



Workers' Compensation Board Comprehensive Response

Background:

The Standing Committee on Accountability and Oversight (AOC) provided its response to the Auditor General's Report on October 26, 2006. The Committee's report was approved by the Legislative Assembly, and later presented and accepted by the Nunavut Legislative Assembly. One of the motions adopted by the Northwest Territories Legislative Assembly was # 39-15(5), which read:

"The Standing Committee on Accountability and Oversight recommends the Government provide a comprehensive response to this report within 120 days."

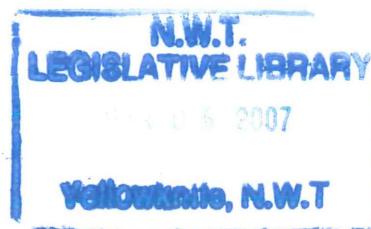
This document is that comprehensive response. Each of the AOC recommendations appears in bold and is followed by the Workers' Compensation Board's (WCB) response.

Summary:

Committee Motion Number: 31-15(5) – The Standing Committee on Accountability and Oversight recommends the Minister come forward with options to expedite the resolution of long outstanding claims, and to improve timelines for the hearing of appeals.

The first step in addressing this recommendation is identifying what is meant by "long outstanding claims." When a claim is accepted and a pension is awarded, the claim will be open for the worker's life. During the worker's life a number of different decisions will be made on his/her file. If the worker disagrees with a particular decision, they have the right to have the decision reviewed by the Review Committee.

The Review Committee is comprised of two staff of the WCB whose reporting relationship is separate and distinct from the initial decision makers in the Claims Services unit. The WCB has operationally segregated these functions to establish independence and avoid conflicts. If the worker is dissatisfied with the Review Committee's decision they have the right to appeal the decision to the Appeal Tribunal.



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The Appeals Tribunal is external and independent of the WCB; its members are appointed by the Minister. Each panel that hears an appeal is comprised of three members representing workers' interests, employers' interests, and the general public's interests. The Appeals Tribunal's decision is the final and conclusive resolution of the matter.

As of February 20, 2007, the Review Committee had 25 reviews before it. Fourteen of these reviews are considered "active" and written decisions are scheduled to be provided on all of these matters by no later than May 2, 2007. Eleven of these reviews are considered "deferred." Some have been deferred at the request of the claimant, others have been deferred because the Review Committee is seeking additional information it believes is necessary in order to make a proper decision. The longest outstanding deferral dates back to February 16, 2006, and this matter was deferred at the request of the claimant.

For the past three years, the Review Committee has rendered decisions on an average of 84 claimant files per year. These decisions are rendered in an average of 44 working days.

The Appeals Tribunal is working hard to ensure that appeals are heard in a expeditious manner. As of February 20, 2007, there are 21 appeals before the Appeals Tribunal. Two had been scheduled, but were deferred at the appellants'/representatives' request. Another appeal scheduled for this month had to be deferred as a Tribunal member was unable to travel to Yellowknife to hear the appeal due to weather conditions. This appeal was heard at the end of February. One other has been heard, but further medical information is still pending. Two other appeals are requests for rehearing/reconsideration.

The length of time it takes to hear an appeal varies from year to year depending upon the number of appeals filed, the complexity of the matters to be considered, the availability of panel members, as well as the appellants and their representatives. In 2006, the average time from the filing of the appeal to the rendering of the decision was 246 days (this average includes the time to hear some cases that were deferred at the request of the appellant).

In some cases, when the decision is not favourable to the claimant, they may be dissatisfied with the results and view the matter as unresolved and outstanding. As AOC has observed:

"In some cases the answer will have to be "no." We would like to make it clear that our expectation is not for the WCB to always say "yes," but for them to treat all claimants and clients in a timely and professional manner, in compliance with legislation and consistent with best medical and legal practice, whether their claim is ultimately approved or not."

The WCB is required to apply the *Act* and the Governance Council's policies. According to the Auditor General of Canada, and as acknowledged by the Standing Committee, the WCB has properly applied the *Act* and policies in these cases.

Committee Motion Number: 32-15(5) – The Standing Committee on Accountability and Oversight recommends the Minister ensure the Governance Council and Workers' Compensation Board administration complete a draft communications protocol and an action plan to address the Auditor General's recommendation, and forward these to the Committee by the end of 2006.

This has been completed. Please refer to AOC Chair's January 24, 2007, letter acknowledging receipt of the WCB's action plan, and the Minister's February 1, 2007, letter to the AOC Chair submitting the Communications Protocol. Copies of letters are attached as appendices "A" and "B," respectively.

Committee Motion Number: 33-15(5) – The Standing Committee recommends that the Minister locate the Appeals Tribunal office separate and apart from the Board and that this relocation be undertaken as an immediate priority.

The Department of Public Works and Services (DPWS) is assisting in finding a suitable space and location. Advertisements for required space appeared in local newspapers during the week of November 20, 2006. A proponent's offer to lease space was accepted, but on January 30, 2007, the successful proponent advised they were refusing to enter into a lease agreement. DPWS is scheduling to send a subsequent request for proposals, to those persons who responded to the initial newspaper advertisement. It is hoped that leasing arrangements can be finalized by the end of March 2007.

Committee Motion Number 34-15(5) – The Standing Committee recommends the Minister direct the Governance Council to overhaul its reception protocols, security practices and client and public relations functions to provide a more accessible and responsive level of service.

The Governance Council has long recognized the concerns that the Committee identified about the "unfriendly, fortress-like atmosphere" and has stated, "it is hard to have an open door policy when you have no door." The physical constraints of the current location of the WCB's office place limitations on the WCB's options for addressing this concern. The Governance Council has identified the need for a new building for the WCB that could help address these issues on a long-term basis.

In the interim, the Governance Council has identified funding requirements in its 2007 O&M and Capital budgets for renovations including the reception area. The physical limitations of the current location may not produce the ideal results the Governance Council desires, but it anticipates that the reception will be more welcoming and inviting to injured workers and employers.

Committee Motion Number 35-15(5) – The Standing Committee recommends that mandatory orientation and training be implemented for all new employees before they are allowed to engage clients. The Committee further recommends on-going professional development be programmed for each employee, manager executive and member of the Governance Council and Appeals Tribunal, and documented and reported annually, as a key component of performance measurement.

The WCB agrees that such training is of critical importance. Currently, the WCB provides extensive training and development to its staff and the Governance Council. The training budget in 2006 was \$260,000. In 2007, this budget is \$260,000. This budgeted amount is in addition to in-house training programs. In 2006, training focused on areas of concern to the Standing Committee such as mandatory online staff orientation, sensitivity training, and communications training for front-line staff. In 2007, additional sensitivity training, plain language, and training in the WCB's Vision, Mission and Values are planned and funds within the training budget have been specifically allocated for this training.

The President of the WCB personally reviews the performance appraisal of every staff member employed at the WCB. The performance appraisals are based upon a competency model that allows for the identification specific areas of individualized improvement so specific training can be provided to the employee.

Committee Motion Number 36-15(5) – The Standing Committee on Accountability and Oversight recommends the Government introduce amendments to the *Workers' Compensation Act* that set out the WCB's mandate, including its duty to assist injured workers, in clear terms.

It is the intention of the Government to introduce a Bill in March to amend the *Workers' Compensation Act*. The new *Act* is better organized, written in clearer language, and clearly sets out the roles and responsibilities of the various parties in the workers' compensation system.

Committee Motion Number 37-15(5) – The Standing Committee recommends the Minister direct the Workers' Advisor to draw up a proposal to provide for assistance to workers who need expert medical evidence, and/or legal assistance with judicial reviews, to move their case forward.

A judicial review application is generally made when a party to an appeal feels that the Appeals Tribunal did not apply the rules of natural justice and duty to be fair, abused its discretion, or exceeded its jurisdiction. The remedy for the courts is to order the Appeals Tribunal to rehear the appeal if it is found that it committed such an error. The Appeals Tribunal is not permitted to defend its decisions. The WCB, as the administrator of the system, is required to defend the Appeals Tribunal's decisions. The WCB makes an independent assessment of the judicial review application. If the WCB believes the application has merit, it will consent to the application or find an alternative remedy. If the WCB does not believe the application has merit, it will defend the decision. The WCB has never initiated a judicial review of an Appeals Tribunal decision.

In the past ten years, there have been ten judicial review applications filed with the courts and only in two instances have the courts order a rehearing; in two other matters, the courts gave other directions to the WCB.

With regard to the need for expert medical evidence, it is important to note that the workers' compensation system is an inquiry system. This means that the WCB continues investigating a matter until it has gathered sufficient evidence to make a decision. The WCB pays for the collection of this evidence, which includes expert medical evidence.

In situations where the worker is dissatisfied with the decision and wants an additional medical opinion, the WCB will arrange for and pay for such an opinion if the worker provides a satisfactory reason to do so. If a satisfactory reason is not provided, the worker may access an additional opinion through the public health care system. If the public health care system is unwilling to provide for the additional opinion, the worker's alternative is to privately hire a physician. In situations when either the opinion provided by the public health care system or the private hire result in the WCB changing its decision, the WCB reimburses those costs.

Committee Motion Number 38-15(5) – The Standing Committee on Accountability and Oversight recommends that, as a priority, the Minister work with the Governance Council to develop options for an independent means of resolving conflicting medical opinions that provides finality, and that reflects the basic principles of the workers’ compensation system and in particular the presumption in favour of the worker.

The Bill that will be introduced in March 2007 to create a new *Workers’ Compensation Act* will specifically address this concern. The proposed solution is supported by the WCB, the Appeals Tribunal, and, in principle, by the Northwest Territories Medical Association.

Workers' Compensation Board Action Plan Summary Report

Background:

The Standing Committee on Accountability and Oversight provided its response to the Auditor General's Report on October 26, 2006. The Committee's report was approved by the Legislative Assembly, and later presented and accepted by the Nunavut Legislative Assembly. One of the motions adopted by the Northwest Territories Legislative Assembly was # 32-15(5), which read:

"The Standing Committee on Accountability and Oversight recommends the Minister ensure the Governance Council and Workers' Compensation Board administration complete a draft communications protocol and an action plan to address the Auditor General's recommendations, and forward these to the Committee by the end of 2006."

This report is a summary of the Action Plan approved by the Governance Council and presented to the Ministers responsible, including updates to December 15, 2006. The Recommendations of the Auditor General are included, followed in each case by the current status of the response by the WCB.

Summary:

Paragraph 36

Through consultations with the Ministers and the Council and in accordance with existing legislation, the Board should draft a communications protocol documenting the Ministers' roles and relations with the Council and the Board, and between the Board and members of the legislative assemblies.

A copy of the draft communications protocol was submitted to the Minister on December 12, 2006, for consideration.

Paragraph 39

The Council should develop a way of objectively assessing how well it functions collectively and individually. The assessments should be provided to the Ministers at least once a year.

In October 2005, the Governance Council hired an independent governance advisor to assist the Council with governance issues. A procedure has been developed that acts as a guide for all governance related evaluations. It specifies their purpose, how results will be used, access to results and how data will be maintained. These evaluations are based on updated terms of reference for:

1. Governance Council
2. Individual directors
3. Governance Council Chair

The action steps identified from the evaluation processes form the basis for annual objectives.

The Governance Council has provided the Minister for consideration the following:

1. Governance Council Mandate
2. Chairperson and directors roles and responsibilities with specific evaluation criteria
3. Governance Council evaluation criteria

As part of its established annual planning, the Governance Council reviews its specified deliverables to ensure that its evaluation criteria are relevant.

Paragraph 48

For the Ministers' consideration, the Governance Council should define its members' mandate in sufficient detail, including needed skills, balancing the traditional representative responsibilities with new technical demands. To expedite the process, the Board should examine approaches adopted by other workers' compensation systems across Canada.

The proposed new *Workers' Compensation Act* will have provisions specifying the skill requirements of the Governance Council as a whole. The Governance Council has submitted its views on the member's mandate and skill requirements to the Minister.

Paragraph 49

The Council should direct the Board to develop a plan for increased initial and ongoing training of all new Council members. Training should cover the Board's policies, the way it operates, and technical topics such as financial management and internal controls.

A comprehensive orientation and Director's Guide has been developed. Governance Council members are identifying deficiencies in their personal areas of knowledge and training will be provided.

Paragraph 50

To assist the Ministers responsible for Council appointments, the present Council members should offer their suggestions for new appointees through the Chair, highlighting the qualifications of the individuals suggested.

There currently is a vacancy on the Governance Council and the Minister has been advised of the skill set currently required for the Governance Council. In addition, the Governance Council also advised the Minister of the Council's current regional and gender representations.

Paragraph 55

The Council should

- **ensure that the Board's annual corporate plan contains appropriate targets and strategies; and**
- **consider involving stakeholders in developing the Board's goals, performance indicators, and targets for the corporate plan.**

Included in the Corporate Plan and the Annual Report will be specific targets for identified strategies and the attained results. The Governance Council will ask to present its Annual Report to the Committee in order to obtain feedback on the document and the results.

It is anticipated that the content of the Corporate Plan and Annual Report will change from year to year based upon the needs of WCB stakeholders. The Governance Council will seek feedback from its stakeholders each year and amend these documents as necessary.

Paragraph 67

The Governance Council should ensure that the Board has a comprehensive risk management framework in place and that it periodically evaluates the effectiveness of the Board's risk management practices and internal control systems in keeping with its mandate.

As noted in the Auditor General report the Board has the components of a comprehensive risk management framework currently in place. For instance, in 2005 the Board hired an Internal Auditor to audit its operations. The Internal Auditor conducts an annual risk assessment of the Board's operations in order to advise the Governance Council where specific audits should be conducted.

The Governance Council as part of its annual corporate planning cycle assesses the external risks to the Board and develops strategies for addressing those risks.

The Board has also discussed the development of a comprehensive risk management framework with several other boards and has determined that this is a multi-year, multi-person project. It was also noted that none of the smaller boards have such a framework in place, and that the Board is further advanced in this area than a number of other boards. The Board will have to contract for the services of professionals in this area to develop the initial framework as it does not have sufficient internal resources to complete this project. It is anticipated that the contractor will commence work no later than June 2007.

Paragraph 71

The Governance Council should ensure that stakeholders understand the President's roles as a non-voting member, to lessen the likelihood of their assuming that his presence at the Council table unduly influences other Council members.

The Governance Council has taken the following steps to help ensure the President's role is properly understood:

1. The WCB's website has been updated to provide this information;
2. The Governance Council's minutes now reflect the President's status; and
3. Information provided to the Minister and the MLAs reflect the President's status.

Paragraph 76

The Council should direct the Board to emphasize to all stakeholders that the Governance Council approves policies.

The WCB website has been updated to explain how policies are approved, and in January 2007, the WCB is anticipating the release of various other means of conveying this information to stakeholders.

Paragraph 81

The Governance Council should

- **monitor whether the new approach to policy consultation encourages input from stakeholders (including outside stakeholders such as medical specialists, physiotherapists, and mental health specialists), and prompts them to propose new policies or changes to existing ones; and**
- **regularly seek proposals on issues directly from stakeholders and management, particularly in controversial areas, such as pain disorders and pre-existing conditions.**

A copy of the Governance Council's Consultation Policy 00.07 has been provided to the Committee.

Implementation of the consultation policy is in its early stages and the Governance Council is monitoring its effectiveness and identifying opportunities to make improvements.

Paragraph 104

The Board should follow all its policies, including compensating injured camp workers. If the policy is unclear, management should suggest clarification changes for the Governance Council's approval.

The Governance Council has provided the Board with the proper interpretation of the "camp worker" policy. The policy is currently being rewritten to clarify this intention.

The Board reviewed all six claims that were filed under this policy since 2000 and determined that all were administered in accordance with the Governance Council's stated intention for the policy.

Paragraph 111

The Board should

- **provide customer service training annually, including training in handling verbal communications with claimants; and**
- **consider taping telephone conversations for training and quality assurance purposes, but first allay people's concerns by launching an education program to explain the reasons for taping.**

The Board has developed a high level comprehensive training plan for all Claims Services staff throughout NWT and Nunavut. It outlines a thorough process for determining the priority of training needs on an annual and ongoing basis. It also specifically prescribes annual training in the area of customer service excellence, to ensure that this aspect of Claims Services work is understood by all to be a top priority.

There continues to be on-line and first person orientation and training for new and current staff, including ongoing refresher courses in all aspects of Claims Services functions.

The Board is intending to update its telephone system to permit it to record telephone conversations. Once the new system is purchased and installed in 2007, the Board will be in a better position to address the necessary details associated with implementing telephone conversation monitoring.

Paragraph 116

The Board should inform a worker when an employer or family doctor files a report of accident or medical examination and should inform them that their claim has been accepted, since this could have an impact on the worker's future entitlement to benefits.

A procedure is in place to ensure that all letters, whether for acceptance or denial, are placed on the worker's file.

Verification of adherence to this procedure will become a formal part of the Claims Services Quality Assurance plan.

Paragraph 121

On receiving a time-loss (major) claim, staff should increase follow-up efforts to obtain written confirmation from the claimant that he or she understands the respective roles of the Board and the worker.

In January 2007 the Board will approve additional measures for Claims Services staff to pursue when there is no response from claimants despite repeated discussions and requests to obtain signed confirmation.

Paragraph 129

The Board should

- **make it a requirement for all who have contact with claimants to receive training at the time of hiring and regularly thereafter, as a way of developing and enhancing their skills;**
- **identify areas that are complex or sensitive, and make sure that these are staffed by employees with appropriate abilities and experience;**
- **ensure that a senior staff member reviews complex transactions, including manual calculations; and**
- **restructure the claims function to reduce the number of direct reports to the claims manager for the Northwest Territories.**

Claims Services training is ongoing and has been enhanced, as discussed in recommendation # 111

A senior staff member is required to review all manual calculations. This review has been added to the Claims Services Quality Assurance plan.

An NWT Claims Processing supervisor was hired in September 2006 to reduce the number of direct reports to the Manager of Claims in the NWT.

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Paragraph 146

To better serve out-of-territory claimants and seek opportunities for resolving long-unresolved claims more quickly, the Board should consider video conferences or trips to areas with a high concentration of claimants.

Due to the costs associated with medical licensing and insurance it is not a viable option to send WCB's medical advisors outside of the territories.

Video conferencing, however, is a viable option and the WCB is investigating the adoption of its use with claimants that reside outside the territories. There may, however, be some logistical problems with establishing the connection at the "client" end and through our regional offices. An options paper will be presented to senior management in February 2007.

Paragraph 160

The Board and the Tribunal should develop a formal process for resolving differences in medical views together. For example, they should investigate whether a medical review panel could be set up to make binding decisions for differences of medical opinion. The panel could be composed of independent specialists acceptable to both parties. If suitable independent specialists are not available in the territories, the Board should seek expertise elsewhere. The worker would retain the right of appeal but not on the agreed medical facts.

The NWT Medical Association has advised that its members do not wish to participate in a Medical Review Panel.

Currently section 19.2 of the *Workers' Compensation Act* provides a process for resolving conflicting medical opinions. The identified deficiency in the current Act is that the provisions are not binding, and therefore there is no finality to this process. The Board and Appeals Tribunal have agreed that the new Act should make this process binding. In effect there will be a "medical review panel" of one specialist as opposed to three. This will reduce the costs and time delays of a three member panel rendering its decisions.

Paragraph 161

The Board should establish closer ties with other physicians, including the claimant's own general practitioner and specialists- for example, to achieve a common understanding of the medical and psychological facts and to develop practical solutions.

This recommendation recognizes the importance of the relationship between the injured worker's physician and the Board. The Board also recognizes the importance of this relationship and the value that medical professionals can add to the workers' compensation system.

Since 1997, the Board has implemented many initiatives to develop and improve the working relationship with claimant's practitioners. The Board will continue to look for new initiatives and creative ways to continue to improve its relationships with all medical professionals.

Paragraph 168

At an early point in the claims process, the Board should explain its retraining policy and the rationale for it. This will help prevent any misunderstanding and ensure that the claimants' expectations are in line with the vocational rehabilitation policy.

A formal Case Management Plan has been developed in the NWT for complex claims files. This begins with a case conference with the claimant, the Case Manager, the Employer, and the Rehabilitation Services contractor to ensure a shared understanding of respective responsibilities and obligations in the worker's rehabilitation and return to work processes. This initiative will be managed by Claims Management, with implementation to be included in Claims Services Quality Assurance plans.

A request for proposal for the services of a rehabilitation services provider has recently closed. The deliverables specify the clarity of roles and relationships between the above mentioned key parties related to the worker's vocational rehabilitation.

Paragraph 176

To allay public fears that the investigations unit unfairly targets claimants, the Board should expand its annual reporting on the unit's activities by giving more details about each type of investigations and results, while of course maintaining the confidentiality of personal information.

The Board will provide this information in its 2006 Annual Report.

Paragraph 204

The Tribunal should do the following:

- Develop a plan for systematically staggering the terms of appointees to ensure a balance between experienced and new members representing the various constituencies.
- Develop and formalize its members' qualifications, orientation, and training policy, including required core knowledge. It should have both initial and ongoing training plans for members.

To be determined by the Appeals Tribunal

Paragraph 209

The Tribunal should clearly publicize what it can and cannot do to make its mandate clear to stakeholders.

To be determined by the Appeals Tribunal

Paragraph 215

The Board should

- carry out periodic surveys to gauge public perception of its roles, responsibilities, and activities, and publicly clarify where survey findings indicate serious misconceptions about the Board or its partners in the workers' compensation system;
- set up a liaison function (as some boards elsewhere have done) to work with the two legislatures and other key stakeholders, with the aim of ensuring that the Board's activities are well understood, promoting constructive dialogue, and improving its image;

- **make greater use of its Web site as a channel for providing relevant and timely information to stakeholders; and report to stakeholders at a public annual general meeting.**

The Board is in the process of developing a Communications Strategy which will include the development of a series of brochures, web articles, monthly e-news letters, quarterly magazine articles, posters, and increased advertising of issues that will clearly explain all aspects of the Board's operations and concerns raised in the OAG report.

In May 2006, the Board launched a new and improved web site that was aimed at improving communication and stakeholder consultation. All posters, brochures, news articles etc. will be posted on the web site in English, French and Inuktitut.

The Board will ensure that a timely and up to date translation service is provided to all stakeholders in a language of their preference.

Prior to determining whether it is necessary to create a liaison position the communication protocol between the Board, the Ministers and the MLAs has to be approved.

Paragraph 221

A senior staff member should always review sensitive letters, such as a claim denial, to ensure that the presentation is clear and the tone appropriate. A record should be kept of the review. This is an important client service control.

Routine review and approval of all denial letters is undertaken by the Claims Managers, to ensure correct interpretation of Board policies in decision-making.

Renewed attention will be given to this decision letter approval process, to ensure appropriate tone and clear content in addition to the correctness of the decision itself.

Staff have been provided with decision letter training and monitoring of letter quality will now form part of the comprehensive training plan and Claims Services Quality Assurance plan.

Paragraph 225

The Board should send acceptance and denial letters promptly. It should make letters easy to understand by using plain language and avoiding technical jargon

Corrective steps have been taken to address delays in sending out denial letters.

Regarding prompt handling of letters, a strict target for mail-out of decision letters has been set at seven days from the completion of the claims investigation, and is being implemented. It is documented as part of the re-write of Claims Procedures and performance standards.

Regarding the quality of the letters, in October 2006, the WCB engaged a contractor with WCB expertise from elsewhere in the country to provide a Decision Letter-Writing Course to Claims Services staff, trainer, and Management. New decision letter standards are in place. They include policy explanation and rationale in the simplest possible terms. All denial letters are routinely reviewed and approved by Claims Management, and a monthly review of sample letters by senior management has become part of the quality assurance plan

Paragraph 230

The Board should present its policies to workers more clearly and comprehensively, specifying what is covered and what is not, and explaining its rules, procedures, and, most importantly, its limitations.

The day to day operations of the Board are very complex. Unfortunately, as is common in many professions, the Board sometimes fails to recognize the people they are communicating with do not have its understanding and background and this contributes to the communication problems that the Auditor General referred to in her report.

The Board communicates with injured workers in many ways but the primary means of communication is through letters and telephone conversations. As is outlined in this letter the Board has taken steps to improve its decision writing and its customer service. The Board recognizes that providing staff with a couple of courses is not sufficient, it has to develop a process of continuous education and training. A comprehensive training plan has been developed that is designed to improve this service. Starting in 2007 all senior managers of the Board will have in their personal objectives the responsibility of ensuring the staff reporting to them communicate effectively with stakeholders.

The Board is currently undertaking a major overhaul of the information packages being sent to claimants. A major priority in 2007 is the development of new claimant information kits tailored to the nature of the worker's injury. These kits will be provided to an injured worker upon the acceptance of their claim and will explain how the compensation system works and what services they can expect to receive from the Board.

The Governance Council reviews every one of its policies on a three year cycle. An important emphasis of the review will be how easily its policies are understandable to the average person.

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Appendix "A"



Northwest Territories

Legislative Assembly
Standing Committee on Accountability and Oversight

MINISTER KRUTKO
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JAN 24 2007

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HONOURABLE DAVID KRUTKO
MINISTER RESPONSIBLE FOR THE
WORKERS' COMPENSATION BOARD

**WCB's Action Plan for Addressing
Auditor General's Recommendations**

Thank you for the summary of the WCB's action plan you provided in your letter of January 15, 2007.

The Committee recommends that you table the action plan during the upcoming Session in order to make it publicly available.

Jackson Lafferty
Chair

- cc: Committee Members
- A/President and CEO, Workers Compensation Board
- Secretary to the FMB/Comptroller General
- Committee Staff

MR. JACKSON LAFFERTY
CHAIRPERSON
STANDING COMMITTEE ON ACCOUNTABILITY AND OVERSIGHT

FEB 01 2007

**Auditor General of Canada Performance Audit Report Recommendation #36
NWT Standing Committee on Accountability & Oversight Motion #32-15(5)**

The request for the Workers' Compensation Board (WCB) to draft a Communications Protocol is the first of 26 recommendations made by the Auditor General of Canada (OAG) in its June 2006 performance audit report on the WCB. The performance audit focused on claims operations and governance, as was called for in the March 10, 2005, motion passed by the Legislative Assembly of the Northwest Territories. The report was presented to the Standing Committee on Accountability and Oversight (AOC) of the Legislative Assembly of the Northwest Territories, and tabled in the Legislative Assembly of Nunavut.

The AOC held hearings from June 29 to 30, 2006, and heard from injured workers on September 20, 2006. On October 26, 2006, the AOC read its report into the legislative record, and the Legislative Assembly approved the AOC recommendations on October 30, 2006. The AOC, in its Motion #32-15(5), recommended, "...the Minister ensure the Governance Council and the Workers' Compensation Board administration complete a draft communications protocol and an action plan to address the OAG's recommendations and forward these to the Committee by the end of 2006."

To respond to the AOC'S recommendation, a draft protocol, approved by the WCB Governance Council at its November meeting, approved by the Nunavut Minister responsible and myself at the Joint Ministers' meeting on January 18, 2007, and subsequently, Cabinet on January 26, 2007, is attached for the Committee's consideration. It is my understanding that the Communications Protocol will go before the Nunavut Cabinet on February 1, 2007.

When developing the communications protocol, the WCB referenced the OAG's recommendation, which specifically identified which individuals and functions should be included in the Protocol. It did not include all WCB stakeholders, namely workers and employers. However, the Protocol includes the following parties: the Ministers responsible, the Governance Council, the WCB, and Members of the Legislative Assemblies.

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An interdepartmental inquiry to the NWT and Nunavut indicated that no other government department currently has a written communications protocol which sets out how the department or agency is to communicate with its Minister and/or Legislative Assembly. They operate on the basis of accepted practice, informal structure, and convention. The WCB has a number of processes and recurring communications already in place, each with varying degrees of supporting documentation.

In the absence of a communications protocol model to draw from, this draft attempts to incorporate three things into one document:

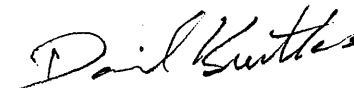
- A) Documented processes and exchanges that already exist.
- B) Previously un-documented agreements and generally accepted convention(s) that currently exist throughout government and its agencies, including the WCB.
- C) Specific suggestions for new communications measures.

The draft outlines the objectives of the protocol, the parties to the protocol, the assumptions used in its development, and categories of information as follows.

1. How Workers' Compensation Systems Works
2. Constituent Information
3. WCB Accountability to Government and Legislatures
4. Legislative Framework

As well, the protocol includes processes for feedback, review, and revision.

I would be pleased to discuss the content of the protocol with the Committee, and I look forward to hearing from you.



David Krutko

Attachments

c: Distribution List

COMMUNICATIONS PROTOCOL

Between
Ministers Responsible for the Workers' Compensation Board,
Governance Council of the Workers' Compensation Board,
Workers' Compensation Board (WCB),
and
Members of the Legislative Assemblies (MLAs)

There are four communications points in the proposed Communications Protocol (Protocol). Each serves a critical communications function – they describe communication link(s) between parties.

1. NWT & NU Ministers Responsible

- The NWT and Nunavut Ministers responsible are the communication links between the MLAs and the Governance Council.
- The NWT and Nunavut Ministers responsible are the communication links between the MLAs and the WCB (President & CEO)

2. Governance Council (Chairperson)

- The Governance Council, via the Chairperson, is the communication link between the Ministers responsible
- The Governance Council, via the Chairperson, is the communication link between the Minister(s) and the President & CEO (WCB)

3. President & CEO

- The President & CEO is the communication link between the offices of the Ministers
- The President & CEO is the communication link between the Minister(s) and the WCB (Administration)
- The President & CEO is the communication link between the Governance Council and the WCB (Administration)

4. MLAs

- The MLAs are the communication links between the Legislative Committees:
 - NWT, Accountability & Oversight (AOC)
 - NU, Government Operations & Accountability (GOA)
- The MLAs are communication links between the Minister(s) and the Legislative Assembly

COMMUNICATIONS PROTOCOL

Objectives

- to address the recommendation of the Office of the Auditor General of Canada (OAG) WCB Performance Audit recommendation # 36

“Through consultations with the ministers and the Council and in accordance with existing legislation, the Board should draft a communications protocol documenting the ministers’ roles and relations with the Council and the Board, and between the Board and members of the legislative assemblies.”

- to address the NWT AOC motion # 32-15(5)

“...the Minister ensure the Governance Council and WCB administration complete a draft communications protocol and an action plan to address the OAG’s recommendations, and forward these by the end of 2006.”

- to ensure a shared understanding of respective roles, relationships, and accountabilities for public service communication of WCB matters
- to ensure that questions and concerns from all perspectives are heard and addressed
- to ensure shared understanding and ownership of the final protocol

Parties to Protocol

- Ministers Responsible for the WCB
- Governance Council of WCB (Chairperson)
- WCB (President & CEO)
- MLAs

Assumptions

- Ministers responsible concur with OAG and AOC recommendations
- MLAs, through their committees, have a formal place within the Protocol
- WCB takes the lead in developing the Protocol
- Consultation takes place with the Governance Council, Ministers, and MLAs
- Protocol is based on legitimate access to information by parties
- Protocol is based on the understanding that parties do not require the same access, may not be legally authorized, or require the same level of detail of information
- Protocol will respect and adhere to existing laws and policies regarding access to the release of confidential information
- Protocol provides for two-way communications
- Protocol provides for extraordinary and recurring needs of new Ministers, MLAs, Governance Council Directors, and/or the President & CEO
- All briefings/materials identified in the Protocol may also be available to staff of the Parties to the Protocol, as requested
- Parties to the final Protocol will commit to all aspects of the Protocol, and base their communication expectations and activities upon it

I) Categories of Information Needs

The substance, frequency, and detail of information needs vary among the parties. All information communicated between the parties, however, can be generally divided into four broad categories:

1. Information on how the workers' compensation system operates
2. Specific constituency information
3. Accountability information to satisfy the Ministers and MLAs that the Governance Council and the WCB are properly fulfilling the WCB Mandate
4. Proposals for legislative or regulatory change

II) Types of Information by Category

Within each of these categories, three kinds of information exchange are described below:

- A) What already exists in documented form
- B) What already exists by shared agreement, verbal instruction or convention, but has not been formalized or regularly scheduled before now
- C) **New communications commitments proposed**

1. How Workers' Compensation System Works

- A) *Exists - documented*
 - Orientation binder and power point for new Ministers
 - Orientation binder and power point for new Governance Council Directors
- B) *Exists – not documented*
 - WCB invitations for briefings to MLA committees in NWT & NU
 - Briefing sessions to MLA committees as determined by MLAs
- C) **New**
 - **Standing agenda item for newly elected Legislative Assemblies, within first quarter of first year of Assembly**
 - **Formalized part of orientation for any new MLA elected outside a general election**
 - **Online orientation site for MLAs (in development)**

2. Constituent Information

A) *Exists – documented*

- WCB briefing notes to Ministers
- Minister(s) responses to Written/Oral Questions by MLAs
- Minister(s) responses to written correspondence from MLAs
- Minister(s) responses to claimant or employer constituents
- Release of claimant file documentation to MLAs (only upon receipt of a signed release form from the claimant)

B) *Exists – not documented*

- Verbal briefings between CEO and Chairperson
- Verbal briefings between CEO, Minister(s), and Chairperson

C) *New*

- Confirmation to constituent MLA(s) that issues raised have been addressed

3. WCB Accountability to Government and Legislatures

A) *Exists – documented*

- Minister(s) Statements
- WCB submission of Annual Report to Minister(s)
- Minister(s) tabling of Annual Report to Legislature(s)
- WCB submission of Corporate Plan to Minister(s)
- WCB correspondence between Minister(s)
- Requests for Decision/Decision Items
- Cabinet Records of Decision
- WCB responses to Cabinet Records of Decision

B) *Exists – not documented*

- Bi-annual meetings of Ministers responsible

C) *New*

- Annual WCB presentation of Corporate Plan to first session of NT & NU Legislative Committees (AOC & GOA)
- Annual WCB presentation of Annual Report to mid-year session of NWT & NU Legislative Committees (AOC & GOA)

4. Legislative Framework

A) *Exists – documented*

- Reports of Ministerial-appointed committees to review *Workers' Compensation and Safety Act(s) and Regulations*
- Information updates and decision items to Governance Council on various components of ACT Now recommendations
- Legislative Proposals

B) *Exists – not documented*

- WCB briefings to Joint Ministers' meetings

C) *New*

- **Governance Council Director Nominees**

III) Source, Format, Timing, Target Audience & Outcome of Communications Tools

See Chart, Attachment Two

IV) Processes of Feedback on Communications Provided

- Regular agenda item for bi-weekly briefing between Ministers, CEO, and Chairperson
- Regular agenda item for bi-annual Joint Ministers' Meeting
- Part of annual WCB presentation to Legislative Committees (AOC & GOA) – regular discussion point or agenda item as part of presentation
- Part of annual Accountability Agreement between CEO and Chairperson
- Part of annual Accountability Agreement, or contract, between Chairperson and NWT Minister responsible

V) Process & Timing for Review/Revision of Communications Needs & Protocol

The WCB is responsible for maintaining and distributing to all parties any proposed revisions and/or confirmed changes to the Communications Protocol. It shall be reviewed for feedback and discussion among all parties:

- One year from the date of its approval and implementation, and revisions will be as determined
- Routinely, as part of regular orientation checklist and formal sign-off, whenever there is a new:
 - Government, or
 - Minister responsible, or
 - Chairperson, or
 - President & CEO

COMMUNICATIONS PROTOCOL						
Information/Format	Audience	Primary Link	Source	Timing	Outcome	Status
1. How Workers' Compensation Works						
Roles & Responsibilities of the Minister Responsible, Workers' Compensation Board Orientation Binder & Orientation PowerPoint	Ministers responsible	Chairperson	WCB	New Government	Information	
				New Minister		
Governance Council Directors' Guide & Orientation PowerPoint	Governance Council	Chairperson	WCB	New Council Director	Information	
				Annual Review & Approval (November/December)		
Responses to MLA correspondence	Individual MLAs	Minister	WCB	As requested	Information	
Workers' Compensation Briefings <ul style="list-style-type: none"> Individual Committee (Standing Item) On-line MLA Orientation Site 	MLAs MLA Committees	Ministers &/or Chairperson	WCB	New Government	Information	
				New MLA		
				As requested		
2. Constituent Information						
Briefing Notes	Ministers responsible	CEO	WCB	Each Session	Information	
				As requested/necessary		
Responses to Session Oral and Written Questions	MLAs	Minister	WCB	During NT & NU Sessions	Information	
Responses to MLA worker/employer constituents	Individual MLAs	Minister	WCB	As requested	Information	
Confirmation responses to MLA(s) that worker/employer constituent issues raised have been addressed	Individual MLAs	Minister	WCB	As necessary	Information	
Claimant file documentation	Individual MLAs	Minister &/or WCB	WCB	Upon receipt of written claimant disclosure release	Information	
Weekly CEO Briefings	Chairperson	CEO	CEO	As specific issues arise	Information	

Briefings	Governance Council	Chairperson	CEO	As specific issues arise	Information	
Briefings	Ministers responsible	Chairperson &/or CEO	CEO &/or WCB	As specific issues arise	Information	
3. WCB Accountability to Government & Legislatures						
Annual Report	Ministers responsible	Chairperson	WCB	May	Decision	
Annual Report (Table)	Legislatures	Ministers	WCB	May/June	Information	
Annual Report (Presentation)	NT AOC/NU GOA	WCB & Ministers	WCB	June (mid-year session)	Information	
Corporate Plan	Ministers responsible	WCB	WCB	January	Decision	
Corporate Plan (Presentation)	NT AOC/NU GOA	WCB & Ministers	WCB	February (1 st session annually)	Information	
Ministers' Statements	MLAs	Minister(s)	WCB	As requested/necessary	Information	
Joint Ministers' Meetings	Ministers responsible	Chairperson & CEO	WCB	Bi-annually	Information/ Decision	
Joint Ministers' Meeting Minutes	Ministers responsible	Chairperson & CEO	WCB	Bi-annually	Decision	
Requests for Decision – NU Decision Items – NT	Cabinet(s)	Minister(s)	WCB	As necessary	Decision	
Cabinet Records of Decisions	WCB	Minister(s)	Cabinet(s)	As necessary	Information /Action	
Responses to Cabinet Records of Decision	Cabinet(s)	Minister(s)	WCB	As necessary	Information /Decision	
Report of Joint Ministers' Meetings	NU Cabinet	NU Minister	WCB	Bi-annually	Decision	
4. Legislative Framework						
Ministerial-appointed Committee Reports	Minister(s)	Committee(s)	Committee(s)	As necessary	Decision	
Ministerial-appointed Committee Reports	Legislature(s)	Minister(s)	Committee(s)	As necessary	Information	
Legislative Proposals	Ministers responsible	Minister(s)	WCB	As necessary	Decision	
Legislative Proposals	Cabinets	Minister(s)	WCB	As necessary	Decision	
Regulatory Changes	Minister(s)	Chairperson &/or CEO	WCB	As necessary	Decision	

Regulatory Changes	NU Cabinet	NU Minister	WCB	As necessary	Decision	
Governance Council Director Nominees	Ministers responsible	Chairperson	Governance Council	As necessary	Decision/ Consultation	

Red Type indicates new communications commitments proposed

