



Self-insurance licence applications – consultation requirements

Employers applying for a self-insurance licence under the *Commonwealth Safety, Rehabilitation and Compensation Act 1988* (SRC Act) are required to consult with employees and employee representatives.

This is a formal and extensive process that actively seeks the views of employees.

When determining applications for a new self-insurance licence, the Safety, Rehabilitation and Compensation Commission (SRCC) requires evidence that there has been a comprehensive engagement process with all employees who will be covered by the licence.

Broadly, employees and their representatives (unions) must have had the opportunity to:

- understand what the move to self-insurance would mean for their workers' compensation arrangements
- have a basic understanding of the key differences between their current scheme and the SRC Act scheme
- understand the likely timeline for moving to self-insurance
- ask questions about any aspect of self-insurance

What are the legislative requirements?

The *Safety Rehabilitation and Compensation Regulations 2019* (Sec 17 Sch 1 Item 7) state that an applicant for a new self-insurance licence must provide, with their application **Evidence that the applicant has consulted employees about the applicant's intention to apply for a licence.**

Examples of such consultation include:

- (a) any written notice to employees or employee representatives of the intention to apply for a licence
- (b) written responses to the notice of intention to apply for a licence
- (c) minutes of any consultative meetings with employees.

What does the SRCC require?

The SRCC has issued Self Insurance Licence Application Guidelines that assist applicants to understand the process.

The Guidelines state that consultation with employees and their representatives, as well as evidence of feedback, is a critical factor in helping the SRCC assess whether the grant of a licence will not be contrary to the interests of employees.

The SRCC expects that applicants will appropriately inform employees, inviting and considering their responses prior to a decision being made on proceeding with the application.

It is important that employees' opinions should not be assumed. All employees and unions should have an opportunity to engage with the employer.

What does this mean in practice?

The way in which employees and representatives are consulted, and the messaging, will depend on the workforce and industry. Key factors to consider include:

- consultation with employees and unions is a vital part of the application process.
- a full round of consultation with all employees and unions must have been undertaken, with feedback responded to and documented, before the formal application for the licence is made to the SRCC.
- generally, there should be multiple consultation formats (for example: intranet updates, emails, online meetings, Toolbox/Townhall talks) to ensure the key messages are received.
- formats and approaches of communication to employees should be targeted to the nature of the workforce (for example, mobile, casual and shift workers must be appropriately covered).
- the content of communication does not need to be complex, but it should cover all key points, explaining what is happening and why, the implications for the target audience and what, if anything, will change.
- there should be an avenue for anyone with an interest or concern to raise questions or feedback and receive a specific response.
- all communications, questions, feedback and responses should be recorded and made available to the SRCC.

What key differences between schemes should be communicated?

The messaging to employees and representatives on how their workers' compensation benefits and entitlements will change under the SRC Act will depend on the typical injury and claims profile of the applicant's workforce. The SRCC expects that employees and representatives are aware that:

- self-insurance will mean their employer, or an authorised agent will make decisions on workers compensation claims.
- their employer will have responsibility for managing their medical treatment and rehabilitation.
- the SRC Act has a stronger focus on longer-term rehabilitation and return-to-work support than some other schemes, with benefits continuing until retirement and beyond if required.
- the SRC Act has lower lump-sum payments, and there is usually no early pay out of entitlements.

How should unions be consulted?

The SRCC expects that all unions whose members are covered by the licence are contacted prior to the application being lodged. Each union should be informed of the proposed application and offered the opportunity to provide feedback. The applicant should provide each union with a full copy of all communication material and messaging provided to its workforce.

How to get advice on consultation?

In lead up to, and during, licence application processes, Comcare will engage closely with applicants on the applicant's consultation and information provision obligations. However, the decision on whether consultation and other application requirements have been met is made by the SRCC.