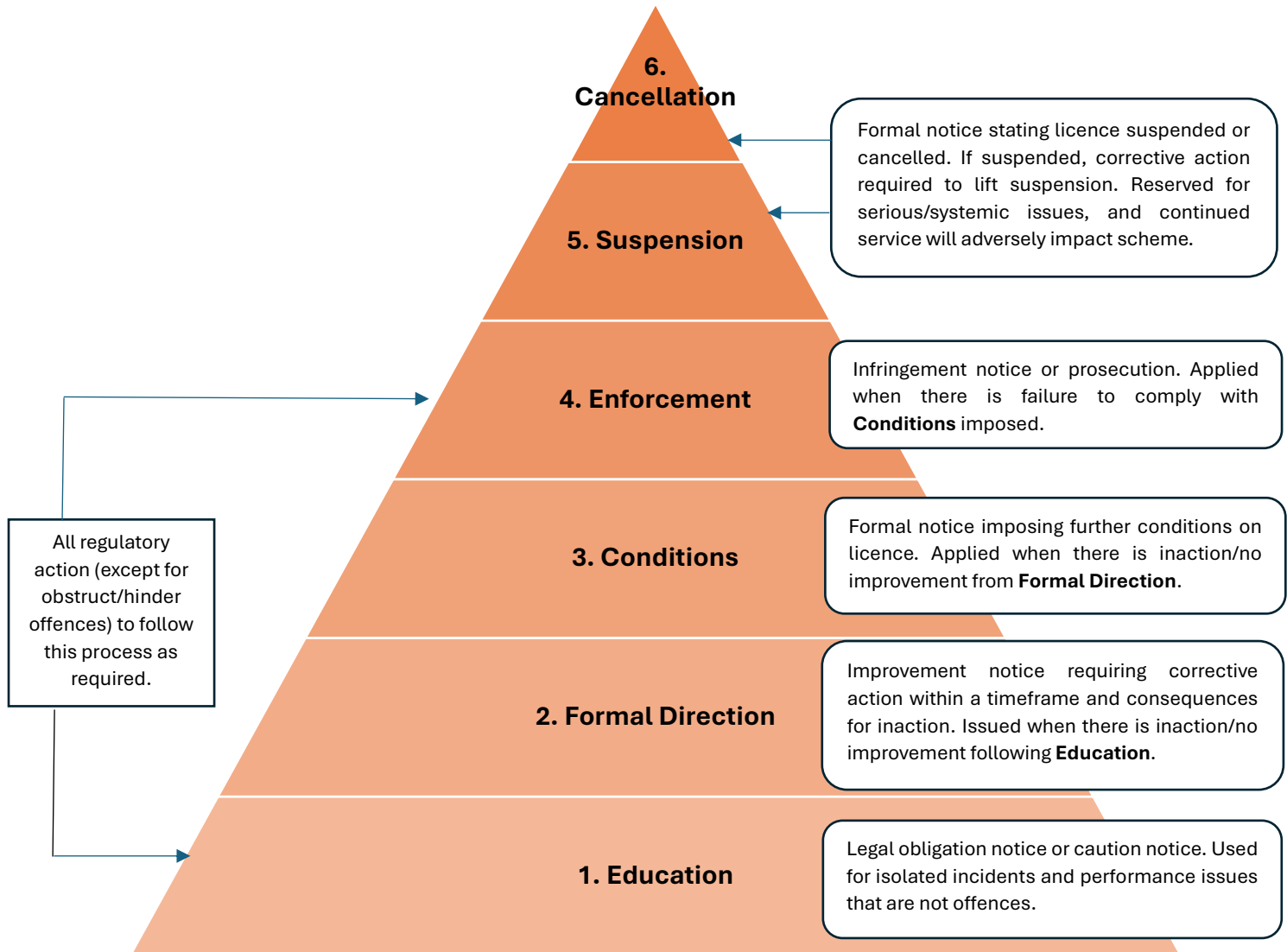
14. Compliance activities include data monitoring activities, performance reviews and self-assessments, with the aim to remedy any non-compliance. Once non-compliance is remedied, WorkCover WA will address any potential breaches by using compliance and enforcement actions outlined in this policy.

Compliance approach breakdown

When compliance or performance expectations are not being met, WorkCover WA will assess the frequency, severity and drivers of the breach/es or performance issue/s and undertake appropriate regulatory actions. Any regulatory actions will be exercised in accordance with the powers set out in the Act.

WorkCover WA will adopt a six-tiered system to consider which regulatory response to take and when to escalate the action for different levels of risks. WorkCover WA reserves the right to commence action at any specific tier depending on the frequency, severity and/or driver of the breach/es or performance issue/s.

Suspension and/or cancellation of licence remains an option of last resort should the insurer or self-insurer continue to not comply with WorkCover WA's compliance and enforcement directions.



Education

WorkCover WA will educate and assist insurers and self-insurers to promote voluntary compliance where a breach or poor performance occurs due to inadvertence or unfamiliarity with statutory obligations and licence conditions. Typically, the identified issues are considered low-risk with limited impacts and do not amount to systemic issues.

Activities in this tier may include:

- issuing a legal obligation notice to the insurer or self-insurer. This notice is educative in nature and will specify the identified issues with a reminder of the relevant obligations or licence conditions; or
- issuing a caution notice to the insurer or self-insurer, which is a formal warning for breach/es of the Act or regulations.

WorkCover WA may also communicate with the insurer or self-insurer at officer or management level regarding the compliance or performance concerns.

If the non-compliance or poor performance in the identified area has not been adequately addressed and the pattern sustains during any imposed monitoring period, WorkCover WA may consider escalating the response for Formal Direction.

Formal Direction

Formal direction is a regulatory mechanism which instructs an insurer or self-insurer to take certain actions within a specified timeframe. This is achieved via issuing an improvement notice.

WorkCover WA may issue an improvement notice to an insurer (section 233 of the Act) or self-insurer (section 248(1)(f) of the Act) if it is satisfied that the licensee has contravened a provision of the Act, the regulations or a licence condition.

An improvement notice will clearly state the contravention(s), the time within which corrective actions must be taken and consequences of inactions.

WorkCover WA may publish information relating to an improvement notice on its website.

Following issuing the formal direction, WorkCover WA may:

- require the insurer or self-insurer to provide regular updates on the rectifications; and/or
- conduct follow-up reviews to assess the effectiveness of the remedies.

WorkCover WA may consider escalating the response to Tier 3 Conditions if the formal direction has not been complied with at a sufficient level resulting in the identified issues becoming systemic with wider and serious impacts to stakeholders.

Conditions

All licensed insurers and self-insurers are subject to any conditions prescribed by the Act and the regulations, and any other licence conditions imposed by WorkCover WA.

Standard licence conditions are set out in the [Application for Insurer Licence Guidelines](#) and the [Application for Self-insurer Licence Guidelines](#).

WorkCover WA is empowered to impose additional licence conditions or vary conditions on an insurer and self-insurer licence under sections 229(2) and 248(1)(b) of the Act respectively. The additional conditions may be accompanied by an improvement notice(s) setting out any required remediations to be made within a specified period and consequences of inactions.

Prior to imposing additional conditions on a licence, WorkCover WA will communicate the intent with the insurer or self-insurer at executive level regarding the severity of the matter and the consequences. This provides the insurer or self-insurer with an opportunity to show cause why the action should not be imposed.

WorkCover WA may publish information relating to additional conditions imposed on a licence on its website.

Following issuing the additional conditions, WorkCover WA may:

- actively monitor compliance with the conditions
- communicate with the insurer or self-insurer at executive level
- conduct follow-up reviews to evaluate compliance.

WorkCover WA will only lift additional conditions when there are marked and sustained improvements in compliance and performance.

WorkCover WA may consider escalating the response to Tier 4 Enforcement if the insurer or self-insurer has not complied with the licence conditions at a sufficient level, or there is a serious or deliberate breach of the Act.

Enforcement

Enforcement actions are usually applied when there is:

- an ongoing and systemic failure to comply with the licence conditions. Contravention of any licence condition by an insurer or self-insurer is an offence under the Act and may be subject to a penalty of \$10,000 under sections 229(3) and 248(1)(b) of the Act respectively; or
- an offence under the Act with a deliberate act or omission; or
- a failure to adequately respond or address issues pertaining to an offence under the Act despite repeated directions from WorkCover WA.

Enforcement actions may include:

- issuing an infringement notice. This is a formal notice issued to a licensed entity requiring payment of a modified penalty by a specified date because of committing an offence under the Act; or
- commencing prosecution where a licensed entity is formally charged with committing an offence under the Act. This action may also be taken when the licensed entity fails to pay the modified penalty of an infringement.

Enforcement action must occur within the timeframes specified under the Act.

WorkCover WA may publish information relating to successful prosecutions on its website.

Suspension

Suspension of a licence will only be applied when serious and repeated offences under the Act continue, and other regulatory means have been exhausted.

Under sections 231(1) and 248(1)(d) of the Act, WorkCover WA may, by notice served on the licensed insurer or self-insurer, suspend or cancel a licence.

The decision of suspending a licence will be supported and justified with thorough investigations and sufficient evidence. Prior to considering suspension of a licence, WorkCover WA will communicate the intent with the insurer or self-insurer at executive level regarding the severity of the matter and the consequences. This provides the insurer or self-insurer with an opportunity to show cause why a suspension should not be imposed.

The notice for suspending a licence will specify details of the contravention of the Act, the regulations or licence conditions and the period of suspension. The suspension notice will be accompanied by an improvement notice setting out any required remediation to be made before the suspension can be lifted.

While a licence is suspended, the insurer cannot issue or renew a workers compensation policy but otherwise has the functions of a licensed insurer. In the case of a self-insurer, a valid workers compensation policy must be obtained and maintained during the period of suspension.

WorkCover WA will publish suspension notices on its website.

Cancellation

Cancellation of an insurer or self-insurer licence because of contraventions of the Act, regulations or licence conditions is a serious decision and will likely lead to considerable impacts on other scheme participants. Licence cancellation will only be considered if WorkCover WA is satisfied that the insurer or self-insurer no longer has the capacity and capability to deliver the required functions effectively and efficiently as a licensee in the scheme.

Prior to considering cancellation of a licence, WorkCover WA will communicate the intent with the insurer or self-insurer at executive level. The insurer or self-insurer will have the opportunity to show cause why the licence should not be cancelled.

A notice of cancellation issued to an insurer or self-insurer will specify the rationale for the decision, the effective date of the cancellation and the obligation to meet all workers compensation liabilities incurred before the effective date of the cancellation.

WorkCover WA will publish cancellation notices on its website.

Further information and advice

An overview of insurer and self-insurer rights and obligations is available on our website.

For further information contact our Advice and Assistance Service on **1300 794 744**.