



Self Insurers of South Australia

EMPLOYERS MANAGING THEIR OWN RISK

ESTABLISHED 1984



Use of 3rd Party Auditors under the Performance Standards for Self Insurers

***Submission to the WorkCover Corporation of
South Australia***

February 2008

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About SISA

The Self Insurers of South Australia (SISA) is an incorporated association that represents South Australia's largest private and public sector employers that are self insured under the *Workers Rehabilitation & Compensation Act*.

Our membership represents about 36% of the State's employment by remuneration. SISA was first incorporated on 3rd August 1984 as the Employer Managed Workers Compensation Association (EMWCA). Although it was known as SISA for many years beforehand, the name was officially changed from EMWCA to SISA in November 2005.

SISA is recognised as the sole representative organisation for self insured employers. It provides its member organisations with assistance and support in their interactions with the workers compensation scheme and promotes best practice in the prevention and management of workplace injuries.

SISA's objectives are to promote, develop and support the interests of its members by communication and liaison with WorkCover, Government, unions and other organisations in regard to self insurance.

Self insurers in South Australia cover a diverse range of industries, including pillars of the State economy such as winemaking, ship building, mining, steelmaking, automotive manufacturing, aged care, banking and utilities. The State public sector is also self insured.

SISA proudly represents the common interests of over one third of the employment of South Australia's working people. It remains a respected and authoritative voice in the governance of occupational health and safety and workers compensation in South Australia and beyond.

Executive summary

SISA submits that there is a strong case for the introduction of 3rd party auditing under the performance standards for self insurers. This submission is a summary of that case and is not intended to be a comprehensive implementation plan.

In making this submission, we do not infer that there are widespread problems with the evaluation process. There are, however, significant opportunities at hand to streamline the process and make it more efficient for both WorkCover and the self insurers with, if anything, an enhancement of the level of assurance provided to the WorkCover Board when grants of self insurance are considered.

We believe that the use of 3rd party audits will:

- Make more efficient use of existing external audit activity - while:
- Enhancing WorkCover's assurance that self insurers are maintaining OH&S and injury management continuous improvement systems that reflect the corporate-level commitment required by the standards and the Natural Consequences Model - through:
- Use of independent 3rd party auditors with appropriate knowledge, experience and qualifications, so as to:
- Support relevant elements of the WorkCover strategic plan 2007-08 - while:
- Delivering resource savings to WorkCover that can be directed to areas of need such as SABS and the SafeWork SA Industry Improvement Program.

The other main principles outlined in this submission are:

- That the optional use of 3rd party auditors should be available to those self insurers that have attained a minimum level 3 status under the Natural Consequences Model.
- Auditor qualifications should be based on certification as RABQSA Auditor, or any other equivalent certification by other JAS-ANZ recognised bodies.
- There should be no lesser frequency of audit and surveillance activity as is currently the case, and where accreditation under a standard has been achieved, the audit frequency would be greater.
- Auditor approval by WorkCover should consist of a simple discretionary paper-based verification of the qualifications and experience of auditors.

- There would be no conflicts of interest due to the rigorous professional obligations that apply to certified auditors under the RABQSA and JAS-ANZ regimes.
- The current regime requires self insurers to keep their OH&S and injury management systems separate at the documentation and process level. The adoption of the 3rd party audit system would be seen as a progressive move by WorkCover towards facilitating OH&S management systems integration best practice.
- There would need to be a certain level of validation of audit outcomes by WorkCover, although this should not be so intensive as to duplicate audit work and thus erode the value of the revised arrangements.
- There is a strong business case in terms of WorkCover's ability to allocate scarce skilled resources to areas of higher risk to the Compensation Fund.
- The proposal has demonstrable synergies with elements of the WorkCover Strategic Plan 2007-08.
- Transitional arrangements could be quite simple, and we see no need for a pilot phase.
- There will be additional operational issues and plans to be considered, but we do not see any of these as insurmountable.

1. The Case for 3rd Party Auditing

At the outset, we would like to emphasise that the proposals set out in this submission are by way of a sketch plan intended to set the scene for more detailed and comprehensive development. We acknowledge that there will be many more operational and policy issues to be considered.

2. The situation and the challenge –the drivers for change

By way of background, we would like to open with a quote from a 2000 paper written by Prof Patrick Hudson, whose work was adopted by WorkCover and formed the basis of the Natural Consequences Model. In the paper, Prof Hudson discussed the development of safety management culture and touched upon the subject of how regulators can struggle to keep pace with advanced systems and cultural thinking. We include this material not to be critical of WorkCover but because we believe that it captures the essence of the issues now under discussion.

The problem faced by an enlightened regulator is that the law allows few distinctions based upon track record in the face of outcomes. What we are looking for is a regulatory regime that is measured against the aspirations of organisations and the degree to which they attempt to attain them. In this sort of regime, setting almost impossible standards is laudable, while failing to meet them is not necessarily reprehensible. What counts is the activity and the whole-hearted commitment...One approach taken by enlightened regulators is to reduce the audit frequency for cultures that they perceive as more advanced. The trust and informedness [sic] characteristic of the advanced cultures means that they are essentially continuously self-auditing. What regulators need to audit is the culture, not the detailed activities that are performed.¹ (Our emphasis).

SISA members often get the impression, rightly or wrongly, that the regulatory management of self insurance is driven by an underlying assumption that unless there is rigorous and detailed oversight of every legislative and policy requirement and every element of every standard, the self insurers will not do the needful. In other words, regulatory activity might be wrongly perceived as the primary motivator and driver of improvement. We submit that this is not so, given the self-governing nature of the self insurance paradigm.

WorkCover will be familiar with SISA's own sub-title – *Employers Managing Their Own Risk*. That is no mere slogan. It is probably unnecessary to explore in detail the self-governing drivers of the self insurance model. The principles are well understood. To state the case briefly for completeness, however, we quote our statements to the WorkCover Board in September 2007:

¹ *Safety Management and Safety Culture - The Long, Hard and Winding Road*. Patrick Hudson, delivered at the First National Conference on Occupational Health and Safety Management Systems, Sydney, July 2000.

“...good performance is not primarily the product of regulatory pressures. Improvement from a low base can be driven that way, but the self-sustaining maintenance of high performance is an inherent element of the self insurance business model.

Self insurance is the ultimate experience rating regime – to fail to maximise performance imposes an immediate and visible cost on the business, as well as a much larger hidden cost. We know that the Board is well aware of this principle given its desire to drastically reduce the levels of cross subsidies in the levy structure...².

It is arguable that when detailed and prescriptive regulatory activity is conducted among populations with high average levels of performance, the effect can be negative, as Prof Hudson asserts elsewhere in the paper quoted above. As we said in our January 2007 submission to WorkCover on the Natural Consequences Model,

“...any threat to an employer’s self insurance is more than a regulatory or policy issue from the employer’s standpoint. Self insured employers have significant resources invested in maintaining the highest standards of workplace safety and injury management in order to achieve the benefits that self insurance confers. Any decision that reduces or revokes a grant of self insurance has a lasting effect on the business viability of the employer, and, in many cases, on the broader State economy. This requires that any system that purports to determine whether self insurance is granted or renewed, (and if so, for how long), must be able to objectively demonstrate with certainty that its findings are valid. With such high stakes, we submit that it is reasonable for self insurers to strive for decisions that are just and properly informed”³.

In our view, the evaluation process comes within the context of this principle.

With these comments in mind, SISA sees significant opportunities to make the performance evaluation process more effective and efficient for both WorkCover and the self insurers. In particular:

- Acceptance by WorkCover of OH&S and injury management audit reports from suitably qualified 3rd party auditors in lieu of evaluation by WorkCover staff.
- Recognition by WorkCover of accreditation under relevant industry and national standards (eg AS4801) as deemed compliance with the OH&S elements of the Performance Standards for Self Insurers.

In making this submission, we do not infer that there are widespread problems with the evaluation process in practice, nor do we intend to denigrate the efforts of the evaluation team. In most cases, SISA members enjoy a constructive relationship with their evaluators, although in recent times

² SISA, in a statement to the WorkCover Board Strategic Planning Session , McLaren Vale, 17 September 2007 page 3.

³ Submission to the WorkCover Corporation on the Operation of the Natural Consequences Model, January 2007 page 5.

there have been cases that indicate some issues with regard to the perceived scope of evaluation activity and evaluators' understanding of the legal limits on their ability to direct self insurers. Many self insurers have rigorous internal and external audit programs for other purposes, such as compliance with other similar continuous improvement systems and standards such as safety, quality or environmental, or for regulatory compliance requirements in industries such as food manufacturing, aged care and the like.

WorkCover expends significant resources carrying out evaluation work that to a large degree overlaps and, in some cases, duplicates this independent audit activity. With its evaluation resources seemingly spread quite thin across the self insured sectors, the 3rd party audit concept is attractive, in that it offers lower demands on WorkCover resources while delivering improved rigour and assurance to WorkCover.

We submit that adopting this approach will also support elements of the 2007-08 WorkCover Strategic Plan, and this is discussed elsewhere in this submission.

The challenge is therefore to:

- Make more efficient use of the 3rd party audit activity that already takes place above and beyond that undertaken by WorkCover, while:
- Enhancing WorkCover's assurance that self insurers are maintaining OH&S and injury management continuous improvement systems that are self-sustaining and reflect the necessary corporate-level cultural commitment required by the standards and the Natural Consequences Model through:
- Use of independent 3rd party auditors with appropriate knowledge, experience and qualifications, so as to:
- Support relevant elements of the WorkCover strategic plan 2007-08 while:
- Delivering resource savings to WorkCover that can be directed to areas of need such as SABS and the SafeWork SA Industry Improvement Program.

3. Which self insurers should be able to use 3rd party auditors, and when?

We submit that the optional use of 3rd party auditors should be available to those self insurers that have attained a minimum level 3 status under the Natural Consequences Model.

4. Who should be allowed to conduct 3rd party audits?

A basic principle should be that the person appointed has a sound working knowledge of the South Australian OHS&W and workers compensation legislation and is conversant with the requirements placed on self insurers in SA.

We submit that the minimum standard for an auditor can be based on either formal qualifications or certification:

Qualification based – a tertiary qualification in occupational health and safety or an allied discipline, such as ergonomics or risk management, at Bachelors, Post-Graduate Diploma or Masters Level. The qualifications would not stand alone – there would also be a requirement for the person to have a minimum of 2 years relevant work experience.

Certification based – Auditors should have to prove that they are competent to audit through a recognised OH&S certification scheme that meets the qualification guidelines described in ISO 19011:2002.

The most broadly accepted model for this type of certification is RABQSA Auditor, although we suggest that any other equivalent certification by other JAS-ANZ recognised bodies should also be acceptable.

RABQSA certification requirements also require set levels of practical experience:

OH&S Auditor – Proof that a minimum of 20 audit days undertaken at 4 different locations for certification

Lead OH&S auditor – 35 audit days with a minimum of 7 completed audits at different locations.

We submit that Lead Auditor status should only be required where a self insurer's workplace is so large or geographically dispersed that a Lead Auditor is required to manage the activities of a structured team of more than 2 or 3 auditors.

If any dispute should arise about an auditor's qualifications, the RABQSA has a dispute resolution process.

Further information on certification can be found on the RABQSA website – www.RABQSA.com.

Finally, we believe that all 3rd party auditors should have knowledge and experience of the industries/workplaces they are scheduled to audit, either through extended audit experience or previous safety management roles.

5. When should 3rd party audits be conducted and at what frequency?

Under most systems management standards such as AS4801, there is annual formal surveillance auditing and rigorous internal auditing. This would be more frequent and intensive than WorkCover resources allow under the current arrangements. A total systems management audit would be completed in line with the exiting WorkCover renewal cycle.

Where a self insurer does not pursue accreditation under AS4801 or some other standard, the existing frequency of audits, gap analyses, non-conformance follow-up and such like would be maintained by the 3rd party under the performance standards for self insurers.

In summary, there would be no lesser frequency of audit and surveillance activity as is currently the case, and where accreditation under a standard has been achieved, the audit frequency would be greater.

6. A process for approval of 3rd party auditors by WorkCover

We submit that this should consist of a simple paper-based verification of the qualifications and experience of auditors at the discretion of WorkCover. There would not need to be a pool or panel managed by WorkCover. The self insurer should be able to select and appoint an auditor and notify WorkCover of the auditor's name, employer and qualifications. WorkCover can then opt to inspect evidence of the qualifications if it sees fit to do so.

7. Avoiding perceived conflicts of interest

There is a time-honoured theory that where there is a commercial arrangement between a self insurer and an auditor, conflicts of interest will arise and the auditor will go 'soft' on the self insurer to keep the business. This is especially so if the auditor is an employee of the self insurer.

However, the reality is that accredited auditors have rigorous accountabilities for the robustness of their work because a pattern of faulty work leads to loss of accreditation and loss of career. This is true at both the individual and company level. This is a far higher onus and accountability than that faced by WorkCover staff. Quality of auditing is therefore likely to be at least as robust, if not more so. We submit that this is a more than adequate control over perceived conflicts of interest.

To this we can add that no self insurer would condone, let alone encourage, sub-standard auditing practices because of the risk this would create. Sub-standard systems will inevitably be revealed by other auditing or, in the worst case, by increased incidence and severity of injuries. The first would result in revocation or reduction in the term of self insurance, along with the loss of the option to use 3rd party auditors, and the second would have an over-compensating impact at the business level as outlined in part 1 above. Self insurance represents a major investment and a

major financial return to SISA's members and to put that at risk by allowing sub-standard auditing for the sake of marginal operational gains makes no business sense.

We further submit that while internal audits required by the standards are normally carried out by employees of the self insurer, the overall systems audits for the purpose of self insurance renewal should be limited to independent contracted 3rd parties.

8. Systems audit programs that could absorb audits under the WorkCover standards and deliver better assurance

WorkCover will be aware that in business management terms, companies exhibiting best practice have developed and implemented integrated continuous improvement systems covering a comprehensive range of primary risks. These include (but are by no means limited to):

- OH&S
- Environment
- Quality

It is no coincidence that most standards that cover these key risk areas operate under the same basic model of continuous improvement. It is a credit to South Australia that it has the only set of self insurance performance standards in Australia that are compatible with that model.

Therefore, the proposal to use 3rd party audits opens up the opportunity for South Australian self insurers to more fully integrate their OH&S and injury management systems into their broader systems and audit regimes. This is specifically so for those operating under existing standards such as:

- AS4801
- ISO9000 and industry-specific variants
- National Offshore Petroleum Safety Authority (NOPSA)
- Environment/ISO14000

We suggest that the current regime requires self insurers to keep their OH&S and injury management systems separate at the documentation and process level, and if anything, this represents an unintended barrier to the systems integration ideal. To this extent, the adoption of the 3rd party audit system would be seen as a progressive move by WorkCover that allows the self insurers to take the next steps in best practice.

9. Validation activity by WorkCover

SISA has no strong view on the degree of validation activity that WorkCover should feel is necessary. However, we would observe that high levels of validation activity would be counter-

productive in terms of the business case by duplicating audit work, and may perhaps create the impression that there is some doubt as to the rigor and independence of the 3rd party auditors.

In our view, the normal procedure should be as follows:

1. The 3rd party report would go through the normal audit close-out process of submission to the auditee as a draft, obtaining management responses to findings and final sign-off.
2. The completed 3rd party report would then be sent directly to WorkCover by the 3rd party.
3. WorkCover would scrutinise the report and respond to it in the same way as it does to its own reports – completion of partnership plans including the rectification of non-conformances and the setting of follow-up meetings (albeit with the 3rd party rather than WorkCover), and a schedule of reports on further progress leading up to the next audit.
4. WorkCover would also be free to contact the 3rd party auditor to discuss any issues of interest or concern.

10. The business case

In purely financial terms, this proposal arguably shifts the direct cost of auditing to the self insurer, and delivers resource savings to WorkCover

The following is an example of the cost-saving calculation based on estimates (we do not have access to the actual figures):

- Assume that WorkCover evaluators are paid a total package of \$65,000
- Plus 15% on-cost = \$74,750
- Plus tool of trade vehicle @ \$15,000pa = \$89,750 per evaluator
- Times 12 evaluators = \$1.077 million pa audit cost
- Private self insurers are about 50% of the self insurance market
- If 50% of private self insurers opt for 3rd party audits, that confers a reduction of about 25% of WorkCover audit activity, which equates to about \$270,000 pa saved (or available for re-allocation to other tasking).

The resources thus freed could be allocated to other safety activity such as SABS and the SafeWork SA Industry Improvement Program.

This can be achieved while delivering an improvement in assurance to WorkCover as set out elsewhere in this submission.

Some other jurisdictions use internal or 3rd party audits without problems (see Appendix A).

11. The fit with WorkCover's strategic plan

We submit that this proposal advances elements of the WorkCover Strategic Plan 2007-08 as follows:

Strengthen governance, risk and compliance systems and enhance Scheme regulation - *Ensure optimum utilisation of regulatory levers*

- 3rd party audits will deliver the same or better levels of rigor and assurance to the Board when it considers renewals of self insurance, with less expenditure of resources.
- In many cases, audits will be carried out by more qualified and in some cases, more experienced personnel at the industry and workplace levels.
- By allowing better integration of OH&S and injury management into overall risk management arrangements, it will bring these things even closer to the Board Rooms of self insurers.

Improve service delivery to better respond to stakeholder needs

- Will allow self insurers to take the next steps in business best practice by fully integrating OH&S and injury management into their broader corporate business and risk management systems.
- Allows more efficiency through more streamlined auditing and documentation arrangements.

Work in partnership with SafeWork SA to deliver improved occupational health and safety outcomes - *Support SafeWork SA in the development of its business strategies including the Industry Improvement Plan*

- The skill-sets of the WorkCover audit team would be ideally suited to the Industry Improvement Program (IIP), and by reducing the workload of private self insurer auditing, there would be some resources freed for an initiative whereby WorkCover staff could assist the IIP on an inter-agency basis. Based on our own discussions with SafeWork SA, we understand that the IIP is a very large program and would benefit from additional skilled resources.
- By so doing, WorkCover would also be seen to be actively assisting SafeWork SA to reduce direct risks to the Compensation Fund by accessing the otherwise generally unaddressed risk pool among employers insured by WorkCover.

12. Implementation and transition

We see no need for a pilot stage for this proposal, since only a sub-set of self insurers (that element of the level 3s that opt for these arrangements) will be participating in any case.

SISA recommends that the implementation process should begin from 1 July 2008, with each eligible self insurer that opts to participate entering the 3rd party audit arrangements at any of the following stages:

- Immediately after the next renewal if that is less than one year from 1 July 2008; or
- Immediately if renewal is due one year or more after 1 July 2008.

The transitional arrangements can also be kept simple:

- Level 3 self insurers intending to opt for 3rd party audits should notify WorkCover in writing.
- At the same time, these self insurers should advise WorkCover in writing of:
 - The name and employer of the auditor it intends to use
 - The auditor's qualifications.
- A transitional plan should also be submitted setting out how the 3rd party auditor will take over the oversight of any issues in work as part of existing partnership plans and other agreed improvement activity or conditions set on the last renewal.
- Where a self insurer does not have a formal external audit process in place but wishes to shift to 3rd party auditing, a broader transitional arrangement will be needed, possibly involving an overlap period of 6 or 12 months during which WorkCover continues to carry the primary auditing role with the nominated 3rd party in an understudy role.

13. Operational considerations

Some of the operational management issues we have identified but will need more detailed consideration and planning include:

- Where an audit report identifies a major non-conformance or a significant percentage of minor non-conformances uncorrected after 2 years, WorkCover should have the right to re-enter the audit process for follow-up action and Board reporting purposes.
- Thought will need to be given to the arrangements that would be needed should WorkCover or a self insurer formally disputes a 3rd party audit report.
- Audit tools to be used by the 3rd party auditor should be a matter of joint accountability between the self insurer and the auditor.
- Audit reports should be presented in a pre-agreed template form that delivers consistent format and clear, complete and concise content.

Summary and Conclusions

In summary, we submit that the use of 3rd party audits will deliver to WorkCover:

- Greater efficiency and opportunities for risk-focused use of its skilled resources.
- Greater assurance as to the maturity and robustness of self insurers' OH&S and injury management systems.

Recommendations for next steps

We recommend that a working party be formed with terms of reference directing it to draw up a detailed operational submission for the consideration of the WorkCover Board. We suggest that the working party should consist of:

- 3 representatives of the SISA Executive Committee including the SISA Manager
- 2 WorkCover evaluators and the Manager, Evaluation.

The working party should, in our view, construct a detailed risk analysis, legal analysis and budgetary model to provide the Board with the maximum assurance that this proposal is both prudent and in line with WorkCover's duties and obligations under the relevant legislation.

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Appendix A – audit arrangements in other schemes

Jurisdiction	Annual surveillance audits	Renewal audits	Dispute resolution	Audit relationship
SA (current)	None unless required by NCM or partnership plan	By regulator (frequency 2-3 years depending on period of grant)	Peer review, escalation via WorkCover management structure, Board to Minister	Must be regulator staff
SA (proposed)	Where the SI has certification under a standard, surveillance audits conducted by 3 rd party	By 3 rd party or WorkCover at employer's option		
NSW	Must be conducted as an internal audit by an employee of the self insurer or a qualified 3 rd party			
Victoria				
Queensland	By self insurer staff or 3 rd party	By regulator (Q-Comp, frequency 1-4 years depending on licence period)	None required. If there is a clear focus on improvement, the regulator accepts 3 rd party surveillance audits without dispute	<ul style="list-style-type: none"> • Surveillance audits can be by SI staff or a 3rd party • Renewal audits by regulator
Tasmania			None required - regulator issues notices if any issues need rectification, not history of dispute.	Regulator has one internal auditor. All other auditors independent from regulator but must be RABQSA accredited. (Regulator approves pre-audit plans).

Jurisdiction	Annual surveillance audits	Renewal audits	Dispute resolution	Audit relationship
West Australia	None – infrequent IM audits by regulator, but no set pattern	None – no specific OH&S standards or tools required	N/A	Regulator carries out the few IM audits that are done
New Zealand ¹	By 3 rd party selected from panel by employer	N/A		3 rd party selected by employer from a panel appointed by the regulator ²

1. New Zealand audit program is currently under review.
2. Auditor selected by employer must not have had any dealings with employer for past 2 years. The regulator covers 50% of audit cost.