



Northwest Territories Legislative Assembly

Standing Committee on Accountability and Oversight

Public Meeting on
Auditor General's Report of the
Workers' Compensation Board of the
Northwest Territories and Nunavut

June 28, 2006

Chair: Mr. Kevin Menicoche, MLA

STANDING COMMITTEE ON ACCOUNTABILITY AND OVERSIGHT

Chairman

Mr. Kevin Menicoche, MLA, Nahendeh

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Mr. Bill Braden, MLA, Great Slave
Mrs. Jane Groenewegen, MLA, Hay River South
Ms. Sandy Lee, MLA, Range Lake
Mr. Robert McLeod, MLA, Inuvik Twin Lakes
Mr. Calvin Pokiak, MLA, Nunakput
Mr. David Ramsay, MLA, Kam Lake
Mr. Robert Villeneuve, MLA, Tu Nedhe

Witnesses

Ms. Sheila Fraser, Auditor General of Canada
Mr. Andrew Lennox, Assistant Auditor General, Office of the Auditor General
Mr. Roger Simpson, Principal, Office of the Auditor General
Mr. John Doyle, Acting President, Workers' Compensation Board
Ms. Marie Wilson, Vice-President, NWT Operations, WCB
Dr. David King, Chief Medical Officer, WCB
Mr. Mike Triggs, Senior Legal Counsel, WCB

Observers

Mr. Keith Peterson, Co-Chair, Standing Committee on Government Operations and
Accountability, Government of Nunavut
Mr. Alex Baldwin, Director of Research Services, Government of Nunavut
Hon. Charles Dent, Minister responsible for the WCB
Mr. Guy LeGras, Office of the Auditor General
Mr. Daniel Stadlweiser, Office of the Auditor General

Committee Staff

Mr. Doug Schauerte, Committee Clerk
Ms. Kelly Payne, Deputy Law Clerk
Ms. Colette Langlois, Director of Research

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June 28, 2006
Committee Room "A"
9:15 a.m.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mrs. Groenewegen. I'll convene the meeting of the Accountability and Oversight committee. This morning we'll be reviewing the report of the Auditor General on the Workers' Compensation Board of the Northwest Territories and Nunavut. I'd like to especially welcome the Auditor General who is amongst us. Before we begin, we'll introduce the committee. Perhaps beginning on my far left, I'll introduce each member of the committee.

MR. BRADEN: Thank you. Good morning, Mr. Chairman. My name is Bill Braden. I'm the Member for Great Slave.

MR. RAMSAY: Thank you. My name is David Ramsay. I'm the MLA for Kam Lake here in Yellowknife. I'd like to welcome the Auditor General and her staff to the meeting.

MR. MCLEOD: Good morning. My name is Robert McLeod. I'm the Member for Inuvik Twin Lakes, and welcome.

MR. POKIAK: Good morning. Calvin Pokiak, MLA for Nunakput. Welcome to the committee here.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Pokiak.

MRS. GROENEWEGEN: Jane Groenewegen, MLA for Hay River South.

MS. LEE: Good morning everyone and welcome. My name is Sandy Lee, MLA for Range Lake in Yellowknife.

CHAIRMAN (Mr. Menicoche): Thank you very much, committee members. For the record, I'm Kevin Menicoche, Member for Nahendeh, chair of the Accountability and Oversight committee. As well, at this time I'd like to acknowledge Mr. Dent, Minister responsible for WCB, in the crowd, as well as Mr. Keith Peterson who is the co-chair of our counterpart committee in Nunavut. Along with him is his committee researcher, Mr. Alex Baldwin. I'd like to thank you both for joining us here today. I also would like to take the opportunity to welcome all the members of the public and the media that's with us today.

This audit was undertaken as a result of a motion initiated by members of this committee and passed by the Legislative Assembly of the Northwest Territories. The Nunavut Legislative Assembly also passed a similar motion.

The Auditor General's report includes observations and recommendations in three key areas:

- governance of the WCB;
- the claims and appeals process; and
- communications.

The committee will be reviewing the report with several witnesses over the two and a half days. We are very fortunate to have Ms. Sheila Fraser, the Auditor General of Canada, with us this morning to begin the proceedings.

We also have scheduled appearances by representatives of the WCB administration, the Governance Council and the Appeals Tribunal, as well as the workers' advisor and the Minister.

I would like to make it clear that the intent of this review is not to embarrass or cast blame on individuals. Our objective is to get an accurate picture of where the workers' compensation system stands today, what needs to be done to improve it and how we can move forward to ensure those improvements happen.

I will now invite Ms. Fraser to introduce your delegation for the record and to proceed with any opening comments that you have. Thank you.

Auditor General's Opening Comments

MS. FRASER: Thank you, Mr. Chair. I would like to say I'm very pleased to appear before the committee today. I thank you for this opportunity to discuss our report on the Workers' Compensation Board of the Northwest Territories and Nunavut. I am accompanied by Andrew Lennox, assistant auditor general; and Roger Simpson, principal who is responsible for this audit.

As you mentioned, we conducted the audit at the request of this Assembly and with the concurrence of the Legislative Assembly. We examined whether the Workers' Compensation Board of the Northwest Territories and Nunavut complies with legislation and with the policies of its Governance Council in the way it processes claims by injured workers. We also looked at how appeals of its decisions on claims are managed and resolved. Furthermore, we examined how the board is governed, focussing on how the Governance Council oversees the board's direction and management. We did not look at the board's other activities such as its levies of assessments on employers, its inspections and other accident prevention services and its investment activities.

The board is an important public institution. Like most Workers' Compensation Boards, it is unlikely to satisfy both workers and employers in all cases, but it needs to have the

confidence of its community. In the future it will need to deal with the increased activity expected as a result of growing oil and gas development and mining in the North.

In almost all cases from 2005 that we examined, we found that the board complied with the applicable legislation and policies in processing claims by injured workers. However, a small number of claims have remained unresolved for a number of years, mostly due to differences over medical or policy issues. The number may be small, but these cases are costly in terms of negative publicity, staff time, appeals expenses, legal fees and especially the psychological toll on claimants. I encourage the board to find better ways of resolving differences of opinion on complex issues.

The committee may wish to ask the board what steps it plans to minimize the number of unresolved claims in the future. While the board has made some recent improvements to its procedures, it has not been clear enough in its communications with claimants. It needs to do a better job of explaining its rules, procedures and, above all, its limitations. The people affected should not have to wonder how the board arrives at its decisions and what the decisions mean. This lack of clarity has contributed to unrealistic expectations and frustration among claimants. It might be of interest to the committee to hear from the board how it plans to improve communications in order to reduce claimants' frustrations, and how it will monitor its performance in this area.

We found that the Governance Council lacks capacity in certain technical areas. The current appointment process does not clearly specify the technical competencies an ideal candidate would possess, information that could help to ensure that individuals with the needed skills are selected from the public and from employee and employer groups. We also note that at present council members are not provided with adequate training to strengthen technical capacity. The committee may wish to ask the Governance Council how it plans to strengthen the council's capacity in technical areas and within what time frame.

Policy consultation with stakeholders has been inadequate in the past. The council did recognize this and the board adopted a new approach to policy consultation in December 2005 which it currently is implementing on a trial basis. Perhaps the board and the council could indicate how soon they will be able to say whether this new approach to consultation is effective.

We note in our report that the Governance Council does not demonstrate sufficient independence. It does not regularly obtain input on policy issues directly from stakeholders, particularly on controversial matters such as pain disorders and pre-existing conditions. The committee may wish to ask the council how it plans to obtain input on these controversial matters and from which stakeholders.

That, Mr. Chair, concludes our opening statement. We would be glad to answer any questions that committee members may have. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Fraser. Also, for the record, I will introduce our staff that's with us here today. I've got Ms. Kelly Payne, our legal clerk; as well as Colette Langlois, our researcher; and our Clerk, Mr. Tim Mercer; and deputy clerk Doug Schauerte has just left us here. Thank you very much. As committee is aware, I was just catching up to the report here. I just came from Kakisa assembly, which is a big assembly for our First Nations of the Deh Cho region. I'm glad to be here and to participate in this WCB review. First, I've got Mr. Braden. Thank you very much.

MR. BRADEN: Thank you, Mr. Chairman. I'm glad you're here, too.

---Laughter

We'll just all catch our breath and get into the day. Mr. Chairman, I'm really pleased to have this day arrive here at the Legislative Assembly on behalf especially of injured workers in the Northwest Territories and in Nunavut, and I really want to express my appreciation for our counterparts from Nunavut for attending here, and looking forward to reciprocating with their committee on the matter of this shared jurisdiction.

Mr. Chairman, just to encapsulate, I guess, why is this so important for me, as I'm in my seventh year now as an MLA and something that came to my attention fairly early was the situation of some injured workers who have fallen between the cracks, felt they've been mistreated, and I think in a number of cases indeed have been through the practices of the WCB. As I learn more about the organization and their situations and talked to other MLAs who are also dealing with constituents that way and tried to seek answers through our political process here, became increasingly frustrated at the resistance, the avoidance, in some cases, of the WCB to be willing to say what its situation was, to explain and put forward in a transparent way, in a trustworthy way, what its situation was and what it was doing about it.

We have gone through, in this Assembly, we are now on our third Minister responsible for the WCB and I think that perhaps in one measure speaks to some of the difficult issues at this legislative and political level, I guess, of what we really believe should be a more accountable organization.

So 14 months ago, while working with my colleagues and with staff and Mr. Simpson, we were able to pass a motion that set your work on its course and today we have what I believe is a very constructive report. I want to thank you and your team for it.

One of the things, Mr. Chairman, that I was quite happy about was to find that there was not a crises or an emergency or a calamity in here that required urgent action and saved us from that kind of angst and turmoil here. But what we have, from my point of view, is confirmation that a number of the areas that I had difficulty with, as an MLA working on behalf of my constituents, has been confirmed in this report, Mr. Chairman. The issues of communications, of accountability, of the standards and assessments and kind of robust performance measures that should be in place to help this organization

be accountable are not or they're certainly lacking. So from that, I really look forward to being able to talk with the various offices the report outlines. The WCB is a complex organization and it's a bit unusual, I think, Mr. Chairman, for our committee to take as long as we are this time on one individual topic or issue. But it certainly warrants it and merits it and the report gives us very good grounds for that.

Mr. Chairman, I'd like to pose a question to the Auditor General and it relates back to the motion and some of the wording and the questions that we had and asked her office to probe. The motion requested -- I'll just paraphrase a bit of it here -- the motion requested that the performance audit examine the organization training and orientation of personnel practices, attitudes, philosophy, internal performance measures and a number of other criteria. One of the things that is a significant threshold for me to see the trustworthiness, the transparency, the will of any organization, is their attitude, if you will. It's called corporate culture is another kind of common phrase for it, Mr. Chairman. I guess over time I felt that our WCB had developed a corporate culture that was one that was more on the side of the institution, the organization, than on the side of the worker. I wanted to see if the Auditor General, in her examination of this, could give committee a sense of how the corporate culture of the WCB is today. Is it one that can be trusted, can be transparent, can be relied on to have the confidence of the injured worker? That's really what it comes down to, Mr. Chairman. My motivation was to have an organization that the injured worker could have confidence in. What is the corporate culture of the WCB today? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chair. I hope the committee will appreciate that that is a very difficult question for an auditor to respond to. It is very difficult to audit objectively corporate culture. What I can say is that our audit did find that the board was processing the claims, with perhaps one exception, according to the rules, the regulations, the policies in place. We did not see evidence of any particular bias, though I think there are things that can be improved, especially when you're dealing with very difficult cases which will often become very emotional. It is essential that there be clear communication that the claimant understand why the result is not as he or she would expect. As the report indicates, we really believe that the board has a lot of work to do on the communication, on the clarity of the messages. We've given examples in the report of letters that have gone out that quite frankly are very difficult to understand. We noted when we were doing the work there are a lot of negative perceptions around the board, and one would expect in any organization that where there are misconceptions out there, to make an effort to clarify their roll, to clarify their policies, that people understand why. I think often we may not like a decision, but at least if we can understand how the decision was, why the decision was arrived at, that will help to allay some of the perceptions and will build more trust and more confidence in an organization. So while we see that the processing of the claims would appear to...is generally we found for 2005, the period we looked at, in accordance with the rules and regulations there's certainly a great deal of effort that needs to go into the outreach, the

communications activities I guess dispelling and addressing some of the perceptions, misconceptions that currently exist.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Fraser. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. In the process of your audit and as your report outlines, I believe your team interviewed was it 18 workers who had claimed to have long-standing, unresolved issues, and I very much appreciate the effort that was made to make that firsthand, face-to-face, eye-to-eye contact with the workers. Mr. Chairman, Mrs. Fraser mentioned the negative perceptions or misconceptions of what the WCB is capable of in this area and I'm wondering if Mrs. Fraser might be able to outline, for illustrative purposes, maybe two or three of the common threads, the really strong negative perceptions or misconceptions that would give committee something to work on and go forward from, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. As Mr. Simpson was one of the ones who conducted the interviews, I think he would be in a better position to actually give you firsthand evidence of the kinds of misconceptions that we heard, so I'll ask Mr. Simpson to respond to that question.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. First I'd like to get on the record how much we appreciated the people that we interviewed making their time and advice available to us. It was very generous on their part to spend an hour, or two in some cases, with us and to share their stories with us. We made it quite clear to all of the workers -- in fact, every one that we spoke to -- that the office of the Auditor General is an audit office not an ombudsman office and that they should have no expectations that their individual case circumstances would be changed as a result of talking to us, and everyone understood that.

Mr. Chairman, there's a relatively small number of what might be referred to as long-outstanding cases. All of the individuals that we talked to and a few that sent correspondence to us have indicated the trauma that these particular events have put their lives into. It's very bad, to make a bad pun here, a federal case out of oral types of representations. But to the extent that we got common stories coming from individuals, we tried to look at that in the context of how the board dealt with these cases.

There are lots of strong opinions out there in the worker community, as one might expect, and some of the issues surrounded the differing perspectives medically from specialists who had advised them in terms of their treatment of whatever injury they had and the board's own staff in terms of how they assess. So there is an issue there that we refer to in the report that really perhaps needs some attention. Many of them also referred to the communications issue, and Ms. Fraser has spoken to. A lot of the

people who we spoke to have perhaps, in some cases, some limited education and imperative in my view, and I think in our office's view, that all communications, particularly where they're conveying technical types of information in easy-to-understand language, and everyone, just about everyone complained that they couldn't understand the letters. In many cases, they said that the letters actually appeared to pluck information out of the various policy manuals of the board, and like all manuals everywhere tend to be very hard to understand unless you're a professional working in that area. So there's a couple of examples, Mr. Chairman, where there was some sort of commonality of perspective from the people that we spoke to.

As I say, we have to be very careful that in the discussions that we have that we don't pick up on the emotional reaction that a particular individual, as sympathetic as might be on an individual basis, and make more of it than perhaps exists. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Simpson. Next I've got Ms. Lee.

MS. LEE: Thank you, Mr. Chairman. Thank you also to Madam Fraser. Thank you very much for coming north and undertaking the motion and following up on the motion that was passed in the House. In my time here in seven years, I believe this is at least your third time here and we do appreciate very much the work that you do for us.

It is not an ordinary thing, I don't believe, when a House passes a motion unanimously on an issue such as this, but there's never a guarantee that the Auditor General's office will take that on, and we do appreciate that you do take it on and that you have employed substantial resources of your office, from Mr. Simpson down. I think we have at least half a dozen accountants with us. We appreciate that your staff responded to all the information that the Members were able to provide in terms of injured workers and doing the work in a relatively speedy manner. So we do appreciate that very much and I appreciate the presence of our counterparts in Nunavut, recognizing the fact that WCB is a Nunavut/NWT body. I also really appreciate the presence of injured workers and the staff of WCB, and I'm also mindful of many constituents in my riding for whom this is very important. I don't think this is just for the injured workers; it's for everyone who has an interest in the wellbeing of the work of WCB on behalf of everyone.

Madam Fraser, Mr. Braden mentioned earlier about corporate culture. For me, this is a very large project and I believe and I am hopeful that everyone in this room who has an interest in this issue would be able to use 230-plus recommendations that your office has come up with to change in a very substantial way how WCB does its work and that we are all committed to doing that.

Mr. Chairman, the paragraph that is really germane to something that I have always believed and something that sounds so much better coming from the Auditor General's office, because I don't believe there is another organization in the country with as much credibility to speak to accountability of public institutions. It's the paragraph that's in the

report and a paragraph that you have read in your statement, and that's paragraph six which says clearly that this board is a public institution and there is a lot of meaning that goes with that and when you speak about the need for a public institution to have community confidence. I really appreciate the way this report speaks to and goes to enlarge the stakeholders that WCB has to answer to, because over and over again, in my dealings with some of the files and some of the issues and even policy issues, I understand we are not here to change individual files. I understand that that is not what we are here to do. We are here to set the broad policy questions, community input. I believe when you talk about communication, you are talking a lot more than making sure that message A is broadcast. Communication goes to making sure that it is received in a way that is meaningful to everybody. So there is so much in this report that I look forward to working on and having lots of questions raised today.

I am just looking forward to repeating this statement over and over again because that really goes to the core of what I believe has been lacking in the way we get our questions answered about things we have to say about the WCB.

In paragraph 10 of your report, there you speak about the fact that even though WCB is not publicly funded, it has larger stakeholders, and the report specifically mentions the Legislature of both governments as being the stakeholders. I have been told often that WCB is funded by ratepayers, but somehow it isn't a public institution. I have to say that WCB gets their funding not publicly funded, but they get the funding by virtue of statute. In that way, it is taxpayers' money in a way. It's the public, the ratepayers, who are paying the rates and it's a form of taxation made possible by the fact that bodies like this have set up the legislation and it makes it possible for them to be funded. I think that's only one of the reasons why it has to be a public institution. The meaning of public institution is that it is accountable to all the communities and that is so important to me in the work that we do. I think that will lay the foundation on which we can begin to see how we can keep the corporation accountable to all of its stakeholders and that it is not political interference or mere miscommunication when the issues are raised. I look forward to working on all those issues.

The accountability work is one that the Auditor General's office does a lot throughout the country. There is no public institution that is beyond reproach. Somebody has to keep them accountable. So I am wondering if the Auditor General could state once again the importance of the public institution part of this and what do you mean by what we can do to increase that community confidence. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Lee. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. I would just like to start by saying that as your legislative auditor, we work for you. We are here to provide you with the objective information that you need to do your oversight role and to hold government and other institutions to account, be it for the expenditure of public money and also the way they carry out public policy. So whenever we see a motion from a Legislature, we will do every effort that we can to ensure that we carry out the work if the Legislature has

expressed a concern on a particular area, I believe it falls upon us to respond to that request. We will do our very best whenever there is a request to do it as quickly as possible.

As we mentioned in the report, and I think or hope that everyone would agree, that workers' compensation boards are very important public institutions. They are, of course, governed by several acts of legislation, but more important it is the public policy role that they play. It is an essential role in any society that there be a mechanism to deal with injured workers. I think society as a whole needs to know that that system functions well, efficiently and effectively.

So it comes upon the board as a public institution to be accountable for how it carries out its role, not simply on the expenditure of money but how effective it is in dealing with that very important public policy role. A lot of people talk about public confidence. I think for any public institution, it is essential that they have public confidence and that they be viewed as being credible by the public. There are some basic conditions to that. One is clarity on the role of the institution, what is it trying to achieve and how does it go about doing that and that there be accountability for those results. As well, there has to be, particularly in this case, much better clarity around the roles and responsibilities. There are several bodies. It is a kind of a complex structure; the Minister, the Governance Council, the board itself and then various other bodies. There has to be much better clarity around what role do each one of those people or organizations play. Then I truly believe that one of the most important ways of building public confidence is delivering on commitments. If you say you are going to do something, have you done what you said you would do and if you weren't able to, why not? There has to be clarity and transparency around what you are trying to achieve, have you been able to achieve it and if you haven't, there could be very good reasons why that didn't occur, but that that as well should be clear to the public and to stakeholders. Then, of course, delivering services in an honest and ethical manner.

So I think there is much responsibility on public institutions to be clear about what they are trying to achieve, to indicate what the results of their performance are, and to be transparent and open about how they are conducting business. So at the end of the day, it's not a very complicated recipe, I don't believe. It can be challenging to do and it does require a lot of effort in the outreach, the communication, the transparency around the activities.

CHAIRMAN (Mr. Menicoche): Thank you very much. Ms. Lee.

MS. LEE: Thank you, Mr. Chairman. I will do just one follow-up because I know lots of other Members want to ask questions. On the issue on the lack of clarity on the roles of different bodies, namely the Legislature itself, the Minister responsible for WCB, the Governance Council and the management of the board, reading your report it just confirms for me what I have always understood as that relationship to be. Although I am surprised by the findings that the Governance Council, for example, does not seem to have as much independence as it should, whether due to lack of capacity or lack of

understanding or that it has not taken on as much policy work as it should. I think all the Members are used to asking questions in the House to the Minister responsible for WCB and we have had many Ministers over my time here and we always get a pat answer that the WCB Minister is really not responsible for a lot of... There is this sacred belief in the independence of the corporation. I do understand the independence of the corporation to a degree, but I think that there is the interconnection and the accountability relationship that we need to clarify as a result of this work.

I would like to know, for me, I think the Minister's office as it relates to statutes and in terms of its powers to issue directives and some other really specifically mandated work and statutes, the Minister's office may have more power than it actually exercises and the Governance Council probably has a lot more power than it exercises. Sometimes you have power and influence legislated or sometimes things are followed by convention. I think I see the management of the WCB as the bureaucracy of the government and the Governance Council is the Legislature and if you compare it to the government, the Legislature of government branches. I would like to know if this is your finding about the lack of clarity and roles. Is that something that was a surprise to you? Is it a common thing that happens in other similar organizations like this? Could you elaborate more on what you think has caused that lack of clarity and the WCB not doing as much policy work or Ministers not having as much say on how the policies are formed? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Lee. Ms. Fraser.

MS. FRASER: If I could, Mr. Chair, I think there is a real need to clarify the role of the Governance Council and probably its role as stated is fine, it's in the operation of that. The Governance Council is really responsible for the policy decisions as much as Ms. Lee said the Legislature. The Governance Council is responsible for the strategic issues and the policy issues. The board itself carries that out, so implements those policy decisions. The board shouldn't get into the policy decisions. Obviously, they will have views and they will present potential consequences or effects of various policy decisions, but it really is up to the Governance Council to be preoccupied with that and to play an oversight role. The Minister's, I would say, major role at this point is to name people to that Governance Council.

I can understand that there is always a reluctance on the part of Ministers to get involved or to be seen to get involved, because there could always be a perception that things are becoming politicized. So I think we have to, in any discussion of roles and responsibilities, that has to be taken into account and people have to be sensitive to that issue, because that could create a whole other series of perceptions that would be unfortunate as well. So I think if we could bring it back to the role of the Governance Council and the board. I think the report clearly indicates that the Governance Council needs to be strengthened or needs to see its role strengthened. There are certain initiatives that have taken recently, for example they have asked for communication strategies, which we see as positive. So they are beginning to demand more from the board in those terms. I think that needs to be accentuated, so that there could be a bit

of a repositioning. I think again it comes back to the communication to explain to people what the roles are, how it works and that people understand that the Governance Council has a very important role to play in establishing the policies, the strategic directions and doing the oversight.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Next I have Mrs. Groenewegen.

MRS. GROENEWEGEN: Thank you, Mr. Chairman. I am not going to get into detailed questions at this point. I just want to make some general and opening comments. Along with my colleagues around this table, I would like to thank you very much for the work you've undertaken through your office in Edmonton. We observe your work. We are a bit off the beaten trail up here, but we do observe your work through CPAC, the national news and all kinds of other media and are very impressed with the work that you do. We know that this is Mr. Simpson's last venture into the North, at least in his official capacity. Yesterday when he introduced his colleague, he introduced him as his successor and I thought that was appropriate as opposed to replacement because we have certainly appreciated over the years...I have only been a Member of the Legislature for 11 years, but I have worked with Mr. Simpson for 18 years going back to the days on the audit committee of the Power Corporation. So I just wanted to say that. Thank you very much for the work that you've done.

I like audits. I think that to me what an audit does is it assesses things and looks at ways of improvement. So like our chairman said in his opening comments, this is not about ascribing blame or pointing fingers; this is about taking an institution of which there are many good things to be said. We have a lot of things to be thankful for and proud of in terms of our Workers' Compensation Board for Nunavut and the Northwest Territories. To me, this is about taking what we have as a basis and a foundation and looking at ways of improving that on behalf of all of the stakeholders who have something to benefit from that.

So on the issue of an audit, to me it does bring clarity and that's a good thing. Some things that we have discussed here previously, I have made it clear that we need to look at the past in terms of helping us go forward but, at the same time, I am not interested in camping there. I think what we need to do is take a very positive approach and any kind of criticism, if you could call it that, needs to be very constructive and look at ways that we can make improvements. Then I think it's time well spent.

I have some specific areas of interest in here. As MLAs, you need to understand that we represent very small jurisdictions and this is unique in Canada, I believe. You may find it hard to believe, but probably all the MLAs who sit at our table know, maybe from the smaller communities, they personally know every constituent. So if that constituent is an injured worker, we are going to know the story and the whole story, but we are going to see the WCB through that lens. Otherwise, we are not getting employers coming to us so much; occasionally, to talk about rates or different classes and things like that. But mostly we see the WCB through the eyes of the constituents who have had contact with

that organization and are most likely an injured worker. So we need to bring some clarity around to how we then, in wanting to help that constituent, have dealings with the WCB. I think it's untenable unless there is a clear line and process of communication. It's untenable for an organization like the WCB to deal with 19 or 11 members entering into their organization. We need protocol. We need process. That's fair to everybody. It's fair to the MLAs and it's fair to the folks who work with the Workers' Compensation Board.

So I am interested in process, protocol and communications. I am very interested in the conflicting medical opinions and how that comes to bear on how injured workers are treated. I will be asking more specific questions on that as we proceed here today. Just in terms of opening, I just wanted to say thank you very much for the work that you've done. I feel we are onto a good thing right from the very outset when we had our first sit-down with Roger and Andrew over at the meeting of MLAs and WCB. I was quite convinced that this was going to be a good undertaking and am so thankful that you decided to do it. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mrs. Groenewegen. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. I would just like to say that we, too, feel that audit is helpful. I am not sure that everyone perceives it that way, but our role really is to try to help organizations improve in their management and also to point, as you, Mrs. Groenewegen, mentioned, where things are working well. As you said, I was very pleased to see that claims are being processed, with perhaps one exception. I think that the community at large should take a lot of satisfaction from knowing that that is the case and that there are areas that can be improved and certainly I would hope that the board, the council and others have all indicated agreement with that and with the encouragement of the Legislature and committee, if there are concrete action plans developed and timelines and good discussion amongst the various parties, I think this can be achieved. I hope that we have contributed to making improvements in the board's management.

I would just like to address one issue on the individual cases, I think the protocol or the idea of a protocol is very good because, of course, the board I am sure has difficulty in that it cannot talk publicly about specific cases due to privacy concerns. So at times it can be put into a very difficult position. It can be very emotional cases and yet it can't necessarily explain why. It would be good for Members of the Legislature to have a clear understanding of how they would deal with constituent issues with the board; what is permissible, what is not permissible, and that would help you as well in your roles as Members.

CHAIRMAN (Mr. Menicoche): Thank you very much. Mrs. Groenewegen.

MRS. GROENEWEGEN: Thank you, Mr. Chairman. Just another small point that I want to point out in an area that I also want to identify as very important to me which is an area where we could improve things and that is the area of advocacy. As MLAs,

when we become involved, we are taking on a role of advocacy on behalf of an injured worker and on behalf of a constituent. I think that there should be some place, some office, I know there is a workers' advisor and I think there is a subtle difference between an advisor to a worker and somebody who is actually an advocate on behalf of that worker. There probably is no time in a person's life when they are more vulnerable and need support. We cannot assume that everybody is able and capable at any time, even when they are well or not under stress, it could be financial or all kinds of things come to bear when a worker is injured, but even at the best of times we cannot assume that people are in a position to capably communicate their situation, defend themselves in some instances and represent themselves. So I think we really need to look at that whole advocacy role. Of course, MLAs are there to talk about anything and everything with constituents, but I think we need something more formal as well on behalf of the workers. So I will be speaking about that as we proceed today. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mrs. Groenewegen. We will just conclude the formal general comments. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I just wanted to expand upon my colleagues' comments. I, too, am very happy that the Auditor General and her staff have gone the distance and produced this report on the performance of the WCB. There are a number of areas that other Members have spoken to that are of concern to me and I think some of those are, for instance, the corporate culture, the interaction with claimants, the conflicting medical reports. The cases that are just outstanding and unable to be resolved over a number of years, those cause a number of difficulties with both the WCB and the claimants themselves.

I would also like to mention it's really nice to see somebody pay attention to a motion that the Regular Members passed in this Legislative Assembly...

---Laughter

...unlike the government. So we really do appreciate when somebody actually pays attention to a motion that we pass. I certainly look forward to moving ahead and trying to make things better for injured workers here in the Northwest Territories and working with the WCB. This is an opportunity that we have in front of us that we can work together. We can come up with protocols.

One of the most frustrating things from personal experience that I have encountered as a Member of this Legislature is dealing with constituents who are injured workers. There is a bureaucracy in place at the WCB, and trying to navigate that is difficult at the best of times. What didn't happen when we got elected to this 15th Legislative Assembly is there wasn't an orientation or a discussion with the Minister responsible for the WCB or the WCB themselves with Regular Members who were newly elected to go over what the process is, what the responsibilities are, who is accountable for what and how things work. That's one big area. There is another election in the fall of 2007 and when new Members are elected to this Legislative Assembly, it's very important because they are

going to have constituents who are injured workers and who are going to need some assistance. It's not like you are dealing with the Department of Health and Social Services or ECE. It's the WCB and it's a different kettle of fish. I think that has to be clearly spelled out. I certainly have a number of questions in a number of areas and as we go through this, I will be asking questions.

Again, I just wanted to thank you and thank you on behalf of injured workers here in the Northwest Territories and constituents of mine that this work got done and we can hopefully move forward together and bring some positive changes to the way things are done. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. So that will conclude our general comments. I was just going to add as well that the Auditor did mention, Ms. Fraser, about the complexity of some of the answers that claimants are getting and the letters. I have seen those because I have many small communities in my riding and people are getting letters that are really complicated and they don't really understand them. So I don't know if Mr. Braden was getting at corporate culture. I don't know if you guys sense that perhaps if they make it difficult at first, then the claimants won't appeal or keep going through the system. I am just wondering if there was an attitude of discouragement and getting complex letters out there. I am not sure if that's out there. I don't know if you guys got that sense. I would just like to ask that.

Also, what is key that I liked is the internal performance system. Is there a self-performance system in the WCB? I would like to add that you are here today because all the workers throughout the North are watching and Nunavut are watching the outcome of our proceedings here and to see how it can be changed because ourselves as MLAs, we get so far outside the system, they keep telling us we are outside the process. I don't believe we are that far outside the process; I believe they are just keeping us out. Fundamentally, I am a champion of the workers and their rights and that's one of the biggest institutions to protect and to care for them. People do get injured no matter how hard our safety culture is increasing throughout the North. So that's got to be there for them and if it's not there for them, then the fundamentals of them paying into the system, they are going to start questioning that.

So with that, as a cursory thing, how did your office...Did you think workers were being discouraged by the type of letters that are going out there, as well as the appeal letters? They are just as complicated and hard to read. You almost need a lawyer to go through them. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. I would like to thank you again for the kind words with respect to our work. As I said, we do work for you. We are always pleased to be able to take your requests into consideration.

Let me just start with the complexity of language. I don't think we saw any indication that this was deliberate. I suspect that the people working at the board, to them this is probably...They are very familiar with the technicalities and this is probably the

language they, themselves, would use in their own discussions. Sometimes we use language; we develop a language within organizations and we don't realize that it's very difficult for others to understand. I can just give the example of our own office. Four years ago, we said we are going to adopt plain language in our reports, which has been a significant effort. It is not an easy thing to write reports. They can sometimes deal with very complex and technical issues using language that people can easily understand. So we have had to do a lot of training. We have an editorial staff, so they have to sometimes have vigorous discussions with our auditors about the way things are being said. If the language is too complicated, it's not accessible to people and people don't understand, and it creates a suspicion almost immediately because they don't understand what is being said to them.

So it is not something that is easy to do and it takes a really concerted effort to make reports and letters convey a message that is clear and understood by all. I personally believe that that is the duty of public institutions. We all spend a lot of public money doing audits, doing investigations or assessing claims and we should be able to give the results of that to the public in a way that they can understand easily. So I'm becoming an advocate. I'm not an advocate for many things, but I'm an advocate for plain language in reporting. You mentioned performance measurement. I think every organization should have clear objectives and measurable indicators of its performance. That, too, is not an easy thing to do. It's easy to do the kind of output; you know, how many claims did we process and what delay do we process them. To get to the actual impacts of that is difficult, but you have to start somewhere and I would say that the organization should have a few that it believes are meaningful, those should be set as well with stakeholder groups involved and they should start on that journey to be more accountable for their performance.

I would just like to come back to the suggestion of the briefings to Members. I think that's a really good suggestion. In order for Members to understand, too, what are some of the really important policies that the governing council and the board have in place, many of the long-standing issues are really around some very complex and difficult issues; you know, pre-existing conditions, some of the pain disorders that aren't covered, other ones like that. If Members had an understanding of what is currently allowed and what is not, it may help them to appreciate why some of the decisions have been made in the way that they were, and to help Members as well not kind of...Because as Members you have an oversight role over this, so you have to be careful as well not to cross the line into getting into the day-to-day kind of operations. So if those sort of briefings, discussions, with Members occurred, I think that could be very, very beneficial for all.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Fraser. So with that, we'll conclude general comments. I think we'll motion at a break at 10:30, however, so we can get some of the questions out of the way. First I have Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. The report of the Auditor General indicated, and we've been talking about some of the areas where the WCB is indeed doing what

it's supposed to do, and that we can in some areas go forward. It's something that I've been careful to try to put in context of where I have issues and difficulties with the WCB, it is in the case of some workers. I have heard from some others who are very satisfied with the performance, with the timeliness, the efficiency, the sensitivity. It has worked for many, many cases, and your audit at least of 2005 has shown that. The bone of contention that we're chewing on here are those ones that are less conventional, less straightforward, require more discretionary work, if you will, the involvement of other specialists, and therein comes the clutter and the clunk and some of the bottlenecks in the system that we're trying to clear here. I guess I would like to, for the record, ask for the Auditor General to tell us those areas that they found are being performed well. The report said that the WCB is performing well in some areas. What are those, Mr. Chairman?

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Just for committee's reference, we'll do one set of questions and a couple follow-ups, then we'll move on to the next Member. With that, Ms. Fraser.

MS. FRASER: Thank you, Chair. I'll ask Mr. Simpson, as well, to help me in this, but I'll start by mentioning, too, one is of course the processing of the claims, with one exception. We found the claims were processed in a way that complied with the roles and the regulations in place, and, too, I think people should take assurance from that.

The other one, I think it is also very important, is that the board is in a good financial position, because that can be very critical. If it wasn't, it could have obviously great impacts on claims, the payment of claims, on the assessment rates, so that it is... You know, we see indication that it is on a sound financial footing and I think that, as well, is something that the board is to be credited with. Perhaps Mr. Simpson would like to add more.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. I think the one other area that I think credit is due to the board is the changes that have been in the last few years with regard to training of the caseworkers. While I think there's still pretty serious problems with regard to the frontline workers' training in terms of how to handle communications and messages to the injured workers' communities, internally there's a lot of effort being put into helping the caseworkers understand the policies of the board and the medical issues that surround each of these particular claims. So I think that's an area that the board has made a good effort in.

As we've noted in our report, we would strongly recommend that to do deal with some of the issues that have been raised this morning, that the communications aspect of caseworkers dealing with injured workers be improved in a significant way. As many of the Members have attested to this morning, that seems to be a serious problem from your constituents' point of view. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Simpson. Mr. Braden.

MR. BRADEN: Mr. Chairman, thank you. So has this training just...When did it start? When did the WCB undertake, you know, to make this a part of their agenda? Is this caseworker training a more recent initiative, or is it something that's been in place for a long, long time? I guess where I'm going with this, Mr. Chairman, is that I know in the case of some workers, one constituent who has had about a 10-year dispute going, he has changed caseworkers I think seven times. How can a worker, you know, who's going through the difficulties, you know, of pain and medication not being able to work have any confidence in an organization that, you know, sort of once a year changes its caseworker. He has to start from ground zero; orient and familiarize yet another caseworker with his situation and become part of that caseworker's learning experience. So perhaps you can see where I'm going here. WCB's been around for a while now. Is this a new innovation, or are we talking about something that they're just catching up to now, Mr. Chairman?

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. I'm not sure I can answer the specifics of the whens and wheres. It might be more appropriate to ask that to the board witnesses that come in this afternoon. Let me just say, though, that in organizations, and I think Mrs. Groenewegen mentioned that notwithstanding the structure of the board, it really is a bureaucracy, and a lot of bureaucracies have their own linguistic internal uses and these are very difficult for outsiders to understand. Within the board, a lot of the communications have been built on the common language that's in use in the board. So again coming back to that, there has to be a simple language imperative in interviews. But as to what they started the actual technical training in terms of policies and medical issues, I don't have a specific date, Mr. Chairman, but it's relatively recent, as far as I'm aware. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Simpson. Mr. Braden.

MR. BRADEN: Mr. Chairman, thank you. I'd like to return to the topic that I think just about everybody has mentioned and Ms. Fraser has been fielding quite helpfully, but it is that area, I guess, of jurisdiction and accountability, and how we as a committee, as MLAs, as a Legislative Assembly, fit into that accountability matrix. Certainly there are employers who have so far put money, contributed toward the \$280 million value that the WCB has recorded, and very much to its credit, as Ms. Fraser has pointed out. But I think one of the most significant problems we're going to be grappling with as a committee over time is our place that accountability matrix, and to what extent can we demand answers and information in conjunction with the workers and the employers and all the other stakeholders who are involved with this. So I don't know if I can craft a very specific question about this, but that's really where I'd appreciate some help, is in advising me through protocol or perhaps...and maybe this is where I can put a question and Mrs. Fraser can go with it. Are there legislative changes that we should be considering, Mr. Chairman, that would help us determine or define those

accountabilities, or is it something that we can achieve more through protocol or negotiation, Mr. Chairman?

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Ms. Fraser.

MS. FRASER: I'm not sure. It's usually not something that we'd look at if legislative changes are required. I would suspect in this case that there's not an absolute necessity to have legislative changes. I think a lot can be accomplished through protocols or an understanding or operationalizing some of the very good ideas that have been expressed even today. Certainly I was just asking Mr. Simpson, I believe that the annual report of the board is tabled in the Legislature each year. You know, the committee could certainly have hearings. The committee could ask the board to appear and to discuss their report. Briefings can be held in a more informal way. There are other mechanisms other than the strictly formal kind of hearing route. But I think that there can be a lot of different ways to achieve that accountability. To me, accountability is a relationship and it's about building trust and it shouldn't only be through a requirement that is in legislation. There are many mechanisms to develop a relationship and to build that trust. So, yes, there could be the formal hearings, but I think the briefings, the discussions, the protocol with Members as to how to deal with constituency concerns, those I think... There are various mechanisms and I think that it would be very beneficial if the committee discussed the various possibilities with the board and the council as to how that could be achieved.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Ms. Lee.

MS. LEE: Thank you, Mr. Chairman. I'd like to zero in on the area of conflicting medical opinions for my specific questions. Mr. Chairman, I appreciate and I see that most of the cases that go through the WCB are approved or resolved, and not all people who are not approved come to us. I don't what the exact percentage is that do not get approved claims, but those that come before the MLAs are really difficult situations. I've mentioned in our meetings yesterday, WCB files are the only ones where I have grown men crying in my office, and women. It's a very emotional issue and I have to tell you there are... You know, I understand that in my role as an MLA I am not there to advocate for one file. I understand that. What I see is, though, there's a common theme that crosses all these files and that is a conflicting medical opinion, also the issue of chronic pain policy as well as pre-existing conditions. Those are two areas I think that are policy issues that I'm hoping with the enhanced role of the Governance Council who may do more policy work and consultation, that we would be part of that policy changing process and accompanied by the many court decisions that are before us or have been resolved, especially I think going to that policy. But in terms of the conflicting medical opinion, it is difficult I think for Members here to understand how it is that the medical advisor of the WCB -- and there's more than one, so I'm talking about the office and the policy framework within which they work -- how is it that they overrule medical opinion by specialists? Also I'm aware, by working on some individual cases with WCB, that medical advisors don't always see all the actual claimants, the patient, in coming up with their medical opinion. In all of these long-standing, protracted cases that gave rise

to this work really, there's a common theme to that and I'm wondering if in your study would we improve the process much more if we were to change that process where perhaps the medical advisors could be the in-house support for the caseworkers and making sure the policies are technically sound, a caseworker could be referred to them for advice on different medical terms and knowledge, but that there be a mechanism in place where specialists' opinions should have some weight.

I have to tell you that the first year we came into office -- Mr. Braden and I -- eight years ago, one of the first things we did as a House was the Act Now panel, which was a major public consultation review on WCB's work. One of the recommendations that came out of that was to provide more resources to the medical advisors' office. There used to be one medical advisor and now we have two, and I was hoping that would sort of create some kind of a synthesis where there might be more diverse opinions. I'm not sure if that has happened, because the cases that are coming before us are still the same as they were seven or eight years ago. So I'm wondering, and I think this is the kind of policy work or legislative changes we can do to improve that situation if that is something your review shows as something that could address many of the concerns we have. You know, we're not medical specialists. What we can do is provide a mechanism to provide balance, and workers have to feel that they have been heard, that their assessments are being fairly reviewed, and that if they had their day I believe that for most of them they'd be more willing to accept the outcome. I'd like the Auditor General's opinion on that. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Lee. Ms. Fraser.

MS. FRASER: Thank you, Chair. Yes, in fact the issue of conflicting medical advice was one of the serious issues that was raised in the report and we have recommended, actually in paragraph 160, that there should be a formal process developed for resolving conflicting medical views. We are recommending that there be consideration of an independent review panel that would look at the medical advisors' opinion but then the outside specialist, so that there would be more independence in the reconciliation if there should be conflicting views. We said they should be independent. They should be acceptable, obviously, to both parties. But we think that in these cases, the process is in fact very important in this and that it not be viewed...It could be perceived currently now as not giving sufficient weight to the outside specialist. So we think there is a process issue in this. You will note that the board...This is one of the few areas where the board does not agree with our recommendations and that might be an issue for discussion with the board a little later on. We've in fact even gone back and suggested to them that they try this on a trial basis and see how it works and what the costs of that would be and would it not be beneficial, because certainly the tribunal agrees that this could be beneficial to them and one would hope that you would be able to settle many of these cases within the process and the decision of the board without having to go into further dispute resolution.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Ms. Lee.

MS. LEE: Thank you. My last follow-up related to that is the role of the medical advisor on each of the appellant processes; the entry to the system with the caseworker and then review committee, then Appeals Tribunal and forward. I guess I just want to confirm whether it's the Auditor General's opinion that perhaps we should really...I have been told that in Appeals Tribunal they get asked or they're expected, I'm not sure how formal it is, to look at all of the evidence afresh. I'm not sure if that requires a completely new medical opinion, but my understanding is the medical advisors have a role on a file at different stages and I think that in itself could create an appearance of bias. Workers need to feel that if they get rejected at the first stage, that they could get a fresh start from a completely separate body of hearers or the tryers and then the medical advice that they obtain. So I'm wondering if that's the opinion shared by the Auditor General's office; separate advisors at each level.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Lee. Ms. Fraser.

MS. FRASER: I'll just start and I'll ask Mr. Simpson to help me on the question of who appears at the various levels. But certainly at the level of the board, it is absolutely essential that the process be viewed as being impartial and fair to the worker. If the worker...I mean you can understand how a perception can be created if the worker has a specialist which disagrees with the medical advisor and yet the medical advisor can kind of overrule that. So there can be a perception that this is not a fair process. So that's why we're saying we really truly believe that there needs to be a change to that process and some independent panel brought in to kind of arbitrate almost between the two opinions, and so the worker feels that the process is unbiased to him. But perhaps for the more detailed answer, I'll turn to Mr. Simpson.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. Again just an introductory comment. The Appeals Tribunal is a hugely important part of the workers' compensation system. You know, it's really the end of the path and it's one that the worker community should have significant confidence in in terms of being able to appeal issues that it feels the board has not dealt with on an appropriate basis.

As we pointed out in our report though, it's important to understand that there are some limitations in the Appeals Tribunal. It cannot make policy itself. With regard to medical advice, the chair of the Appeals Tribunal has told us they only ask the medical advisors for clarification on important medical issues that they do not understand. With regard to any interpretation to what those things mean, the tribunal has access on a contract basis to its own independent medical advisors. I believe Mr. Simpson is going to be appearing before this committee on Thursday and the committee here may wish to ask further questions about that, such as how often do they actually consult with independent medical advisors and on what types of issues. But the transparency of the Appeals Tribunal is very, very important for the confidence of the worker community and we have a little bit of a concern that even asking for clarification on medical terminology

or medical issues could potentially send the wrong message to the worker community. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Simpson. Next I've got Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I wanted to ask some questions in the area of the interaction with claimants. I talk about perceptions and I guess one of the perceptions that is out there and, you know, if you talk to folks that have gone through the system at WCB, the fact that they go there and they feel they've done something wrong and it's their fault that they're there. And when they do get there, there's obviously security and it's hard to get in to see people, and just the overall interaction with claimants I think, real or not real, it's something that folks will tell you about if they've been there.

The other issue, and I wanted to ask about this, you know the cases that have been going on for a number of years, the end result cases, it puts a tremendous amount of stress and angst on the individual. You know they can't obviously pay for food for their families, vehicles, or mortgages or rent or whatever the case may be. They're under a tremendous amount of pressure. Sometimes obviously they'll say things. You know, maybe swear at people or get upset with workers there, then I'm not sure if this actually happens or not, but they're put on a list and they're treated differently than other claimants. I'd hate to think that that actually happens, given the amount of pressure that these folks are under when they arrive at the WCB looking for some help. I don't know if there's a correlation between maybe what they say to some of the workers at the WCB and the amount of time or the fact that their cases don't get resolved. There might be a correlation there; there might not be, I'm not sure. But that's one area that I think we need to have a look at, we need to improve upon. The presumption has to be in favour of the worker when they go there, and today I don't know if it is. I don't think it is. People I've talked to, it doesn't lead me to believe that that is actually the case and it should be. I try to understand this. I've heard there's been threats against caseworkers and people who are employed at the WCB, but why is the WCB any different than the EI office? Or why is it any different than the social assistance office, the income support office? Why is it different? That mentality or that whole scenario has to change. I don't think it should be any different than the income assistance office. I don't think it should be any different than the housing office or any other office where people can go there and be agitated and get upset because they might not feel they're getting the level of service that they need or they deserve, and our other frontline workers encounter it all the time, you know. Why is it different at the WCB? Why do they have the security at the front and the gated access? It's, like Bill says, like a fortress. When injured workers go there, they feel like they're there and maybe it's their fault that they're there and they just get an uneasy feeling about why they're there and the services that they're trying to get from the WCB. I think that certainly has to change.

You know another Member talked earlier of the corporate culture at the WCB and I wanted to touch on that. I wanted to ask the Auditor General if she believes, given the performance audit that took place at the WCB, does she and her staff believe that it

currently reflects the presumption in favour of the worker today? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Mr. Chair, I would just start by saying that we saw no evidence in our audit of any lists of people or any deliberate, I guess the word would also almost be retaliation against individuals or their claims are being processed slower. We saw absolutely no evidence of that. We did see evidence though, and we mentioned the report of staff of the board being verbally abused and of having to deal with very difficult situations. Now, we can understand why that would be the case, but on the other hand those people, too, have a right to go to work and not suffer abuse. So I think it comes back to an issue again, as Mr. Simpson raised, of the training that is given to those frontline people of how to deal with some of those difficult situations and how do they deal with people who are very agitated and very upset. So I think that the training to deal with those cases is very important and very critical for those people.

On the whole question of how they've established security and stuff, I think you should really ask the board. I would suspect there are probably incidents that have happened, that they have to protect their own staff. Now I say that simply on a basis of speculation, because we didn't get into that in this audit, but that could be an area. But I think it's important to recognize that the staff that work there also have a right to go to their jobs without being abused every day. So there has to be a balance and, yes, they need to have the training as to how to deal with that. So I think it comes back to an issue of training and how the caseworkers deal with these people.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I know the report speaks specifically about training and those are questions that we can ask the administration when they're before us this afternoon.

I wanted to also ask about something that the audit came up with and that was that sometimes the board did not inform the workers when an employer or family doctor filed a no-time-lost claim on their behalf, and that obviously is a contravention of a board policy. I'm just wondering, maybe the Auditor General could comment on that as well.

Also, getting back to training, there's another very interesting aspect of this report, was the fact that maybe the WCB should look into taping telephone conversations between claimants and staff for quality assurance purposes. I think that there might be a bit of pushback maybe from both sides, I'm not sure. But I think something like that should happen. I think there's a place for it and hopefully the board will agree to looking at taping telephone conversations.

Before I go to Ms. Fraser for the no-time-lost claim issue, I just wanted to mention I do certainly respect the staff at the WCB and I want them to be working in a safe

environment, but the issue I have is, is it adversarial because we make it adversarial? I think that's the issue I want to get at. Everybody has a right to work in a safe environment and all of our employees government wide deserve the right to work in a safe environment. So that's the case that I'm making, is it adversarial because we make it adversarial. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chair. I'll just briefly touch on each one of the points raised. On the time lost claims it is correct that we did an audit and a sample of files, and we found that there were a number that didn't have evidence of the worker being advised, and the workers have to send back an acknowledgement. We found, first of all, that they weren't necessarily always being advised, and, secondly, if they were advised, there wasn't sufficient follow-up to make sure that the acknowledgement came back. This is very important because I think something like about a third of the claims received deal with time lost claims, so it's important that that procedure be carried through as prescribed.

On the question of taping telephone conversations, I recognize that some people might be a little initially hesitant to that idea, but we really believe that this is something that should be considered for the whole question of managing/monitoring the quality of the service being given. So we obviously believe that this just can't start tomorrow morning, that there needs to be an education campaign about why it's being done to the workers and perhaps as importantly to the staff as well to ensure that they're fully aware of the purpose for this. I think it happens quite frequently in other organizations, so this could be something that could be done.

I'd just like to come back to one point that Mr. Ramsay made earlier which I didn't address, is the whole question of presumption in favour of the worker. One issue that's come up is what does that actually mean. We say that, but what is that interpreted to mean? That, too, could probably use some clarity and some training of staff and discussion of staff about particular situations and how is that to be interpreted. So I think that that is another area that could use some more consideration and some more work.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. Just a little anecdotal thing; last Saturday one of my credit cards had expired and I got a new one in the mail and I had to make a telephone call to activate it. The very thing they said to me, your telephone call will be recorded and monitored for quality control. So it's happening in many other jurisdictions and I don't see any reason why it couldn't happen here. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Simpson. With that, I'll just call for a 10-minute break.

---SHORT RECESS

CHAIRMAN (Mr. Menicoche): We'll resume the Accountability and Oversight committee's meeting with the review of the WCB report of the Auditor General. Next I've got Mr. Calvin Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. Thank you, Madam Fraser, for coming out here. In your opening comments you talked about council's capacity in technical areas. Also in the report, the audit, it says that the Ministers refer to a brief list of names for the council. They have lack of orientation in regard to the training and difficult capacity that's required. So having said that, I'm just wondering, in your experience with regard to governance councils in other jurisdictions, can you provide something with regard to effective direction to manage them and give us a brief knowledge of what you found out. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Pokiak. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. I think it's fair to say that over the last five years or so that we have seen a real awareness of the importance of governance councils, be they governance councils of workers' compensation boards or boards of directors of corporations, be they private or public sector, given some of the recent failures that have occurred particularly in the private sector, and the importance of having really strong oversight and governance over any organization. In order to do that, it is absolutely essential that their roles and responsibilities be very clear, that the members of that body understand what their responsibilities are, and that entails I think much more education, training sessions, but also that that body have the necessary technical capacity to deal with it. It doesn't necessarily mean that the members themselves have to be, as we mentioned in this case, lawyers or doctors or whatever, but that they should have that expertise available to them so that they are able to ask good questions, make informed judgments about what management is bringing to them, that they are able to provide an appropriate challenge function to management.

I would also say, too, that it's important that that body do an assessment of their own performance. We are seeing certainly the corporate world that there is an assessment of the boards as a whole and they've now even moved to assessment of individual members. So the body itself I think has a responsibility to ensure that management is adequately challenged, but they have to evaluate themselves in that role and they should be accountable for their own performance. Of course, in this case, it is the Minister who appoints. That is the most important function that the Minister has in relation to the Workers' Compensation Board. So we are saying that there needs to be a strengthening of that Governance Council, both through training, through the appointment process and, as well, through their access to expertise to be able to help them in carrying out their functions.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Fraser. Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. With the workload that the council has, I'm just wondering if you think it's time for people to consider a full-time council or even a full-time chair at this time.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Pokiak. Ms. Fraser.

MS. FRASER: Mr. Chair, it's not something that we assessed in doing this audit. I would caution, though, that generally when we look at boards of director or governance-type bodies, it is very rare to see a full-time chair. The danger with having a full-time chair is that the full-time chair isn't only dealing with oversight, but then becomes involved in the day-to-day management. So I would just issue kind of a word of caution that if there was to be an appointment of a full-time chair, you have to ensure that there is enough work at the oversight, strategic level, that that person doesn't then become involved in the day-to-day, because then the person will end up being in conflict with the head of the board and that is not good for any organization to be doing that and the chair of the Governance Council really has to stay out of the day-to-day operations.

CHAIRMAN (Mr. Menicoche): Thank you. Next I have Mr. McLeod.

MR. MCLEOD: Thank you, Mr. Chairman. Like my colleagues, I thank Ms. Fraser for appearing before us. I like the comments you made before about plain language. I think it's something you said very well. One of the things I run into back home is you get somebody bringing you a letter asking you to interpret the letter. We get that a lot because we have some elders, they get letters from different groups and organizations and they don't know what the letter is saying, so they bring it to the office. I interpret it for them as best I can without putting my own spin on it.

---Laughter

The part I found quite interesting in the report was on the assessment of the Governance Council and the part that really struck me was a self-assessment. I don't know how common that is for a group to do a self-assessment. I always thought to get an objective assessment you would have to find somebody from outside the group. Just like we as MLAs, we get assessed every four years. The council agreed. They said they hired an independence governance advisor. I am not sure if they are expecting this person to do the assessment. That was something that concerned me. That is a question I would ask you. Who would call for this assessment? I know it says it should be supplied to the Minister at least once a year. So in your experience, does the Minister normally call for this assessment? Perhaps it would be a question I could pose to the Minister when he appears before us. That would be my first question to Ms. Fraser. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. McLeod. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. The whole assessment of governance bodies, it has become practice that they would assess their own performance; that this

is not something that is done by an outside expert. It should be something that they take on themselves as a responsibility. Many, though, will involve outside people who are knowledgeable about governance practices and especially the trends and the new practices, both to educate them on things that are happening in other organizations that they might want to adopt and also to act often as a facilitator to help them do their own assessment. I think it sometimes helps when you have somebody independent. It perhaps keeps you a little more honest or a little more on track in your own assessment. It is viewed in current governance practices that this is something that should be done. Most leading organizations do do it on an annual basis, not only of the board as a whole or the body as a whole, but individual members as well. I think that is important information to the Minister when the Minister is considering appointments that he look at the performance of the body and he's able to say, and this would also involve the council identifying areas where they may need to have strengthened expertise around the table for certain capacities that they don't have so they could bring up those issues for the Minister. So when there is appointment of new members, that be taken into consideration. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you. Mr. McLeod.

MR. MCLEOD: Thank you, Mr. Chairman. Thank you, Ms. Fraser. Don't you think, though, by them doing their own assessment, they would put their own personal spin onto the whole thing and it's not exactly something that the Minister would call for someone to come in...It's like asking them to do their own performance audit is what I was trying to get at. I think by allowing them to do their own performance assessment, I think that takes a little something away from it whereas if we had the Minister appoint someone or hire someone to go in and do the assessment, then we would get a different view of how things work in there. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. McLeod. Ms. Fraser.

MR. FRASER: That, of course, is always a possibility that would be open to the Minister. It is not something that I would expect that the Minister would want to do on an annual basis. He might want to do it periodically. I think it's important that the body itself evaluate its own performance and see if they need to make improvements and that they do this in the view of improving their own performance and that should be done on an annual basis. So one does not negate the other. I am sure the Minister, in the whole question of appointments, would probably have much broader consultations about the performance of the council than simply performance assessment that they would do themselves.

CHAIRMAN (Mr. Menicoche): Thank you. Mr. McLeod.

MR. MCLEOD: Thank you, Mr. Chairman. Taking a different direction here, fortunately I haven't had many concerns with WCB in my riding. I have had two I think that I have been working on. The question I would like to ask you, in a few years with the possibility of a pipeline being built, there is going to be 12,000 workers working on the

project. In your review or your audit of the WCB, did you see any indication that they might be building up their capacity to handle the extra work that's always going to be happening? As much as we hate to say it, there is going to be a few injuries and there will be a few claims. I would like to know if you received any indication during your review if they were preparing for the possibility of 12,000 workers. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. McLeod. Ms. Fraser.

MS. FRASER: Mr. Chairman, we did not see indication of that. I think that would obviously be a very important discussion to have with the board because this is a significant challenge, strategic challenge to them, not only the numbers of workers, but I would even presume the types of injuries could be different. There needs to be an assessment if they have all the skills necessary to respond to that. What has gone on elsewhere when you have these kinds of really large projects that bring in a lot of workers for a specific period of time? I think it would be good to ask them how they plan to address this because that is a very significant challenge going forward.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Next I have Mrs. Groenewegen.

MRS. GROENEWEGEN: Thank you, Mr. Chairman. Mr. Chairman, I want to go back to the issue of conflicting medical opinions. I need to understand this. I have never been in that part of the system. Coming at it from an injured worker's perspective, a worker gets injured, they don't go to the WCB. They go to a medical professional. That's where they enter the system, is by indicating they have a work-related injury and they see a medical professional.

That medical professional then relies on their knowledge and the type and nature of the injury as to whether or not they will refer them on to a specialist or other types of treatment or assessment. Then let's just use a case scenario here where a specialist does become involved in managing this person's medical condition. I cannot understand where it would become possible that a medical advisor of the WCB could overrule or override a medical opinion provided by a family practitioner or a specialist. I can't imagine what the circumstances would be. There has been reference here this morning to the idea that maybe we need an independent panel of medical professionals to adjudicate where there is a conflicting opinion. I think that's way over the top. I think there is a role for a medical advisor within the Workers' Compensation Board, absolutely. We need to ensure that policies are being respected. This is a very complex and technical... You have to have a lot of knowledge of this. So, yes, is there a place for a resident medical advisor; absolutely. Should that person's role be to challenge the medical opinion of practitioners that are out there in the medical field that are serving the public? What makes their case different that the care should be challenged? That I don't understand. I think it would be way overkill to get a medical panel of experts to try to adjudicate these cases. I think that we should respect the independent opinion of the medical profession that is involved with that injured worker.

The injured worker is entitled to a second opinion. We get that all the time. Even as MLAs, we get constituents who say I have had a medical opinion, I want a second medical opinion. There is a way of acquiring that as well. It's so important because it goes back to the issue of conflict. The benefit of the doubt in favour of the worker. How could anybody perceive it to be anything other than a conflict if they go to a medical professional and then they go to the WCB and that person says we aren't going to honour that medical professional? That brings into question either the ethics or the knowledge or something of that medical professional who saw them. If that's the case, we have a problem because they are the people out there serving the entire public.

So this is a really big question for me. I don't know if this process is dictated through the act and it needs a change of legislation or what it needs, but the people who see the injured worker are the independent opinion. That is where the worker has confidence hopefully and if they don't, they can get a second opinion in that service or care that they're receiving. To bring that file then back to the WCB, I'm sorry. I would perceive, if I were the injured worker, that the WCB medical advisor overruled the opinion of the doctor that was taking care of me. Right away, I would say that medical advisor is on the side of the institution. He's there to protect the interest of the WCB, not there to protect the interests of the injured worker.

So I feel so strongly about this, I would be prepared to take this to a private Member's bill to change the legislation. I guess my question to you, after all that...

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...is we are not the only WCB in Canada. There are other jurisdictions. How is this dealt with in other places? This is very significant to the treatment of injured workers, in my opinion. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much. Ms. Fraser.

MS. FRASER: Mr. Chair, I have several elements of response. First is that there are cases that are very clear cut. Somebody falls off a ladder, breaks a leg; yes, it's directly related. There are other cases that are much more complex and there can be different medical opinions as to the cause and is it related to work and I think we have to accept that there can be differences of medical opinion that are not easy to resolve.

Secondly is the whole question of what is allowable under the policies determined by the governing council. One of this is, for example, pre-existing conditions and the amount of payment or compensation that can be given will be affected if there was a pre-existing condition. One of the recommendations that we have in here is that the board needs to do a better job explaining to medical practitioners what is allowable, what is not allowable and to explain to them because some doctor might think this is obviously covered. It may not be covered, so there can be a dispute there as well, which can create frustrations throughout the system.

The final issue is, unfortunately, the medical profession also has its share of unethical people. We have issues in here about frauds and that is a reality that the board has to deal with. The board has to rigorously assess these things and has to ensure that people are treated with fairly and that workers and employers are not paying unnecessarily for cases. So I think that I would just caution that there needs to be a little caution and you need to understand that there needs to be safeguards in the system that end up protecting everyone, because there will be people who will abuse the system. That all being said, that's why we are saying that when there are these differing medical opinions which can happen in very complex cases, we think there should be some sort of independent mechanism to deal with that before you get onto the Appeals Tribunal and that's why an independent panel could be established and it is our understanding that that is the case in other boards across the country.

CHAIRMAN (Mr. Menicoche): Thanks very much, Ms. Fraser. Mrs. Groenewegen.

MRS. GROENEWEGEN: Thank you, Mr. Chairman. I agree, there definitely does need to be something to close the gap between the... There has to be something between medical advisor disagreeing with the medical professional who is dealing with the injured worker. I would hate to think that that has to be a board or something so structured and so formal, but there does need to be safeguards and there needs to be balance. Medicine is not a perfect science. There could be underlying conditions that people have, work-related, environmental conditions in the workplace that could trigger an underlying condition that may have been present before. So I assure you, I understand how complex it is. However, I think a situation could arise seriously under our current system where the medical advisor does not necessarily get involved in the assessment or care of an injured worker in a hands-on kind of a way. So the medical people prescribe and assess and treat and the medical advisors might just be reading about it on a file or medical file or a piece of paper and has never examined or had that firsthand knowledge of the case by having dealt with it themselves. I think that's a concern. That kind of authority would like with that medical advisor to override the opinion of the medical professional. Yes, there could be unethical people in the medical profession. I'd like to think it's the case. I suppose it could happen. I think we have to go with the rule of probability here. The rule of probability is I would say an unethical person who only cares for the worker and doesn't care for the employer and is going to do something unethical is going to be majorly the exception and not the rule. That's how we have to treat the injured worker. The injured worker who is out to abuse the system is going to be the exception by far as opposed to the rule, so we have to treat it that way. We have to assume on the honourability of everybody in the system. Of course, there may be exceptions, but I think we need to err on the side of believing that people are not there to do something untoward, but at the same time have cheques and balances in place. So I would be interested in hearing, and this may be a question that should be posed to the folks in the WCB, but what would be the relevant solution to this problem? Like I said, just succinctly, the fact that a medical professional could see an injured worker, the medical advisor has not seen or treated that patient, could look at the report on a piece of paper and overrule the opinion of that medical professional, I

have a big problem with that. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mrs. Groenewegen. Ms. Fraser.

MS. FRASER: Obviously, the kind of case that has been presented creates a lot of frustration and a lack of trust in the board. I think when an injured worker sees that the opinion of their own medical professional is being overruled, obviously that's going to create a problem and a very bad reaction. Again, there are certain elements to that. When does the medical professional actually understand what is covered by the board? We are saying there should be more dialogue and understanding of the professionals as to what can be covered. Secondly, where there are these kinds of disputes that there be some sort of independent way of dealing with it. I think the question obviously would be better addressed to the board and how did they perceive all of this and what sort of solutions do they think possibly could be put in place as well.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. I'd love to get back in and work over some of the file that Mrs. Groenewegen and Ms. Lee and others were taking about, but we will have a chance to do that with other parties over the next couple of days. I do want to go into a couple of areas, to specific areas, Mr. Chairman. One of them is perhaps touching back on an area that we've already talked about. I guess the phrase I would use for it is the notion of the benefit of the doubt. As we look at the genesis of this idea of a WCB and the merit of principles, and I am not professing to be an expert in this, Mr. Chairman, but the basis was clear that many decades ago, the great compromise, as I have heard it referred to, resolved that workers give up the privilege or the right, if you will, to sue an employer in return for a no-fault insurance system that would compensate them, that would help them through the difficulties that would rehabilitate, retrain and look after their families. That is, in my mind, a default in favour of a worker, as opposed to an employer who has other means to look after themselves as a corporate entity. They can raise prices, they can hire more workers, they can change staff, all sorts of different ways. But a worker who is injured and not able to get an income and look after the rent and put food on the table, they have very few options as we are so often reminded and this is where the compassion comes in and will not be dismissed from my agenda where a worker is suffering, is in pain, where there is confusion, tension, pressure, there are very few options. So the notion of benefit of the doubt for the worker is essential to the confidence that we have to have in the system. It is in our legislation, not precisely in those words, but the clause in the act, Mr. Chairman, is brief, if I could read it. It's clause 5 of section 7. It says: "All decisions of the board shall be given according to the justice and merits of the case and the board shall, from the circumstances of the case and the evidence adduced and medical opinions, draw all reasonable inferences and presumptions in favour of the worker."

Where this needs to be aired in this discussion, again, is in that jurisdiction in our ability as MLAs and legislators to say where can we apply this, how rigid or how flexible is this? There it is, it's in the law: "...reasonable inferences and presumptions in favour of

the worker.” Again, it’s another thing we do grapple with and indeed the workers do as well. They see this as one of the principles and yet as other Members have talked about...And I have seen them and I know that you have seen them, Mr. Simpson has seen them in his investigation time after time after time after time. Another medical professional, another MRI, another examination, another precedent from another province will come in and say this is where this worker situation is. Yet, our system says dunno about that and there’s another delay or another decision goes out against the worker, by the way, automatically with another appeal form just as a matter of course. This is the level of correspondence and communication that you already talked about.

Mr. Chairman, can Ms. Fraser help us with knowing where presumptions in favour of the worker should be handled and regarded at our level? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Braden. Ms. Fraser.

MS. FRASER: Mr. Chairman, I think about this. I would think that the body that should be asked about how they apply this would be the Governance Council. How do they perceive that, what does that mean? How do they take it into account when they determine policy? The council should be able to articulate to the community what their conception is of benefit to the worker or benefit of the doubt to the worker and how that has been incorporated in the policy suite that the board has to apply.

I would think even in annual reports that there should be discussion. I related a bit to when we do work in Crown corporations and we say to Crown corporations, how do we define public policy and you should articulate that and that should be clear for all, I think this is a very important issue, a very important consideration and the council and the board should clearly articulate that and they should say how do they apply that in specific circumstances and in their policy-making process.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. In the interim of time, if we could shorten up our preamble to the questions, we have several other Members and would like to engage as many as possible. Mr. Braden.

MR. BRADEN: Mr. Chairman, thank you for the guidance and I am mindful of the clock.

I will go to another area, Mr. Chairman, and that is indirectly the office of the workers’ advisor and one that your review has addressed and given us some work on. The workers’ advisor’s office, from my experience, is very competently staffed with Mr. Baile. I guess where I would like to go is to ask if it’s adequately resourced. Do we, as a Legislature, as a government, put enough resources at the disposal of the workers’ advisor to truly assist workers?

Mr. Chairman, once workers have gone through the initial round of reviews and appeals and satisfied the preliminary requirements of our system, if they are still not satisfied, the job of advancing their case gets a lot more difficult and a lot more complex and a lot

more demanding. So they need help doing this. About the only assistance that is out there for them is our legal aid office in addition to the workers' advisor. Our legal aid system is swamped right now and very short staffed, short of lawyers.

The question I wanted to ask is should workers have more resources provided...Should injured workers have more resources provided to them at the expense of the WCB in order for them to navigate through the system as their case becomes more and more complex, or should they continue being left on their own at their own resources and devices?

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Braden. Ms. Fraser.

MS. FRASER: Mr. Chairman, that's not an issue that we specifically looked at. In fact, I think it's almost a policy issue. I would link it to the previous question that Mr. Braden asked. If we talk about presumption in favour of the worker, it can be more than simply in how you decide. It can be the mechanisms that you also make available to the worker. It can be more than simply how you decide. It could be the mechanisms that you also make available to the worker. So I think there is a broader policy issue that could be considered in all of this and again comes back to the articulation about how the board wants to deal with the worker, what kind of resources they want to put in and then how do they ensure that the system is open to them and facilitated for them. I think the two questions are interrelated.

CHAIRMAN (Mr. Menicoche): Thank you. Next I have Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I wanted to turn my attention to risk management. In the report, under paragraphs 56 to 67 talked about risk management and the fact that WCB lacked a cohesive and comprehensive framework for risk management. In fact, had no plan for doing work like prioritizing internal and external risks. I know my colleague Mr. McLeod was talking about the impending resource development, the possibility of a pipeline, 12,000 workers. It's a fairly important undertaking. I am wondering if the Auditor General would like to comment on whether the findings of the lack of a risk management plan in the WCB in the Northwest Territories, is it a common occurrence? I know you review a number of other Crown corporations. Is the WCB here exceptional or is this a common occurrence? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. I think the whole notion of integrated risk management and comprehensive plans is relatively new, though the notion of managing risk has been around for a very long time. But that organizations articulate what risks they face both internally and externally and then assess them and develop the plans to deal with them, I would say, is fairly recent. I would say, though, that most organizations are starting, if they don't already have them in place, they are starting to develop them. But we do see many that don't have them in place. So I wouldn't say this

is unusual, but given the complexities of the Workers' Compensation Board and some of the very large challenges that they will be facing with a very significant influx of workers, I think this is very critical that this be done and that they assess the external risk, but also their own internal capacity to deal with that. We've mentioned here shortages of staff, the information technology systems. These are very significant functions in the organization and one which could require significant investment for employees. So they have to be planned out properly so that you don't arrive at a crisis. So we are strongly recommending that this be done.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. Thanks, Ms. Fraser, for that. One of the other questions I would like to ask is, is there any concern with the Auditor General in the reporting relationship between the internal audit at the WCB and the fact that it reports directly to the senior legal counsel and how that might compromise its effectiveness, or would you say that it might be better if that internal audit function report directly to the Governance Council? In your mind, what would be better? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. Internal audit is essentially a tool for management to assess whether systems and practices are working appropriately and to make the necessary change. Best practice would indicate that the internal auditor should report to the head of the organization, so that they have independence within the organization. Now, we noted it as a fact that it reports to the chief legal officer and we haven't done an assessment as to whether that would affect their independence or not, but it is a very important and critical function and should get the kind of stature and independence within the organization it deserves. I would note that it does report, as well, to an independent audit...the Governance Council as well. So there is a mechanism whereby they can raise issues outside the organization and that that oversight function is being done. I don't think that we necessarily see a big problem. I guess there could be some consideration of whether it should report directly to the head of the organization.

CHAIRMAN (Mr. Menicoche): Thank you. Follow-up, Mr. Ramsay?

MR. RAMSAY: Thank you, Mr. Chairman. This gets back to staff training and supervision. How common is it for organizations like the Workers' Compensation Board to have deficiencies in quality control and problems with organizational structure, as spelled out here, which might limit their capacity for effective supervision? An example of that is the claims manager having 17 direct reports. I am wondering is the Workers' Compensation Board here in the Northwest Territories and Nunavut exceptional or are these common occurrences across the country? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Thank you, Chair. It's difficult for us to respond generally because we haven't done the kind of benchmarking that one would need to do that. But certainly I would think that anyone who has 17 direct reports, I think we can probably all agree, is probably too many. It's hard to do effective supervision of that many people and I believe that has been recognized by the board and that they are taking actions to address that.

CHAIRMAN (Mr. Menicoche): Thank you. Ms. Lee.

MS. LEE: Thank you, Mr. Chairman. Notes for my next question are a page long, which means it could turn into a five-minute speech. So I am just going to try to be as precise as I can possibly be. My questions are to do with who has the role of policy development. I asked earlier questions about conflicting opinions, which is a common theme in many cases that come before us. We also talked about the lack of clarity in the accountability framework, but I want to use that to speak about who is responsible for developing policies. I am talking about compensation policies, not other board policies. I find that a lot of cases that come before us and that get discussed in the House are policy issues because your report stated in all cases, except one in the sample, that policies were followed. What happens when the case does not fall into that policy box? How does the public or anybody else have input into maybe it's time to change the compensation policies? The cases that come often that is very much before us is the chronic pain policy, post-traumatic syndrome policy and there are various...I believe what you said about WCB being a public institution. To me, that means the WCB policy is a public policy and there has to be a mechanism for public input.

From reading your report, I am understanding that it's the role of the Governance Council that has a very important role to play in policy development. I think that's the best the MLAs can hope for, is influencing the policy for public interest, not dealing with individual cases.

So the workers go to WCB, they don't fall into that box and then if you get dozens of the same issue, how do you change that and the report speaks about unclear definitions or clarity about roles, but is it unclear just stating what the GS's role is versus the Minister's role versus management? Is it the case that the roles are there, they just aren't being exercised? Do you know what I am saying?

Reading from your report, it has on page 33, the Minister has a lot more authority under the FAA to review and challenge the annual report. I didn't know that before. I thought we just table the report, sort of thing. There is a question about a new building for WCB, for example. The law states the WCB Act states very clearly that the Cabinet has to approve any real estate transaction over \$100,000, but what does approve mean? Does that mean you get into it or you...

Chronic policy, if you get numerous court cases that says, not numerous but significant Supreme Court decisions in the NWT that says chronic policy of our WCB is not in line with that, where does the public come in and say you have to change this? A public

institution, as WCB is, has to be an evolving process and the policy change cannot all be placed on the internal mechanism. I think that is a big issue for us for a lot of workers that come before us, they want the policy changed. I am going to obviously pose these questions to the GC and the management and everybody else who comes before us. Who makes those policy changes? How do we evolve and improve? That doesn't mean that everything that comes up has to be accepted, but how do we do that?

Ms. Fraser, there is a whole section on the lack of deficiencies in consultation by the Governance Council. Do they have the power to say consult with medical specialists, the community at large, injured workers, understanding that they aren't full-time board members, understanding that they have different skill sets, can they really meet with the workers or anybody and change this? Members can't do it. I understand the Minister can't do it.

I am told over and over again, we have a policy, but how do we change it. I want to know if the Governance Council has full authority to do that. Is it just them not knowing that they have that power, or do they have that power and are under using that power? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Lee. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chairman. It is very clear that the responsibility for approving policy lies with the Governance Council. As we have mentioned in the report, we feel that the whole consultation process has to be strengthened which they, themselves, have recognized and they have directed the board to go back in their policy consultation to involve many more stakeholders in that. It is clear that it is with the Governance Council. Yes, of course, they have the ability to direct the policies be changed and they can conduct consultations on their own if they wish. We say, too, their ability to deal with this can be strengthened if they need to bring in outside experts. They are there to really offer challenge function to the board. So, yes, the board is obviously going to play a very important part in bringing forward issues for consideration to the council, but the council can certainly initiate reviews of policies or whatever on their own and direct the board to consider certain issues. I think there is a key function, very important function that they play and I think it would be very useful for the committee to ask them about some of the more contentious policies and do they consider how they deal with evolving, be it legal or medical, considerations over time. How do they do reviews of policies on a regular basis? Are they aware of all that is going on that could affect their policies? How do they take these changing circumstances into account?

CHAIRMAN (Mr. Menicoche): Thank you. Ms. Lee.

MS. LEE: Thank you. One follow-up. About the independence of the Governance Council then, I don't understand how that could happen. I can understand why it should happen or how it might be helpful that the Governance Council in their effort to look at policy options or any need for change, a change in the box, expanding the box,

narrowing the box, whatever they have to do, I can understand the resources they need to do that. They are not full time in that position. They are not WCB specialists. They have to rely on the in-house legal medical advice, policy advice, as is the case with most corporations. So how do you foresee the Governance Council achieving that level of independence where they can do their proper job of being the oversight agent to the management of the board, but also be able to take in changing circumstances and the themes that come up, whether it's a result of many cases, court decisions, direction from the Minister or advice from the Minister, input from MLAs? What would achieve that independence for them? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Lee. Ms. Fraser.

MS. FRASER: Thank you, Chair. I guess the key criteria to someone being able to offer effective challenge is that they themselves be informed. It doesn't mean that you have to be an expert in the area, but you have to be aware of what is going on. As we mention in the report, there is initial training and briefings that they have. There is the ongoing briefings that they should be receiving from the board about changing circumstances, new developments, but there is also responsibility of the Governance Council themselves to ensure that they receive outside opinions as well. It can be through attending your annual conferences of workers' compensation boards where I am sure there are discussions of the legal cases that have happened and the trends that are happening. There is visiting other boards, there is having experts come in to talk to them. It's getting a broader perspective, not to say that they are not...I certainly don't want to give the impression that they aren't being adequately informed by their own board, but in order to do a challenge function, you need to go beyond that. So I think there is a responsibility on the Governance Council members to see what mechanisms are available to them outside of the board itself to be able to fulfil their roles properly.

CHAIRMAN (Mr. Menicoche): Thank you. Next I have Mr. Ramsay and that will be the last set of questions before we recognize the time for lunch.

MR. RAMSAY: Thank you, Mr. Chairman. Just a quick question on the financial position the board finds itself in. Paragraphs 12 to 16 indicate that the board is in a strong financial position and at the end of December 2005, it had investments in cash totalling \$283 million and future costs and current and previous claims of \$208 million. So it's in a fairly healthy financial position. I wonder if the Auditor General would characterize the WCB's current financial position as representing good practice and is there any concern that it might be crossing the line towards being over funded? The reason I ask that is when you have injured workers out there for years and years trying to fight WCB for what they feel is right and just and they hear that the WCB wants to build a new building or go down the road of a big capital expenditure like that, it causes a perception problem and some concern out there in the community. I wonder how does it compare with the other...You may or may not know this. How would it compare with the financial positions of other workers' compensation boards across the country? I would be interested in hearing that, Mr. Chairman. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Ramsay. Ms. Fraser.

MS. FRASER: Thank you, Mr. Chair. We haven't done the kind of analysis that Mr. Ramsay is asking for. So, unfortunately, I really can't comment on that. I would just point that any kind of major project that any kind of organization undertakes, there should be a business case that rationalizes what the benefits would be of doing that. That's probably something the board could discuss with the committee when they appear.

CHAIRMAN (Mr. Menicoche): Thank you very much, Ms. Fraser. Mr. Pokiak, 20 seconds.

---Laughter

MR. POKIAK: Thank you, Mr. Chairman. I have a quick question on policy. You gave an example in the report about one place where the policy wasn't followed. I am just wondering, in your experience, with other organizations that have set policy, what kind of checks and balances can be followed with regard to that? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Pokiak. Ms. Fraser.

MS. FRASER: Thank you. Yes, that is correct; we did note a case where policy wasn't being applied for camp workers. Again, I think it's a question of the staff understanding what the policies actually are and how they should be applied. Then there should be some quality assurance mechanisms in place within the organization to ensure that the claims are being treated in accordance with policy. I would think on an ongoing basis that that should be a role that internal audit would play. They would do periodic audits to ensure things are being done as they should be.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. One more small one from Mr. McLeod.

MR. MCLEOD: I know I just couldn't go for lunch until I asked these questions. Just a couple of quick questions and I will ask them all at once and make it as short as possible. The Minister's role in the report says they received the report but they did not approve the corporate plan and annual report. My question there is why. The second question I would have is wouldn't it be up to the Minister to take the lead on drafting a communications protocol instead of the board? So I would like to know why in the report it says the board should draft this up. I always thought the board reported to the Minister, not the Minister reports to the board. What authority do we have over the board through the Minister's office other than through legislation, or is it just legislation? Thank you.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. McLeod. Ms. Fraser.

MS. FRASER: I sense a huge swamp ahead of me as I tread cautiously.

---Laughter

As you mentioned, the terminology is receive. I think what we are saying is what does that mean. Receive could simply be take it, table it and does nothing else; or, there could be an expectation. It doesn't say approve and it doesn't say review and approve. It just says receive. So I think it depends on the interpretation around that and that might be something that you would wish to explore. Going forward, I think there may be new legislation under consideration at some point in time. I think with the way the wording is now, to receive would not infer necessarily a challenge in approval. Again, it's really about the role of the Governance Council because the Minister appoints the members to the Governance Council. They are the ones that are given that oversight challenge. That would be worth clarification. On the communications protocol, we believe that that really is the responsibility of the board and that the board should be thinking of how they want to do this with various stakeholders and that they should be at least proposing something, they should be bringing this forward, they should be proactive on this with the Governance Council being very involved in that. I believe work has started. They have recognized themselves on the consultation. That has started.

CHAIRMAN (Mr. Menicoche): Thank you, Ms. Fraser. So that will conclude our review of your report with you for this morning. I would ask if you have any closing comments.

MS. FRASER: I would just like to thank you very much, Mr. Chair, and members of the committee for the interest in the report; of course, for having asked us to do this work. As I mentioned at the outset, we are here to help you in your role as Members of the Legislature and we look forward to working with you on future issues. Thank you very much.

CHAIRMAN (Mr. Menicoche): Thank you very much. As well, on behalf on the Accountability and Oversight committee, I would like to thank you for your appearance today. As you can see, the report is of great interest to the Members. I do believe we are already laying the foundation that indeed changes are necessary and can and should be done.

We look forward to pursuing our discussions with other witnesses over the next two days on this specific topic. I would also like to publicly thank Mr. Roger Simpson and Mr. Dan Stadlweiser as this will be their last visit to the North as they move onto other adventures and challenges. Their service to the Legislative Assembly has been exceptional and their expertise has been invaluable to this and previous committees as we pursue our mandate to hold government to account.

Also, I look forward to a long working relationship with Mr. Andrew Lennox with the Accountability and Oversight committee. I would like to thank you and the gentlemen.

For the information of those who wish to continue to observe our proceedings, we will resume consideration of the report at 1:30 with representatives from the WCB administration. With that, I will adjourn for lunch. Mahsi cho.

---LUNCH RECESS

CHAIRMAN (Mr. Menicoche): Good afternoon, ladies and gentlemen. We'll be reconvening the continuation of the review of the Auditor General's report on the Workers' Compensation Board of the Northwest Territories. My name is Kevin Menicoche. I'm the chair of our Accountability and Oversight committee. With us today is Mr. Bill Braden, Mr. Dave Ramsay, Mr. Robert McLeod, Mr. Calvin Pokiak, Ms. Sandy Lee and, as well, for staff we have deputy clerk, Mr. Doug Schauerte; researcher, Colette Langlois; and Kelly Payne, Deputy Law Clerk. Our next witnesses before us are acting president, Mr. John Doyle, of the Workers' Compensation Board; Ms. Marie Wilson, vice-president, NWT operations; Mr. David King, chief medical officer; and Mr. Mike Triggs, senior legal counsel. As well, at the table joining us is Mr. Roger Simpson and Daniel Stadlweiser of the Auditor General's office; as well as Mrs. Jane Groenewegen. With that, please proceed with your opening comments if you have any, Mr. Doyle.

WCB Acting President's Opening Comments

MR. DOYLE: Thank you, Mr. Chairman. We have an opening statement, which I believe has been distributed.

Mr. Chairman, we would like to thank the committee for requesting that we appear before it to discuss the Auditor General of Canada's special audit report on the Workers' Compensation Board of the Northwest Territories and Nunavut.

I would like to first apologize on behalf of David Clark, the WCB's president and CEO, for his absence. He had a family emergency that prevented him from attending today.

The WCB thanks the Legislature of the Northwest Territories for requesting that the Auditor General conduct her review. The WCB recognizes that the office of the Auditor General's independence and objectivity are above reproach and that this can dispel a lot of misconceptions about the WCB's operations.

As well, the WCB accepts that there areas where improvement may be made. We hoped that the Auditor General's report would provide the WCB with some guidance to improve our service, and it has.

The Auditor General's report made a number of recommendations about the WCB's operations, which can be summed up as the need to improve communications. This means improved communications with individual injured workers, stakeholder groups, the public as a whole and the Members of the Legislative Assembly.

The Auditor General's staff did not identify significant problems with the WCB's decision-making. Criticism was directed towards the way in which the how and why a decision was communicated and in not provided proper expectation management to the injured worker. While we agree that there's room for improvement, this is not to say that the WCB is a poor communicator. The WCB does a fairly good job communicating with injured workers and providing them with good service. A recent survey conducted by Leger Marketing determined that overall service delivery, overall access to services, overall communications and satisfaction with the compensation process are leverage elements and have a high impact on overall satisfaction. These elements are currently perceived to be performing well. There is an opportunity for improving overall satisfaction further by achieving higher performance ratings on these elements. Seventy-nine percent of injured workers believe that they receive good or very good service from the WCB.

We accept, however, that there is room for improvement. The percentage of injured workers who do not believe the WCB is doing a good job is high enough for us to be concerned. The Auditor General's report has provided good direction for the WCB to improve its service delivery. We are grateful for this.

The Auditor General clearly outlined the importance of the WCB remaining at arm's length from government. This is a principle of workers' compensation in Canada and if this principle is eroded, employers and workers will lose confidence in the integrity of the system. The WCB recognizes that being at arm's length from government comes with a tremendous responsibility. Not only does the WCB have to carry out its duties and responsibilities properly, it has to be seen as doing so.

Again the theme is proper communication. It's clear that some MLAs did not have confidence in the way the WCB was carrying out its duties and this is why the Auditor General was asked to conduct the review of the WCB's operations. We believe that this also has to do with communication.

The WCB has not been successful in providing MLAs with the information they need to properly assess whether the WCB is doing a good job. We need to develop means of allowing the Legislature to assess the WCB. We're 120 public servants in two territories who go to work every day believing that we're providing a good service to injured workers and employers. We act honestly and in good faith and we want the MLAs of both jurisdictions to know it. If we fall down on the job, we're willing to accept responsibility for it and improve. In order for the WCB to do this, we need to know the information required to assess our performance and we have to have a means of providing it to you.

So it's all about communication. The WCB is willing to communicate and, to that end, we would be pleased to answer any questions you may have on the Auditor General's report. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Doyle. We'll open up the floor to questions from members of the committee. I just wanted to advise at this point that I just have to take care in case there are any cases out there that are sub judice, as well as mentioning any specific names of people, that would be kindly appreciated. So with that, the floor is open for questions from the committee. Mr. Braden.

MR. BRADEN: Thank you, Mr. Chairman. I want to thank the members of the board for accepting the invitation and coming to speak with us today.

Mr. Chairman, I will take the liberty of speaking on behalf of committee to say that we do want to see improvements and enhancements made to a number of different areas, and I certainly want to acknowledge that communication is very high on that.

This morning Mrs. Fraser gave us a number of pieces of good advice and guidance. One of her remarks that stood out for me was that trust and accountability is based on relationships. If those relationships aren't in place, then there's really not much room to make some advancements and some improvements. So a relationship, of course, is very largely communication and open channels and trustworthiness there. I would certainly acknowledge that there haven't been ideal channels and protocols and procedures at the legislative level. In a previous life, communication was my stock and trade and I do indeed want to do my part to see what we can do to rebuild that. Indeed, the Auditor General's report was very specific and very clear in that.

I guess to look at the nature or the gaps or the failures that we have, and I say "we" because I do accept responsibility for some of that, is in some of the mixed signals that I have received as an MLA and some of my communication or attempts at communication with the WCB. Essentially our protocols here are large, and a universal protocol is that when we have questions of an even minor nature, the understanding here is that we communicate them through our Ministers, and then the Ministers communicate them to the departments or the agencies, and there's a flow, it's a protocol; we maintain our connections that way. I guess there was a period when Mrs. Ballantyne was the president of the WCB that there really was I thought a very constructive and a very good relationship. The understanding that we had with Mrs. Ballantyne, and with her Minister's concurrence at the time -- I think this was in the previous assembly -- was that there was an open door policy and MLAs could directly approach Mrs. Ballantyne. Then she would communicate to the Minister as she felt or warranted. So that helped me quite a bit in knowing that I had a way of going to the WCB and that they had a way of then coming back to me directly, you know from the source, and saying look, Bill, here's the way it works.

With her departure though and the change in Ministers and senior executives, that took almost 180 degree shift. I'm looking, Mr. Chairman, at a piece of correspondence that I have from April 2004 in which I wrote to the president at the time, to Mr. Wong, on behalf of a constituent, and then the Minister wrote back in response. The point that I wanted to bring out here was he says "may I ask that you direct your questions for the WCB through my office in the future, so that I can expedite the reply and also keep

myself apprised of the issues being raised." Not an unreasonable request, but it was very much a change in the protocol and the approach that I had at one time received from the WCB, and was I guess consistent with a growing tone of responses through the Minister when I was trying to get answers and see where things were going from the Minister. The depth and the degree of communication was very sparse. It was not friendly, if you will; it was very black and white. This kind of approach, along with a number of other events, really convinced me that I was not going to get the kind of communication and the kind of responses that I needed through the standard protocols here, and then lead to asking the Auditor General to come in and help us sort this out and, indeed, that's where we are today.

So I guess where I want to go with this, Mr. Chairman, is to go to this era of communication at our legislative level and, as I say, while I accept responsibility for doing my part to make it better, what are the kind of protocols or processes does the board see being effective? What kind of things would it like to have in place to help us all communicate in the first place, and then build those relationships, Mr. Chairman?

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Mr. Doyle.

MR. DOYLE: I'm going to ask Mr. Triggs, our general counsel, to respond to that.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Doyle. Mr. Triggs.

MR. TRIGGS: For communication protocol to be effective, it's not going to be just what works for us, it has to be what works for the MLAs and for the Minister as well. What the...(inaudible)...of these plans do is that we want to bring forward, communicate a discussion item for a communication protocol to find out what's going to work for the MLAs as well as the Minister and the WCB. We see that communication protocols can address two main issues. One is what information needs to go between the parties, and how the information is going to flow. So those are the two big issues that have to be decided on.

But we see the information that needs to go through is, basically one is how the workers' compensation system operates so MLAs have a good understanding of how the whole system works. There is a very complex system in that. It also has to be accountable information so you can access how we're doing as an organization as a whole, are we doing a good job. The Legislature has given us tremendous responsibilities and you need to be able to access that, and that comes to accountability information.

The third thing is specific constituency information. So if a constituent comes to you and has concerns about how his claim is being handled, we have to get that information to you to help you with that.

So we don't really have any sort of set agenda about what protocol is going to work best for us and that's how we're going to do it. We're going to put our thoughts to it, as to

what we think is necessary and meet those ends, but it's a two-way street, this discussion, and your feedback is very important on developing that protocol. So before the fall session begins we will have a protocol that we will draft a discussion paper to bring forward and come back from there.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Triggs. Mr. Braden.

MR. BRADEN: Thank you and thank you, Mr. Triggs. Mr. Triggs has brought forward a very pertinent aspect of this and it was also given to us by the Auditor General, and that was the whole area of assessments and being able to gauge performance so that we have some sense of at the end of the day is the WCB as it's required, as it's expected, and can we then go forward with confidence or is there work to do to see where we can make some improvements. So those performance measures or standards were indicated, were shown by the Auditor General to be generally lacking. This is something that we look for across the field in government, you know, among departments or programs or initiatives, to set targets, to set objectives by which then the money is voted, not of course in the case of the WCB, but we would look to those kind of things in our function as an accountability and an oversight committee. Where these aspects of performance measurement are lacking in a number of areas, I'd like to ask the board what it's doing to consider to go back into its toolbox, if you will, you know, your policies, the requirements, the expectations that are before you so that performance can be put forward in ways that we can understand that other stakeholders can also appreciate, Mr. Chairman.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Braden. Mr. Doyle.

MR. DOYLE: The Governance Council also responded to this concern about targets and measures in its response to the recommendation under paragraph 55. They recognized that publications like the corporate plan and the annual report would be useful documents in meeting our reporting on our objectives and our goals.

I just also wanted to mention, and this is more for the Governance Council when they have their opportunity, but the board is currently working on its goals and objectives and measures through a balanced scorecard process that we've been implementing in the organization over the last few years.

CHAIRMAN (Mr. Menicoche): Thank you, Mr. Doyle. Mr. Braden, a follow-up.

MR. BRADEN: Thank you. A balanced scorecard, Mr. Chairman. Are these going to be measures that will be shared with the public and with stakeholders? How much of this is being undertaken for internal purposes and how much of it is going to be at the level that we can understand and that we've had some input in, Mr. Chairman?

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Braden. Mr. Doyle.

MR. DOYLE: I'm going to ask Mr. Triggs to respond to that.

CHAIRMAN (Mr. Menicoche): Thank you very much. Mr. Triggs.

MR. TRIGGS: The scorecard is, what the Governance Council does is it sets up a scorecard for the organization and it's governance role say these are goals, these are objectives, here's the targets and here's the measurements that we want to see back on that. They have that for the Governance Council, which is the organization as a whole. The senior management has their own balance scorecard and the various divisions have their balance scorecards going down. Everything lines up to meet the balanced scorecard that's been set by the Governance Council.

The Governance Council, a number of years ago, developed a definition of transparency, because transparency is important to it. It says transparency is a provision to the public of all information necessary to assess whether the Workers' Compensation Board is properly carrying out its legislative duties and responsibilities while respecting its obligation to protect, disclosing confidential information to it by its stakeholders. The problem we're struggling with is knowing what the public needs in order to satisfy themselves that we are doing a good job, and that's part of...(inaudible)...I talked about the protocol, what it is that the Legislative Assembly needs to know we are doing. If it requires seeing the balanced scorecards, we're fine to do that, but we have to work with the Legislative Assembly and the Minister's office to determine what is the necessary information that you need in order to make those assessments. We are entirely open to disclosing things, we just really need to know what it is that is required in order to make an assessment of whether we're doing a good job. Thank you.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Triggs. I think I just want to clarify one more thing perhaps for Mr. Braden, is that the Auditor General said you weren't doing things and yet you're saying you have them in place. If you can clarify that for me, Mr. Triggs.

MR. TRIGGS: What I think the Auditor General's report said was the targets and measures weren't reported publicly. We do in our corporate plan have a reference to the goals and objectives within those targets and measures. What has happened is we are in the process of developing those and a lot of the targets and measures were to be determined, so they weren't published in the corporate plan but we are working on them. This year we have gotten most of the targets and measures for the 2007 balanced scorecard are in place and ready to go. But going back to 2005 which is the year which the Auditor General is looking for, we weren't at that stage yet.

CHAIRMAN (Mr. Menicoche): Thank you very much, Mr. Triggs. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. Mr. Chairman, I've got a number of questions and I guess I'll just start off by going into a few general comments and perhaps a question at the end. As I mentioned, there's a number of questions that I have for administration. I guess the most interesting thing I think is the communication and the breakdown where the disconnect in communication between the WCB, the

Minister's office and the Members of this House. That's where I see the biggest difficulty. I think if we could have had better communication at the onset we might not be sitting here today. I think it's a good thing that we are sitting here today. Obviously there's a number of recommendations that are contained in the auditor's report that I do believe the Workers' Compensation Board should act upon quickly and take issue with. I know that most of them you have agreed to do some work on, so I think it's a good exercise to go through.

The interesting thing and I really do take issue with the fact that in the board's response on page 37 of the report it talks about Members of the Northwest Territories Legislature have not responded to the board's request to make similar presentations, and that's a presentation that was presented to the Members in Nunavut. I've been here for almost three years -- and I've got a good memory -- and I don't remember the Minister asking us if we wanted to have a briefing, or our staff asking us if we wanted to have a briefing. I know it's out there and it's after the fact whose fault is it. Well, maybe it's both of our faults, but we certainly have a lot of room for improvement when it comes to communications. You know, just even recently there's been two instances of lack of communication that causes me some concern. I'm not the Minister responsible for the Workers' Compensation Board, but if I was I'll tell you right now, and whether or not the building issue was one big issue... You know, Members of the Legislature find out on the radio that the Workers' Compensation Board is going to entertain building a new office complex in Yellowknife; first we heard of it. Is that the Minister's fault for not letting us know? Obviously he and Cabinet knew about it. They didn't let us know. We've been trying to come to a definition on consultation with this government for some time and believe me they're not very good at consulting with Regular Members. So maybe we need another mechanism, maybe through our standing committee process or whatever the case may be, but to try to find out what's going on. And if it's the Minister, he'll be here on Friday and rest assured we'll ask him the same questions because I want to find out exactly what's going on here.

The other thing, it was a week before the anniversary of the two firefighters who died here in Yellowknife, the Workers' Compensation Board comes out with a plan to look at charges for a couple of individuals, the fire chief, deputy fire chief, unbeknownst to Members, a week before the anniversary of the event. The Minister didn't let us know. I don't even know if he knew. It's things like that I think that we really need to have some type of protocol in place or a plan. We want to work together. I don't want to be trying to tell people what they should and shouldn't be doing, but I mean there's enough evidence in this report that says communication is an issue. Those are a couple of cases I just wanted to point out.

I guess the first question I'd have, Mr. Chairman; in terms of the report itself, has the Workers' Compensation Board come up with a way to tackle the recommendations, an action plan, something that has timelines that has some attainable goals in the near future to address some of the recommendations that were made in this report? I'm just wondering if they could answer that question, Mr. Chairman. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Ramsay. Mr. Doyle, to the implementation of the Auditor General's recommendations.

MR. DOYLE: We have not developed a specific action plan to respond to all of the recommendations in the report as yet, although I am sure that will be the next stage in the process after responding to this committee.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. Mr. Chairman, I'd like to ask the acting president, I know it's early in the process here, but can he give us a rough estimate on a time frame for the Workers' Compensation Board to develop an action plan to address the recommendations contained in this report? In addition to that, I'd like to ask the acting president has this report spawned any new ideas or given you any new things to look at or directions to go in? Has a light gone on in any of this stuff for you? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Ramsay. Mr. Doyle.

MR. DOYLE: To the extent that it has, we've reflected that in our responses and there are a number of responses that indicate that administration, that the Governance Council have looked at the recommendations and agreed that these are areas that we need to improve on. Things like putting the protocol for dealing for communication between the Legislative Assembly and the president and the Minister and the Governance Council on administration on the government's website. We are planning to look at things like the issue of taping telephone calls, although, you know, admittedly in our response we've also indicated that that in itself has some controversy around it.

In terms of the timelines, I would hesitate to give a specific timeline on this partly because I'm the acting president, partly because I'm not sure what would be a reasonable timeline at this time. But I would venture that at the time when we meet with our Governance Council in September that we would have an action plan to address these recommendations.

ACTING CHAIRMAN (Mr. Braden): Mr. Ramsay, I believe you have one more in the cycle.

MR. RAMSAY: Yes, I do and I'll get to this last question and I know Mr. Doyle and some of the other staff were here this morning when I questioned the Auditor General in terms of the corporate culture and why when MLAs hear about the WCB, it's usually not under the best of circumstances. It's an injured worker, they're not receiving the service that they believe they're entitled to or the compensation they believe they're entitled to, and it's an adversarial situation from the onset. I talked about it this morning, when a claimant shows up at the WCB it's like a fortress. There's a security guard out front. Just straight from the word go it's like this. I know and I mentioned it this morning, there have been threats and I can understand and appreciate threats against staff at the WCB

and situations that have arisen, but to me it doesn't seem that it's any more different than the income support office or the housing office or EI for that matter. People are just trying to attain services that they believe they're entitled to. I just want to, if I could, Mr. Chairman, to get a comment from the acting president in terms of the corporate culture and how it is that the perception out there is that the presumption is not in favour of the worker. But according to the act and your mission statement, your goals and objectives, the presumption is in favour of the worker. But the actual reality out there in the real world that we live in is it's not. So I'd just like to ask the acting president that question. Thank you.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, Mr. Ramsay. Mr. Doyle and any others who are taking questions, just to help us out a little bit with the audio here, if you could speak up a bit so that our audience can hear you as well. Thank you. Go ahead, Mr. Doyle.

MR. DOYLE: As one who has difficulty hearing myself sometimes, I thank you for that, but I will remember to speak up.

In response to the security around our office, as you mentioned there have been threats against our people and the Auditor General also mentioned that it's important that we maintain the safety of our employees in the workplace. Mr. Triggs, I am going to ask to respond to that one.

MR. TRIGGS: We have, as any employers do, we have a responsibility to protect our employees, making sure our workplaces are safe. Some of the examples of threats we've had, we've had people who have threatened to cut up our staff and their families with machetes. We've had people threaten to shoot them. We've had people threaten to bomb them, people threaten to throw staff off the building. We've actually had someone come into our office -- this is why it brought about the security we had -- someone came in, attacked the receptionist and threw a table through a glass wall. We recognize that the security of our staff is important and we have to take the proper steps to do that.

We've recently, in the past year, went through some renovations hoping to make it more welcoming to clients who come in to meet with staff. The receptionist area has been modified. We've got meeting rooms just off the reception area, and we are trying to do that. Unfortunately, we've got limited space in which to work with. But it is a goal the Governance Council has recognized. We want to have a street front presence; we want to be open and have it so that workers coming feel welcome. We're just kind of stuck with it, but we do recognize it, but we have a real issue on security for our staff.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, Mr. Triggs. Can everybody hear back there? Thank you. If you can't, please give me a nod and I'll see if I can raise the decibel level a little bit here. I have Ms. Lee, Mr. Pokiak and then Mr. McLeod on our list. Ms. Lee.

MS. LEE: Thank you, Mr. Braden. I don't think you should tell me to raise that decibel level.

---Laughter

I'm going to try to speak really low. Mr. Chairman, I just want to thank the WCB officials for being here. I know most of them were here through the morning, so they were able to listen in to the conversations that went on with the Auditor General.

Mr. Chairman, I paid a great deal of interest to the opening statement by the board and I understand what is being said there, but I have to say it's a lot narrower understanding of the 230 recommendations than I'd like to see respond from the board. I have to say that for example there's a lot of focus on the need for communication. The last paragraph states it is all about communication and the WCB is willing to communicate. I understand communication is important and I don't want to underestimate that, but I don't believe this is all about communication. I think there is a lot more to that and I need to have the board management understand that. You could communicate a circle to death, but it's not going to become a square unless you become a lot of spin on it and confuse the public. I really think communication is important and I do accept that recommendation from the Auditor General's report spoke to many aspects of that. But when it comes to the role, what I'm hoping would result from this process which I think is a very important process, is that we position and see some reorientation and change of paradigm in the way the WCB does its work. Let me tell you that I do respect the work of employees of WCB. I think at this level and the discussions we're having, we're talking about accountability and relationships between the management of the board, the Governance Council and the Legislature. I think one of the important things that was spoken this morning and I want to repeat that again is the fact that WCB is a public institution and its policies are there for the public, and that WCB stakeholders are a lot more than just workers and the ratepayers. I have been often told, whenever I deal with the issues pertaining to WCB, that WCB considers the ratepayers a very important stakeholder, and absolutely they are. But there's a lot of other stakeholders that the WCB must pay attention to.

The fact that the statement states that the WCB is an arm's length corporation, I understand that, but I don't believe that suggests that WCB work in isolation or that it's not accountable to many other stakeholders. The Legislature is the body that represents the public. I have to tell you I have no problem if I didn't get any briefing from WCB. We're generalists. I don't need to or want to know all the details of operations of all these different corporations. We have technical staff and learned staff to do that. We're generalists. All of those files that come before us, especially where there are common themes about compensable injuries or there are some injuries that are not covered and it's coming up over and over and over again, I don't need to have...It's not the lack of communication that's making me ask questions in the House. It is that somewhere there's a bottleneck or there's somewhere those real grievances are not being dealt with. If those were dealt with, either by the board or the Governance Council, I would have no need to ask questions in the public forum. I don't want there to

be any impression that the Members just sort of take one side of the story and go to bat on that. That's not what we do. We have our own credibility and our interest in doing the job fairly. I think it's only when you hear the same story over and over and over again and we're not able to be involved in any of the process that it is when it's in the public interest for the public institution to serve the public that we raise these issues in public. So that if anything that the recommendations and the review of the Auditor General's report makes it very clear to the board that there are lots of areas of improvement and it's not just limited to communication. To me communication is important, but communication is letting the information out about what you have. But the question we have is how do we improve what we have and how do you really get input from the stakeholders? A lot of those questions I know I'm going to be addressing with the Governance Council, but it's really important to me that if anything the board understands this.

The latest evidence that suggests to me that this is not understood, even as a result of this report, is the board's response to...I don't know what page it's on; I think it's page 37, where the board's response to lack of communication or the communication issue with MLAs, it says, "The board recognizes the importance of Members of the Legislative Assembly as being fully informed." That was quite offensive to me, because that suggests that the issues we have and the right we engage in for the...I don't want to call it fight, but the advocacy we do on behalf of workers are somehow that we are misinformed, that we are uninformed. For me I take the information that I get from the public very seriously and my constituents very seriously. I think it's just too simplistic for the board to look at the real issues we have in terms of, for me, it's a lack of avenue for policy development, and how do we say to you, to the board, okay, you know, you are doing a good job following the policy the way it is. But there are lots of other areas that need to be improved and we, as public legislators, have nowhere to go and we're telling you we need to have this changed. To say well, your concerns aren't really that substantial because it's really just about lack of communication or lack of understanding or you're just being uninformed, I find that very troubling. I hope very sincerely that the review and the work that we have done here and the 230 recommendations will give you a different picture.

So for me a question is, this morning the Auditor General made it very clear that the Governance Council has a lot of power and influence and authority under legislation to make changes in policies. So I would like to know does the board accept that and is this something that's been happening all the time, and how do you help the board or Governance Council to make sure that they have the capacity, they have the resources, they have the independence, they have everything they need to make those appropriate policy changes so that these issues don't end up in the Legislative Assembly? And it's not just a matter of communications. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. Mr. Doyle, to the aspect of policy development.

MR. DOYLE: I'm going to ask Mr. Triggs again, because the policy is his area of the organization, to respond to that specific item. But I just wanted to clarify that while we said a large number of the recommendations could be summed up as communications, we did not mean to say that it's just all about communications. I think our responses and the responses of the Governance Council also reflect that we see that there are other areas, including the area of policy consultation, that need to be addressed. So if we gave that impression that we thought that the whole thing is just communication, that's not the case.

Throughout our responses, the comments of the Auditor General and even the opening comments from Ms. Fraser this morning, the main focus tended to be on communication and on the fact that there don't seem to be protocols in place to communicate between the organization and the Legislative Assembly on our business. It's already been touched on, the fact that there's not really proper assessment tools in place to say that are we performing up to the expectations of the Legislative Assembly, are we performing up to our own expectations, and I think that that's already been outlined by the Auditor General.

On the specific areas of policy consultation, I wonder if I can just turn that over to Mr. Triggs.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Mr. Triggs.

MR. TRIGGS: Thank you, Mr. Chair. On the issue of policy developments and that, going back historically you asked that. For a number of years the Governance Council board of directors at the time would have a policy in place and it would get updated and be mainly editorial changes...(inaudible)...recognized and staff would see this as we need change. The policy unit, which was smaller at that time, the responsibility was basically just bringing these things forward, as administration saw it, brought that to the board of directors.

A number of years ago, that was seen as sufficient, and even in the phase one amendments on the Workers' Compensation Act, that was recognized and it was put into the necessity of there being consultation with the public on policy developments and there should be a policy on that. The Governance Council worked with that for awhile, trying to figure out what is going to work for them, what is meant by consultation, because, you know, it was mentioned there's some struggling with the MLAs and the government regarding what is proper consultation. Our Governance Council went through that same process of trying to figure out what is meant by consultation, what should be involved in it, what should they do to that. They developed recently a policy on consultation and I'll provide a copy of this to the Clerk and it can be distributed afterwards on that. It outlines what the principles of consultation are. It's to be active, it's an ongoing process, there's a two-way relationship, it's client focus, it's flexible in its processes and approaches. Input from stakeholders will be treated with fairness and respect and will be incorporated into new or revised government instruments. When consulting, the WCB should...All affected or interested stakeholders are treated

equitably and with respect. Different interests, comments and points of view are respected and duly considered. It goes on as to what we should do with this. I think it's an excellent policy on how to do it in consultation.

Now what we're doing is we're trying to implement that particular policy and bring life to it. This was adopted by the Governance Council on November 29th of last year. We had a series of policies related to vocational rehabilitation that we went on consultation with, and we approached something like 10 stakeholders in our group across the territories. This involved the workers' advisor, the chambers of commerce, the federations of labour and so forth. We sent out to them information packages on the policies given so that they could have some background information, because it doesn't do any good to say to people what do you think about this without giving them some background on it. So we gave them the background information on this particular package. We followed up. We said we're going to come meet with or do it by phone. However works for you, we'll be there, we'll do it for you. We didn't get the number of responses back that we anticipated that we would have liked to do, but this is something we realize well how do we get more engaged into it because people want to be engaged in the process, but it's a lot of work. So how are we going to juggle that to make it effective consultation on that? So that is what we're doing with the consultation.

How the policies get dealt with by the Governance Council -- and they have complete authority of the policies, it's not administration that makes them -- they have developed an action plan where each policy is reviewed on a three-year cycle. Each one will be reviewed and reconsidered at that point in time. The next one that we're doing, it's all posted on our website, people have access to that; if they want to provide comments to us, they can do that on the website. So individuals can do that, that's brought forward. The groups that we consult with, they can provide their comments to us. Administration, what they eventually do, is they will bring forward the documents and all the comments that we get back from the people who are consulted. It's not edited, it's not filtered, it is as they present to us. The Governance Council considers that, they discuss that, they come from different perspectives. There are employee representatives, they are work representatives, there are public interest representatives and they discuss this in trying to come up with the best policy for it. They ask questions of administration and this is the way we work on this.

We recognize that this is early stages of this and we have more work to do to get it right. Some of the things that we've talked about, what was identified in the Auditor General's report, well, you should be, you know, and specific policies talking to medical practitioners and other specialists. At our last Governance Council meeting we just had in Iqaluit, that was raised as an issue by the Governance Council, was this next time out you've got to be consulting with these people, and they gave us a list of additional people they want us to consult with. So it is a process. We're early stages on it. We hope that it's going to meet the concerns Ms. Lee has expressed. If MLAs want to -- they're part of the public -- if they want to provide information to us on things, they're welcome to do that as well. This would then be, again, conveyed to the Governance Council. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Triggs. Ms. Lee. I do have a full deck of people hoping to address the issue here to Members and to our witnesses, if we could look for conciseness in our messages. Thank you. Ms. Lee.

MS. LEE: Just following your example, Mr. Chair.

---Laughter

Mr. Chairman, just a last follow-up for this round. May I just say, with all due respect, if the WCB has been doing everything as Mr. Triggs has just said, we wouldn't be sitting here. We would not have had Act Now, consultation report going on, we would not have had a motion of the House, we would not have had the Auditor General's office coming in. I just think this has kind of gone beyond the point of saying if anybody has information bring it forward, because I don't understand how WCB cannot have had enough information about all these outstanding issues, whether it's chronic pain issue, post-traumatic disorder issue. I just had a recent example of ratepayers' issue where we hammered down the membership of the board. I know there have been consultation meetings with that. Thus far there has been no action taken on that.

I just have to reiterate we need to see, we must see a change in the way WCB thinks about what its position is, how they respond to public issues. How many cases do you need? I know that the statement says 79 percent of people are happy. Well, in my business it's the other 20 percent that you have to make changes for. If the 20 percent has enough consistence and needs deficiencies, that has to trigger a mechanism within to see what do we need to change. How many court decisions do we need for changes to be made? I just have to say that I'm willing to take that as a good intention to do something differently with this, but I have to say that the evidence supports otherwise and actions speak much louder than a communications strategy. We just need to come out of this process, because I don't know where you go after the Auditor General's report. We need to see some concrete action in the way the things are done in terms of policy formation, responding to public needs and public concerns. Going around and talking to people in communities is great. Putting this stuff in the website is great. But why not listen to the medical advisors, workers' advisors, medical specialists, specialists around...I mean surely in the 20 years or 25 years that the WCB has been in business, there has been more than plenty time to understand that the board policy has to be evolving, it has been changing, it has to be responsive to the ongoing issues, and I'm just not seeing that. I have to insist that before the life of this Assembly. Mr. Doyle mentioned today that he cannot set a time frame; well, I'm going to set the time frame. This is going to change before the end of this Assembly and I believe the 11 Members here are willing to work toward that.

ACTING CHAIRMAN (Mr. Braden): Did you have a question, Ms. Lee?

MS. LEE: I don't know. I have no question. I'll save that for the Governance Council. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. I didn't have a specific question there. But if there's any point that the board wishes to comment to...Thank you. Thank you, Ms. Lee. Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. I just have a quick comment here in regard to the opening statement by Mr. Doyle here. He indicated that 79 percent of the injured workers were satisfied or received good or very good services. So the question I have is what about the other 21 percent? Have you done any follow-up with the other 21 percent why they're not happy with the process right now? Have you delved any further to find out if there's way we can make communications better with the workers? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Pokiak. To the results of the survey, and if I might bolt a little extra one on that, is this survey in the public domain? Mr. Doyle.

MR. DOYLE: I'm going to ask that question once again of Mr. Triggs, because I believe that survey is available.

MR. TRIGGS: Yes, the survey is available here and I can provide it to the committee.

To answer Mr. Pokiak's question, as was noted in the opening statements, sure, if 79 percent are happy, there's 21 percent who are not. We recognize that that is a concern and we said that is a concern.

We also recognize that the Auditor General gave some good suggestions on how to address that. A lot of it comes in with the communication we have individually with the particular injured worker. It was discussed earlier this morning, if the letters aren't in plain language and they don't understand it, that is an issue. That's where dissatisfaction comes in. It's been identified for us. That's just one example of things.

So we've taken the report and we accept the report and we'll be acting on that to conclude a response to it, hopefully to improve all our satisfaction that our injured workers have with the services we provide.

MR. DOYLE: And to the specific...

ACTING CHAIRMAN (Mr. Braden): Thank you. Go ahead, Mr. Doyle. For recording purposes, the Chair has to sort of signal the transition here. Go ahead please, Mr. Doyle.

MR. DOYLE: I apologize. Specifically to the survey, I'm going to ask Marie Wilson, vice-president of NWT operations, to respond. She has more information on the actual survey.

ACTING CHAIRMAN (Mr. Braden): Thank you. Ms. Wilson.

MS. WILSON: Thank you. I think really important to say that 20 percent is a big number and I don't think any of us heard or read the results of the survey as an invitation to complacency. On the contrary, what we saw it as was an invitation to zero in on those areas where we need to focus our attention. One of them was in managing expectations and that's a communications issue in the broadest sense of the word, where we have to do a better job at clarifying for people for example things like timelines for first payments and so on. There are reality issues around that as to how quickly that can happen and we need to manage that expectation so people are not frustrated and worried unnecessarily when they are already upset as soon as they come in our doors.

The other thing that was discussed there is a lot of confusion around what is the full level of service of the WCB and what is our mandate in the area of prevention and safety enforcement and education. So that was one of the areas where there is not enough understanding there and we had more work to do.

So I just want to be clear that the 20 percent... This was the first survey we had done in quite a long time. The survey itself had its limitations and we know that because it was a snapshot in time and it was people who had been before us with an active file over a specific period of time. So it didn't address every worker's or every employer's opinion about the WCB from time immemorial. So it was missing. It was what it was and it wasn't what it wasn't. But what it really provided is a helpful tool for us to know what is the way in some areas where we could improve service and to be seen to be improving service.

I think one of the things that's really useful to us in the AG's report is the recurring message, so it really helps us know where to start. You have to feel good about your basic service and then know where to start to improve, and I think it's really helpful to paint that pathway.

As far as the availability of the report itself is concerned, I know it was posted on our old website. We've just renewed our website in the last month and I'm not certain that it's posted still on that website. But certainly it's available if people wanted to have access to that; we can make that available. We have copies of it there.

May I just add one other point on the issue of communications, because we've now heard two remarks from two different MLAs about what seemed to be the narrow casting of our response. Perhaps we've chosen our words poorly there, but it really is intended in the broadest sense of communications, including the issues that have been raised around roles and relationships. That's a clarity of communications issue. Policy making and who does it and how that happens, who gets consulted regarding policy development, those are communications issues as well. So it was intended in that sense. It wasn't intended to narrow cast and everything else is fine. If I may venture, although my colleague Mr. Doyle said we don't have a clear timeline, we don't for all these things but I think the one clear timeline that Mr. Triggs gave you earlier, which I think is key, is the issue of a communications protocol. We identified that we read the

OAG's report that we would take the lead on that and we have said we would like to have something as a discussion for early this fall. So that is a key timeline which, as I understand it, would be kind of the opening of the door for everything else that needs to happen and we're all clear where we fit into the various conversations that need to take place going forward.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Wilson. Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. I'm just wondering, with the 21 percent, are you going to wait until after you meet with the Governance Council, or are you going to try to answer some of those questions that these people want answered, injured workers? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Pokiak. Mr. Doyle.

MR. DOYLE: I'll refer that to Ms. Wilson again. Although I will note this was a survey, we don't specifically know everything about the 21 percent of people that are dissatisfied. We know some things about them and I'm sure that Ms. Wilson will respond to that in her response.

ACTING CHAIRMAN (Mr. Braden): Thank you. Go ahead, Ms. Wilson.

MS. WILSON: Pardon me. The answer is, no, we're not waiting for anybody to tell us to get moving on the 20 percent. There are a number of things that are happening already. There was reference made to a comprehensive communication strategy. Part of that includes the issue of managing expectations with workers and employers about how things work as part of it is the clarity of our correspondence with injured workers and that particular area falls under my division. One of the things that I've included is, we have a quality assurance plan that we are developing in my division and one of those things is to call for a regular review of the letters going out to injured workers as to their plain language, simplicity and clarity. That's one of the things that I'm personally taking on to make sure that happens.

The other thing is in terms of outreach, we have a major initiative to do with employer assessment rates that is coming into play in the next calendar year and we've already begun having meetings with key stakeholders to clarify that and those meetings are an opportunity to really get feedback from stakeholders about what's working and what's not. As recently as yesterday, I was in Norman Wells holding such meetings with a number of employers and employees there.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, Mr. Pokiak. Thank you, Ms. Wilson. Mr. McLeod.

MR. MCLEOD: Thank you, Mr. Chairman. I have seen your opening comments here. You say you have 120 public servants in two territories. You believe you're providing a good service. You act honestly and in good faith. That's not what we're questioning. We know that there's a lot of good work going on. We've never said there wasn't. You could

be doing good work 95 percent of the time, but the five percent of the time that there's some disagreements gets a lot of publicity. Same in our job. We could be doing well 95 percent of the time, but you miss 18 times and you're in the news. So I just wanted to make it clear to you folks that personally that's not what I'm questioning.

I hear the word communication a lot. Now, if I were to sit here and talk to you in Inuvialuktun, you wouldn't be able to understand me. That's the trouble that a lot of the claimants that you send letters to go through trying to read some of the words that you send them. To the people at WCB, you can all understand it because it's a language that you speak. So once it leaves there, it goes to somebody up in the Delta with maybe a Grade 7 or 8 education. Now he's got to go find an interpreter to interpret the words for him.

The Auditor General's report recommended that you send acceptance and denial letters promptly and they should be easier to understand, and Marie made reference to plain language. A lot of people want to see things in plain language and not – I mean, I read an excerpt from a denial letter and even I couldn't understand it. I'm not saying I'm the brightest bulb out there, but even I couldn't understand it. So I couldn't imagine what somebody with English as not their first language having to try to read this. And it sounds so technical. Are they going to question it? Oh, these guys know what they're talking about. So I shouldn't question it. They're smart. And if it's written to them in a little plainer English, then they'll have an easier time understanding it or if they bring it to somebody to interpret for them then they would have an easier time to understand it.

That's where my question was going was, with your communications to the claimants and the board's response to the recommendation was that you agree. So I'd like to ask you, what have you done or what are the plans to maybe speed this up or get it out there. I think you made reference that you were working on a plan to start speaking a little plainer English. So maybe if you could expand on that a bit in plain English. Thank you, Mr. Chairman.

ACTING CHAIRMAN (Mr. Braden): Plain language question, plain language answer. Okay. Thank you. Mr. Doyle.

MR. DOYLE: I will ask Ms. Wilson to elaborate on her previous response as requested.

ACTING CHAIRMAN (Mr. Braden): Ms. Wilson.

MS. WILSON: Thank you. I know there was a big initiative at the WCB a few years ago on plain language and working with the NWT Literacy Council. It predates my time with the board, but we have had recently meetings with the Literacy Council again and whether there's any ongoing work we can do with them is something that is still open. We haven't drawn conclusions. We've had an initial meeting. This really does apply most of all to the claims unit, which is within my NWT operations division. There is a comprehensive training plan that has been developed and it outlines in broad strokes how we go about determining training priorities. But we have been specific in some key

areas and customer service is one of the ones we've been specific about. In my opinion, plain language is a key element of excellent customer service. But I have to tell you, I'm just fairly new in this division. This is a new initiative and so it's not, I don't want to say it's in play right now, but we are going to be implementing that starting immediately. This comprehensive plan is ready to be signed off. There's a meeting booked for it next week. The issue of reviewing letters is something that can start right now.

Having said that, I do want to say it's not as easy as it sounds. Because when you're talking about people writing letters about policy the easiest thing, is to just cut and paste from the policy. The trickier thing is to try to paraphrase the policy without the fear of having misconstrued what that policy actually says. That, you have to be really careful that you're not misrepresenting what the policy says. So that's the trickier part. It doesn't mean that it can't be done, it doesn't mean it won't be done.

ACTING CHAIRMAN (Mr. Braden): Mr. McLeod.

MR. MCLEOD: Yeah, thank you, Mr. Chairman. Thank you for that. Again I say, you know, we've been using the word communication a lot and I appreciate the fact that you said there will be something in place and reviewing the letters before they go out to the claimants, and you cut and paste a lot of policy because you said there was a lot of policy questions. I mean, surely there has to be something that could be said a little plainer without mixing up your policy that you send out to people. So I'm glad to hear that there is some work being done. It is something that I would encourage the WCB to get because communication is the key in everything. If you don't communicate it to them properly then they misread it and that's where we get a lot of the concerns that we have; there's a lack of communication between the WCB and the claimants, or sometimes the claimants will come to us and they'll give us some information, so we communicate that to the WCB and they come back with a different interpretation of what we got from the claimant. So there are kind of two sides to every story. But in reading some of the examples of the letters here, I mean, they are very technical and it is an excellent idea to get them out there in a plainer language. A lot of these people will have to go find someone to interpret these letters for them, there's no question. Thank you. There was no question there, by the way.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, Mr. McLeod. There may be something that the WCB would care to respond to. I guess to step off from what you were talking about where if I may pose a question to this area, where a claimant may not have English as their first language does the WCB make any efforts to find ways to communicate them in the language that they are most comfortable with? Do you make the effort to seek out that other language and work with them in that respect? Ms. Wilson, Mr. Doyle. Mr. Doyle.

MR. DOYLE: I'm going to ask Ms. Wilson to respond to that one.

ACTING CHAIRMAN (Mr. Braden): Ms. Wilson.

MS. WILSON: The answer is yes, we do. We have policy around the issue of language. We have compliance reports that we provide around the issue of language provision. And there are certain things that we routinely provide in other languages and there are other things that we provide in languages as required or requested.

ACTING CHAIRMAN (Mr. Braden): Okay. Does that include, Ms. Wilson, written and verbal communications?

MS. WILSON: It can, yes.

ACTING CHAIRMAN (Mr. Braden): It can.

MS. WILSON: Yes.

ACTING CHAIRMAN (Mr. Braden): Okay. Mr. Ramsay, I had you next in the circle here, but Mrs. Groenewegen hasn't had her first at bat here, so I'm going to ask Mrs. Groenewegen to take her turn and then to you, Mr. Ramsay, and then to Ms. Lee.

MRS. GROENEWEGEN: Thank you, Mr. Chairman. Just to the issue of plain language, a thought had occurred to me, us, as we were sitting here listening. The idea of reprinting the policy in a letter of response to a client may not be desirable. However, leading each response up to a paraphrasing exercise which may, as someone said, just slightly misconstrue the message is not really probably a good option either. When the Tlicho government did their self-government agreement they had a plain language, they had a translation, a plain language version of their legal document. Maybe that would be, a solution would be to take maybe those most often referred to policies and having a scripted plain language version of those for consistent use as opposed to leaving anything to chance in terms of quoting those policies in letters. Just a suggestion. I don't know what would be involved in doing that kind of a translation.

But anyway, that's not really what I wanted to talk about. I wanted to bring up again, as I did this morning with the Auditor General, the issue of conflicting medical opinions. Quite often some of the unresolved cases, I think it's safe to say, are as a result of conflicting medical opinions. It's a little bit awkward because I think your medical advisor is here before us today and I just want to state for the record, Mr. Chairman, that there is absolutely no personal nature of these questions. It has to do with the roles and responsibilities of that person. I happen to know Dr. David King from my former life as Minister of Health and I do have the absolute highest regard for him and his competency. This has to do with the office and the role of that office within the greater Workers' Compensation regime. So I just wanted to state that at the outset.

We have prepared, I guess, in anticipation of this discussion, some questions. I would not be able to present those within a reasonable time frame here. So I guess what I want to talk about or ask about pointedly is the board had a less than receptive response to the idea of having an independent medical panel to act as an arbitrator or mediator when there were conflicting medical opinions. The Appeals Tribunal apparently had a somewhat more receptive response to that and I would like to get more detail about why the board would not consider that. Because it seems to me that it

would go a long ways toward alleviating the concern of injured workers. The perception. It's just not the fairness, but it's the perception of the fairness. So any time we can get an objective independent opinion outside of the WCB, you know, without, outside of the office, outside of the institution, so to speak, it seems like it would alleviate that problem to some extent. So to the matter of an independent medical panel. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mrs. Groenewegen. Mr. Doyle.

MR. DOYLE: I will ask Dr. King to respond to that in a moment, but I just wanted to give some update to our response to this recommendation that we were responding to this recommendation as something that we didn't agree with, but I did want to report that as part of our action plan for responding to the Auditor General's recommendations, we will be looking at this recommendation and we will be considering some aspects of it. At the same time there are some, from our knowledge of this particular method of going about things, it's not a panacea for anything, but we will be, as part of our action plan, proceeding and looking at it.

ACTING CHAIRMAN (Mr. Braden): Dr. King.

DR. KING: Thank you, Mr. Chairman. It is an area of concern for us at the board, for sure. The question comes down to a lot of times what is a conflict of medical opinion. What does it constitute? Often we hear that the board's advisors overrule a specialist from outside the board. Well, that's a little bit of a misconstruing of the actual information. What we're often tasked with is that our role here is purely advisory. I have no authority for decision-making or the final decision process. That is 100 percent up to the adjudicators and the case managers. So I provide purely an advisory role there. It's one piece of the evidence that the adjudicator must consider in the course of determining whether or not benefits are going to be paid, whether or not medical aid is going to be provided, et cetera, et cetera.

Most of the areas that there is some debate over are resolved in conversation with the attending physician. We have made changes to the act. Phase one of the legislative changes did introduce and codify the process by which the board is operating. It was a practice of the board to contact the physician and try to get resolution at a discussion level. When that did not seem to produce a resolution we attempted to agree on an external authority that we both would defer to for this opinion. That is currently in the legislation presently and it's been there since 2004. So it's had very little time to show its value. The other methodology that we've employed is medical case conferencing. Ms. Lee will recall this because she was a member of one of those case conferences back in 2002 when we introduced that program. Whereby we invite a specialist, the attending physician, board medical advisors, and any other key components to the medical team, worker's representative, case managers, et cetera, and we try to resolve the issues at an open-forum table. That's another form of a panel, so to speak.

I recently had the opportunity, as recently as last week, to meet with the medical directors from across Canada for all the various Workers' Compensation Boards and asked them what their solutions are to this. Some of the boards do have panels,

medical review panels, with strict criteria on what is brought before them, how the process is developed.

I think one of the things I was concerned at when I looked at that recommendation, it's probably a good option to consider. Logistically, up here, we have a paucity of physicians that could serve on such panels. Of the 28 medical specialities that are recognized by the Royal College of Physicians of Canada, we only have six specialities represented in the Northwest Territories. Of those, the WCB would not be getting opinions from paediatricians, from obstetricians, and very rarely from an ear, nose and throat physician. So we're really limited in setting up such a panel up here. We would be looking at going external and using resources south of 60. I asked the two neighbouring jurisdictions if they had such a process in place. B.C. said yes, they just were able to eliminate that because they found it was fraught with more problems than benefit. Alberta has implemented such a program, and that was as early as three years ago. There's a six-month wait to get into the panel. And the panel costs anywhere between \$10,000 and \$12,000 each time it's constituted. They also told me that often the problem resurfaces again to the panel where it's brought up again to an external appeals authority. So it's something to entertain and something that we are considering. As I said, I've done my preliminary investigation of it. I've also made a preliminary contact with the medical association to see what they're opinion on this is as well.

A lot of the issue that is wrapped up as a difference of medical or conflicting medical opinion concerns causation. My role there as medical advisor is to determine can a work activity or can a work exposure cause this problem. Yes or no? The actual did that work activity or did that exposure result in a claim is not my determination. That's for the client services or claimant services to make. So there's two parts to that question. Where there is evidence based advisories that I can provide, I research the medical literature, and provide evidence in support of an opinion that I put forward. More weight should be given to an opinion that is supported with science-based evidence than one that is merely just a personal or professional opinion. I think that's where part of the problem comes in is because people don't understand that process. It's complex and the adjudicators are taxed with weighing the evidence and making an opinion on whether or not they accept or do not accept.

ACTING CHAIRMAN (Mr. Braden): Dr. King, this is all fascinating. It's a very lengthy answer to a very good question. I'm just wondering, just for comprehension purposes, if we might sort of take a pause there and, Mrs. Groenewegen, is there anything further that you'd care to pursue under this topic?

MRS. GROENEWEGEN: Thank you. That was a very interesting answer. Thank you. It was somewhat long, but it was very interesting. It covers a lot of areas of, and it raises a lot more questions. Unfortunately we don't have enough time to explore all those. I find it very interesting, I guess to my understanding of what the role of the medical advisor is, I find that quite different to your characterization of it in the sense that it's only an advisory capacity to a caseworker. But surely when it comes to overruling a special medical opinion, your opinion would carry far more weight than that of a caseworker who would have not necessarily any medical expertise at all. I mean, I

would imagine that a tremendous amount of weight would be placed on the opinion of a medical advisor, especially with somebody with a considerable amount of experience. And I understand on this topic of causation as well probably some specific and specialized knowledge. Anyway, I just found it interesting that Dr. King characterized, it kind of seemed diminished to what I would expect because I would say that probably they heavily rely on their opinion when making decisions.

So the objective independent medical panel may not be the solution and I know there are 10 sides to every story. And I totally can understand the investigation you've done with other jurisdictions and how that may not be the best solution for us. So let me pose this question then: What is, in the mind of the board, the solution to how we can attain not only independence, but the perception of independence on the part of the injured worker who has had their opinion of their medical professional overruled by the WCB? That probably started off with a family, either an emergency doctor or a family physician and has gone on to a specialist, obviously with whom they have a certain amount of confidence and trust and I think we have to respect that people aren't out there to take sides for the worker or for the WCB, but being as a medical advisor works for the institution we somehow have to get around the perception that the medical advisor is there and by extension the caseworker's opinion is there to kind of defend the position of the WCB. I know I'm putting this in very kind of blunt language, but what then? If not independent, if we can't consider the medical professionals as independent and objective because we can overrule their opinion, what then is the solution? Just individual referrals for adjudication to other people? Because I mean, it seems like you can get a lot of different opinions on medical stuff and I'm worried about the worker that goes in there and says that person is not there for me. What are we going to do about it then? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mrs. Groenewegen. Dr. King.

DR. KING: Thank you, Mrs. Groenewegen. We'll have to look at what are the options available. Believe me, I would like to see resolution on each and every one of these issues. No one likes to have an unresolved problem lingering on because of the human costs involved. And I think that some form of arbitration which is binding on both parties would help to put resolution to this. I think in the legislative development of our predecessors who wrote the legislation, they thought that the review committee and the Appeals Tribunal were the bodies that would deal with these unresolvable issues. It appears that that has been the case in some of them, so yet another level of appeal, perhaps. It's an option we can look at. As I said, I've already started the preliminary process to weigh it out. It won't be my decision, but I'll gather the information and the authorities will weigh it out and come up with hopefully the best solution.

ACTING CHAIRMAN (Mr. Braden): Thank you, Dr. King. Mrs. Groenewegen.

MRS. GROENEWEGEN: I'll defer to the next one, thank you.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, everybody, then. We're going to Mr. Ramsay and Ms. Lee. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I wanted to get to staff training, supervision, and interaction with claimants again, if I could. In the report it's mentioned that the board had only offered one customer service course to its staff over the last couple of years. And in fact that not all the staff had taken the course. I guess that causes me some concern because of the number of claimants obviously that come through the doors and the interaction that your staff has to have with the public and I'd like to ask you, you know, what your plans are going forward for trying to introduce more customer service-type training to your employees. Thank you, Mr. Chairman.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Ramsay. Mr. Doyle.

MR. DOYLE: Ms. Wilson is the vice-president responsible for operations that includes most of the staff that are involved. I'll defer the question to her.

ACTING CHAIRMAN (Mr. Braden): Ms. Wilson.

MS. WILSON: Yes, Thank you. I made reference in my remarks earlier to a comprehensive training plan that we have developed. There, in fact, is a full-time, live-in, ongoing claims services manager who is a technical expert who works every day with the claims staff in the Northwest Territories and Nunavut. That's her full-time purpose there. She has years of experience both in all aspects of the claims work itself, but also the policy interpretation and procedure. So we do have that in place. What we have not had, though, until it's just been recently developed is an overarching charter for training that sets out who all gets to have a say on determining training needs, who all gets to prioritize how important this training is compared to that training, how does the impact of training get monitored, how does improvement as a result of training get measured, and so on. And that's what the comprehensive training plan is trying to address. It's a general approach, but it is specific in two areas and I want to say informed by the first draft we received of the OAG report and one of those areas is specifically in the area of customer service training. In fact, I think there may be some misunderstanding about the amount of customer service training that has gone on in recent years because sometimes that training gets covered under different titles. But I know that the now quite popular verbal judo training that is available now, which is extremely helpful related to customer service and good customer relations that all of our staff in claims went through that last year. I know that some of our newer staff went through specifically customer service training this year. But what we have now spelled out in the comprehensive training plan is that that will annually, that's not something that is going to be prioritized, one of the givens is that every year there will be customer service training for claims staff.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Wilson. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I guess for, just right off the top here, for an organization that's been around for 30 years I'm really happy that you're talking about the quality assurance plan, the comprehensive training, but what has taken place up till the time the Auditor General's staff came in and did the performance audit? Was it just go as you please and hope nothing major happens and training was just hit and miss?

I'm really happy to see that you're going to move forward, but again, 30 years is a long time for an organization to be in place and you had to have some type of, you know... You talk about quality assurances and training. I mean, those are just part of any organization. And that might be the fact that there's 21 percent out there that aren't happy with the services that they're receiving and is there a correlation there with perhaps the lack of training in the past. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Ramsay. To the historic agenda for training within the WCB. Ms. Wilson.

MS. WILSON: Just to clarify, training is not a new thing and the training position is not a new thing. It is the high-level comprehensive plan that is new. That is in part to allow for people other than just the claims unit to decide what training might be needed. That is part of the reason it was developed. So for example, we may have people on the review committee who say, gee, we keep getting appeals around this particular policy. Maybe there's a need for some training around an understanding of that policy or we may have the medical advisor saying we keep getting confusion around how to follow through or how to send out the decision letter on this or that. I'm just making up examples here. But there are people outside of the claims unit who also work with the results of the claims unit's work and they might have an opinion. We get comments from the OAG on an annual basis, quite separate from the special audit. We take those recommendations very seriously and we want those to be one of the sources of identifying what is our proper training need. So it's just giving it more of a formal process in more intention, but the training and the training has been there for, I've been with the WCB for three years and the person I can attest has been there at least that long. I can't tell you how long she's been there before my time.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Wilson. Mr. Ramsay.

MR. RAMSAY: Thank you, Mr. Chairman. I thank Ms. Wilson for the reply. Earlier this morning, when the Auditor General was here, we talked to her a little bit about the no time lost claims being filed by employers or family doctors on behalf of claimants and the claimants not having to sign their copy of the letter and send it back in. Whether or not they weren't filed or weren't sent, there was a bit of an unknown there. I wanted to ask about that in addition to the person who has 17 people reporting to her. Him or her, I'm not sure if it's a him or her. Is that the same person that Ms. Wilson's talking about, the claims services manager? And if it is, you know, the Auditor General said it herself this morning, that's a lot of people to have reporting to you and how do you determine if there's effective supervision of staff taking place when you have that many people reporting to you? I'd like to ask, was it a surprise to you that the number of direct reports the claims manager was limiting the capacity to effectively manage and supervise the whole process, the entire process? And I'm wondering why it was just, it had to take the Auditor General to come in and point that out to you as a problem area. Thank you, Mr. Chairman.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Ramsay. Mr. Doyle.

MR. DOYLE: I'll defer that question to Ms. Wilson.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Ms. Wilson.

MS. WILSON: Thank you. So there are four points I'll address, the first to do with the denial letters. On that I just would like to say that the Auditor General's reports dealt with both Nunavut and Northwest Territories. I don't want to speak to issues that were of greater concern in Nunavut because they're not my area of responsibility. I have done follow up on that as regards Northwest Territories operations and it has been addressed and corrected. And the issue was in fact not that the letters were not going out, but rather they were not being included on the file. So that has been corrected.

In terms of the number of direct reports, the trainer and the training plan, to be very clear, the claims trainer and the claims manager are not the same person. Related to that, I want to make it very clear that though we really welcome all the great ideas that have come from the Auditor General we actually had some of our own before the Auditor General did their report. I'm saying that in somewhat of a teasing way, but I'm saying it because the comprehensive training plan was an initiative that I had underway before the mandate was even given for the OAG to do its special study. The review of the trainer's job description was already under way before the OAG was given its mandate, and the issue of the excessive number of direct reports to the manager of claims had already been identified by me and flagged as, frankly, a term and condition of my taking on this job because to me it was obvious that you can't expect one person to manage all those people. I do want to report on that, just an important update, and I had an update as of this noon hour, but we are in the very final stages of filling that supervisor position. So that should be changed within the month and that'll be a great improvement.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Wilson. We appreciate that your organization, our Assembly, we're dynamic places and we change and move, priorities shift, and that the work that Mr. Simpson and Mr. Stadlweiser put in it do reflect indeed a number of the initiatives that have been undertaken in the 14 months since the Assembly passed its motion. Many of the things that came together to cause us to pass this motion are indeed historic, so we're, it's not, I guess, a snapshot in time that we're dealing with here, but perhaps a progression of four or five years of a kind of accumulated experiences and events that we're looking at. So we appreciate that a number of things have been undertaken that we're looking at. So we appreciate that a number of things have been undertaken, but I guess the perspective that we had was a fairly broad and a fairly deep picture in a time sense.

Committee and witnesses, I have Ms. Lee as the last person to flag some, I'm sorry.

MRS. GROENEWEGEN: I'm just saying, are we going to be taking a break or are we finished?

ACTING CHAIRMAN (Mr. Braden): No, I wanted to say, Ms. Lee, if you wanted to go ahead and then I think we should take a break and come back. A short break, please.

And then we'll come back and anyone else who wants to get on the circuit, including myself, there are a few things that I would like to say and I think Mr. Menicoche is going to be back to take the chair then. Do you want to go back on the list then, Dave? Okay. Yeah, all right. I'm going to allow Mr. Ramsay a comment and then we'll take a break.

MR. RAMSAY: This is about process; it's not about the report. I would suggest that because we're supposed to be out of here at 4:00 today, that we just keep going and conclude the material that we have before us and not even entertain a break and just go to 4:00 and call it a day. That would be my suggestion.

ACTING CHAIRMAN (Mr. Braden): Committee.

MRS. GROENEWEGEN: Break. Do you want a break?

MS. LEE: It doesn't matter.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mrs. Groenewegen. The chair is going to opt for everybody's going to take a 10-minute breather. At 3:30, we'll re-adjourn. Thank you, colleagues. Thank you, Mr. Ramsay, for your perseverance.

---SHORT RECESS

ACTING CHAIRMAN (Mr. Braden): We'll resume our public review and on the list, I have Ms. Lee and Mr. Ramsay.

MS. LEE: Thank you, Mr. Chairman. I'd like to just follow up on the questions earlier on the conflicting medical opinions and I just want to start by saying that I appreciate Mr. Doyle's answer that the board may be reviewing their initial response, and I look forward to seeing what the revised response might be. Also I do understand Dr. King's response and appreciate his findings and cross-jurisdictional survey on what works or not. You know, that's one assessment that obviously this committee has to take into consideration along with other information that we will no doubt get.

I guess the point that we need to focus on is the fact that conflicting medical opinions is a big area of concern and that has to be resolved. This came up as a big issue under the last Act Now report, and Dr. King mentioned the fact that we made legislative changes to address that. We're being told that it's too early to tell what sort of effect that had, but it's been two years in place so I don't know why we can't...My assessment is I don't know if it's really changed a lot. The fact is, rightly or wrongly, there are many workers who feel that they're not getting objective or independent assessment as they would like to and it is an issue that needs to be addressed. And one about cost, and the fact is \$12,000 in a sitting of medical opinions seems very expensive, but the fact is medical opinions are very expensive. I think we'll be scared to paralysis if we really stopped and thought about how much money we pay to doctors to provide lots of services. Courts have ruled many a time that you can't assess diminishing of people's rights by cost of government alone. Obviously, that's a consideration, but it can't stop things. So I just want to urge that we need to address this.

I have to say there are at least I think about 30 GPs in town. We have specialists; we have locums; we have lots of documents. I understand, and I might be wrong, Dr. King or anybody else could correct me on this, that I don't think you have to be a specialist to do the work. I do understand there's an extra step that you have to do to be an independent assessor of WC files. I know WCB routinely sends out claimants abroad; not abroad, but out of jurisdiction to do a lot of assessments, so this is routine work that goes on. I mean the cost of adding this step has to be looked at, but I don't think it should be sort of a show stopper sort of thing.

So I just would like to know if somebody could, maybe Dr. King could tell us why is it or is it possible for any of the contingency of medical professionals we have, GPs and specialists, I mean they could be pediatricians, or OBGYNs or even ENT specialists, but we do pay them a lot of money. Isn't there a mechanism for them to become qualified to become an independent assessor? I'd just like to know, just because I think we should be maximizing the use of those resources. So I'd like to know what is the requirement or the qualifications for medical doctors to provide that opinion.

Another thing is I know is there are conflicting opinions, it's twofold. It's the causation of whether the injury results from the accident, or there's also conflicting opinions about the nature of the condition and whether it is what it is, or it is what one doctor says it is, and how it should be treated and whether it's permanent and all sorts of things. Workers often feel that the workers' advisor, because they're on the WCB payroll, fairly or unfairly, feel that that's not being objective enough. It's just a real perception or, you know, justified or not, that the concerns there are that we must address as a public Legislature. So I'd like to know what the qualification...Isn't there anything we can do to allow our local medical professionals to become assessors? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. Dr. King.

DR. KING: Thank you, Mr. Chair. Through you, well, there are a variety of different avenues that one can entertain to become an independent medical evaluator. The most common one is to participate in the American Board of Independent Medical Examiners courses over a period of time, write the exam and be certified. And most boards across Canada have chosen that model when they have a preferred service provider for a medical opinion. That involves considerable coursework over three years and a final examination of which the pass is about 65 percent. I'm not if there would be a lot of interest in the local physician population to entertain that process and to actually serve on an independent medical tribunal. That is something I could bring up to the Medical Association and ask for general intent of interest in that area. I have regular meetings with them. We do have a WCB NWTMA Liaison Committee that's alive and well, meets five times a year. I'll certainly put that on the agenda. That is another possibility.

ACTING CHAIRMAN (Mr. Braden): Dr. King, thank you. Ms. Lee.

MS. LEE: Thank you. Just to follow up on that, the thing I didn't mention was that Dr. King mentioned earlier about the case conference that I was able to partake in. That

was going back about three years. I thought it was a great accomplishment when I was able to bring the president and the caseworker and the case supervisor and Dr. King and the family doctor and the claimant and the claimant's husband and anybody who had an interest in that. I have to say, though, it was not an entirely satisfactory process, and one of the reasons why I supported the motion that I did. I'm interested in just following up. If Dr. King could suggest any other way he could think we could address this perception, rightly or wrongly, or the need of the workers to get some independent objective opinion apart from WCB as an institution. It's just the way it is. Could he think of anything? I just want to give him an opportunity that that's practicable that we could do.

The second question that I'd like to pose, and that's my final question, is to the Auditor General's office. I'm wondering if Mr. Simpson or Mr. Stadlweiser could give us more information on what basis they felt the need to make a recommendation for an independent medical panel, because I'd like to think that there is a very good reason for that and maybe hear from them as to that conclusion. Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. To the first question, then, to Dr. King and then we'll go to Mr. Simpson. Dr. King.

DR. KING: Thank you, Mr. Chair. I believe I addressed that a little earlier in the previous question and it had to do with the phase one legislative changes, whereby it's now in legislation that if there is a perceived conflict of medical opinion, the medical advisor contacts the attending physician, tries to resolve the issue. If that's not possible through discourse and discussion, an independent specialist in the area of contention is selected and that person provides an independent medical assessment and opinion.

Now, I'll let you know that when we have employed that process it's worked quite effectively, in my estimation. We've honoured that from the perspective of the WCB. If the opinion was contrary to the medical advisory that had been provided by the board, we respect that and we will follow that independent assessment. I can't say that's consistently true on the other side of the table. Often someone will seek another opinion and yet another opinion on that. So we need a mechanism to make it final and binding, perhaps. But I think the process itself is a rudimentary attempt to bring resolution to these is a good one.

ACTING CHAIRMAN (Mr. Braden): Thank you, Dr. King. Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. Just for the information of the Members, when we do a performance audit we have an advisory group formed that advises on a number of matters, some technical, some legal, et cetera, et cetera. Our advisory committee for this particular audit included a former VP of the Alberta board and the current acting chair of the Manitoba board. We discussed this issue or this difficulty of how you resolve the apparent impasse between different medical perspectives, and we were told that in other boards, particularly in Alberta, that this is something that the Alberta board had introduced. And in the advice of the individual from the Alberta

board, this worked very well. Ergo, Mr. Chairman, it seemed like a pretty good thing to suggest that the board at least consider it with a view to seeing if it can in fact help to improve the log jam that we see in so many of these cases. As I mentioned to members of management last week, you know, the idea of trying something different, we're only limited by our own imaginations. I think the analogy I used is if you want to do something different, it doesn't have to be the third tablet that Moses dropped on the way down the mountain. It's not one of the 15 commandments. You can try things for a period of time as long as there's a commitment to effectively evaluate that afterwards to see whether or not it works, or whether it could be modified, or whether you scrap it. I think a lot of the suggestions that we have here, we're not medical experts and I'd certainly defer to David King's expertise here. But if we have a log jam and there is an opportunity to do something to get us out of that log jam, these are the kinds of options that we're looking at suggesting as a way of doing that. So I was heartened today to hear that the board has not totally rejected that idea, and presumably we'll do some pre-evaluation. If it does go ahead with it, again I would just put on the table that it doesn't have to be forever. If it's not going to work, if it's not going to be effective and costs too much, or if it's not producing the results that you want, there's always the opportunity to evaluate and say that. Thank you, Mr. Chairman.

ACTING CHAIRMAN (Mr. Braden): Thanks, Mr. Simpson. I have Mr. Menicoche on the order paper and I have no one else. There are some aspects of what we heard today that I would like to put my oar in the water on, but to Mr. Menicoche and if anyone else wants to signal, then, please do so. Mr. Menicoche.

MR. MENICOCHÉ: Thank you very much, Mr. Braden. I just have to apologize for being away a little bit, and I'm not going to ask you guys to rehash three hours of discussion at all. But I think once again with the report from the Auditor General and having you guys here before us as well, for me it's kind of sensing some resistance that the Auditor General is wrong. But I don't really think that the report was far off. But I think the whole exercise here is that we've got to work together, and ourselves as MLAs we're like clients, we're like stakes. Thank you very much, Mrs. Groenewegen, for finding all my words today. Because that's part of our job out there in the communities in the regions is that people are contacting us only because we're like the last line of appeal. Often when our constituents contact us it's for an appeal; we don't like this. With the case with WCB, it's often that I don't understand the letter. I've worked with a couple of constituents and the letters are quite puzzling because you get it and they don't know what to do with it. In there it actually says if you don't respond by a certain date, and often it does take them two to three weeks to kind of finally see the date in there, then I've had them approach me and say, look, I think I've passed the date.

So often I'm writing saying look, you guys, this person has finally taken the initiative to follow through on it. So communication is a big barrier. Often the people in communities are sitting there, they keep thinking that because you guys want more information they think you're trying to dismiss them and flood them with lots of paperwork, and it does become discouraging for them. Often a lot of them don't have a very high education, so they do get discouraged. That's one of the questions I asked

the Auditor General this morning is, is it intentional, but no, it's not, it's just you guys want more information. And that's totally acceptable because you want to know that you're doing the right thing, but to the little guy in the community that's got a debilitating injury from his foot or finger, or carpel, and says I think I should be compensated because it did happen on the job, but just having the proof. Often in small communities they don't have readily accessible doctors as well, so that's another barrier in making the appeals. The appeals are often in Yellowknife and you're saying come and state your case and the guy says well, I can't get over to Yellowknife. So there's a little bit of a barrier there for them.

So just with that, and I see that the Auditor General's office has been working with you guys lately. So if you can just tell me what your communication plan is to improve it, or what's your strategy to improve the communication plan, I'll be happy with that, Mr. Chair.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Menicoche. Mr. Doyle.

MR. DOYLE: Earlier we spoke, or Ms. Wilson spoke about the initiatives that she's working on to improve the plain language communication, particularly to claimants. We've also talked about our action plan that we'll be working on to come to our Governance Council this fall.

As noted, communications was a large part of what was in the OAG's report. Mr. Menicoche, Mr. Chair, the question seems to be talking a little bit more about just overall communications not just plain language, if I could just ask for clarification.

ACTING CHAIRMAN (Mr. Braden): Yes, thank you, Mr. Doyle. I'm seeing confirmation. Please go ahead on that basis.

MR. DOYLE: Perhaps now one thing, in discussion with my colleagues, we wanted to talk about before the end of the day, there are some specific recommendations in here about the need for better communication between the WCB Governance Council, Minister and the MLAs, and particularly recommendations 36.71 and 215. The recommendation envisions that the WCB would take the lead role in consulting with the Ministers and the MLAs in developing a communication protocol that will be beneficial to all parties, and it needs to address two substantive issues. What information needs to go between the parties? The Auditor General this morning talked about the receiving of the annual report and the corporate plan and the questions around, okay, what does receiving these reports mean, and how the information is to flow between the parties.

Prior to the fall session, the WCB can present to the Ministers and the MLAs a discussion item that will be a starting point for developing the communication protocol, because I think that's a big part of what we're talking about here. Generally the information can be divided into three categories: information on how workers' compensation operates, accountability information, and that again we're talking about measures, assessments, items that you would normally find in a corporate plan in an

annual report; what information will satisfy the Ministers, the MLAs, that the Governance Council and the Workers' Compensation Board are properly carrying out their mandates; and, lastly, specific constituency information which again earlier we talked about there is some confusion around. As I understand the constituency information, that has to come through the Minister's office.

So the first step in the consultation will be to determine what information is required to satisfy the various parties' needs, and the second step is to determine what's the best way to exchange the information between the parties. Before perhaps the end of this committee's review of the OAG's document, it would be helpful to know whether the MLAs agree with the action plan for us taking a lead role in coming forward and saying okay is this the way that we should be reporting to you and whether this is an acceptable communications protocol and, if yes, who are the MLA contacts or is it through the chair of the AOC. So I know we are put into the position of having to take an active role in establishing the protocol and we're prepared to do that, we just need to know that as administration what would be the proper venue for doing that.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Yes, we did spend a considerable amount of time on the whole communication agenda, Mr. Menicoche. If you want to get a couple more hitches in if you care to, if there's anything else that you would like to cover, okay.

Committee, a couple folks have picked up a second wind here and Ms. Lee and Mr. Pokiak have given me a sign, and Mr. Villeneuve. Okay, we'll go then with Ms. Lee, Mr. Pokiak and Mr. Villeneuve. Folks, I would still like to get a couple points in myself. I think we'll try and wind the day down. So go ahead, Ms. Lee, please.

MS. LEE: Thank you, Mr. Chairman. If I may, I think that Mr. Doyle's question needs a little bit of feedback there, for the interest of everybody. This is a public hearing process. As you know, we met with the AG this morning, AG's office. We're meeting with you this afternoon. We'll be meeting with other panellists and witnesses over the next couple of days. We'll be meeting with the Minister. As is the case normally, we will be probably filing a report. I think it should also be clear that all of each of the 19 Members are independent agents, too. So I'm not sure if you're going to have a group of persons who will speak for the Members, but all those details and our committee's response to our hearings will be done in a report and I'm sure they will be back and forth on action items and we need as much information from you as you need information us. I thought, because that question was raised, I don't think there should be any doubt that there will be a lot of communication about how do we go about moving forward on this one.

Just a couple of things to follow up. One thing, I just wanted to, and I know this is an issue that was brought up already by Mr. Ramsay and it's a discussion that we had within this room in camera, and that has to do with security measures and training of staff in dealing with difficult cases. I think a lot of people make observations of the fact that WCB seems to be so fortified, as fortified as a physical space. Not quite as much

as the North Slave Correctional Centre and not quite as much as a diamond cutting plant that I have visited, but it is one of the most fortified office complexes I know. I have to tell you this is a place where the Premier walks around without body guards. You know I understand the need to protect employees, and it may come as a surprise to you but a lot of people that go there and say things and verbally abuse staff, they do the same thing to us. There are times when I feel personally threatened about some of those people and we have security measures in this building, but I think there is a lot of common sense you could use in the spirit of openness and just appearance of just putting your guard down a little bit, that there lots of sophisticated machinery you could use without having a security card to go to the washroom, that sort of thing. I really would like to ask the management to look at that and see if you could still protect your workers and address the security measures, but address some of those appearances of being kind of us and them kind of mentality especially if you're working on a new building and I know that's a big consideration on your security measures.

The question I want to ask and it's to do with training of employees and it speaks to the security measures and protecting the employees from difficult situations or abusive situations, and I should also mention emergency centres. There are lots of places or posters where our workers have a right to work in a safe environment and you're not supposed to verbally harass them and all that. I mean that happens and different institutions take different measures to address that. I'd like to know, Ms. Wilson earlier spoke about lots of training that the staff gets in terms of difficult concepts or medical opinions or medical technicalities or lots of safety issues or whatever, but I'd like to know what sort of measures are there to train the staff on not only how to deal with difficult situations but these highly emotionally charged people, people who are really feeling like they're not having their fair chance at presenting their case, or they feel like they're guilty before they've been tried. What sort of training is there for them to deal with that? I understand that's a very difficult situation and there's a good way to say no and there's a bad way to say no, and if you go through that case day in and day out every day, you know, they'll be under pressure and they may not be as open and friendly as workers would like to get. So could I just get that information?

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. To security measures and openness, Mr. Doyle.

MR. DOYLE: I am going to refer that to Ms. Wilson as it is mostly again her staff that are concerned.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Ms. Wilson.

MS. WILSON: Thank you. The latter part of your question was to do specifically with what training is done for staff in that regard. As I said, there has been customer service training over the last year; there has been conflict resolution training, dealing with difficult customers training. So those things are ongoing; they're not new initiatives and they need to continue to be ongoing because these are not issues that are going to go

away. I won't say a whole lot more about that, it's just I recognize and we do, all of us, recognize that it's a really critical demand of the job and a really essential skill.

As far as the work environment is concerned though, I do want to say this: there is no one who would speak more strongly to the limitations of our current physical setup and the fortress-like perception than our own staff. I just think you really need to understand that. We are extremely limited by the physical layout of our current facilities and the parties that we own and the parts that are public. So there are issues around where security has to be in the current setup and it is problematic. I've lead a little project team internally around issues of our current facilities and what are the areas that we can improve, whether or not we go to having a new building, and the issue is not just about security. What goes hand in hand with security is the issue of accessibility and our staff are very aware, especially many of our clients who are to some degree disabled and accessibility is a really critical issue and no one is comfortable with that. So we just need to keep looking at ways of making that better.

The last thing I want to say though, part of my responsibility is also safety and prevention. We are also an employer and we have huge responsibilities to ensure the safety of our workers. In fact, because that is our organization's very particular mandate, I think we have a responsibility above and beyond almost a normal employer as a role model in that regard, and we have to make sure that we are taking measures that our staff is completely safe and that they're comfortable with that. So finding the physical solution can't mean forgetting that there actually is a problem. There is a problem there and an obligation of due diligence.

ACTING CHAIRMAN (Mr. Braden): Ms. Lee.

MS. LEE: I'll follow up on that. I hope that was not a big plug for a new independent building. I can't quote the paragraph, but in our briefing with the Auditor General's office there was a mention about the fact that the training, and Ms. Wilson mentioned that it should be ongoing but in fact it's not happening that way. I don't know if I'm referring to the right section. Actually I don't have a section, I can't recall the paragraph, but there were concerns raised about the fact that the staff gets trained once a year. I don't know it's specifically to do with security issues, but I think maybe on other training issues. I'm willing to get the information from Ms. Wilson on that in terms of getting more detail about how much...I seem to recall that the briefings we've had and the findings of the report is that that training process may not be as locked in as it should be, or it's not as formalized on an ongoing basis. Maybe a worker gets their training first or it might be even voluntary. What mechanisms are there in place now or what will be in place that would make sure that there's a formal process or just adequate check and balance to see that all the staff are trained on a regular basis on how to deal with customers, how to deal with typical cases, or how to relieve stress, or how to get up-to-date on safety issues and medical issues and such.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Lee. Report card on training, Mr. Doyle.

MR. DOYLE: I'll turn it over to Ms. Wilson to see if she has anything to add on this, but the one thing I wanted to mention is that within the Workers' Compensation Board we have not only a competency-based performance appraisal system which has been recently implemented, but we also have a training budget which the Governance Council has been very diligent in approving every year to ensure that there are funds available for the training of staff. The first target of those funds is for staff to ensure that they have the capabilities to meet the requirements of their jobs. So in dealing with customer service is one of the competencies that we've identified as being important within the Workers' Compensation Board. So the quickest answer to that is yes, there are resources that are being targeted towards this particular problem.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you. I can offer a bit of an interjection there. The paragraph that Ms. Lee was referring to I think is 125.

MS. LEE: One hundred twenty-five to 129 where the Auditor General's report suggested deficiencies in training and the lack of ongoing training. I think, to be fair, Ms. Wilson had mentioned many different scenarios that they're working on to improve this situation. That's fine. I just want to make note of that because it is an issue that needs to be highlighted. Thanks.

ACTING CHAIRMAN (Mr. Braden): Okay, Ms. Lee. Thank you. Ms. Wilson, anything further to this issue?

MS. WILSON: I think what the report says is that there is training and it is ongoing and that not everyone is able to have a standalone window where they're only trained and not also actively working on files, and that is just a reality for us. We do work in a northern environment and I know everyone around the table knows what that means in terms of staff turnover and the new people who are constantly coming in. So training is not a one-off issue; it's ongoing, and sometimes it has to be provided on the job and is, but that is with a trainer being there available for quality assurance.

The other thing, if I could just pick up this, John Doyle, my colleague, made a very important point about our new performance competency program. This is really the tool by which we take our corporate objectives, which get translated down into divisional objectives, which get translated down into what are our units doing and what does each individual have to do towards achieving those objectives. Individual action plans are being set for every individual employee, and their annual performance appraisal includes a discussion of what is their very particular training need. And how I am now cycling that back out is where does that training need fit into the overall training plan for the year going forward. So we're trying to make sure that the training is not just nice to have, but that it's very intentional, it's tied to what that individual needs in terms of their competency assessment, it's tied to the skills that are essential to their job and it's tied to the stated corporate objectives and what we're supposed to be focussing on as an organization. So we're trying to become very cohesive about all of that.

ACTING CHAIRMAN (Mr. Braden): Thank you, Ms. Wilson. I think you're concluded now, Ms. Lee. Thank you very much. To Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chair. I'd like to touch briefly on the report regarding the work camps because I'm pretty familiar with having been in the Beaufort-Delta and working in some of these camps before in my younger days, I guess. I'm just wondering, in the report, the report indicates that the WCB policy is that workers are insured 24 hours a day, covered 24 hours a day by that work. Upon further investigation of the report, apparently WCB doesn't always follow that policy for the coverage I guess. Can you explain why the camp policy is not being followed if you're supposed to be covered 24 hours a day? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Pokiak. Mr. Doyle.

MR. DOYLE: I will again ask Ms. Wilson to respond to this, but with the qualifier again that we can't discuss individual cases obviously.

ACTING CHAIRMAN (Mr. Braden): Thank you. Ms. Wilson.

MS. WILSON: Yes, and if I may I would like to just make a comment and then suggest that perhaps my colleague, Mike Triggs, could add on from my policy interpretation perspective. But the issue really has been about understanding the intent of the policy and particularly gets into the area of where someone is at camp but off duty and doing personal or recreational type activities. Without getting more specific than that, that's where the area of confusion has been and kind of I think perhaps misinterpretation of the intent of the policy. It raises big questions and what we've decided and what we've committed to is that we need to review the policy and either make it very clear that it's 24 hours a day no matter what you're doing, and whether it's your play time or your work time, or to rewrite the policy to be clear on what its intent is and what it does cover and what it doesn't cover. So that's the gist of it and that's where the area of confusion was. It was not -- I want to be very clear -- anything to do with anybody being injured doing work at the worksite. There is no question or debate about that.

ACTING CHAIRMAN (Mr. Braden): Mr. Triggs, did you have anything to add to Ms. Wilson's information?

MR. TRIGGS: Nothing to add. We are looking at the policy.

ACTING CHAIRMAN (Mr. Braden): Okay. Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. I'm just wondering, when will you look at that policy in that regard, and also I'm just wondering, there are often times in some communities where people commute back and forth to work. An example being Tuk going north to the Ruben's camp because anybody can go back and forth to work. Would they be covered under that policy, too, during that time? Thank you.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Pokiak. Mr. Doyle.

MR. DOYLE: I'll refer that question to Mr. Triggs.

ACTING CHAIRMAN (Mr. Braden): Okay, thank you. Mr. Triggs.

MR. TRIGGS: On your specific question about travelling back and forth to worksites, it's going to vary from circumstance to circumstance. Sometimes it will not be covered; others it will. When the employer is the one who's transporting you back to a worksite it is definitely covered. In most cases when the employer is just going to work, like when I leave my home and go to the office I'm not covered at that period of time. Once I get to the work I am. But if I worked at, say, Diavik and the employer was transporting me to Diavik, on the way to Diavik I would be covered.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Triggs. Mr. Pokiak.

MR. POKIAK: Thank you, Mr. Chairman. I'm just wondering what Ms. Wilson said earlier. I'm just wondering more specific I guess today the camp policy, the twin power coverage, will that be looked at before the provincial pipeline coming through or will there be something in place before that? Thank you.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you, Mr. Pokiak. Yeah, anticipating a much greater level of camp related activity in the NWT, Mr. Triggs.

MR. TRIGGS: The policy as written very clearly states that it's 24 hours no matter what. So what we have to do is make the assessment, was that the intention of what the policy was. If that was the intention, then nothing will be changed because it's clear on that. If that was not the intention of the policy, then that would have to be brought to the Governance Council for a possible amendment on that. And then they would consider whether or not it would be appropriate to amend the policy or not. We are in the process right now of that review and definitely before, weeks before that decision will be made.

ACTING CHAIRMAN (Mr. Braden): Okay. Mr. Villeneuve.

MR. VILLENEUVE: Thank you, Mr. Chairman. Just in the report it also is noted that approximately 50 percent of the claimants that had filed claims in 2005 were from out of territory. I just want to know, you know, with the increased activity, economic activity here in the NWT, with the high risk injury risk in mining and construction and pipeline development, stuff like that, I think that's probably going to go up quite significantly in the next couple, three years. Right now the board doesn't, there's no real policies in place to deal with these out-of-territory claimants. So since this is 2005, we've got 50 percent, maybe just to update the members here, has that number gone up or has it gone down and has there been any kind of guidelines or what are the guidelines the board has in place now to deal with all these claimants and how are they being resolved? How are they being resolved?

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Villeneuve. To the, yeah, the proportion, 50 percent of claimants out of territory, how are they, special needs and how are they addressed, Mr. Doyle?

MR. DOYLE: I would, I'm going to defer that one to Mr. Triggs. Sorry, Ms. Wilson. Sorry.

MS. WILSON: I'll start it off and Dr. King may... Sorry, Mr. Chairman.

ACTING CHAIRMAN (Mr. Braden): Okay. Go ahead, Ms. Wilson.

MS. WILSON: Dr. King may wish to comment as well. Just to clarify that the statement was made that there are no policies in place to deal with out-of-territory claimants. In fact, our policies do apply to all workers who are working in the Northwest Territories and Nunavut and the employers who engage them. So just to clarify that point. The policies that we have include provision of medical services that may be outside of our territory, depending on whether or not the circumstances of the injury or the recovery time or those sorts of things would make sense for the person or they may opt to return to a home jurisdiction.

We do have a transient workforce here that's not likely to decrease. I think we don't really have a policy gap in terms of how to deal with out-of-territory claimants, if I can put it that way. We do sometimes have challenges in terms of coordination of medical services throughout many jurisdictions of Canada, and that's an ongoing challenge. What we do have, though, and where we are making particular provisions is for employers during an upcoming mega-project period because we want to make sure, part of our responsibility is the stewardship overall of the WCB system, we want to make sure that a relatively small handful of long-time northern employers are not left holding the financial bag for some employers who are in for a while, may create or be home to a lot of injuries and then are gone again. So we are taking measures to make sure that the financial assessment arrangements and so on position us for that so that long-term northern employers are not penalized for the long haul because a bad accident can be extremely expensive. So that's seeing it from the employer's side and the claimant's side, Mr. Villeneuve.

ACTING CHAIRMAN (Mr. Braden): Mr. Villeneuve. Anything further to that area?

MR. VILLENEUVE: I thought Mr. Triggs or someone was going to offer...

ACTING CHAIRMAN (Mr. Braden): Oh, I'm sorry. Was there a further? Okay. Dr. King, to the area of out-of-territory claimants. Then yes, they would be transient workers and those who are resident out of the territory. Dr. King.

DR. KING: I guess it concerns the question of non-resident injured workers that were injured in our jurisdiction and the legislation and policies that are in place for resident injured workers would also apply, as Ms. Wilson stated. One of the challenges we do have is management of a claim from a distance to make sure that the appropriate interventions are in place when they're required and in a timely fashion. And the

distance does produce logistical communication problems if you add another layer of that. We do utilize the local medical resources in the resident, non-resident's jurisdiction wherever possible. However, you can appreciate that in some situations there are have-not provinces that may be less well-off in their supply of medical services than we are, for instance, here and we often have to assist them in obtaining these services out of their home residence. But I think that's the only comment I wanted to make on that.

ACTING CHAIRMAN (Mr. Braden): Thank you, Dr. King. Mr. Villeneuve.

MR. VILLENEUVE: Yeah, just getting back to the number of claimants from 2005. Are we going up with out-of-town payments or are we resolving them with a process that the board has developed? I know the board's response here is that they will review video conferencing and trips to areas of high concentration. So while we're reviewing how to process these claims, what are we doing in the meantime?

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Villeneuve. Dr. King. Okay. I'll give it to Mr. Doyle.

MR. DOYLE: I wanted to comment that first off the 50 percent of claimants that are non-residents, that's an accumulation over a long period of time. It's not, the claimants whose accidents occurred in 2005. So I think it's not a problem that's new and it's not a problem that has just occurred in 2005. Yes, I mean, it is something that as Dr. King notes, that we've had to deal with as an organization over a period of time because of the nature of the transient workforce in the Northwest Territories.

ACTING CHAIRMAN (Mr. Braden): Okay. Mr. Villeneuve.

MR. VILLENEUVE: Thank you, Mr. Chairman. Thank you, Mr. Doyle, for that. I guess just with the impediment of the medical advisors having to hold medical licences from other jurisdictions and obtain additional liability coverage seems to be a serious impediment to these out-of-territory claims be processed. It seems to be one of the main barriers that the board has stated into why there are 50 percent out-of-territory payments. If it's nothing new why do we not have maybe a medical advisor that has attained interjurisdictional authority or, and caseworkers that, you know, can fly to areas of high concentration. Why haven't we really tackled the problem head on since it's nothing new? Why are we only looking at it now?

ACTING CHAIRMAN (Mr. Braden): Dr. King.

DR. KING: I don't identify this as a major problem, per se. The board has been dealing with this problem for over 30 years, since the inception of the Workers' Compensation Act in the Northwest Territories there have been transient workers, non-resident workers that have been injured here. The response that was provided to the Auditor General's suggestion was to give you an idea of how cumbersome it would be for a medical advisor to actually provide on-site services to these non-resident workers. I would have to have a medical licence and medical malpractice insurance in each and every jurisdiction that I visited or entertained practicing medicine in. And likewise, if we participate in a teleconference and it's perceived that I'm practicing medicine via

teleconferencing, I still have to have the appropriate licence here as well or I'm liable under the Medical Professions Act of the jurisdiction where the injured worker resides. So that really seems to me to be a logistical problem that's going to be insurmountable from that perspective. What we do do is we utilize local resources that are at the injured workers place of residence. We do tag up with the local WCB in that jurisdiction where the services are available and they have the capacity to respond to our requests. They're doing us a favour. And where we don't have that, we contact the family doctor and ask them what resources they need. We're continuously involved in communication with the attending physicians.

ACTING CHAIRMAN (Mr. Braden): Thank you, Dr. King. To that issue the, to that question, Mr. Simpson.

MR. SIMPSON: Thank you, Mr. Chairman. I'm sure the impediments that Dr. King mentioned are seemingly insurmountable. One of the concerns that we have here is that we were trying to identify how many claimants had long-outstanding claims. And the board provided information to us. I don't think there is a definitive list in terms of how many claimants have been outstanding for five years or more or whatever, but a significant number of the people that are on the list that was provided to us, in some cases these claims go back, I believe there's one that's over 20 years, are from out of Canada. They're from other parts of Canada, not uniformly spread across all the provinces, but perhaps localized in a few areas. This suggestion, Mr. Chairman, didn't deal with, as Ms. Wilson mentioned, broad policy coverage for the injured workers. We fully recognize this. But in chapter four, paragraph 141, we said the board has no specific policies to guide case management for out-of-territory claimants. I understand and appreciate what Dr. King's just said about the various liaison, but we've met some of these people and they are very frustrated, Mr. Chairman, because they feel that they can't get out for assessment because a lot of the costs are prohibitive and this suggestion was what I thought was a fairly practical approach to putting the resources on the ground close to helping resolve, if possible, some of these long outstanding cases.

Like all of the suggestions in this report, they have to be reasonability criteria applied by the board. You don't go charging off on every case in every province every week. That's clearly not the name of the goal. And this particular case, maybe these impediments will be too much of a barrier, but nonetheless we've still got a lot of these people who are on the books, or feel they're on the books for many, many years who are not getting their claims resolved and they don't really have the capacity to bring these issues full resolution. So it was in that spirit, Mr. Chairman, that this suggestion was made. I'm sure Dr. King will enjoy going back to school to get accreditation in various provinces. Anyway, I just wanted to clarify that because I think there's been some misunderstanding about what this is all about.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Simpson. Perhaps one aspect of Mr. Villeneuve's question that, at least as I heard it, was why doesn't our WCB contract the services of medical advisors or examiners in other jurisdictions and utilize their level of expertise in their jurisdiction. Of course it's not realistic to expect our medical

examiner to have that kind of qualification. What about the reciprocity between WCB's, and I guess not so much in the sense that another WCB is doing us a favour, but where we know we can rely on the service and help bring some more timeliness to these workers situations. Mr. Doyle, Dr. King. Mr. Doyle.

MR. DOYLE: We just wanted to refer back to the board's response because in our response we did identify some logistical problems with doing this, but at the same time we are saying that we'll review video conferencing and trips to areas of high concentrations of claimants to determine if these are viable solutions to the issues raised. We've looked and done some looking into the video conferencing aspect. The travelling to other communities can be very expensive, but I mean, we're looking at some options here. Again, we haven't developed a plan to address this recommendation yet.

In terms of utilizing the expertise at other WCBs, I'm going to just ask Dr. King to respond to that because I believe he answered that in part. I just want to ensure that we get Dr. King's message.

ACTING CHAIRMAN (Mr. Braden): Thank you, Mr. Doyle. Dr. King.

DR. KING: Yes, as I said earlier, we do use the local resources wherever possible. If there is availability and they are able to accommodate our requests, the local WCB facilities would be used with their local expertise. We also utilize independent medical assessors wherever available elsewhere in Canada. My latest tally on this was 41 percent of the time-loss claimants live somewhere else in Canada outside the NWT and Nunavut. But we do, that's a regular thing, Mr. Chairman, that we do use the local medical services on a regular basis. And where they're not available in the local area, we do provide transportation to the nearest available medical service. I don't know if I can expand on that anymore, but I think that should be sufficient.

ACTING CHAIRMAN (Mr. Braden): A right. Thank you. Maybe there is a bit of a discrepancy there. The Auditor General's report indicated 50 percent, I believe, Mr. Simpson.

MR. SIMPSON: ...subject change and depending on what...

ACTING CHAIRMAN (Mr. Braden): Okay.

MR. SIMPSON: Yeah, if we want to get into a statistical argument we can do it. I think it would be somewhat fruitless. Even 41 percent is a large number.

ACTING CHAIRMAN (Mr. Braden): It's a large number, yeah. Thank you. No, I don't want to get into a picking match. Okay. Are there any other members? There are two aspects that I would like to ask about a bit, but deferring to any other members or Mr. Simpson. Anything else? Okay. Alright.

To an area that Dr. King had mentioned earlier today, and that was the aspect of causation, which is given it's a technical term and one that I see it fits into, if you will, the

hierarchy or matrix of how decisions are made on whether or not a claim is valid and what other opinions or assessments it goes up against. Dr. King told us earlier today that the information that he offers to the board and the review panel and, if I have it right, the Appeals Tribunal is advisory and the decision is made by other parties. But I'm getting a sense here that the expertise that Dr. King brings to this as I'm again assuming here... You are, Dr. King, you are a qualified medical examiner and that your experience in causation is a significant and almost unique aspect to all the other information that's put forward. So what I wanted to find out about was where this skill, this ability to assign causation, what weight does it have against other opinions by specialists and people who may have considerable experience in their field, but when it comes up against this aspect of causation just how weighty, if you will, is that assessment and how can we then sort of expect that the advisory position that you give to the WCB is on an equal or not an equal footing? Dr. King.

DR. KING: I'd like to refer to Mr. Triggs, who has the legal expertise and evidence weighting.

ACTING CHAIRMAN (Mr. Braden): Mr. Triggs.

MR. TRIGGS: Yes. This seems to be where the crux of this conflicting medical opinion problem and we've had discussions with Dr. King about this and how it comes about and where it really gets into, the conflict comes in. Now, everyone refers to the specialist as having their expertise, and they do. If you take an orthopaedic surgeon, for instance, they have expertise in diagnosing what the problem is. They can say, okay, you have 'x' problem with your knee and the proper treatment is this. And they'll write a report to WCB, which will be about, you know, five, 10, 12 pages long. And often what happens, which goes into all the detail of explaining why this is this particular problem and what the treatment is, and we accept that, but often in my, what happens in these, they'll give a one-line explanation saying this is caused by work. And we're finding that there hasn't been the thought process going into explaining or hasn't put into the report on the same basis they do with their expertise or specialization area on what the injury is, they just explain how they got to that conclusion.

What we're finding is, okay, then our adjudicators who are decision makers they have before them an opinion written by Dr. King going on causation, which goes through an analysis of all the factors you have to consider in determining causation and all the medical literature supporting that, balanced off against a one-line in a report and say, okay, where does it go. Clearly if you were a judge hearing a case you would go to the considered opinion on that. The messages coming really strong and clear to us is that this isn't really satisfactory because from the expressive communication component of it is the worker who's seen that and goes, well, my specialist says this and this guy at the WCB says no it's not, and they're overruling the specialist, which isn't what's happening in this case.

So what we decided I think a good approach to dealing with this particular problem is for, when this happens is that for the doctor, along with what's in the legislation about conflicting medical opinions, is seek the doctor's advice on this, is to write to him and

say, you know, please explain what the evidence is for your conclusion on this because it may turn out that he has a lot of evidence there behind backing up his conclusion and he's considered it or maybe just the worker told me it was caused by work. We don't know. But once we find out that information, we get that cause, then we'll be in a better position to deal with the worker and so we're not left with the position that WCB's overruling the specialist.

It gets back, again, it's all that communication going back to the injured worker, going back to the specialist, the health care provider. That's where we think our biggest failing is in this and that's where we're going to concentrate our efforts in improving that.

ACTING CHAIRMAN (Mr. Braden): Okay. Thank you. Dr. King.

DR. KING: I have very little to add to that. Just to let you know that epidemiology is the science that we use concerning the study of factors determining and influencing disease processes, injuries in the population, and related events and their causes. So it's epidemiology, that's the science that we use to determine causation where we're not sure from a clinical perspective. A lot of the specialists do not have training in that area and they're basing their opinion on their clinical judgement rather than an evidence-based advisory or a causal analysis of the scientific literature. So in that situation, I mean, it's easy to see where an opinion that's backed or a recommendation that's backed with scientific literature is going to outweigh an opinion that's from a clinical examination assessment. I do believe that the communication and the request for the additional information to support an opinion of causation should be required.

ACTING CHAIRMAN (Mr. Braden): Thank you very much. Yeah, this is an area as we've probed it a little bit this afternoon, I can certainly sense that it's going to take, we're going to have to wear out a couple more shovels to get the understanding and the comprehension at least at our level on how to proceed with this from our lens, my lens as an MLA, through the eyes of the injured worker. You've very much identified I think an expectation or a perception of specialists versus one person, the medical advisor, in the WCB. No matter how high the stack of specialists' observations or opinions, it just does not seem to matter. Indeed, if we can sort out this business of jurisdiction and responsibility and how much weight a given opinion has, I know it would help workers sort something out. I'm thinking especially of the workers who for years have been referred over and over and over to a specialist here or there or to go back for another MRI or this or that or another. Because before, if I have it right, an appeals process or something can be launched, new medical evidence has to be put forward. And this is the treadmill that workers get themselves on. So if we can arrive at ways and procedures and protocols and the communication, it will help people understand that once an injury begins to be assessed and evaluated these are the steps that are going to be required and that will be undertaken. Here's how the opinions are going to be weighted.

This aspect of causation is very much one that I understand has to be there to protect the WCB from careless evaluation or fraud, for that matter. But there is very much an aspect here when an injured worker's life is sort of in tatters because of their injury, they

have nowhere to go, but our process and our system keeps them on this treadmill. As I talked about this morning, takes the principle of the benefit of the doubt to the worker and really puts it on ice. This is again, I'm putting back to you what we are seeing, what I am seeing through my lens, is this process, this delay, this cycle that workers can get into with no sense of how is it going to end, whether or not it's in their favour, just how is it going to end so that they can get on with their lives.

That's, there are several other aspects, colleagues, that you raised, but I think in the sense that we know this is not a one-time process for us. We are beginning something that I hope we will be coming back to revisit on a regular basis over the next while. So having no other further traffic from committee members, Mr. Doyle, Mr. Triggs, Ms. Wilson, Dr. King, thank you for coming before us today. If there are any remarks that you would like to leave us with today, please do so. Mr. Doyle.

MR. DOYLE: Thank you, Mr. Chairman. I used up my closing remarks responding to Mr. Menicoche's questions. But I would like to thank again the Accountability and Oversight committee for inviting us to speak to you today about this report.

ACTING CHAIRMAN (Mr. Braden): Thank you, witnesses, committee. We will reconvene tomorrow morning at 9:00 to hear from Mr. Rodgers, the chair of the Governance Council, and NWT appointees. We will hear from Mr. Baile, the workers' advisory and Ms. Simpson, the chair of the Appeals Tribunal tomorrow afternoon. Thank you, everyone, and enjoy the rest of the day and the evening.

---ADJOURNMENT