



**State Insurance
Regulatory Authority**



Independent
Review Office

MEMORANDUM OF UNDERSTANDING

BETWEEN

STATE INSURANCE REGULATORY AUTHORITY

AND

OFFICE OF THE INDEPENDENT REVIEW OFFICER

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MEMORANDUM OF UNDERSTANDING
BETWEEN
STATE INSURANCE REGULATORY AUTHORITY
AND
OFFICE OF THE INDEPENDENT REVIEW OFFICER

1. Parties

1.1 This memorandum of understanding (MoU) is made between:

The State Insurance Regulatory Authority (SIRA)

and

The Office of the Independent Review Officer (IRO)

2. Purpose

- 2.1 This MoU sets out the agreed understanding of a framework for cooperation between SIRA and IRO (the Agencies) in exchanging information essential for the effective and efficient performance of their respective legislative functions.
- 2.2 By this MoU, the Agencies wish to record the terms of the data-sharing relationship to facilitate the secure and timely flow of data between them.
- 2.3 By this MoU, the Agencies agree that, consistent with their separate roles, they will cooperate where it is within their legislative powers to do so, in order to promote the system objectives, regulation, administration and efficiency of the workers compensation and motor accidents schemes, and to optimise the wellbeing, recovery and return to work or other activities of injured people.
- 2.4 This MoU is not legally binding on either Agency. Each Agency may vary its terms at any time by agreement following consultation with the other Agency.
- 2.5 This MoU is a voluntary statement of the Agencies' intentions at the time of signature that they will endeavour to conduct themselves in a manner consistent with the terms of the MoU. This MoU does not in any way diminish or otherwise affect the authority of either Agency to act in accordance with its statutory powers and functions set out by the relevant legislation.
- 2.6 By entering into this MoU, the Agencies do not intend to create binding legal relations in respect of each other. The Agencies do not intend that this MoU be enforceable in any court.

3. Definitions

- 3.1 Words used in this MoU have the same meaning as in the motor accidents legislation and the workers compensation legislation except to the extent they are

defined differently in this MoU or the context of subject matter indicates or requires a different meaning:

Agency means either SIRA or IRO and **Agencies** means both SIRA and IRO.

Agency's Representative means, in relation to each Agency, the person named in Annexure B or such other person as the Agency may, from time to time, nominate in writing.

Agency liaison arrangements mean the agreed liaison arrangements between the Agencies set out in Part 2 of Annexure A to this MoU.

Commencement Date means the date of commencement of this MoU.

CTP insurer means an insurer that holds a NSW Compulsory Third Party (CTP) licence under the *Motor Accidents Injuries Act 2017* and/or the *Motor Accidents Compensation Act 1999* including an insurer whose licence has been suspended by SIRA.

Customer Service Conduct principles mean five principles insurers are required to adopt and to report against when dealing with workers compensation, motor accidents, and home building compensation claims in NSW.

Data Sharing Schedule means the agreed data sharing arrangements between the Agencies set out in a separate document attached to this MoU.

Health information has the meaning contained in the *Health Records and Information Privacy Act 2002* (NSW).

IRO means the Office of the Independent Review Officer (also known as the Independent Review Office) and includes officers, employees, agents and authorised subcontractors (and their employees and agents) engaged by the IRO except where the context requires it to be more narrowly construed.

Motor accidents legislation means the *Motor Accidents Injuries Act 2017* and the *Motor Accidents Compensation Act 1999*, and the associated regulations and guidelines.

MoU means this memorandum of understanding and includes any Schedules, Annexures, other attachments and any other documents incorporated by reference.

Personal Information has the meaning contained in the *Privacy and Personal Information Protection Act 1998* (NSW).

Personnel means any person employed or engaged by an Agency.

Privacy legislation means the *Privacy and Personal Information Protection Act 1998* (NSW) and the *Health Records and Information Privacy Act 2002* (NSW) and includes all regulations, directions, guidelines and codes of practice made under those Acts.

Sensitive Information means sensitive information as defined in NSW Government Information Classification, Labelling and Handling Guidelines, and includes Personal Information and Health Information.

Shared Data means the data identified as the data to be shared between the Agencies in the Data Sharing Schedule.

SIRA means the State Insurance Regulatory Authority and includes officers, employees, agents and authorised subcontractors (and their employees and agents) engaged by SIRA except where the context requires it to be more narrowly construed.

Significant matter means the matter to be notified as soon as possible by IRO to SIRA as set out in this MoU.

Term means the duration of the MoU and includes any period of extension.

Workers compensation legislation means the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*, and the associated regulations and published guidelines.

Workers compensation insurer means an insurer (including self and specialised insurers) licensed under the *Workers Compensation Act 1987*, including an insurer whose licence has been suspended by SIRA.

4. Term and termination

- 4.1 This MoU shall become effective upon signature by both Agencies.
- 4.2 The Agencies, being the parties to the MoU, agree to review the MoU every 12 months or at any other time by agreement. The review process, including review criteria, must be agreed to by both Agencies.
- 4.3 The MoU continues to remain in effect until terminated in writing by either of the Agencies. The Agency wishing to terminate this MoU, must notify the other Agency in writing of its intention five business days prior to termination.

5. SIRA statutory functions

- 5.1 SIRA is the independent regulator of NSW insurance schemes including Compulsory Third Party (CTP) insurance, workers compensation insurance and home building compensation insurance.
- 5.2 In relation to CTP and workers compensation insurance, SIRA supervises the performance and compliance of general insurers licensed under the *Motor Accident Injuries Act 2017* and the *Motor Accidents Compensation Act 1999* and insurers (including self and specialised insurers) licensed under the *Workers Compensation Act 1987*.
- 5.3 The principal objectives of SIRA in exercising its functions under the motor accidents and workers compensation legislation are set out in Division 2 of the *State Insurance and Care Governance Act 2015*:
 - (a) to promote the efficiency and viability of the schemes,
 - (b) to minimise the cost to the community of workplace injuries and injuries arising from motor accidents and to minimise the risks associated with such injuries,
 - (c) to promote workplace injury prevention, effective injury management and return to work measures and programs,
 - (d) to ensure that persons injured in the workplace or in motor accidents have access to treatment that will assist with their recovery,

- (e) to provide for the effective supervision of claims handling and disputes under the workers compensation and motor accidents legislation,
 - (f) to promote compliance with the workers compensation and motor accidents legislation.
- 5.4 SIRA's scheme specific functions are set out in the motor accidents and workers compensation legislation.

6. IRO statutory functions

- 6.1 The Independent Review Officer (Officer) is an independent statutory officer constituted under Schedule 5 of the *Personal Injury Commission Act 2020* (PIC Act). The Officer is supported by the IRO in undertaking statutory functions.
- 6.2 IRO's functions are set out in Part 3 of Schedule 5 to the PIC Act:
- (a) to deal with complaints made to the Officer about any act or omission of an insurer that affects the entitlements, rights or obligations of the claimant under the workers compensation and motor accidents legislation,
 - (b) to inquire into and report to the Minister on any matters arising in connection with the operation of PIC Act or the workers compensation and motor accidents legislation as the Officer considers appropriate or as may be referred to the Officer for inquiry and report by the Minister,
 - (c) to encourage the establishment by insurers and employers of complaint resolution processes for complaints arising under the workers compensation and motor accidents legislation,
 - (d) to manage and administer the Independent Legal Assistance and Review Service (ILARS) (including by issuing ILARS guidelines),
 - (e) any other functions as may be conferred on the Officer.

7. General obligations

- 7.1 The Agencies recognise that it is important that they cooperate to promote the efficient regulation and administration of workers compensation and compulsory third-party insurance schemes and the confidence and informed participation of all stakeholders in the schemes.
- 7.2 The Agencies agree to cooperate when exchanging information, referring matters, managing complex customer issues, and monitoring compliance within the framework of this MoU and consistent with all relevant laws.
- 7.3 The Agencies agree to:
- (a) exercise due care and diligence in the performance of this MoU,
 - (b) ensure that its Agency Representative is responsible for monitoring and ensuring the Agency's compliance with this MoU,
 - (c) meet periodically to assess the operation of this MoU.

8. Data sharing

General data sharing

- 8.1 Under clause 7(4) of Schedule 5 to the PIC Act, SIRA must provide IRO with such information as IRO reasonably requires and requests for the purposes of the exercise of any function of the Officer.
- 8.2 Under clause 7(5) of Schedule 5 to the PIC Act, IRO must provide SIRA with such information as SIRA reasonably requires and requests for the purposes of the exercise of any SIRA function.
- 8.3 SIRA may also collect, use and disclose data under section 10.23 of the *Motor Accident Injuries Act 2017*.
- 8.4 Section 40B of the *Workplace Injury Management and Workers Compensation Act 1998*, authorises the exchange of data between SIRA and IRO concerning matters under the workers compensation legislation.
- 8.5 Consistent with their legislative powers and obligations, the Agencies agree to:
 - (a) exchange Shared Data as set out in the Data Sharing Schedule,
 - (b) use best endeavours to ensure that Shared Data is fit for the purposes for which it was provided with respect to its relevance, accuracy, completeness and quality, and in accordance with any agreed specifications, timing, and data security arrangements,
 - (c) proactively inform the other Agency of any delays in the provision of Shared Data not contemplated by this MoU or the Data Sharing Schedule,
 - (d) only use the Shared Data for a purpose permitted by law,
 - (e) take steps to ensure the privacy and confidentiality of the Shared Data, and to ensure that any disclosure of or access to Shared Data is specifically permitted by law,
 - (f) subject to appropriate cost sharing, provide the other Agency with such information and communications technology (ICT) assistance as may reasonably be required to permit the use of the Shared Data,
 - (g) create appropriate and accurate records of what data incorporates the Shared Data and when it was shared,
 - (h) only dispose of or destroy Shared Data:
 - i. in accordance with the Agency's internal standards or procedures,
 - ii. consistent with the *State Records Act 1998*, related authorities and guidance, and any other applicable Act or other law.
- 8.6 Each Agency agrees to:
 - (a) deliver any Shared Data securely, either in the manner set out in the Data Sharing Schedule or as otherwise agreed in writing between the Agencies,
 - (b) comply with any relevant NSW Government policies in relation to data or information security to ensure the Shared Data is securely stored and protected from unauthorised access.

Notification of significant matters

- 8.7 Apart from information agreed to be shared as per the Data Sharing Schedule, IRO agrees to notify SIRA in writing of any significant matters that it becomes aware of as a matter of urgency, subject to the relevant legal requirements regarding secrecy, privacy, confidentiality and privilege.
- 8.8 A matter is a significant matter if it arises in the course of IRO exercising its complaint-handling functions under Schedule 5 of the PIC Act, and, involves any matter that IRO suspects on reasonable grounds concerns or may concern:
- (a) a risk of substantial physical, mental health or financial harm to an injured person,
 - (b) a serious contravention by a CTP or Workers compensation insurer of the motor accidents or workers compensation legislation or the PIC Act 2020,
 - (c) a serious breach of the Customer Service Conduct Principles, Guidelines or standards of practice,
 - (d) fraudulent conduct by any party in connection with a CTP or workers compensation claim,
- 8.9 To enable SIRA to assess the operation of the motor accident scheme and workers compensation scheme and to monitor emerging trends, IRO agrees to notify SIRA in writing of any significant legal issues.
- 8.10 Significant legal issues are matters that may:
- (a) have a substantial regulatory impact,
 - (b) set a legal precedent of significance to the rights and entitlements of injured persons or to the motor accidents or workers compensation schemes,
 - (c) be of substantial public interest for injured people and stakeholders of the motor accidents or workers compensation schemes.
- 8.11 Notification of these matters will ensure SIRA is able to develop informed advice and recommendations to the Minister about emerging trends or legislative issues.
- 8.12 Notification of significant legal issues will not include any confidential or legally privileged information collected by IRO through the Independent Legal Assistance & Review Service in relation to grants of funding.

9. Sensitive Information

Use of Sensitive Information (Personal and Health Information)

- 9.1 The Agencies acknowledge that in the absence of any overriding legislative authority, they are required to comply with the relevant provisions of Privacy Legislation, the motor accidents and workers compensation legislation, and any other applicable legislation governing the subject matter of this MoU.

- 9.2 Both Agencies must, in respect of any Sensitive Information provided to that Agency in connection with this MoU:
- (a) use the Sensitive Information solely for the purposes of carrying out its statutory functions and for no other purpose,
 - (b) keep the Sensitive Information confidential and not disclose that information to any person without the prior written consent of the disclosing party; and any other appropriate party (for example, the person to whom the sensitive information relates),
 - (c) not permit the Sensitive Information to be reproduced except to the extent reasonably required to carry out its obligations under this MoU,
 - (d) take all necessary precautions to prevent loss, unauthorised access to, unauthorised copying, misuse, modification or disclosure of the Sensitive Information
 - (e) not do anything that would cause the disclosing Agency (or any NSW Government Agency) or its Personnel to breach their obligations under the Privacy Legislation.

Exceptions

- 9.3 Where an Agency is required or authorised by law to disclose Sensitive Information, that Agency is expected to immediately (and, wherever possible, prior to disclosure) notify the other Agency that the disclosure of that information is or may be required, unless such notification is prohibited by law.

10. Interagency cooperation

- 10.1 In addition to the exchange of information, both Agencies agree that there will be regular liaison to discuss and cooperate on matters of mutual interest as set out in Annexure A. Such matters may include, but are not limited to:
- emerging trends in the motor accidents or workers compensation schemes,
 - problems, issues or insights which affect, or are likely to affect, or be of relevance to the other Agency,
 - consultative processes with industry,
 - public education strategies,
 - the exchange of expertise,
 - commissioned research and related initiatives,
 - the sharing of relevant statistical information and other corporate materials including guidelines and manuals.

11. Notification of MoU breaches

- 11.1 An Agency must immediately notify the other Agency in writing upon becoming aware of any breach by it or its Personnel of this MoU and take all reasonable steps to resolve the breach and prevent further breaches.

12. Resolution of disagreements

- 12.1 Both Agencies agree to act in good faith in carrying out their obligations under this MoU and to resolve any disagreements.
- 12.2 Disagreements are to be resolved at first instance by the relevant Agency's Representative identified in Annexure B to this MoU. If a disagreement cannot be resolved by the Agency's Representatives, it must be escalated to the head of each Agency for resolution.

13. Intellectual property

- 13.1 Nothing in this MoU will function to transfer any of either Agency's intellectual property rights to the other Agency.

14. Miscellaneous

Notices

- 14.1 A notice under this MoU must be in writing and delivered to the address or email address for the recipient Agency recorded in Annexure B or such other address as may be nominated by the relevant Agency from time to time.

Amendments

- 14.2 All variations to this MoU and all consents, approvals and waivers made under this MoU must be evidenced in writing with variations to be signed by both Agencies.
- 14.3 All variations to the Data Sharing Schedule must be considered and approved in writing by both Agencies as set out in **Annexure A**.

Legal costs

- 14.4 Subject to any express provision in this MoU to the contrary, each Agency must bear its own legal and other costs and expenses relating directly or indirectly to the preparation of, and performance of its obligations under, this MoU.

Applicable law

- 14.5 This MoU is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.

Accountability

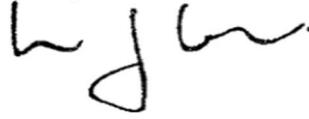
- 14.6 The head of each Agency holds overall accountability for this MoU. Day to day responsibility is held by the Agency's Representative identified in Annexure B to this MoU.

Adam Dent
Chief Executive
State Insurance Regulatory Authority



Date: 14 July 2021

Simon Cohen
Independent Review Officer



Date: 9 July 2021...

INFORMATION TO BE EXCHANGED AND LIAISON ARRANGEMENTS BETWEEN SIRA AND IRO

- 1.1 Specified information to be exchanged between SIRA and IRO is set out in the attached Data Sharing Schedule.
- 1.2 The Data Sharing Schedule may be varied at any time by agreement between the Agencies. All variations to the Data Sharing Schedule must be evidenced in writing, and include an analysis of:
 - a) the lawful purpose, relevance, accuracy, completeness, and quality of the data proposed to be shared,
 - b) the level of privacy and security risks based on the nature or quantity of data involved, or the kinds of activities that the data is contributing to,
 - c) steps to mitigate any privacy and security risks, including consultation with the Agencies' privacy officer.

PART 1 – Ongoing information to be exchanged

- 1.3 Any information listed in the Data Sharing Schedule that is required for the purposes of SIRA exercising its functions under the motor accidents and workers compensation legislation including to:
 - promote the efficiency and viability of the motor accident and workers compensation schemes,
 - minimise the cost to the community of workplace injuries and injuries arising from motor accidents and to minimise the risks associated with such injuries,
 - promote workplace injury prevention, effective injury management and return to work measures and programs,
 - ensure that persons injured in the workplace or in motor accidents have access to treatment that will assist with their recovery,
 - provide for the effective supervision of claims handling and disputes under the workers compensation and motor accidents legislation,to promote compliance with the workers compensation and motor accidents legislation.
- 1.4 Any information listed in the Data Sharing Schedule required for the purposes of IRO exercising its functions under Schedule 5 to the *Personal Injury Commission Act* 2020, being:
 - to deal with complaints made to the IRO about any act or omission of an insurer that affects the entitlements, rights or obligations of the claimant under the workers compensation and motor accidents legislation,
 - to inquire into and report to the Minister on any matters arising in connection with the operation of PIC Act or the workers compensation and motor accidents

legislation as the IRO considers appropriate or as may be referred to the IRO for inquiry and report by the Minister,

- to encourage the establishment by insurers and employers of complaint resolution processes for complaints arising under the workers compensation and motor accidents legislation,
- to manage and administer the Independent Legal Assistance and Review Service (ILARS) (including by issuing ILARS guidelines),
- any other functions as may be conferred on the IRO.

PART 2 – Agency Liaison Arrangements

- 2.1 The Independent Review Officer, SIRA Executive Director Motor Accidents Insurance Regulation, and SIRA Executive Director Workers and Home Building Compensation Regulation will meet quarterly or otherwise by agreement to discuss the progress of the MoU and any systemic issues.
- 2.2 The SIRA Director – Supervision, Motor Accidents Insurance Regulation and SIRA Director – Supervision Workers and Home Building Compensation Regulation will facilitate regular liaison meetings with IRO Director, Solutions and IRO Director Strategy, Policy and Support and other relevant SIRA and IRO staff for agency level discussions on matters of broad mutual interest, including to:
 - (a) provide early warning of systemic issues concerning the motor accidents scheme or the workers compensation scheme observed by either Agency in the exercise of their functions,
 - (b) clarify any notifications of significant matters by IRO to SIRA,
 - (c) inform and explain changes in legislation, policy and / or licensing arrangements that may impact the stakeholders of the schemes,
 - (d) consider amendments to the Data Sharing Schedule,
 - (e) provide any other relevant information.
- 2.3 The frequency of regular liaison meetings will be agreed by the relevant Representatives.

UCD ITEMS

#	UCD Field
1	Accident Date
2	Accident Number
3	State of Accident
4	Claim Type
5	Compensation to Relatives
6	Date Finalised
7	Date of Statutory Benefit Liability Status Decided
8	Fatality
9	Fault Status
10	Interstate Flag
11	Managing Insurer Code
12	Managing Insurer Claim Number
13	Null Claim
14	Reason for Statutory Benefit Decline
15	Statutory Benefit Liability Status
16	Workers Compensation Recovery Flag
17	Common Law Liability Status
18	Date of Common Law Notification
19	Contributory Negligence Assessment for Statutory Benefits (%)
20	Estimate of Injury Severity (EIS)
21	Minor Injury Decision
22	Date of Early Indication
23	Return to Work Status Code
24	Date Claim Form/Notice of Claim Received
25	Statutory Benefits - Claim Status
26	Outcome of WPI Assessment/Indication
27	Settlement Offer Outcome
28	Insurer Earning Capacity Decision - Claimant Capacity Status
29	Insurer Earning Capacity Decision Effective Date
30	Name of Legal Service Provider Firm
31	Legal Representative First Name
32	Legal Representative Surname
33	Internal Review Status
34	Date of Internal Review Status
35	Internal Review Type
36	Outcome of Insurer Internal Review
37	Date matter lodged at court
38	Pre-Accident Work Status
39	Date of Death
40	First Name
41	Last Name
42	Gender
43	Date of Birth
44	Claimant Person Indicator
45	Area Code - Phone Number
46	Phone Number
47	Claimant Contact Details - Email
48	Claimant Language Code
49	Role of Person
50	Unit Number
51	Street Number
52	Street Name
53	Suburb
54	Postcode
55	State
56	Country
57	Vehicle Number
58	Registration Number
59	Injury Number
60	Injury Code
61	Injury Description

CTP COMPLAINT ITEMS

#	Field	Description
1	Case/Matter ID	Reference ID from IRO Case Management Software
2	Complaint received date	Date complaint received in IRO Case Management Software
3	Domain	As per SIRA categorisation model
4	Lodged by	As per SIRA categorisation model
5	Category	As per SIRA categorisation model - CTP complaints only
6	Who is it about primary? (which insurer)	As per SIRA categorisation model
7	Topic	As per SIRA categorisation model - CTP complaints only
8	Claimant name	Name of claimant
9	Insurer	The insurer to whom the complaint or enquiry relates
10	Claim Number	Insurer claim number relevant to the complaint or enquiry
11	Contact person	Where contact person is not the claimant and SIRA specifically requests same for an individual case
12	Preferred contact method	Where SIRA specifically requests for an individual case
13	Resolution/Outcome	How the complaint or enquiry concluded as recorded IRO Case Management Software
14	Closure date	Date complaint closed as recorded in IRO Case Management Software

WORKERS COMPENSATION COMPLAINT ITEMS

#	Field	Description
1	Case/Matter ID	Reference ID from IRO Case Management Software
2	Complaint received date	Date complaint received in IRO Case Management Software
3	Domain	As per SIRA categorisation model
4	Lodged by	As per SIRA categorisation model
5	Issue	Issues of complaint or enquiry as recorded in IRO Case Management Software
6	Who is it about primary? (which insurer)	As per SIRA categorisation model
7	Claimant name	Name of claimant
8	Insurer	The insurer to whom the complaint or enquiry relates
9	Claim Number	Insurer claim number relevant to the complaint or enquiry
10	Contact person	Where contact person is not the claimant and SIRA specifically requests same for an individual case
11	Preferred contact method	Where SIRA specifically requests for an individual case
12	Resolution/Outcome	How the complaint or enquiry concluded as recorded IRO Case Management Software
13	Closure date	Date complaint closed as recorded in IRO Case Management Software