

APPENDIX C:

**YUKON WORKERS'
COMPENSATION HEALTH AND
SAFETY BOARD**



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HEALTH AND
SAFETY BOARD**

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President and Chief Executive Officer

January 21, 2004

Floyd McCormick
Clerk to the Public Accounts Committee
Yukon Legislative Assembly
Box 2703
Whitehorse, Yukon Y1A 2C6

Dear Mr. McCormick:

We read the letter of the Chair of the Public Accounts Committee, dated December 15, 2003, with great interest. Further to his request, we have tried to provide as much information as may be useful in our response to the various questions, as outlined below:

1. What is the mandate of the Yukon Workers' Compensation Health and Safety Board (YWCH&SB)?

The mandate of the Yukon WCH&SB is similar to that of workers' compensation boards in the other provinces and territories in Canada.

All Canadian systems of workers' compensation are based on the principles established by the Ontario Commission, established in 1913, headed by Sir William Ralph Meredith. The Report of the Meredith Commission established the principles of workers' compensation, which include¹:

- Employers have a collective, rather than an individual, liability for workplace injuries. Employers pay into a fund that is used to pay benefits to injured workers.
- Benefits to workers are guaranteed in legislation.
- Workers cannot sue employers or co-workers.
- Workers' compensation is a no-fault system.
- Workers' compensation is administered by a body independent of government, with equal representation from labour and industry and a neutral chair.
- The board has judicial-like authority to make final decisions on claims for compensation.

The current mandate of the Yukon Workers' Compensation Health & Safety Board is clearly laid out in the *Workers' Compensation Act*. The objects outlined in section 1 reflect the Meredith principles within the Yukon context, as follows:

"1 The objects of this Act are

- (a) to provide for an open and fair system of guaranteed, adequate compensation for all workers or their dependants for work-related disabilities;

¹ As outlined in the 1999 Yukon Government Task Force Review report.

- (b) to provide disabled workers with rehabilitation to assist them to overcome the effects of work-related disabilities as much as possible;
- (c) to maintain a solvent compensation fund managed in the interest of workers and employers;
- (d) to provide for fair assessments on employers;
- (e) to provide an appeal procedure that is simple, fair, and accessible, with minimal delays;
- (f) to combine efforts and resources for the prevention of workplace disabilities, including the enforcement of health and safety standards;
- (g) to establish a board, independent of government, with equal representation from workers and industry and a neutral chair to administer workers' compensation, health and safety for all industries; and
- (h) to ensure that workers, dependants of deceased workers, and employers are treated with compassion, respect, and fairness. S.Y. 1999, c.23, s.2; S.Y. 1992, c.16, s.1."

How has the mandate changed and why?

The evolving world of work, including societal, economic and workforce changes, has meant that changes to the workers' compensation system have been required over the years. There have been major changes to the Yukon Workers' Compensation Act in 1973, 1992, and 1999, which maintained the original Meredith Principles.

The very nature of workplace disabilities is changing, from obvious injuries with immediate causes to those that may have a number of different causes.

A significant change occurred in 1992, when the Occupational Health and Safety Branch came under the mandate of the Yukon WCH&SB.

Many provinces have delegated the responsibility for both compensation and occupational health and safety to their Workers' Compensation Board. One rationale is that prevention is a key element in reducing accidents, which in turn, reduces the costs to the compensation system.

Another way of looking at it is that prevention is a fundamental element of workers' compensation. This includes primary prevention through inspections and compliance, to secondary prevention through the rehabilitation and return to work of an injured worker, with any modifications to practices or the workplace to prevent recurrences.

Combining the two program areas has allowed for a better focus on using resources efficiently and effectively, to target key areas for improvement. It will also allow better monitoring of that improvement.

2. How is this mandate being met?

The mandate is elaborated upon and measured through several mechanisms as described below. This includes the strategic plan, with its associated balanced scorecard indicators and three-year business plan.

In addition, the Auditor-General of Canada reviewed the entire organization over a period of 18 months. This included a review of how well the organization is meeting its mandate (see additional comments on page 4 of this letter).

In 1999, the Yukon WCH&SB undertook the creation of a strategic plan, which established our vision, mission and core values. This was subsequently updated in 2001, in consultation with staff and stakeholders. I have attached the full document for your information with key extracts below.

Vision (i.e. the ideal future state)

We lead in creating ideal work environments with:

- *Safe worksites, where everyone thinks and acts safely at all times;*
- *Easy access to qualified health, supplies, and interventions, so that injuries, diseases, and disabilities can be quickly treated, managed and alleviated; and,*
- *Provision of services and facilitating access to resources for workers experiencing a disability, to assist them in overcoming the physical, emotional and financial limitations resulting from their disability; and,*
- *Flexible and accommodating workplaces where employers and workers help injured workers return to meaningful employment.*

Our vision is realized through our success in fostering strong cooperation and commitment between workers, employers and the Yukon WCH&SB.

Mission (current activities)

Working together with workers, employers, injured workers and their families we focus on:

- *Preventing workplace injury, disease and disability;*
- *Addressing the needs of workers and employers, in changing work environments;*
- *Fairly compensating workers who have work-related disabilities; and,*
- *Helping workers overcome work-related disabilities in both human and economic terms.*

We manage "the fund" wisely to meet our long-term stewardship responsibilities on behalf of our stakeholders. We ensure that our staff are knowledgeable, skilled and compassionate in providing a broad range of quality services to employers, workers, injured workers and their families.

Business Plan

In addition to the vision describing the ideal state of the future, and the mission statement describing the current activities of the organization, the strategic plan created a three-year business plan. This three-year plan outlines activities required to support each of the six core strategies aimed at achieving the vision in the strategic plan while honouring the mission of the organization.

The business plan is reviewed and updated each year. This then forms the basis of the one-year operational plan, generally used as the basis for developing the board's annual budget.

How is the mandate being measured?

Measurement of the mandate is done through a variety of mechanisms, including the annual report, the balanced score card indicators, a major stakeholder survey, and interjurisdictional key statistical measures, as described below.

Indicators

Part of our strategic plan is to develop a balanced scorecard for key success factors with indicators. The fundamental premise of the "balanced scorecard" is that there are four quadrants that underpin a healthy and continuously improving organization, each of them linked to the other:

1. Learning and growth perspective;
2. Customer perspective;
3. Financial perspective; and,
4. Process and business practice improvement.

Each quadrant has its own set of indicators. Attached for your information is a copy of the first report on these indicators, released in early 2003. There is no doubt that further work is needed to refine and enhance these indicators, and this work is being done as resources permit.

Key Statistical Measures

The Association of Workers' Compensation Boards of Canada (AWCBC) produces key statistical measures annually. Although great care must be taken in drawing conclusions in reviewing these, due to the variability in definitions, legislative requirements, and data size, the comparisons can provide some useful information.

Attached for your information is the table released by the AWCBC in December 2003, reflecting the measures for 2002.

Prevention

In our Strategic Plan, we have identified prevention as fundamental to reducing accidents, which in turn can reduce costs to the fund. To this end, we have entered into a Contribution Agreement with the Yukon Contractors' Association to establish a pilot project to promote health and safety in the workplace, with the objective of reducing the occurrence of workplace injuries and occupational diseases. The agreement includes the requirement for a workplan with specific indicators.

Auditor-General of Canada Special Examination

The *Workers' Compensation Act* required a special examination of the various elements of the compensation system, including the role of the Board, the Workers' Advocate, and the Appeal Tribunal.

The Auditor General of Canada spent 18 months in conducting this special examination into the Yukon workers' compensation system.

In her report dated September 10, 2002, Sheila Fraser, the Auditor General of Canada, found that overall the Yukon Workers' Compensation System was "fundamentally sound and responsive to the needs of those who are injured in the workplace".

The Auditor General also found areas that required further work, including the further development of measurable goals and targets, improvement in prevention and enforcement activities, and a policy for tendering contracts.

Attached is the most recent version of the document used by the WCH&SB in tracking the status of the recommendations. It has been updated since the version supplied to some MLAs in June 2003.

Stakeholder Survey/feedback

In 2001, the Yukon WCH&SB retained the services of the Yukon Bureau of Statistics to conduct a survey of our stakeholders, including:

- injured workers;
- staff; and,
- employers.

In the report by the Yukon Bureau of Statistics, published November 2001, key findings included:

- All stakeholder groups had a predominantly positive perceptions of Yukon WCH&SB programs, services and outcomes; and,
- The Yukon WCH&SB staff provided a generally positive assessment of the work environment.

In the report, there were areas for improvement, including:

- Issues of communication problems by stakeholders in contacting the Yukon WCH&SB, and lack of timely follow-up;
- The request by employers for detailed, industry-specific reporting from the Yukon WCH&SB, and a strategic communication plan.

Copies of the stakeholder survey can be provided, if members of the Committee wish to review.

3. How does the Yukon Workers' Compensation Health and Safety Board account to (a) the legislative assembly, (b) individuals who use your service directly, and (c) taxpayers generally?

(a) Accountability to the Legislative Assembly

The Yukon WCH&SB accounts directly to the Legislative Assembly by a requirement established by the Act. Section 109 requires the Chair of the Board and the President to appear annually before the Legislative Assembly. This is unique in Canadian legislation.

The Yukon WCH&SB must provide to the Minister two annual reports. One report is financial and includes the audited financial statement on the assets of the compensation fund, the actuarial review of assessments rates, the actuarial review of the liabilities of the compensation fund, and the financial management practices, plans and policies. The other report is on all matters regarding the activities of the Yukon WCH&SB.

The report on activities must be submitted within 90 days after the end of the calendar year; the audited financial statements must be submitted by June 30. The Minister is required to table the audited financial statement in the Legislative Assembly within 15 days after it has been published, if the Assembly is then sitting, or otherwise within 15 days after the start of the next session. The annual report on activities is also made available to the public.

(b) Accountability to individuals who use our service directly

There are several ways that accountability is provided. As noted above, an annual review of the indicators in the strategic plan has been started, with results posted on the website and made available to stakeholders and others interested in the compensation system.

A report has been made on progress on the 3-year business plan to the Stakeholder Advisory Committees, and this practice will continue in future.

In terms of direct accountability, the *Workers' Compensation Act* provides that the members of the Board must hold an annual meeting within 90 days after the release of the financial report. The board produces a summary report of this meeting, which is made available to the public. The board has also provided a full transcript of the meetings in recent years.

In 2002, the Yukon WCH&SB commissioned the Bureau of Statistics to conduct a survey of workers to ascertain if they were satisfied with the services of the Yukon WCH&SB (see previous section 2). This feedback was made available to all interested individuals and has been used to inform the strategic planning process. It is a direct way of demonstrating accountability in terms of satisfaction with the services we provide.

One other way in which the legislation indirectly provides for accountability is the appeal system. The *Workers' Compensation Act* establishes two levels of appeal. A worker or employer can appeal entitlement decisions to a Hearing Officer. If they choose, they then can appeal the decision of the Hearing Officer to the Workers' Compensation Appeal Tribunal. There are two exceptions to this process, but this is the general rule.

Employers also have the right to appeal assessment decisions to an Appeal Panel of the Board.

Under the *Occupational Health and Safety Act*, employers, owners, trade unions or workers aggrieved by a decision or order, or the refusal to give an order, may appeal the decision to an Appeal Panel of the Board.

Stakeholder Engagement

Active engagement, in addition to full information sharing, is an increasingly important element of accountability. A major change for the Yukon WCH&SB in recent years has been the creation of the Stakeholder Advisory Committees and Stakeholder Policy Working Group as advisory bodies to the Board.

The Stakeholder Advisory Committees and the Policy Working Group meet regularly, and provide comments and feedback to the Yukon WCH&SB. This is a key element to communication with both labour and employers. Most new policies or major policy amendments are run by the Policy Working Group, who provide valued input as to the expectations and needs of our stakeholders.

The Yukon WCH&SB views partnerships with employers and labour as fundamental to effectively handle assessments, compensation and occupational health and safety for our stakeholders. To this end, the Yukon WCH&SB has funded Contribution Agreements with both the Yukon Federation of Labour, for the purposes of the *Workers' Compensation Act* Review, and the Yukon Chamber of Commerce, to establish the position of an Employer Consultant.

(c) Accountability to taxpayers

There is no doubt that the compensation system meets a major societal need. This is recognized in the legislation, which provides general accountability to the public through the

annual meetings and the tabling of reports through the Minister to the Legislative Assembly. The Yukon WCH&SB has on its Board representatives of both employers and workers, who represent our stakeholders. The chair and alternate chair are not representative of these two groups, but are appointed by Cabinet following ministerial consultation with them.

Under the Meredith Principles, as confirmed in the *Workers' Compensation Act*, the cost of funding the compensation system in the Yukon, like the rest of Canada, is born by employers, and not the taxpayers, except where the government is itself an employer.

Our Board of Directors are under a fiduciary duty to manage the compensation fund effectively. At present, the Board is still among the best-funded in Canada, so that employers, who are responsible for the payment of assessments will continue to meet their obligations for a separate fund that will not be the responsibility of taxpayers. Workers will continue to receive benefits as laid out in the legislation and policy.

Conclusion

The workers' compensation system has evolved in Canada and the Yukon, since its inception as a response to industrial injury and disease. While there are many complexities to the system, and an ever-changing array of issues that must be addressed, there is no doubt that the fundamental purpose and principles remain as relevant as ever.

I look forward to meeting with the Standing Committee on Public Accounts of the Yukon Legislative Assembly to discuss the operations of the Yukon Workers' Compensation Health and Safety Board. I hope this material provides some detail to your questions. Please feel free to let me know if you need any additional information or elaboration, prior to the hearings.

Yours truly,



Tony Armstrong
President & CEO

TA/jmj

cc: Craig Tuton, Chair, Workers' Compensation Health & Safety Board

Attachments: Strategic Plan 2002-2004
First report on Balanced Score Card Indicators
Association of WCBs of Canada, Key Statistical Measures, 2002
September 2003 tracking document-Auditor-General's Special Examination