

# Adjudicative Advice

## A Code of Conduct for Representatives Dealing with WSIB situations

### Background

It is a well accepted principle that injured workers and employers have the right to be represented by an individual of their choice in their dealings with the WSIB. The WSIB deals with a great number of representatives at all levels of the adjudication process. In the Appeals area, for example, over 80% of the parties are represented.

Representatives range from highly trained and regulated groups such as lawyers, worker advisors and employer advisors, to independent consultants whose skill, knowledge and professionalism varies greatly and whose behaviour is unregulated. Although most representatives behave in a professional manner, a small number do not and to date a concerted effort to deal with such representatives has not occurred.

Some representatives behave in an abusive and harassing manner towards WSIB staff and make false and misleading accusations about the WSIB. In addition, some representatives knowingly provide false information to the WSIB. These kinds of inappropriate behaviour are detrimental to the fair and efficient administration of the Act, undermine service delivery to all parties and negatively affect the security and working conditions of WSIB staff.

### Authority

Section 131 (1) of the Workplace Safety and Insurance Act gives the WSIB the authority to determine its own practice

and procedures. That authority is broad enough to permit the WSIB to set reasonable rules for the conduct of representatives and to establish a process to enforce those rules.

### Code Of Conduct

It is reasonable to expect representatives to behave in an appropriate manner in their dealings with WSIB staff. Behaviour which is considered inappropriate includes the following:

- Making false or misleading statements about the actions of the WSIB and its staff;
- Speaking or writing to WSIB staff in an abusive, harassing or threatening tone or manner;
- Providing WSIB staff with information relating to a claim or account which the representative knows, or ought to know, is false or misleading.

### Protocols For Enforcing Code Of Conduct

Where staff believe that a representative has violated the Code of Conduct by acting in an inappropriate manner, particulars of that behaviour will be presented to their manager. Where the manager is satisfied that the Code of Conduct has been violated, they will write to the representative advising of the Code of Conduct and the inappropriateness of the behaviour. The letter will also put the representative on notice that any subsequent violation will result in the WSIB no longer

**Notice:** This document is intended to assist WSIB decision-makers in reaching consistent decisions in similar fact situations and to supplement applicable WSIB policies and guidelines as set out in the Operational Policy Manual (OPM). This document is **not a policy** and in the event of a conflict between this document and an OPM policy or guideline, the decision-maker will rely on the latter.

recognizing the status of the individual as a representative for the purpose of dealing with the WSIB.

If a further incident of inappropriate behaviour occurs after the representative has been put on notice, the manager will bring the particulars to the attention of their business unit's Director. The Director, along with 2 other Directors chosen by the business unit Director, will form a Panel to review the behaviour. Where the Panel agrees that the behaviour violates the Code of Conduct, the business unit Director will issue notice to the individual that their status as a representative will no longer be recognized by the WSIB. Notice will also be given to the workers and employers who are known to be represented by this individual and to other areas of the WSIB where decision-making occurs. This sanction shall be honoured throughout the WSIB from the date notification is received. As a courtesy, the Workplace Safety and Insurance Appeals Tribunal (WSIAT) will also be notified.

Individuals whose status to act as a representative is no longer recognized will have no authority to receive information about a claim or account, communicate with WSIB staff or otherwise make submissions or request WSIB action on behalf of a worker or an employer. Effectively, therefore, WSIB staff will no longer deal with the individual.

The authority to lift a WSIB sanction against a representative lies with the Panel of Directors which recommended the sanction, or such alternate(s) where one or more of the original Panel is unavailable, and will only occur where they are satisfied that no future act of misconduct is likely to occur. If a sanction is lifted and there is a subsequent instance of inappropriate conduct, as determined by the Panel, a letter will be issued to the representative advising that the sanction is now being imposed on a permanent basis. Notification of changes to a representative's status will be communicated to the individual's clients, throughout the WSIB and to WSIAT.

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