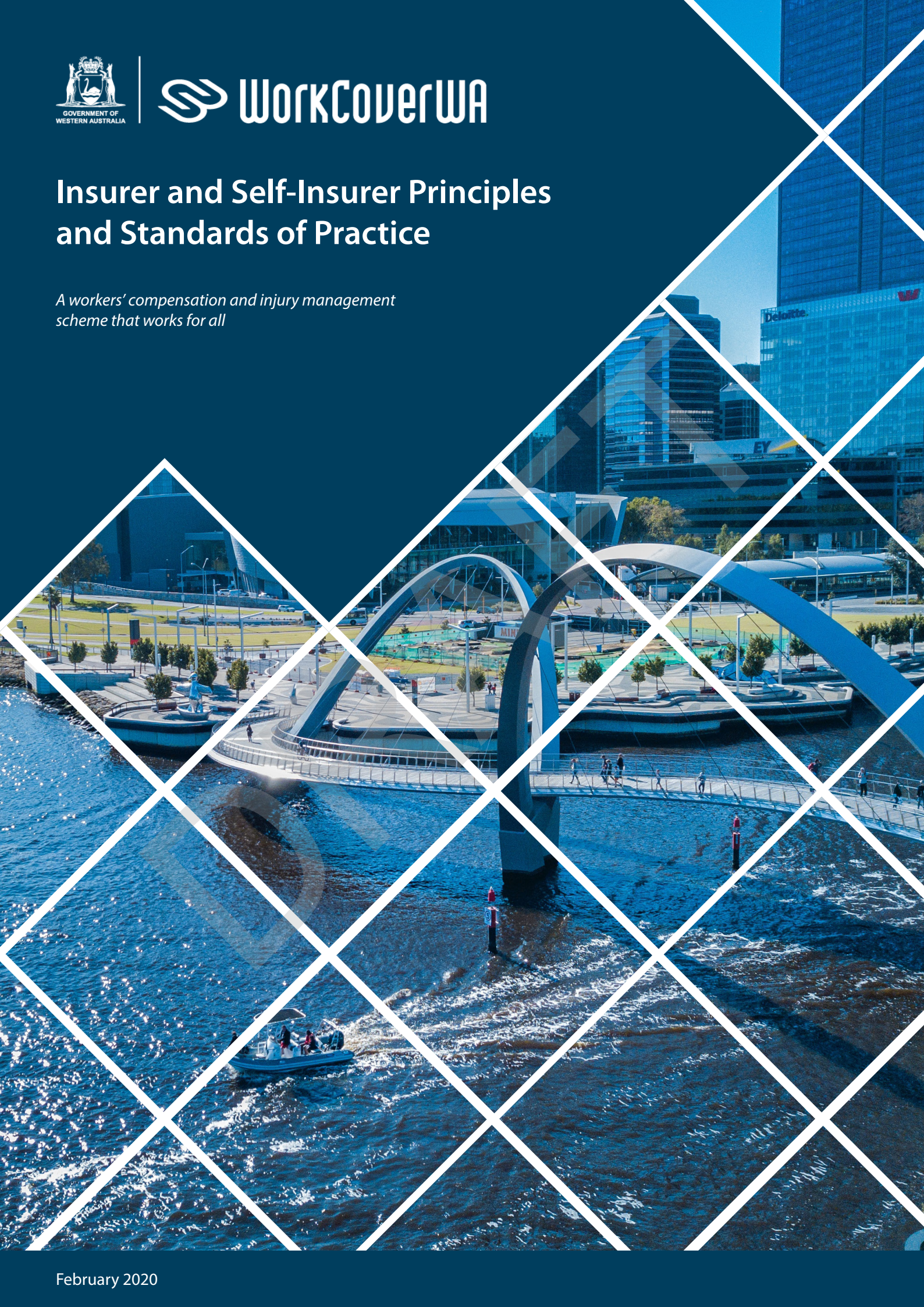




Insurer and Self-Insurer Principles and Standards of Practice

A workers' compensation and injury management scheme that works for all



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Executive Summary

WorkCover WA is the government agency responsible for managing the Western Australian workers' compensation and injury management scheme. It is a statutory authority accountable to the Minister for Industrial Relations. Our role includes:

- providing strategic policy advice to government regarding workers' compensation;
- regulating workers, employers and service providers and monitoring compliance with the *Workers' Compensation and Injury Management Act 1981 (the Act)*;
- educating workers, employers and others about workers' compensation and injury management; and
- providing an independent dispute resolution service.

WorkCover WA regulates the performance of service providers to ensure a high standard of service is provided to injured workers and employers. The *Insurer and Self-Insurer Principles and Standards of Practice* reflects WorkCover WA's continued efforts to maintain such services to ensure all Western Australian employers and injured workers have adequate workers' compensation and return to work support.

Insurers and self-insurers are expected to comply with all provisions specified in the Act. As such, legal expectations stated in the Act are not referenced in the *Insurer and Self-Insurer Principles and Standards of Practice*. Whilst the Act is the primary instrument used to regulate the workers' compensation scheme, additional mechanisms are necessary to ensure WorkCover WA is clear on priority areas, and what it expects from service providers. The *Insurer and Self-Insurer Principles and Standards of Practice* are designed to clarify areas which, if not performed well, or not explicit in the Act, typically result in disadvantage for injured workers and employers. As injured workers and employers are the main focus of the Act, this risk must be mitigated.

This resource outlines 'Principles' and 'Standards' which insurers and self-insurers must adopt when providing services to injured workers and employers. The Principles are broad statements applicable to all Standards, and should be referred to if issues are not directly covered by the Standards. The 'Standards' outline six priority areas where WorkCover WA has identified greatest risk of inadequate services being provided to injured workers and employers.

Insurers and self-insurers are required to introduce, improve and implement controls to ensure the Principles and Standards are achieved to maximise the best workers' compensation experience for injured workers and employers.

The draft *Insurer and Self-Insurer Principles and Standards of Practice* have been developed in consultation with a Reference Group initiated by WorkCover WA, to whom I extend my gratitude for their time and contribution. This next stage of more extensive consultation is designed to obtain further input into the draft, and to maximise service provider ownership and accountability of the *Insurer and Self-Insurer Principles and Standards of Practice*.

I look forward to receiving your feedback.



Chris White

Chief Executive Officer

Glossary

Act	<i>Workers' Compensation and Injury Management Act 1981.</i>
Dispute	A dispute over a workers' compensation claim by parties involved (e.g. insurer, self-insurer, employer, worker). A dispute can occur at any stage of a claim in relation to a number of matters.
Insurer	Insurers approved under section 161 of the Act, as well as the Insurance Commission of Western Australia.
Internal Dispute Resolution Policy	An insurer's internal policy or processes to resolve complaints received.
Pended claims	Claims where liability has not been accepted or declined by an insurer/self-insurer, typically due to further information being needed. Pended claims may be deemed as disputed under the Act.
Self-insurer	An employer exempted under section 164 of the <i>Workers' Compensation and Injury Management Act 1981</i> from the obligation to insure.
Return to Work (RTW)	Defined in section 5 of the Act, but in general terms, refers to an injured worker returning to the position s/he held prior to injury, or to a new position s/he is qualified for, or capable of performing.
Return to Work Program (RTWP)	A written plan designed to assist injured workers to return to work.

Summary of Standards of Practice

Standard 1

Worker/Employer Experience: Insurer and self-insurer processes, systems and practices must be designed to ensure a fair workers' compensation experience for workers and employers.

Standard 2

Claims Management: Insurers and self-insurers will actively manage claims to avoid employer and worker disadvantage, evidenced and supported by prompt decisions, consultation, clear policies and practices.

Standard 3

Injury Management: Insurers and self-insurers will manage claims with a focus on supporting an injured worker's recovery and their return to work.

Standard 4

Underwriting: Insurer underwriting policies and practices must be transparent and fair.

Standard 5

Scheme Regulation and Administration: Insurers and self-insurers must comply with WorkCover WA regulatory and administrative requirements.

Standard 6

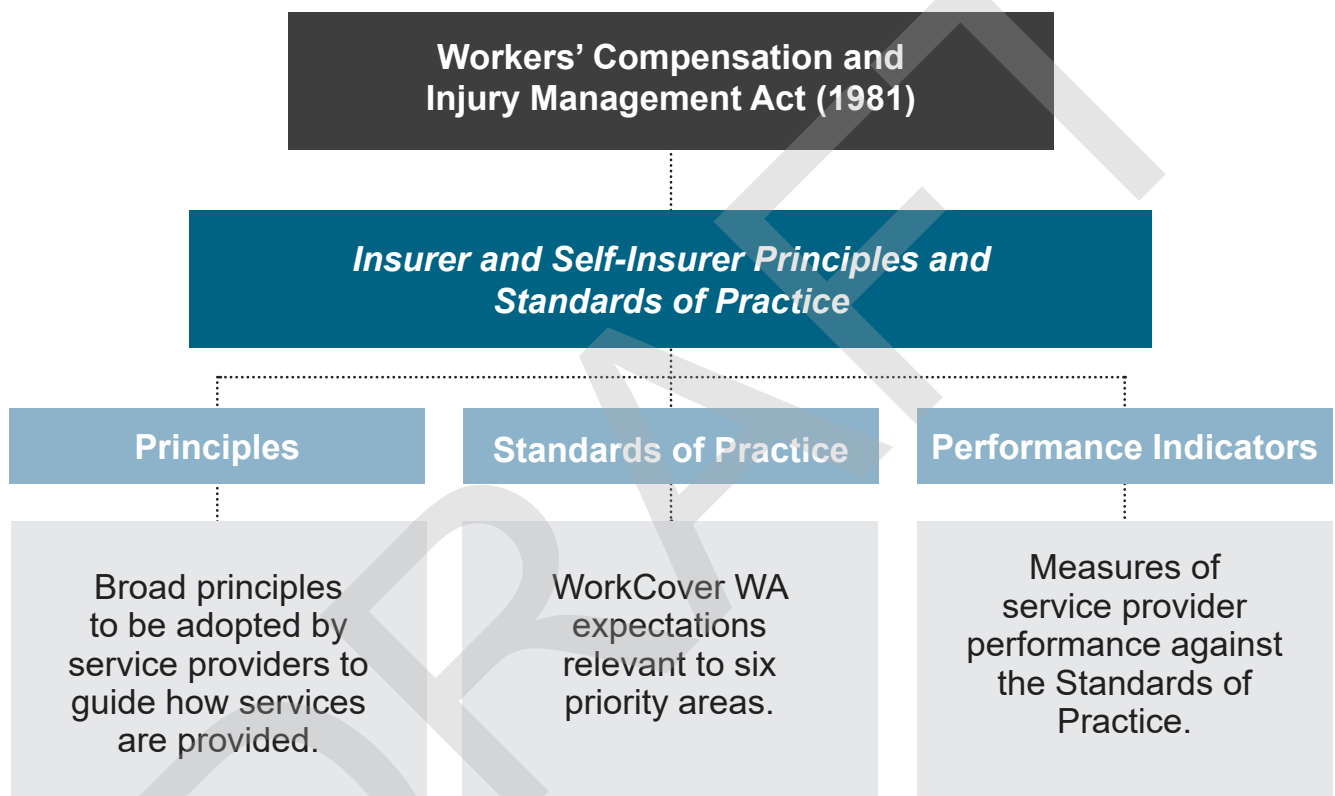
Records Management: Insurers/Self-insurers must maintain records of all key policies, processes and decisions.

Introduction

WorkCover WA has developed the *Insurer and Self-Insurer Principles and Standards of Practice* to:

- ensure high standards of service are provided to employers and injured workers; and
- support effective claims handling, injury management, underwriting and administrative practices.

The *Insurer and Self-Insurer Principles and Standards of Practice* should be read in conjunction with the *Workers' Compensation and Injury Management Act 1981 (the Act)*, and are comprised of Principles, Standards of Practice and Performance Indicators.



WorkCover WA intends to use the Principles and Standards to hold insurers and self-insurers accountable for providing a high standard of service to injured workers, employers and other stakeholders. Although the *Insurer and Self-Insurer Principles and Standards of Practice* focus on insurer and self-insurer practices, all parties including injured workers, employers, legal practitioners, brokers and other service providers are expected to act in a professional and courteous manner.

The *Insurer and Self-Insurer Principles and Standards of Practice* apply to all approved insurers and self-insurers from 1 July 2020.

Principles

The following overarching principles are broad statements which support the purposes of the workers' compensation scheme, as outlined in the Act. They provide direction for insurers and self-insurers when providing services to workers, employers and other stakeholders in Western Australia.

The following principles guide decision-making in all aspects of workers' compensation, but are particularly important in areas not specifically covered by the Standards of Practice.

Principle 1	Decisions and processes must be fair, timely, transparent, efficient and, where practicable, informal.
Principle 2	Insurers and self-insurers must take reasonable and proactive steps to be informed before decisions are made, and must not delay decisions once sufficient information is obtained.
Principle 3	Regular and responsive communication must underpin the delivery of workers' compensation services, particularly where sensitive and complex issues exist.
Principle 4	Insurer/self-insurer processes, practices and systems should support the long term viability, accountability and performance of the workers' compensation scheme.

Standards of Practice

The Standards of Practice (the Standards) are based on the above Principles and address six priority areas aimed at ensuring a fair and professional workers' compensation experience for injured workers and employers.

The six Standards are:

1. Worker and employer experience
2. Claims management
3. Injury management
4. Underwriting
5. Scheme regulation and administration
6. Records Management

These are intended as minimum standards which insurers and self-insurers must meet, and are encouraged to improve upon.

Standard 1: Worker and Employer Experience

Insurer and self-insurer processes, systems and practices must be designed to ensure a fair workers' compensation experience for workers and employers.

Supporting Standards

- 1.1. **Worker and employer communication:** As far as practicable, injured workers and employers will be consulted on significant issues. The insurer/self-insurer must inform the worker and employer of key decisions, and the reasons for the decisions.
- 1.2. **Worker and employer diversity:** The needs of injured workers and employers, including cultural and linguistic diversity, will be appropriately considered. Interpreter services in the worker's nominated language will be made available, as necessary.
- 1.3. **Communication:** Injured workers and employers will be kept informed of the status of their claim on a fortnightly basis and communication should increase proportionately with claim complexity and duration (unless clearly not required or possible).
- 1.4. **Worker confidentiality and consent:** The confidentiality of an injured workers' personal and health information will be respected. Worker consent must always be obtained before information is released.

The following information will be used to assess insurers/self-insurer compliance with Standard 1:

- Number, nature and severity of complaints received and substantiated by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 1 compliance on file
- Number, nature and severity of formal breach or improvement notices issued by WorkCover WA
- Claim closure surveys (note, this indicator is subject to further discussion).



Standard 2: Claims Management

Insurers and self-insurers will actively manage claims to avoid employer and worker disadvantage, evidenced and supported by prompt decisions, consultation, clear policies and practices.

Supporting Standards

- 2.1. Claim lodgement:** Insurers will actively assist employers and employer representatives to lodge claims with an insurer within the legislative timeframe.
- 2.2. Decision-making:** All significant decisions, including liability decisions, will be informed by carefully considering all available information, with relevant stakeholders (including, but not limited to, injured workers and employers) advised of the reasons for decisions.
- 2.3. Pended claims:** Where a claim is pended, it will be actively managed to ensure a decision is made in a timely manner, and for an injured worker to be aware of the status and progress of the claim at all times. Communication with injured workers is expected to increase when claims are pended. Claims pended for greater than statutory timeframes must be evidenced by a fortnightly review (unless clearly not required due to a planned event, or mutually agreed with parties).
- 2.4. 'Without prejudice' payments:** To mitigate disadvantage to an injured worker, if a claim is pended, insurers/self-insurers should consider paying for reasonable medical treatment and workplace rehabilitation on a 'without prejudice' basis until a decision is made.
- 2.5. Weekly payments:** Once a decision to make weekly payments to an injured worker has been made, an insurer/self-insurer will commence payment to the employer by the worker's next pay cycle.
- 2.6. Investigations:** Factual investigations and surveillance will only be used when evidence deems it necessary and will always be undertaken in a fair and ethical manner by professional licensed investigators in accordance with applicable laws. Surveillance should be considered as a last resort.
- 2.7. Dispute resolution:** Insurers/self-insurers will have timely, fair and readily accessible internal processes for resolving disputes, and accessed prior to disputes being lodged with WorkCover WA's Conciliation and Arbitration Service. Insurers/self-insurers will publish and actively implement their Internal Dispute Resolution Policy (IDRP).
- 2.8. Dispute resolution authority:** Prior to attending WorkCover WA dispute resolution proceedings, insurer and self-insurer representatives must consider potential outcomes that may resolve a dispute, and obtain adequate and clear authority to make such decisions.

- 2.9. Settlements:** Financial settlements will be considered as a secondary option to an injured worker returning to work. Settlement offers should be based on principles of fairness, equity and objectivity. Unless hindered by third party involvement, insurers/self-insurers should finalise and process settlement payments within 28 days of signed agreement by all parties.
- 2.10. Dependency claims:** Claims will be managed with empathy, respect, timeliness and priority. Insurers/self-insurers will follow the guidance provided in *WorkCover WA's Compensation for Workplace Fatality – Guidelines for Insurers/Self-Insurers*. WorkCover WA is to be advised of all dependency claims within 7 days.
- 2.11. Interstate workers:** If an injured worker works in more than one State or Territory, the insurer/self-insurer will promptly assess a claim to identify the responsible jurisdiction. If a prompt assessment is unable to be made, Standard 2.3 applies.
- 2.12. Refusal to indemnify:** When an insurer intends to refuse to indemnify an insured employer, WorkCover WA must be informed within 7 days.

The following information will be used to assess insurers/self-insurer compliance with Standard 2:

- Number, nature, severity and substantiation of complaints received by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 2 compliance on file
- Number, nature and severity of formal breaches issued by WorkCover WA
- Percentage, length and explanation of pended claims exceeding legislative timeframes
- Evidence of transparent communication offering an insurer's internal dispute resolution process (IDRP), and proportion of complaints where IDRP was accessed. Proportion of complaints resolved via an insurer's IDRP.
- Aggregated rate, trend and explanation of settlements compared to other insurer/self-insurers
- Aggregated rate, trend and explanation of disputes compared to other insurer/self-insurers
- Proportion of worker disputes upheld at Arbitration
- Number and nature of enquiries to WorkCover WA's Advice and Assistance service, as a proportion of market share
- Proportion of claims lodged by employers within legislative timeframe.

Standard 3: Injury Management

Insurers and self-insurers will manage claims with a focus on supporting an injured worker's recovery and their return to work.

Supporting Standards

- 3.1. Return to work:** Insurers will actively liaise with employers to ensure injured workers are supported with their recovery and to return to work as soon as medically appropriate. Self-insurers must actively coordinate and manage the worker's recovery and return to work. Injury management planning will be undertaken in a timely manner to support workers' treatment, rehabilitation and return to work.
- 3.2. Return to Work Program:** When an insurer is responsible for initiating or coordinating a Return to Work Program, the plan must be customised to the needs and input of each individual worker.
- 3.3. Referrals:** When an insurer/self-insurer becomes aware of an injured worker's need for workplace rehabilitation, as referred by a medical practitioner or other, action to organise this service will be taken within 7 days.
- 3.4. Case conferencing:** Insurers/self-insurers will educate representatives attending medical case conferences of WorkCover WA's requirements and expectations. Case conferences will be conducted in a manner that promotes return to work and respects the injured worker's right to confidential medical consultations separate to case conferences.
- 3.5. Medical reports:** Insurers/self-insurers must request medical reports and records be limited to the scope of the worker's workplace injury and medical history, and be relevant to assessing the nature, cause and extent of the injury, treatment, and return to work goals.
- 3.6. Independent medical examinations (IME):** When an IME is required:
- for the purpose of reviewing treatment, insurers/self-insurers must seek professional advice from a medical practitioner who typically specialises in the area of injury the worker has sustained
 - a medical practitioner who is independent and objective must be engaged
 - the choice and reasons for engaging a medical practitioner must be documented
 - insurers/self-insurers must provide complete, accurate, unbiased and objective information and questions to the medical practitioner
 - obtaining multiple IME reports for the purpose of seeking information to deny a claim or treatment is not appropriate.

3.7. Treatment: Following a request for treatment approval, an insurer/self-insurer will approve, reject or seek additional information from the medical practitioner within 7 days.

The following information will be used to assess insurers/self-insurer compliance with Standard 3:

- Number, nature, severity and substantiation of complaints received by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 3 compliance on file
- Number, nature and severity of formal breaches issued by WorkCover WA
- Claim closure surveys at the end of the return to work process (note: this indicator is subject to further discussion)
- Return to work rate.

Standard 4: Underwriting

Insurer underwriting policies and practices must be transparent and fair.

Supporting Standards

- 4.1. Premium loadings:** Insurers will seek approval from WorkCover WA to charge premium loadings in accordance with WorkCover WA policy requirements.
- 4.2. Duty to insure (new policies):** Insurers will provide quotes when requested, conditional to all information being provided in a timely manner and relevant information not being withheld. Insurers must not unduly present barriers to provide quotes.
- 4.3. Policy renewals:** Insurers must provide employers or their representatives (e.g. insurance brokers) with a minimum of 30 days of notice when inviting them to renew policies. When a representative is not involved, employers must be given a minimum of 14 days of notice (30 days is recommended). Preferably, full terms should be provided. Full terms must always be provided prior to policy expiry.
- 4.4. Premium methodology:** Insurers will ensure transparency in calculating premiums charged to employers, including the impact of business activities and classification; size of the business; claims experience; claims recoveries; and employer commitment to workplace health and safety strategies.
- 4.5. Claim payments:** Insurers must make employers aware that all claim costs are included in premium calculations.

The following information will be used to assess insurers/self-insurer compliance with Standard 4:

- Number, nature, severity and substantiation of complaints received by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 4 compliance on file
- Number, nature and severity of formal breaches issued by WorkCover WA
- Proportion of new and renewed policy data lodged with WorkCover WA within legislative timeframes.

Standard 5: Scheme Regulation and Administration

Insurers and self-insurers must comply with WorkCover WA regulatory and administrative requirements.

Supporting Standards

- 5.1. Data quality:** Insurers/self-insurers will maintain effective quality assurance systems for all data supplied to WorkCover WA. Data maintained by insurers/self-insurers and submitted to WorkCover WA must be complete, accurate, timely and in accordance with national and WorkCover WA specifications.
- 5.2. Payments to service providers:** Insurers/self-insurers are to review invoices from service providers prior to payment to ensure rates and items billed align with approvals, do not exceed maximum prescribed amounts, and contain all relevant information. Insurers/self-insurers are to ensure valid accounts are approved, paid and recorded within 20 working days of receiving the account.
- 5.3. Professionalism:** Insurers/self-insurers will act with integrity, diligence, transparency and confidentiality. All proceedings must be actively and professionally managed, including areas relating to customer service, dispute resolution, records management, conflict of interests and risk management.
- 5.4. WorkCover WA policy:** Insurers/self-insurers will comply with all policies issued by WorkCover WA.
- 5.5. Scheme viability:** In undertaking their functions, insurers/self-insurers are expected to make decisions with consideration of the future viability and performance of the workers' compensation scheme.

The following information will be used to assess insurer/self-insurer compliance with Standard 5:

- Number, nature, severity and substantiation of complaints received by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 5 compliance on file
- Number, nature and severity of formal breaches issued by WorkCover WA
- Data quality and timeliness assessment rating (note: WorkCover WA data integrity framework to be reviewed)
- Attendance at Insurance Council Australia (WA) meetings and self-insurer meetings, as convened by WorkCover WA
- Quarterly APRA solvency assessment.

Standard 6: Records Management

Insurers and self-insurers must maintain records of all key policies, processes and decisions.

Supporting Standards

- 6.1. Case management:** As a minimum, insurers/self-insurers must record the following information:
- a. Claim form
 - b. Case activity (including dates and summary of action)
 - c. Liability decisions, including reasons
 - d. Advice to injured workers of their right to access their case information, including personal and health information
 - e. Step-downs in worker payments
 - f. Advice to the worker and employer after commencing weekly payments directly to the worker.
 - g. Purpose and commencement of factual investigations.
 - h. Purpose and approach of surveillance.
 - i. Advice to employer of their obligation to establish and implement a Return to Work Plan (RTWP) and injury management system. If the insurer/self-insurer is to establish a RTWP, the insurer/self-insurer must record:
 - i. name of the injured worker and employer
 - ii. contact with the injured worker and treating medical practitioner
 - iii. 'return to work' goals
 - iv. actions to be taken, and by whom
 - v. worker consent with the content of the program
 - vi. whether workplace rehabilitation is required, and date of commencement
 - vii. a review date, and outcomes (no more than 4 weeks from consent)
 - viii. changes in worker capacity and restrictions (as advised by the treating medical practitioner)
 - ix. timeliness of actions listed in the RTWP.
 - j. Intent and reasons for case conferences

6.2. Notifications: As a minimum, insurers/self-insurers must record evidence of:

- Pended claim notifications
- Liability notices to the injured worker, employer and WorkCover WA (where relevant)
- Termination day notifications (as per section 930)
- Worker notification advising the prescribed amount for medical and other expenses has reached 60% of the total available (clause 18A(4))
- Discontinuance or reduction of weekly payments (section 61)
- Refusal to indemnify notifications to WorkCover WA
- Fatality claim notifications to WorkCover WA.

6.3. Underwriting: As a minimum, insurers must record:

- Policyholder contact details (including phone and email), claim information, and wages
- Evidence of premium quotes requested and provided
- Compliance with WorkCover WA policy and Employer Indemnity policy
- Submission of data in accordance with National and WorkCover WA specification requirements.

6.4. Administrative expectations: As a minimum, insurers/self-insurers must record:

- Complaints and disputes: Summary of complaints and outcomes (submitted annually to WorkCover WA)
- Overview of records storage controls (submitted annually to WorkCover WA)
- Number and severity of legislative and/or policy breaches.

In addition, insurers/self-insurers must ensure:

- Claim, policy and premium rating data is provided in accordance with electronic data specifications.
- Data accuracy, quality, completeness:
 - All data must be complete, accurate and supplied to WorkCover WA within 14 days of the close of each calendar month (section 103A).
 - Data errors are to be corrected within thirty days of the insurers/self-insurers being notified by WorkCover WA.

The following information will be used to assess insurer/self-insurer compliance with Standard 6:

- Number, nature, severity and substantiation of complaints received by the insurer/self-insurer and WorkCover WA
- Evidence of Standard 6 compliance on file
- Number, nature and severity of formal breaches issued by WorkCover WA.

