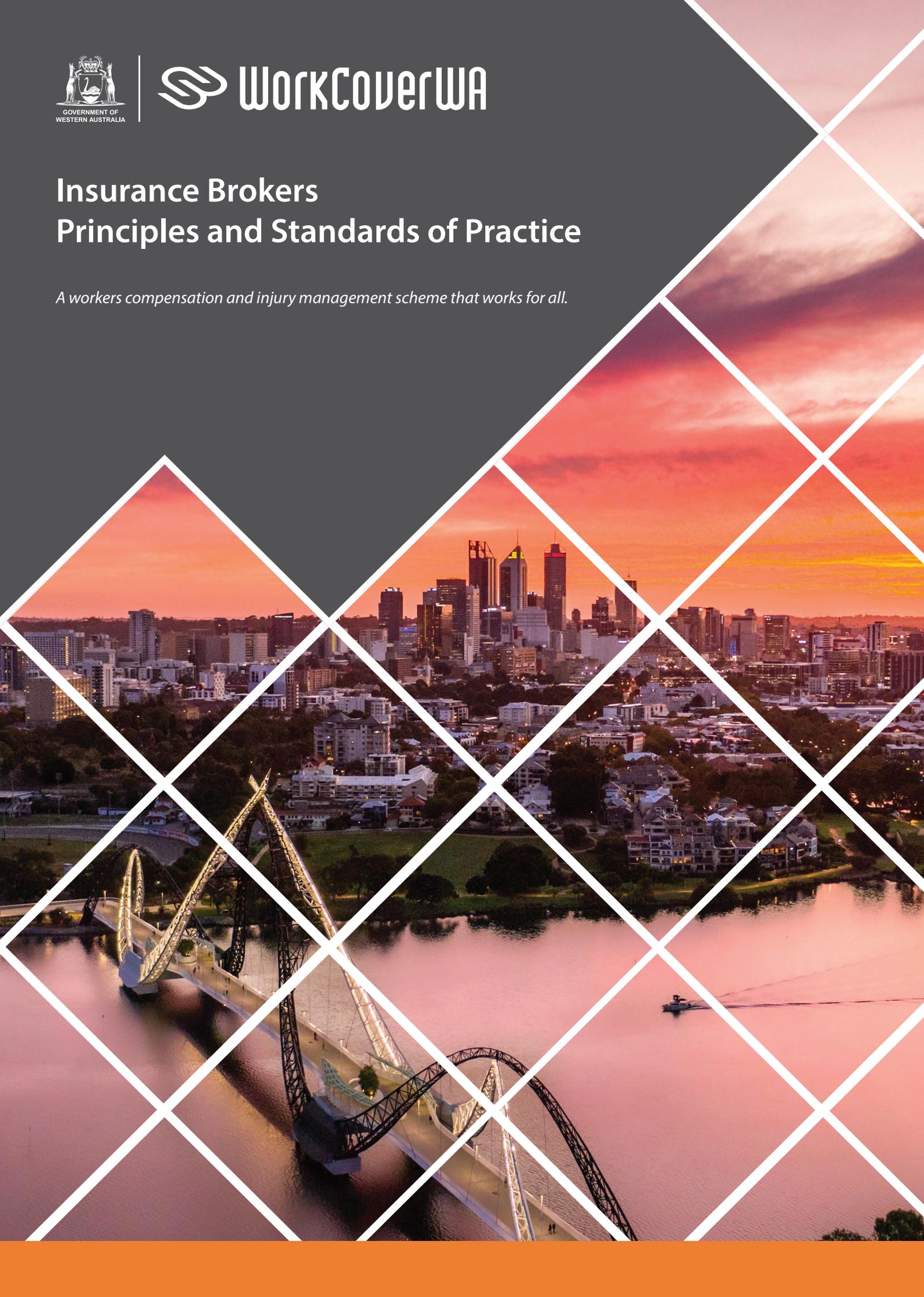




# Insurance Brokers Principles and Standards of Practice

*A workers compensation and injury management scheme that works for all.*





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## **Acknowledgement of Country**

*We acknowledge the traditional custodians throughout Western Australia and their continuing connection to land, waters and community. We pay our respects to their cultures and to elders past, present and emerging.*

## **Disclaimer**

No part of this document limits, or is intended to limit, rights and obligations under the law.

To ensure compliance with legal obligations, refer to the *Workers Compensation and Injury Management Act 2023 (WA)* (the Act) and associated legislation.

## **Who does this product apply to?**

These Principles and Standards of Practice apply to any person or organisation providing workers compensation related services to employers in Western Australia.

The Insurance Brokers Principles and Standards of Practice replace the Insurance Brokers' Code of Practice (2017) and apply from 1 July 2024.



## Foreword

Western Australia has a sophisticated and effective workers compensation and injury management scheme. It is privately underwritten by insurers and requires a range of scheme participants to interact and operate in a respectful and collaborative manner. The primary stakeholders in the workers compensation scheme are workers and employers.

Insurance brokers have become an embedded source of advice and assistance for employers, and it is necessary to set out conduct and performance expectations to ensure the scheme continues to work for all.

Insurance brokers currently operate in the WA scheme without legislative oversight by WorkCover WA, however, it is important everyone operating in the scheme adopts a shared language, integrated approach and proactive commitment to upholding the values of integrity, collaboration and customer service.

To achieve this, I am providing insurance brokers with clear direction and tangible assistance for developing policies and practices which maximise the workers compensation experience for employers and minimise negative impacts on workers.

*WorkCover WA's Insurance Brokers Principles and Standards of Practice* is a cohesive set of service expectations to ensure insurance brokers provide high quality workers compensation services to employers.

The principles are guiding statements applicable to all areas of service delivery and should be referred to for all matters not directly covered by the standards.

The standards of practice articulate priority areas which have the greatest potential to impact employers.

Central to meeting service expectations are professional behaviours, mindsets, and activation of personal responsibility.

Given the strong link between expectations and outcomes, I expect insurance brokers will commit to integrating these principles and standards into their interactions, as WorkCover WA continues to closely regulate and monitor compliance across the scheme.

**Chris White**  
Chief Executive Officer  
WorkCover WA

## What we do

WorkCover WA is a statutory authority, accountable to the Minister for Industrial Relations, and responsible for ensuring the operation of an efficient and effective workers compensation and injury management scheme in Western Australia (the WA scheme).

### **WorkCover WA's role includes:**

- monitoring compliance with the WA scheme by employers, insurers and others participating in or affected by the scheme
- educating scheme participants about workers compensation and injury management
- providing an independent dispute resolution service
- providing strategic policy advice to government regarding workers compensation.

WorkCover WA's primary objective is to balance the interests of workers and employers and ensure a *"workers compensation and injury management scheme that works for all"*.

## How we do it

Service providers are integral to the long-term viability, performance, and sustainability of the scheme.

All service providers participating in the scheme are subject to WorkCover WA's administrative oversight and regulation to ensure employers and workers are provided with standards of service which comply with the Act and advance scheme objectives.

### **Principles and Standards of Practice**

WorkCover WA has established a framework of *Principles and Standards of Practice* to set expectations regarding the performance of insurers, self-insurers, workplace rehabilitation providers, and now insurance brokers.

Collectively, the Principles and Standards reflect WorkCover WA's commitment to ensuring workers and employers are supported through their workers compensation experience

### **Principles**

Guiding statements applicable to all areas of service delivery.

### **Priority areas**

Service delivery areas identified as having the greatest potential impact on outcomes for employers or workers if not understood and performed well.

### **Standards of practice**

Clear guidance on service delivery expectations within each priority area.

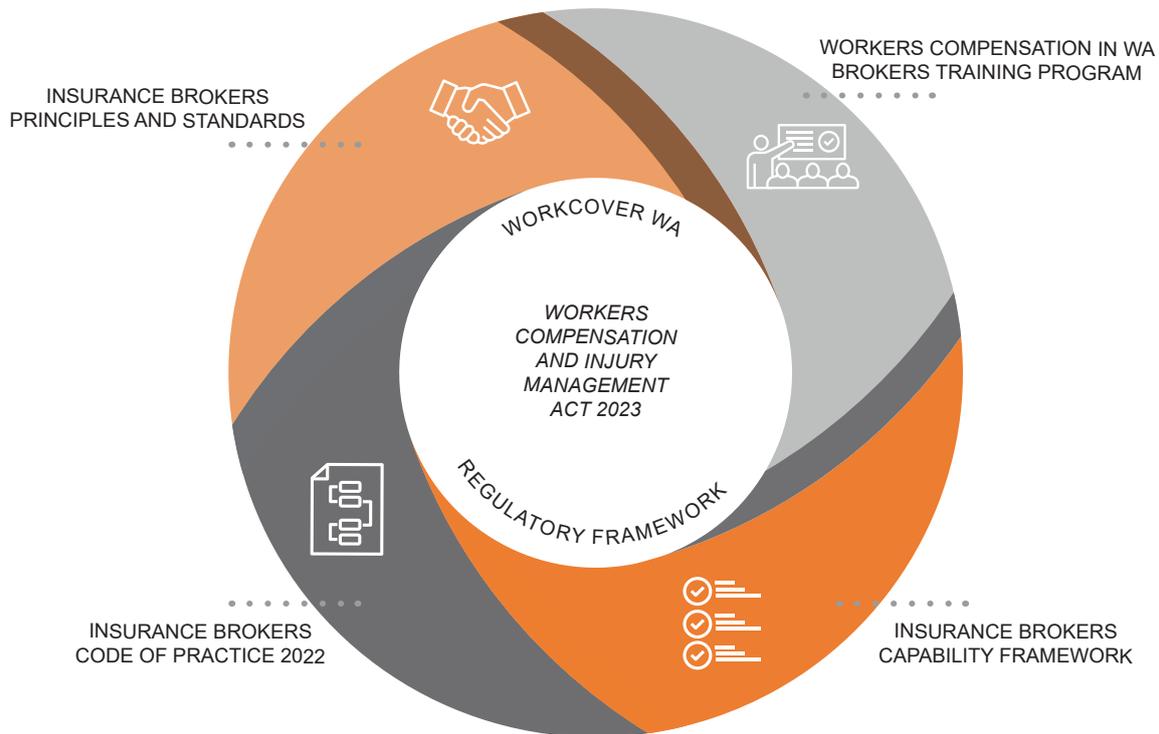
### **Performance indicators**

The measures used for monitoring standards of practice and delivery of outcomes.



# Introduction

To understand the role insurance brokers play in the WA scheme, it is important to understand the essential roles of employers and insurers.



**Employers** are liable for work-related injury or illness and are responsible for:

- implementing an injury management system
- obtaining an insurance policy covering liability in full
- giving claims to their insurer within seven days
- making income compensation payments when due
- establishing a return to work program.

**Insurers** must be licensed to operate in the WA scheme. They assume many of an employer's legal obligations when a policy of insurance is in place. Importantly, insurers are responsible for making liability decisions when a claim for compensation is made.

**Insurance brokers (brokers)** can contribute to the effective operation of the scheme by providing professional advice and assistance to employers on matters including:

- finding the right insurer and placing the right insurance
- explaining legal obligations and assisting with compliance
- identifying risk and assisting with mitigation
- collecting complete and accurate information from the employer.

All insurance brokers engaging with Western Australian employers must be licensed by The Australian Securities and Investments Commission (ASIC) and hold the relevant qualifications.

Insurance brokers are currently permitted to operate in the WA scheme without approval or registration. In lieu of formal legislative oversight, these *Insurance Brokers Principles and Standards of Practice* are intended to maximise consumer trust and confidence in any workers compensation related service provided by brokers.

## Employer compliance framework

WorkCover WA monitors employer compliance with legal obligations.

The penalties which apply when an employer fails to comply with legal obligations can be significant. Employers rely on advice given by brokers, and it is important brokers are competent to provide complete and accurate advice on workers compensation matters.

## WorkCover WA Inspectors

Inspectors may exercise a range of powers to monitor and ascertain compliance with legal obligations and performance standards. An inspector may require the cooperation of any person believed to have information relevant to an inspection, investigation or audit. This includes brokers. Refusing to cooperate with an inspector, or directly or indirectly preventing another person from complying with the Act, is an offence.

## Insurer and Self-insurer Principles and Standards of Practice

As intermediaries between employers and insurers, it is essential brokers are aware of insurer legal obligations and WorkCover WA's *Insurer and Self-Insurer Principles and Standards of Practice*.

## Workplace Rehabilitation Providers Principles and Standards of Practice

Brokers operating in injury management and claims services must be aware of WorkCover WA's *Workplace Rehabilitation Providers Principles and Standards of Practice*.

## Insurance Brokers Code of Practice 2022

WorkCover WA endorses the *Insurance Brokers Code of Practice 2022*, developed by the National Insurance Brokers Association (NIBA) in consultation with key stakeholders.

Insurance brokers, whether subscribers to the Code or not, are expected to follow Code principles and relevant standards of practice when engaging with WA scheme participants.

### Code principles

- professional commitment
- ethical behaviour
- transparency and accountability

### Engaging your broker

- understanding our role
- terms of engagement

### Performing services

- communication
- behaviour
- who we act for

## Workers Compensation in Western Australia Training Program

Insurance brokers, particularly those new to the WA scheme, are encouraged to complete the WorkCover WA broker training program developed in partnership with NIBA. The program covers:

**Course 1:** Welcome to WorkCover WA

**Course 2:** Workers Compensation scheme

**Course 3:** Injury Management and Claims Process

# Principles

WorkCover WA's principles are an overarching guide to service delivery expectations. They apply to all service providers operating in the WA scheme, across all service areas.



## Principle 1

### Transparent and timely

Advice is provided, instructions are received, and actions are taken which are fair, timely, transparent and efficient.



## Principle 2

### Reasonable and active

Reasonable and proactive steps are taken to become properly informed before providing advice, receiving instructions or taking action.



## Principle 3

### Regular and responsive

Communication underpins the delivery of scheme services. Communication is regular and responsive to the complexity and sensitivity of the situation.



## Principle 4

### Viable and accountable

Systems, processes and practices are in place which facilitate service delivery which is timely, reasonable and responsive.



# Performance indicators

Service provider performance is measured using the following indicators. Where more specific performance indicators apply, they are noted under the relevant priority area.

01	<b>Performance indicator 1: Number of complaints</b> The number, nature, severity and outcome of complaints received.	
02	<b>Performance indicator 2: Number of improvement notices</b> The number, nature and severity of improvement notices issued by WorkCover WA in response to non-compliance with standards.	
03	<b>Performance indicator 3: Timely and appropriate resolutions</b> The timeliness and appropriateness of action taken in response to complaints, breaches, offences and improvement notices.	
04	<b>Performance indicator 4: Documentation and record keeping</b> The extent to which processes are documented, and whether advice given, instructions received, actions taken, and reasons for decision are recorded.	
05	<b>Performance indicator 5: Outcomes of surveys</b> The outcome of surveys undertaken by relevant scheme participants, including WorkCover WA.	
06	<b>Performance indicator 6: Outcome of audits</b> The outcome of audits, investigations and reviews conducted by WorkCover WA.	

## Monitoring performance and non-compliance

In accordance with WorkCover WA's *Regulatory Framework*, a risk-based approach is used to determine appropriate and proportional responses to poor performance or non-compliance. Responses may range from providing education and awareness, to commencing prosecution proceedings. The outcome of monitoring activities may be published for transparency and accountability, and to encourage future compliance.

In addition to WorkCover WA's regulatory expectations, service providers may be monitored for compliance with other laws and recognised industry codes of conduct. If WorkCover WA deems it appropriate, suspected non-compliance may be referred to the relevant jurisdiction for review and potential action.

# Priority areas

Six priority areas have been identified as integral to ensuring effective engagement between brokers, employers, insurers, and WorkCover WA. Each priority area has a set of standards providing clear guidance on service delivery expectations.



## Priority 1: Employer experience

Insurance brokers have the skill and knowledge required to competently advise and act, with the employer's best interests paramount.



## Priority 2: Insurance

Employer compliance with insurance obligations is accurately assessed and diligently monitored.



## Priority 3: Claim and injury management

Employers are made aware of their claim and injury management obligations and are encouraged to actively engage and comply.



## Priority 4: Insurer experience

Insurance brokers understand and demonstrate respect for the legislated role licensed insurers play in sustaining a scheme intended to benefit injured workers.



## Priority 5: Scheme regulation and administration

Insurance brokers comply with WorkCover WA's regulatory and administrative requirements.



## Priority 6: Record keeping

Client records are maintained evidencing service agreements, advice given, instructions received, and action taken. Policies, processes, and procedures are documented.

# Standards of practice (Standards)

Standards prescribe the minimum level of service an employer should expect from their broker. Brokers are expected to meet these standards and are encouraged to improve on them. The standards applicable may depend on the scope of the services being provided.



## Priority 1: Employer experience

*Insurance brokers have the skill and knowledge required to competently advise and act, with the employer's best interests paramount.*

1.1	Engagement and consent	1.8	State of connection
1.2	Communication	1.9	Insurance market limitations
1.3	Accessibility	1.10	Insurance product limitations
1.4	Contact	1.11	Business insurance packages
1.5	Conflict of interest	1.12	Complaints process
1.6	Advice and education	1.13	Contracting out
1.7	Knowledge of the WA scheme		



## Priority 2: Insurance

*Employer compliance with insurance obligations is accurately assessed and diligently monitored.*

2.1	Policy holder identification	2.6	Policy renewal
2.2	Remuneration declarations	2.7	Policy expiry
2.3	Premium determination	2.8	Policy cancellation
2.4	Premium transparency	2.9	Policy holder amendment or coverage cancellation
2.5	Premium review applications	2.10	Certificates of Currency



## Priority 3: Claims and Injury management

*Employers are made aware of their claim and injury management obligations and are encouraged to actively engage and comply.*

3.1	Injury management system	3.8	Dispute resolution proceedings: Conciliation and Arbitration Service
3.2	Giving a claim to the insurer	3.9	Worker experience
3.3	Claim decisions	3.10	Worker consent authority
3.4	Liability accepted	3.11	Workplace fatality (and catastrophic event)
3.5	Return to work	3.12	Liability decision deferred
3.6	Dismissal of injured worker	3.13	Liability taken to be accepted
3.7	Order or direction to pay compensation		



#### **Priority 4: Insurer experience**

*Insurance brokers understand and demonstrate respect for the legislated role licensed insurers play in sustaining a scheme intended to benefit injured workers.*

<b>4.1</b>	Respectful communication	<b>4.7</b>	Client prior payment history
<b>4.2</b>	Notice of appointment	<b>4.8</b>	Client current payment history
<b>4.3</b>	Contact	<b>4.9</b>	Invoicing and closings
<b>4.4</b>	Accurate and complete information	<b>4.10</b>	Decision-making: claims
<b>4.5</b>	Decision-making: insurance premium	<b>4.11</b>	Insurer Internal Dispute Resolution Process
<b>4.6</b>	Material change in circumstance	<b>4.12</b>	Conflict of interest



#### **Priority 5: Scheme regulation and administration**

*Insurance brokers comply with WorkCover WA's regulatory and administrative requirements.*

<b>5.1</b>	Professionalism	<b>5.4</b>	Training and professional development
<b>5.2</b>	Information accuracy	<b>5.5</b>	WorkCover WA policy
<b>5.3</b>	WorkCover WA inspectors	<b>5.6</b>	Scheme viability



#### **Priority 6: Record keeping**

*Client records are maintained evidencing service agreements, advice given, instructions received, and action taken. Policies, processes, and procedures are documented.*

<b>6.1</b>	Policy holder / client information	<b>6.5</b>	Injury management and claims process
<b>6.2</b>	Policy holder premium information	<b>6.6</b>	Training and professional development
<b>6.3</b>	Policy renewal and expiry	<b>6.7</b>	General administration
<b>6.4</b>	Policy cancellation or amendment		



## Priority 1: Employer experience

Insurance brokers have the skill and knowledge required to competently advise and act, with the employer's best interests paramount.

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### Standards

#### 1.1 Engagement and consent

Brokers will only act on behalf of an employer with informed consent and should, at a minimum, request a 'letter of appointment' on the employer's letterhead.

The scope of services being provided should be agreed in writing, with disclosures and terms of remuneration documented.

#### 1.2 Communication

Brokers will clearly communicate advice and information needed to assist employers with understanding and meeting their legal obligations.

#### 1.3 Accessibility

Brokers will consider a client's cultural and linguistic needs to maximise understanding of disclosures, services agreed, information needed, advice given, and instructions sought.

#### 1.4 Contact

Brokers should keep a record of all contact with employers, including attempted contact.

Brokers should contact potential new clients within two working days of receiving a request for advice or assistance.

Brokers will notify existing clients within 10 working days when there is a material change to the client's service team.

Broker contact with employers should be documented and will be as regular and responsive as necessary to ensure their client is complying with their legal obligations.

#### 1.5 Conflict of interest

Brokers will disclose any actual, potential, or perceived conflicts of interest to their client, the insurer and, where relevant, a worker with a claim. This includes disclosing the details of how the broker will be remunerated by a party other than the employer for any products or services provided. It also includes declaring inter-relationships between the broker and other service providers, as relevant to the employer or worker.

#### 1.6 Advice and education

Brokers should support employers to understand and meet their legal obligations and should refer employers to relevant WorkCover WA educational resources if needed.

Brokers will refer employers to WorkCover WA's advice and assistance service without delay if further education and advice is needed to prevent non-compliance with legal obligations. The reason for referral should be recorded on the client file.

#### 1.7 Knowledge of the WA scheme

Brokers will have the skill and knowledge required to competently advise and act for WA employers.

Brokers not based in WA who are contacted by a WA-based employer should disclose their location, and any limits to their experience or ability to advise on the operation of the WA scheme.

#### 1.8 State of connection

Brokers who engage with employers who operate across more than one State must be competent at gathering the information required to advise on whether a client employs workers whose employment is connected to WA. If there is uncertainty, advice from a lawyer, a licensed insurer or WorkCover WA must be sought.

### 1.9 Insurance market limitations

Brokers should be willing and able to engage with all insurers licensed to operate in the WA scheme. Brokers who do not intend to approach all insurers will disclose to the client which insurers will and will not be approached.

### 1.10 Insurance product limitations

Brokers will disclose if they do not deal with workers compensation insurance in WA, or if they are using another broker in a wholesale arrangement.

### 1.11 Business insurance packages

Brokers who are contacted by WA employers seeking 'business insurance' will explain that workers compensation insurance is not a general insurance product and is a standalone product with its own policy number, legal processes and continuing compliance obligations.

When a quote for business insurance is received, Brokers will make it clear if it does not include workers compensation insurance.

### 1.12 Complaints process

Brokers will implement a complaints process for hearing and resolving matters related to their service performance in the WA scheme. Complaints and their resolution should be documented and recorded.

### 1.13 'Contracting out' of legal obligations

When an employer engages a broker, legal responsibility for compliance with the Act does not shift from the employer to the broker.

Upon engagement, brokers will explain an employer's obligation to monitor their continuing compliance with legal obligations.

### Performance indicators

Performance indicators specific to assessing compliance with employer experience standards.

#### ***Enquiries to WorkCover WA***

The number and nature of enquiries to WorkCover WA's advice and assistance service related to an insurance broker.

#### ***Enforcement actions***

The number and nature of relevant enforcement actions taken against the clients of an insurance broker.





## Priority 2: Insurance

Employer (client) compliance with insurance obligations must be accurately assessed and proactively monitored.



**WorkCover WA receives information from the Australian Taxation Office (ATO) with respect to every employing legal entity with a workers compensation liability.**

## Standards

The following standards apply with respect to **every** employer in Western Australia.

### 2.1 Policy holder identification

*Insurers are required to report policy and claim information to WorkCover WA for every employer in Western Australia.*

It is paramount every employing legal entity insured under a policy is accurately identified and disclosed to the insurer for reporting to WorkCover WA.

After requiring the ABN from each employer who is to be insured under a policy, brokers will exercise the diligence necessary to accurately identify and verify, at a minimum, the full legal name of the employer, the employer's business activities, worker count, remuneration, contact details and claims history.

### 2.2 Remuneration declarations

*Employers must be insured for the full amount of their liability to pay workers compensation and penalties apply for being 'under-insured'. Insurers are required to report remuneration estimates and actuals to WorkCover WA.*

Brokers will clearly explain what constitutes rateable remuneration and how premium is assessed. If necessary, brokers will explain the definitions of 'worker' and the process for opting a working director into the scheme. Brokers will refer clients to WorkCover WA if further advice is needed regarding who is and is not a 'worker' under the Act.

Brokers will be diligent in assisting employers to provide accurate and complete remuneration declarations.

Actual remuneration paid during a coverage period will be declared to the insurer within 30 days of the coverage period expiry date. If a client is in breach of this obligation, brokers will document and record the reason for the breach on the client file.

An inspection or an audit of remuneration paid or payable may be conducted to determine if an employer is fully insured:

- Insurers may conduct remuneration audits with a view to making any necessary adjustments to the policy holder's premium assessment.
- WorkCover WA may conduct an inspection with a view to premium adjustment and enforcement action if a client –
  - fails to comply with an insurer audit notice
  - fails to declare actual remuneration in more than one coverage period
  - appears to be under-declaring remuneration relative to ATO data.

## 2.3 Premium determination

*Insurers are required to have a documented methodology and reasons for charging a premium. Insurers are required to provide a rationale for the value of estimated claims.*

If instructed by a client to do so, brokers will request an insurer's reasoning for quoting above the gazetted industry recommended premium rate.

Brokers with the necessary capability, experience and authority may advocate on their client's behalf with respect to projected claim costs and agreed risk mitigation strategies.

## 2.4 Premium transparency

Insurer issued quotes and policy schedules, will clearly distinguish between workers compensation statutory premium charges and other itemised charges.

## 2.5 Premium review applications

*Where the premium determined by the insurer is at least 75% greater than the recommended premium rate fixed by WorkCover WA, employers may apply for a premium review.*

WorkCover WA will consider premium review applications which have been made in accordance with the Act and WorkCover WA's premium review policy.

Brokers will ensure employers are aware of their right to seek a review when the recommended premium rate has been loaded by 75% or more.

Brokers who have been authorised by an employer to lodge a premium review application will ensure compliance with the criteria for lodgement of a review as set out in the Act and the policy.

## 2.6 Policy renewal

*Insurers are required to invite policy renewal at least 30 days prior to policy expiry, and full terms must be provided within 14 days of policy expiry.*

The following applies to every employing legal entity insured under a policy.

Within two working days of receiving an invitation to renew from an insurer, brokers will request from the policy holder the renewal information required to quote renewal terms.

At a minimum, the renewal process will include:

- ascertaining whether the policy holder has ceased employing 'workers', and if so, on what date and for what reason
- ascertaining any changes to the policy holder's business activities, and from what date the change occurred
- ascertaining and reporting updated policy holder contact details
- obtaining and reporting remuneration estimates for the new coverage period
- obtaining and reporting remuneration actuals for the expired coverage period.

If the policy holder is no longer employing due to a succession event, brokers will discuss with the insurer whether to renew the policy or put a new policy in place.

If requested, brokers are expected to 'source the market' for terms agreeable to the client and, in doing so, are expected to deal with all licensed insurers in the WA scheme.

A broker who believes they no longer represent a policy holder should document the reason for this belief. If an invitation to renew is then received from the insurer, brokers will, within two working days:

- forward the documentation to the policy holder's last known contact address, and
- notify the insurer of their understanding they no longer represent the policy holder.

## 2.7 Policy expiry

*Insurers are required to report to WorkCover WA the reason why a policy is not renewed.*

The following applies to every employing legal entity insured under a policy.

If a policy holder instructs not to renew, the broker will ascertain and report to the insurer the following information:

- the reason why the policy holder is not renewing the policy. e.g. insured elsewhere, business sold, business closed.
- a declaration of remuneration paid during the expired coverage period
- policy holder current contact details.

If a client has not responded to contact, attempts to contact the client will be documented.

If it is suspected the policy holder is still employing and without alternate cover, attempts to educate and advise the client on legal requirements will be documented.



**When notified that a policy has expired and where alternate cover has not been reported, WorkCover WA will contact your client for a declaration of the date they ceased employing. Investigations will commence if a 'gap' in cover is disclosed.**

## 2.8 Policy cancellation - employer

*WorkCover WA permission is required to cancel a policy of insurance mid-term.*

WorkCover WA will consider policy cancellation if a *Policy cancellation application* form has been completed in full and lodged by the insurer.

WorkCover WA will approve policy cancellation only if all legal entities (ABNs) insured under a policy satisfy the cancellation criteria.

Requests for policy cancellation must be submitted to the insurer only after the policy holder has ceased employing or provided proof of alternate cover.

If a policy holder is still trading their business and they indicate they may start employing again during the remaining or next coverage period, brokers should raise the possibility of premium adjustment with the insurer before applying for policy cancellation.

## 2.9 Policy holder amendment or coverage cancellation

*With respect to a workers compensation policy, WorkCover WA permission is required to:*

- amend a policy holder's identification details
- remove a policy holder from policy coverage
- add a policy holder to policy coverage
- replace a policy holder mid-term.

Requested policy holder changes must be reviewed and endorsed by the insurer before being submitted to WorkCover WA for processing.

The reason for the change must be clearly explained and the criteria for endorsing and approving the change must be satisfied. Refer to the *Guide to policy holder amendment and coverage cancellation* for the criteria relevant to each change request type sought.



**Insurers must not be unduly prevailed upon to endorse a policy holder change and insurers may contact WorkCover WA for assistance with verifying a requested change.**

## 2.10 Certificates of Currency

*Employers are required to obtain, and have available for inspection, a valid Certificate of Currency issued by a licensed insurer.*

Insurer issued Certificates of Currency will state the full legal name and ABN of every employer insured under the policy and will be issued within five working days of request.

The term 'Certificate of Currency' must not be used on a document which has not been issued by a licensed insurer. Broker documents relevant to insurance coverage should include a statement to the effect –

'This document is not legal proof you hold a workers compensation insurance policy. A Certificate of Currency can be obtained from your insurer.'

When the reason given for policy cancellation is 'insured elsewhere', insurers will require a Certificate of Currency evidencing the new policy before applying to WorkCover WA to have the policy cancelled.

A principal may require a contractor to provide an insurer issued Certificate of Currency showing the contractor is insured in the event their contract worker makes a claim for a workplace injury.

A principal is not required to declare contract worker remuneration under their policy if the contractor holds a workers compensation policy covering their contract workers.

If an insurer issued Certificate of Currency does not evidence that a contractor has opted it's working directors into the scheme, a policy schedule or other proof may be required by the principal and must be produced on request.



### Need further assistance?



Visit our website to check out:

- *Assessment of Premium Rates and Industry Classifications: Loading and Appeal Policy*
- *Remuneration form – group policies*

### Performance indicators

Performance indicators specific to assessing compliance with the broker standards.

#### ***Employer enforcement activities***

The number and nature of investigations resulting from or disclosing a broker standards breach.

#### ***Employer compliance activities***

The number of compliance inspections resulting from inaccurate policy holder data.

#### ***Policy audits***

The number, nature, and outcome of insurance policy audits, including remuneration, policy holder identification and industry classification.



## Priority 3: Claims and Injury management

Insurance brokers can assist employers with understanding their claim and injury management obligations.



*This priority applies to brokers who are engaged to provide claim, injury management, and return to work related services to an employer.*



*Brokers who provide services to an employer which involve an injured worker must have the required capabilities and competence to deliver the services.*

## Standards

### 3.1 Injury management system

*Employers are required to establish and implement an injury management system, setting out the steps to be followed when there is a workplace injury.*

In addition to arranging insurance, brokers can play an important role in assisting clients with developing an injury management system to support injured workers.

Brokers are expected to promote a zero-tolerance approach to workplace injury 'stigma', with a focus on early reporting, treatment, rehabilitation and return to work strategies to assist workers to make an early and safe return to work.

### 3.2 Giving a claim to the insurer

*An insured employer must give a claim for compensation to their insurer within seven days of receiving a completed Claim Form and Certificate of Capacity.*

Brokers should document any advice given to an employer regarding the claim lodgement time frame and process.

If a claim is given to a broker instead of the insurer, the claim must be forwarded to the insurer without delay.

Any perceived defect or inaccuracy in a Claim Form or Certificate of Capacity may be noted for an insurer's consideration but must not delay the giving of the claim to the insurer.

Broker involvement does not excuse an employer from failing to give the insurer a claim within seven days.

### 3.3 Claim decisions

*Insurers are responsible for making claim decisions and are bound to make these decisions within a specified time frame and with the 'spirit of the legislation' in mind.*

Brokers should document advice given to an employer regarding the legislated role insurers play in claim management and the considerations which inform the decision-making process (i.e. was the person a 'worker', do they have a 'compensable injury', and did it occur in the course of employment?). The impact an injured worker's entitlements might have on an employer's premium is not a relevant consideration.

If an employer is of the view that liability for the claim should not be accepted, written submissions can be made to the insurer with reference to the elements of liability and other relevant factors only.

If an employer has raised concerns with the broker about any other claim decision made by an insurer, the broker and employer should discuss these with the insurer.

### 3.4 Liability accepted

*If liability is accepted, income payments must commence within 14 days and must continue to be made on the employer's usual payday.*

The information needed to accurately calculate the rate of pay in accordance with the legislation must be provided to insurers without delay.

The first income payment must include any backpay and leave adjustments. An inability to make compensation payments when due should be discussed with the insurer without delay.

If the rate of pay has not been notified, payments should commence at the pre-injury rate of pay. The reason why rate of pay has not been notified should be documented.

Brokers should document advice given to an employer regarding payment of compensation.

### 3.5 Return to work

*Employers must implement a return to work program if a worker's treating doctor requires a program to be commenced, or a worker's treating doctor signs a Certificate of Capacity indicating the injured worker has a capacity for work (but not for their pre-injury duties or position).*

Brokers are expected to promote the benefits of return to work and encourage active employer involvement in the planning and implementation of return to work programs.

The services of an approved Workplace Rehabilitation Provider (WRP) should be used if assistance is needed with how best to support a worker's return to work.

A request for WRP services can be made by the worker's treating doctor, the worker, or the employer. Insurers may also encourage referral to a WRP if medically supported and are ultimately responsible for assessing a request and giving approval to proceed.

### 3.6 Dismissal of injured worker

*An employer must provide a worker the position held immediately before incapacity for work or another suitable position. This obligation runs for 12 months from the date of initial incapacity. If it is intended to dismiss the worker during this 12-month period, 28 days notice must be given to the worker in the approved form.*

Brokers should document any advice given to an employer regarding the employment obligation period.

### 3.7 Order or direction to pay compensation

*Conciliators and Arbitrators may order or direct that an employer commence, continue or recommence payments of compensation to a worker.*

Brokers should document any advice given to an employer regarding the requirement to comply with orders and directions made under the Act.

## 3.8 Dispute resolution proceedings: Conciliation and Arbitration Services (CAS)

*Disputes may arise in relation to liability and claim entitlements. When this happens, application is made to CAS by the worker or insurer (often via legal representatives) for resolution of the dispute. The parties to a dispute are in most cases the worker and employer. Dispute resolution proceedings must be conducted in private and are not open to the public.*

*After an Application for Conciliation is accepted, a listing notice setting down a conference will be given to the parties (worker and employer), the employer's insurer and any legal representatives. In most cases, the lawyer engaged by the insurer also represents the employer's interests by virtue of the policy of insurance and subrogation. When the application is made, nominated representatives and participants in the process must be 'on record'.*

*Parties who attend at conciliation are expected to enter meaningful discussion and attempt resolution of the dispute with the spirit of the legislation in mind.*

Brokers cannot attend a dispute resolution hearing unless they are a party to the dispute. In limited circumstances, a broker may be ordered or permitted by a Conciliator or Arbitrator to attend a conference or hearing.

Brokers should encourage employers to discuss the dispute with their insurer before the proceedings, mindful that insurer representatives are expected to attend proceedings with potential outcomes in mind and sufficient authority to resolve the dispute.

Lawyers representing the insurer and employer in the dispute are best placed to advise them on options, strategies and outcomes to expect and pursue. Brokers can play an important role in supporting employer engagement in the process and encouraging a resolution.

If a client becomes a party to a dispute, brokers should refer them to the information guides available from the WorkCover WA website, or to the insurer for more specific guidance. If it appears further assistance with understanding the Conciliation and Arbitration process might be needed, brokers should refer employers to WorkCover WA's Advice and Assistance Service on 1300 794 744.

### 3.9 Worker experience

An injured worker's entitlement to compensation, rehabilitation, return to work and dispute resolution must not be prejudiced by a broker's involvement in the claim management or dispute resolution process.

Workers and their representatives must be treated with respect and dignity during any interaction which may occur during their claim.

### 3.10 Worker consent authority

Employers and insurers should have informed consent from an injured worker to share the worker's personal health or financial information with a broker.

A broker should ensure a worker's consent has been obtained prior to receiving / accessing the worker's personal health or financial information. This includes access to information provided by the employer.

### 3.11 Workplace fatality (and catastrophic event)

*In the event of a workplace fatality or catastrophic event, employers must notify their insurer without delay.*

Brokers should assist employers with their reporting and claim obligations and with managing the impact of death or injury on the workforce.

### 3.12 Liability decision deferred

*Insurers have 14 days after receiving a claim to give a liability decision notice or deferred decision notice.*

*If a deferred decision notice is given, insurers have 28 days from receiving the claim to give a liability decision notice.*

*If a liability decision notice is not given 28 days after receiving the claim, the employer must commence provisional payments. Provisional payments must continue until a liability decision notice is given, or there is no longer a certified incapacity, or liability is deemed accepted.*

Brokers should ensure employers are aware of their legal obligations when a decision on liability is deferred. Standard 3.4 applies when an employer is required to commence provisional payments.

### 3.13 Liability taken to be accepted

*Liability is taken to be accepted if an insurer fails to give a liability decision notice or deferred decision notice within 14 days of receiving a claim.*

Brokers should ensure employers are aware of their legal obligations when 14 days passes with no notice received from their insurer. Standard 3.4 applies to making compensation payments when liability is taken to be accepted.

## Performance indicators

Performance indicators specific to assessing compliance with *Injury management and claims process standards*.

### **Employer compliance actions**

The number and nature of claim-related employer compliance actions involving brokers.

### **Worker privacy and entitlements**

The number of complaints of privacy breach, interference or prejudice involving brokers.

### **CAS dispute process**

The number of complaints of broker interference with dispute process, including delay.



## Priority 4: Insurer experience

Insurance brokers understand and respect the legislated role approved insurers play in sustaining a scheme intended to benefit injured workers.

**The Act is beneficial legislation and operates in a remedial way to compensate injured workers and support return to work. Potentially contentious matters are generally determined to give effect to this purpose.**

### Standards

#### 4.1 Respectful communication

Brokers and insurers will communicate respectfully, collaboratively and effectively.

#### 4.2 Notice of appointment

Insurers *may* require written notice on the employer's letterhead of a broker's authority to place insurance and *will* require a letter of appointment:

- if the broker is replacing another broker
- when a claims history has been requested.

#### 4.3 Contact

Contact between brokers and insurers which requires a response should be acknowledged within five working days.

A broker who believes they no longer act for an employer will notify an insurer of this belief within five working days of receiving correspondence related to the employer's insurance arrangements (for example, renewal documentation).

All broker / insurer contact should be documented and should be as regular and responsive as necessary to ensure insurers are compliant with their scheme obligations.

#### 4.4 Accurate and complete information

Brokers will be diligent in gathering, verifying and providing insurers with the information needed to make informed decisions and meet WorkCover WA's reporting obligations.

#### 4.5 Decision making: insurance premium

*Insurers are responsible for determining an employer's industry classification and premium rate.*

Brokers will comply with WorkCover WA's Review of Premium and Industry Classifications Policy if a review is lodged.

#### 4.6 Material change in circumstance

Brokers will notify insurers without delay when they become aware of a material change in a client's circumstances.

#### 4.7 Client prior payment history

Brokers should not disclose a client's payment history to another insurer without the client's consent. Clients cannot be required to consent.

#### 4.8 Client current payment history

Brokers are expected to notify insurers within five working days when a client defaults on the payment terms agreed between broker and client.

#### 4.9 Invoicing and closings

Brokers are expected to raise a closing no later than 10 working days from the insurer invoice date, unless another time frame is agreed. The money to be paid to the insurer should match the closing raised with the insurer.

#### 4.10 Decision making: claims

Brokers will be respectful of the legislated role insurers play in claims management and the expectation claim-related decisions are made with the spirit of the legislation in mind.

Brokers who provide employers with advice on claim-related matters will have the knowledge and understanding necessary to do so competently.

Brokers should not attempt to influence an insurer's decision-making by raising matters for consideration which are not relevant to the decision.

Behaviour which could prejudice a worker's entitlements and return to work should be reported to WorkCover WA.

#### 4.11 Insurer Internal Dispute Resolution Process (IDRP)

*Approved insurers are required to have an IDRP in place for reviewing their decisions.*

Brokers may, on instructions from their client, seek a review of an insurer's decision in writing using the appropriate IDRP. The insurer will provide a written outcome which the broker should explain to the client.

#### 4.12 Conflict of interest

Actual, perceived or potential conflicts of interest will be disclosed to the insurer, particularly as they may arise in the management of a worker's claim. This includes declarations about inter-relationships between brokers and other service providers.



### Performance indicators

Performance indicators specific to assessing compliance with insurer experience standards.

#### **Reports to WorkCover WA**

The number and nature of reports to WorkCover WA alleging breach of these standards.

#### **Insurer**

- The number of unclosed invoices.
- The amount of unpaid premium costs.



## Priority 5: Scheme regulation and administration

Insurance brokers comply with WorkCover WA's regulatory and administrative requirements.

### Standards

#### 5.1 Professionalism

Brokers are expected to act with integrity, diligence, transparency, and confidentiality.

#### 5.2 Information accuracy

Brokers are expected to exercise diligence in gathering and verifying the accuracy of information required to identify and effectively service employers.

#### 5.3 WorkCover WA inspectors

Brokers are expected to cooperate with WorkCover WA inspectors if a current or past client is subject to audit, inspection or investigation. Brokers must not:

- obstruct or interfere with an inspector
- provide false or misleading information
- directly or indirectly prevent an employer from complying with an inspector's direction.

#### 5.4 Training and professional development

Brokers will have the knowledge and expertise required to competently deliver the services they have been engaged to provide.

Brokers are expected to keep their knowledge up to date by participating in continuing professional development.

#### 5.5 WorkCover WA policy

Brokers will ensure knowledge of, and compliance with, all relevant policies and processes issued by WorkCover WA.

#### 5.6 Scheme viability

Brokers are expected to promote and contribute to the continued viability and sustainable performance of the workers compensation scheme.

In accordance with the Act, brokers will not directly or indirectly prevent or negatively influence a registered scheme participant's compliance with their legal obligations, licensing terms or the regulatory framework.

#### Performance indicators

Performance indicators specific to assessing compliance with scheme regulation and administration standards.

##### **Record of training**

The number of staff who have completed the brokers workers compensation in WA training program.

##### **Record of complaints**

The number of complaints made.



## Priority 6: Record keeping

Client files are maintained evidencing service agreements, advice given, instructions received, and action taken. Policies, processes and procedures are documented.

 *The following standards apply with respect to past, current, and potential clients.*

 *The records kept on a client file may be required as part of an investigation into the client's compliance with the Act, or during an insurer or WorkCover WA initiated audit.*

## Standards

### 6.1 Policy holder / client information

Brokers are expected to keep a record of the following policy holder information:

- the making of required disclosures
- letter of appointment / terms of engagement
- the legal name and ABN of each policy holder under a policy
- any advice given and the information relied on to give the advice
- consents, instructions received, and actions taken on behalf of the client
- contact with insurers including any disputes raised, the reason for the dispute and the outcome of the dispute
- any self-identified standards breach and the reason for the breach
- termination of services (by either party) and insurer notification
- requests for and provision of Certificates of Currency
- quotes commenced / provided and not acted on by a potential client.

### 6.2 Policy holder premium information

Brokers are expected to keep a record of the following policy holder premium information for each coverage period:

- business activity, worker count, remuneration estimates and actuals
- any risk mitigation strategies raised with the insurer
- insurer and broker quotes and invoices
- authority to deal with a loading application
- changes mid-coverage period to material circumstances.

### 6.3 Policy renewal and expiry

Brokers are expected to keep a record of the following policy renewal information:

- insurer's invitation to renew
- request for renewal information from policy holder
- attempts to contact, if not responding to correspondence.

If relevant, brokers must also document:

- the reason for not renewing a policy and notice to insurer
- details of succession event and outcome of raising the matter with the insurer
- notice to insurer, no longer representing policy holder.

### 6.4 Policy cancellation or amendment

Brokers are expected to keep a record of the following policy cancellation or amendment information:

- policy holder written request for cancellation or amendment
- reason for policy cancellation or policy holder amendment
- accurate and complete application forms, as relevant
- notice of application outcome (and updated Certificate of Currency, if relevant).



## 6.5 Injury management and claims process

If a broker's terms of engagement include providing injury management and claim related services, the following information will be kept on record:

- advice or assistance provided regarding risk and injury management system development, implementation and management
- advice or assistance provided in relation to a claim made on a client
- if more than one entity (ABN) is insured under a policy, the policy holder (ABN) to which the claim relates (the claimant's employer)
- advice or assistance provided in relation to dispute resolution.

## 6.6 Training and professional development

Brokers are expected to keep a record of qualifications and professional development training undertaken.

## 6.7 General administration

Brokers are expected to ensure:

- processes and procedures are documented
- records-storage controls are documented
- internal process audits and client file audits are documented
- regulatory action taken is recorded (broker and client), noting the nature and severity of any breach.

# Glossary

## Act

*Workers Compensation and Injury Management Act 2023* (WA).

## Australian Business Number (ABN)

A legal entity's business registration and the primary means of identifying and verifying a policy holder / employer.

## Broker

Insurance broker.

## Broker terms of engagement

The services to be provided, as agreed between broker and client, as expressed in accordance with the *Insurance Brokers Code of Practice 2022*.

## Day

A calendar day.

## Disclosures

The information which must be provided to employers before or during engagement to ensure transparency and informed decision making.

## Dispute

Disagreement over a decision, action, or failure to act.

## Employer

An employer as defined in the Act, including a self-insurer. May also be referred to as 'policy holder' or 'client'.

## Insurance broker

Any person engaged to provide workers compensation related services to employers.

This includes all employees, agents, consultants, 'experts', advisors, authorised representatives and other persons not otherwise licensed or registered in WA to provide workers compensation related services.

An entity licensed by ASIC to provide insurance advice and services.

## Insurer

An insurer who is licensed (inc. specialised insurers) by WorkCover WA to operate in the scheme in accordance with the Act, and an insurer's appointed representatives.

## Insurance Brokers Code of Practice 2022

The minimum standard of service delivery expected of brokers engaged to provide workers compensation related services to entities employing in Western Australia.

## Internal Dispute Resolution Process

An internal policy or process to hear and resolve complaints.

## Legal entity

A legal person or persons, as registered with the Australian Business Registry.

## Policy holder

A legal entity whose liability to pay workers compensation has been shifted to an insurer under an insurance contract. Interchangeably referred to as 'employer' or 'client'.

## Primary stakeholder

Workers and employers.

## Registered scheme participant

Includes insurers, self-insurers, workplace rehabilitation providers, approved medical specialists, registered agents, and hearing testers.

## Scheme participant

Includes *primary stakeholders* and *registered scheme participants*, brokers, legal representatives, medical practitioners, peak bodies and unions.

## Succession event

A business ownership restructure (change of ABN) with limited to no material change to the individuals operating the business.

## Wage declaration

A statement or declaration of remuneration, as defined in the Act.

## Worker

A worker as defined in the Act, including an individual claiming to be 'injured worker'.

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**Assistance**

For further information about the Principles and Standards or their application, contact WorkCover WA's Regulatory Services Division on (08) 9388 5555.



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