

Authority to Provide Information to Super SA

Objectives, Targets & Performance Indicators

Objective	Target	Performance Indicator
SAPS agencies have an implemented procedure upon receiving a request for information by Super SA	All SAPS agencies	Implemented policy/ procedure

Purpose

The purpose of the guideline is to ensure SAPS agencies have an implemented procedure in accordance with:

- Part 12 Sections 185 and 186 of the Return to Work Act 2014 (RTW Act) regarding confidentiality
- Part 4 Section 26 of the Southern State Superannuation Act 2009 regarding power to obtain information
- Part 6 Section 54 of the Superannuation Act 1988 regarding power to obtain information

Context

Return to Work Act 2014

(1) A person must not disclose information (except as permitted by subsection (3)) if— (a) the person obtained the information in the course of carrying out functions in, or in relation to, the administration, operation or enforcement of this Act; and (b) the information is— (i) about commercial or trading operations; or (ii) about the physical or mental condition, or the personal circumstances or affairs, of a worker or other person; or (iii) information provided in a return or in response to a request for information under this Act	Section 185(1)
(2) The Corporation may enter into arrangement with corresponding workers compensation authorities about sharing information obtained in the course of carrying out functions related to the administration, operation or enforcement of this Act or a corresponding law.	Section 185(2)
(3) A disclosure of information is permitted if it is— (a) a disclosure in the course of official duties; or (b) a disclosure of statistical information; or (c) a disclosure made with the consent of the person to whom the information relates, or who furnished the information; or (d) a disclosure made to a corresponding workers compensation authority in accordance with an arrangement entered into under subsection (2); or (e) a disclosure authorised or required under any other Act or law; or	Section 185(3)

<p>(f) a disclosure required by a court or tribunal constituted by law, or before a review authority; or</p> <p>(g) a disclosure to the Corporation or a self-insured employer; or</p> <p>(h) a disclosure to an injured worker’s employer in accordance with this Act; or</p> <p style="padding-left: 40px;">(i) a disclosure to the Lifetime Support Authority of South Australia (the “LSS Authority”—</p> <p style="padding-left: 40px;">(ii) for the purposes associated with the operation of section 176 of this Act, section 55 of the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i>, or an agreement envisaged by those sections; or</p> <p style="padding-left: 40px;">(iii) without limiting subparagraph (i), so that the LSS Authority may provide services and exercise powers and discretions under this Act or the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i>; or</p> <p>(j) a disclosure made under the authorisation of the Minister; or</p> <p>(k) a disclosure authorised by regulation.</p>	
<p>(4) A regulation made for the purposes of subsection (3)(k) cannot take effect unless it has been laid before both Houses of Parliament and—</p> <p style="padding-left: 40px;">(a) no motion for disallowance is moved within the time for such a motion; or</p> <p style="padding-left: 40px;">(b) every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.</p>	Section 185(4)
<p>(5) In this section—</p> <p style="padding-left: 40px;">“corresponding workers compensation authority” means any person or authority in another State or a Territory of the Commonwealth with power to determine or manage claims for compensation for injuries arising from employment.</p>	Section 185(5)
<p>(1) An employer who is registered under this Act, or a person employed by an employer who is registered under this Act, must not disclose information about the physical or mental condition of a worker unless the disclosure is—</p> <p style="padding-left: 40px;">(a) reasonably required for, or in connection with, the carrying out of the proper conduct of the business of the employer; or</p> <p style="padding-left: 40px;">(b) required in connection with the operation of this Act; or</p> <p style="padding-left: 40px;">(c) made with the consent of the person to whom the information relates, or who furnished the information; or</p> <p style="padding-left: 40px;">(d) required by a court or tribunal constituted by law, or before a review authority; or</p> <p style="padding-left: 40px;">(e) authorised or required under any other Act or law; or</p> <p style="padding-left: 40px;">(f) made—</p> <p style="padding-left: 80px;">(i) to the Corporation; or</p> <p style="padding-left: 80px;">(ii) to the worker’s employer; or</p> <p style="padding-left: 40px;">(g) made to the Lifetime Support Authority of South Australia (the “LSS Authority”)</p>	Section 186(1)

<p>(i) for purposes associated with the operation of section 176 of this Act, section 55 of the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i>, or an agreement envisaged by those sections; or</p> <p>(ii) without limiting subparagraph (i), so that the LSS Authority may provide services and exercise powers and discretions under this Act or the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i>; or</p> <p>(h) made under the authorisation of the Minister; or</p> <p>(i) authorised by regulation.</p>	
<p>(2) A regulation made for the purposes of subsection (1)(i) cannot take effect unless it has been laid before both Houses of Parliament and—</p> <p>(a) no motion for disallowance is moved within the time for such a motion; or</p> <p>(b) every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.</p>	Section 186(2)
<p>(1) A prescribed authority may, in accordance with section 55 of the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i>, enter into an agreement with the LSS Authority for the provision of services to persons—</p> <p>(a) who have suffered work injuries; and</p> <p>(b) who, in the opinion of the prescribed authority, would benefit for participating in certain aspects of the Scheme under the <i>Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013</i> relating to treatment, care and support needs and in having other services (whether under that Act or this Act) provided by the LSS Authority.</p>	Section 176(1)
<p>Southern State Superannuation Act 2009</p>	
<p>(1) The Board may, from time to time, require an employing authority, a workers compensation authority, a member or a spouse member to supply the Board with any information that it reasonably requires for the purposes of this Act.</p>	Section 26(1)
<p>(3) A person who—</p> <p>(a) fails to comply with a requirement under subsection (1); or</p> <p>(b) supplies information under this section or any other provision of this Act that is false or misleading in a material particular, is guilty of an offence.</p>	Section 26(3)
<p>(6) For the purposes of any other Act or law, a workers compensation authority will be taken, when acting under this section, to be disclosing information in the course of official duties.</p>	Section 26(6)
<p>(7) In this section—</p> <p>“workers compensation authority” includes any person or authority with power to determine or manage claims for workers compensation.</p>	Section 26(7)

Superannuation Act 1988

(1) The Board may, from time to time, require an employing authority, workers compensation authority, employee, contributor or pensioner to supply the Board with any information that it reasonably requires for the purposes of this Act.	Section 54(1)
(4) A person who— (a) fails to comply with a requirement under subsection (1); or (b) supplies information in response to such a requirement that is false or misleading in a material particular, is guilty of an offence.	Section 54(4)
(6) For the purposes of any other Act or law, a workers compensation authority will be taken, when acting under this section, to be disclosing information in the course of official duties.	Section 54(6)
(7) In this section— “workers compensation authority” includes any person or authority with power to determine or manage claims for workers compensation.	Section 54(7)

Overview

Where a worker suffers injury at work, they have an entitlement to compensation pursuant to the RTW Act. A worker has no entitlement to weekly payments after the end of the second transitional period unless they have been assessed to be a seriously injured worker (sections 37(3) and 37(5) of the RTW Act). If a worker, whose weekly payments have ceased, has income protection insurance attached to their superannuation, they may make a claim for income protection payments.

The South Australian Superannuation Board (the Board) has power under section 26 of the Southern State Superannuation Act 2009 (the Triple S Act) and section 54 of the Superannuation Act 1988 (Superannuation Act) to request information, which it reasonably requires for the purposes of administering those two Acts. This includes for the purpose of dealing with an income protection claim. The Board is empowered to request information from:

- the member (i.e. the worker);
- an employing authority (i.e. the chief executive to whom the member is answerable on matters relating to his or her employment or if there is no chief executive, the authority, body or person to whom the member is answerable);
- a workers compensation authority (i.e. any person or authority with power to determine or manage claims for workers compensation). Note that under section 26(6) and 54(6), for the purposes of ‘any other Act or law, a workers compensation authority will be taken, when acting under this section, to be disclosing information in the course of official duties’;
- a spouse member.

The Board's power to require information does not depend on the consent of the member.

In the event that a worker makes a claim for income protection payments, and the Board, through Super SA, requires information from an agency, under either section 26 of the Triple S Act or section 54 of the Superannuation Act, then the agency will require a guideline on how to manage the request for information. Accordingly, agencies should note:

1. SAPS agencies are usually within the meaning of 'employing authority'. If any agency, which has received a request for information from Super SA, has any doubt about whether it is an employing authority for superannuation purposes, it should contact Super SA;
2. If a SAPS agency receives a Board request pursuant to either section 26 of the Triple S Act or section 54 of the Superannuation Act, the agency is authorised by either section 185(3)(a) or (e) and section 186(1)(e) of the RTW Act to disclose the information.
3. Although the consent of the member/worker is not necessary, an effort to increase transparency, the member will be provided with details as to the release of information to Super SA.

SAPS Practice

Each injury management unit will have a nominated contact to receive communication from Super SA. Any changes to the nominated contact for the injury management unit needs to be communicated as soon as practicable to Super SA and to the Work Health Safety and Injury Management Unit at the Office for the Public Sector, Department of the Premier and Cabinet.

Upon receipt of a written request for information from Super SA, the nominated contact person for the return to work unit that manages the claim can release the necessary documents relating to the claim made by the member within 5 business days of receipt.

A signed Authority from the injured worker is not required, as Super SA can request any information required to access and process the claim for Income Protection Payments or Death or Total and Permanent benefits.

Super SA have developed a Notice of Release of Information form (refer to the Attachment) and the form may be distributed to claimants as required by SA Public Sector injury management practitioners.



NOTIFICATION OF RELEASE OF INFORMATION

In the event that a worker makes a claim for Income Protection and / or Death and Total and Permanent benefits, Super SA will require certain information to determine and assess the claim. For this purpose, Super SA has authority and power under section 26 of the Southern State Superannuation Act 2009 (The Triple S Act) and section 54 of the Superannuation Act 1988 (Superannuation Act) to request information, which it reasonably requires for the purposes of administering those two Acts.

On this basis, Super SA may from time to time request an employer / Injury Management Units and any external return to work service provider where involved, to release and provide any medical reports, workers compensation claim information, Recovery / Return to Work plans, Redemption documents, assessment reports and any other documents, reports and information relating to injury(s) suffered whilst employed in the South Australian Public Sector.

In response to this request, the employer / Injury Management Units and any external return to work service provider where involved, will release any such information in relation to injury(s) as authorised under sections 185 and 186 of the Return to Work Act 2014 (RTW Act).

Please note that member consent is not required.

Any information provided to Super SA will be treated confidentially.