

## Re: Patterson Contract- next steps

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From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 11, 2019 6:18:04 PM PDT

Her proposed per diem and cost for Jim Parker and possible WCAT secondee.

On Mar 11, 2019, at 6:16 PM, Leduc, Danine LBR:EX <[Danine.Leduc@gov.bc.ca](mailto:Danine.Leduc@gov.bc.ca)> wrote:

Hi, if executed by Friday is the plan, here is the ranked list of actions for us:

1. s.13; s.14
  2. Scope of review and reviewer's model for delivery of services- impacts time and cost (submission/consultation process- writers/editors)
  3. s.13
  4. Privacy and FOI (includes anonymizing model for very small number of submitters, access to WSBC data, confidentiality guarantees and foi process).
  5. s.15
  6. Instructions from the province (2.6-2.8)
  7. Secretariat support- ministry, wsbc
  8. WAO/EAO participation (see 3 above)
  9. Website
  10. Desktopping
- From March 7 call:
11. Consulting company
  12. Remove language in schedule A re: focussed review not whole WCA
  13. Add p.18 explicit ref to hearing from injured workers.
  14. Storage of confid. Info during and after review.
  15. Request for custom FOI consent form
  16. Copyright question- doesn't want it to go to province

Missing anything,?

Thanks

Danine

Sent from my Samsung Galaxy smartphone.

## Fwd: Janet P review

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 12, 2019 12:28:11 PM PDT  
Attachments: 2018 10 23 Privacy Protection Schedule.docx, ATT00001.htm  
FYI on access to claims files for JP. Note need to add a schedule to the contract.

Begin forwarded message:

**From:** "Erickson, Brian" <Brian.Erickson@worksafebc.com>  
**Date:** March 12, 2019 at 10:58:44 AM PDT  
**To:** "Hughes, Trevor LBR:EX" <Trevor.Hughes@gov.bc.ca>, "Shaw, Ian" <Ian.Shaw@worksafebc.com>  
**Subject:** FW: Janet P review

Thanks Ian.

Trevor, the short answer appears to be that we can likely provide access but there are a couple more hurdles to get over first.

We would need Ms Patterson to agree to our Privacy Schedule (attached) so perhaps you could incorporate that into your agreement with her? Otherwise we will have to get that agreement separately.

And we will need to conduct a Privacy Impact Assessment (PIA), for which we'll need to provide our folks with a description of the initiative and the information to be disclosed.

I'd suggest that we do this work immediately after the public announcement of the review, as Ms Patterson's need to access claim files would be a ways down the road at least, so not immediately urgent.

Brian

---

**From:** Shaw, Ian  
**Sent:** Tuesday, March 12, 2019 8:57 AM  
**To:** Erickson, Brian <Brian.Erickson@worksafebc.com>  
**Subject:** RE: Janet P review  
Brian  
s.13; s.14

Ian

---

**From:** Erickson, Brian  
**Sent:** Monday, March 11, 2019 4:24 PM  
**To:** Shaw, Ian <Ian.Shaw@worksafebc.com>  
**Cc:** McConnachie, Joanne <Joanne.McConnachie@worksafebc.com>; Alexander, Trevor <Trevor.Alexander@worksafebc.com>; McDonald, Todd <Todd.McDonald@worksafebc.com>  
**Subject:** FW: Janet P review  
s.13; s.14

thx, B.

---

**From:** Hughes, Trevor LBR:EX [mailto:Trevor.Hughes@gov.bc.ca]

**Sent:** Monday, March 11, 2019 4:11 PM

**To:** Erickson, Brian <Brian.Erickson@worksafebc.com>

**Subject:** RE: Janet P review

Also, she wants access to WorkSafeBC IT system in same way as WAO, EAO, and WCAT to be able to review case files of workers who come forward. I said there may be privacy issues here – and that the basis the 3 agencies get it is rooted in statute.

---

**From:** Hughes, Trevor LBR:EX

**Sent:** Monday, March 11, 2019 4:02 PM

**To:** Erickson, Brian WCB:EX

**Subject:** Janet P review

**Importance:** High

Update – intention is to publicly announce her review sometime next week. Not firmed up as I have still been negotiating the terms of her engagement.

Further to your offer earlier today, are you able to outline some of what WorkSafeBC would be prepared to offer her in support? Would help me greatly.

Thanks.

T.

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## **SCHEDULE X**

### **PRIVACY PROTECTION**

#### **Definitions**

1. In this Schedule,
  - (a) "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act* (British Columbia), as amended from time to time;
  - (b) "**contact information**" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
  - (c) "**FIPPA Designate**" means the manager of the WorkSafeBC FIPP Office;
  - (d) "**personal information**" means recorded information about an identifiable individual, other than contact information.

#### **Collection of personal information**

2. Unless the Agreement otherwise specifies or WorkSafeBC otherwise directs in writing, if the Contractor collects personal information, the Contractor:
  - (a) may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement;
  - (b) must collect personal information directly from the individual the information is about; and
  - (c) must tell an individual from whom the Contractor collects personal information:
    - i. the purpose for collecting it;
    - ii. the legal authority for collecting it; and
    - iii. to contact the FIPPA Designate" to answer questions about the Contractor's collection of personal information at PO Box 2310 Stn Terminal, Vancouver, BC, V6B 3W5, (604) 279-8171, email [fipp@worksafebc.com](mailto:fipp@worksafebc.com).

#### **Accuracy of personal information**

3. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or WorkSafeBC to make a decision that directly affects the individual the information is about.

#### **Requests for access to personal information**

4. If the Contractor receives a request for access to personal information from a person other than WorkSafeBC, including a foreign demand for disclosure as defined in FIPPA, the Contractor must immediately contact the FIPPA Designate for instructions.

#### **Correction of personal information**

5. Within 5 business days of receiving a written direction from WorkSafeBC to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction and advise WorkSafeBC when the correction is completed.
6. If the Contractor receives a request for correction of personal information from a person other than WorkSafeBC, the Contractor must promptly advise the person to make the request to the FIPPA Designate.

#### **Protection of personal information**

7. The Contractor must protect personal information against such risks as unauthorized access, collection, use, disclosure or disposal by making reasonable security arrangements, including encryption. Personal information shall be kept according to WorkSafeBC standards. WorkSafeBC has the exclusive right to determine if security arrangements are adequate. Transferring the physical custody of personal information to the Contractor for the purposes of the Agreement does not equate transfer of control. Access, use, disclosure, destruction and integrity of the information remains in the control of WorkSafeBC. The Contractor must immediately notify the FIPPA Designate of any breach or suspected breach of its obligations.

#### **Storage and access to personal information**

8. Unless WorkSafeBC otherwise directs in writing or the Agreement specifically provides otherwise, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

#### **Breach Notification and investigation**

9. The Contractor agrees to cooperate and assist in any investigation of a complaint that personal information has been used or disclosed contrary to FIPPA or to this Agreement.

#### **Retention of personal information**

10. Unless the Agreement otherwise specifies or as required by law, the Contractor must retain personal information until directed by WorkSafeBC in writing to dispose of it or deliver it as specified in the direction.

#### **Use of personal information**

11. The Contractor may only use personal information if that use is:
  - (a) for the performance of the Contractor's obligations under the Agreement;
  - (b) limited in access to only those employees, contractors and agents of the Contractor where such access is necessary to carry out his/her duties, and only to the extent necessary.

#### **Disclosure of personal information**

12. Unless WorkSafeBC otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than WorkSafeBC if the disclosure is for the performance of the Contractor's obligations or the exercise of the Contractor's rights under the Agreement.
13. Unless the Agreement expressly permits or WorkSafeBC otherwise expressly permits in writing, the Contractor must not disclose personal information outside Canada.

#### **Inspection of personal information**

14. In addition to any other rights of inspection WorkSafeBC may have under the Agreement or under statute, WorkSafeBC and/or the BC Information and Privacy Commissioner (the "Privacy Commissioner") may at any reasonable time and on reasonable notice to the Contractor enter on the Contractor's premises to inspect personal information in the possession of the Contractor as a result of this Agreement and any of the Contractor's information management policies or practices relevant to its management of personal information or its compliance with this Schedule. The Contractor must permit such access, provide reasonable assistance, and institute any recommended changes arising from any such inspection.

#### **Compliance with FIPPA and directions**

15. The Contractor must in relation to personal information comply with:
  - (a) the requirements of FIPPA applicable to the Contractor as a service provider, including any applicable order of the Commissioner under FIPPA; and
  - (b) any direction given by WorkSafeBC.If a provision of the Agreement or any direction given by WorkSafeBC under this Schedule conflicts with a requirement of FIPPA or an applicable order of the Privacy Commissioner, the conflicting provision of the Agreement or direction will be inoperative to the extent of, and limited to the duration of, the conflict.
16. The Contractor acknowledges that it is familiar with the requirements of FIPPA that are applicable to it as a service provider.
17. In the event the Contractor has employees, subcontractors and/or agents involved in the performance of the Agreement, the Contractor agrees to ensure each one is trained on and familiar with FIPPA requirements and the requirements of this Schedule.

#### **Notice of non-compliance**

18. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify WorkSafeBC of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

#### **Interpretation**

19. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of the Agreement or the law of any jurisdiction, including a jurisdiction outside Canada.

## Fwd: Contract for the Review - more

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 12, 2019 1:52:27 PM PDT  
More...

Begin forwarded message:

**From:** <jkpatti50@gmail.com>  
**Date:** March 12, 2019 at 1:24:32 PM PDT  
**To:** "Trevor Hughes" <Trevor.Hughes@gov.bc.ca>  
**Subject:** Contract for the Review - more

Hi Trevor

I will certainly keep the contract for s.13; s.22 confidential. However, it was helpful to move the discussions along for a Contract for the WCB Review.

For the main part of the Contract, exclusive of the Schedules, I would propose the following:

- For section 2.3 and 2.5, we adopt the same wording as in the s.13; contract. As I understand it, this has the Province providing the hearing rooms, travel arrangements and office space (which the Board may provide). This would leave the "Expenses" budget in Schedule B for travel, accommodation and meal expenses. I accept that I will provide all required personnel at the hearings.
- For section 2.6, we adopt the same wording as in the s.13; contract, as it recognizes the independence of the Review while allowing for "reasonable instructions".
- For section 6.2, I would like to add the words "after the Review is completed" to the end of the sentence. For obvious reasons.
- I would ask to add a section 9.6 as it is set out in the s.13; contract be added, to provide Legal Services in the event of a third party action.
- Re section 9.4 – I would prefer not to arrange for POP for myself. I will register with the WCB as an employer and also get the General Contractor Insurance.

And as I mentioned, I would like to have the wording re the financial cap in Appendix A amended to provide some flexibility in the event of very large number of participants (we can agree on a threshold) or an extended timeframe.

The issue that arises most strongly in this Review are the privacy and confidentiality concerns – specifically addressed in sections 5.3 and Schedule E. I see that in the s.13; contract, there was an addition of section 6.5 and 6.6. However, these provisions do not address what I see as a key requirement for this Review to proceed – that there be a mechanism for people to come forward and talk to the Review, without having their "contact information" (vs. their "personal information" disclosed on an FOI application). There must be a confidential route, for those who want or think they need it.

I am open to suggestions about how to structure this contractually – including keeping statistical records only, ensuring a confirmation process to ensure that the Review has verified the individual's identify and bona fides, providing the contact list to Legal Counsel. Etc.

I am still working on the secondment issue with WCAT. Thanks.

Janet K. Patterson  
#201 – 3701 Hastings Street  
Burnaby, B.C. V5C 2H6  
604-831-5654  
[Jkpatti50@gmail.com](mailto:Jkpatti50@gmail.com)

## RE: Janet P review

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 13, 2019 8:23:40 AM PDT

OK understood – I have emailed Brian and Ian at WorkSafeBC about this.

---

**From:** Leduc, Danine LBR:EX  
**Sent:** Wednesday, March 13, 2019 7:53 AM  
**To:** Hughes, Trevor LBR:EX  
**Subject:** RE: Janet P review  
Hi Trevor,

We cannot just add this WSBC privacy protection schedule to the contract – the province has its own which of course makes the province, not WSBC, the ultimate arbiter of appropriateness of security arrangements, release of information as part of an FOI request, etc.

Also it wasn't clear to me from the email chain if WSBC is agreeing to share information with the reviewer or is merely agreeing to undertake a Privacy Impact Assessment in advance of making any decision to share or not; if the latter then we should proceed with the province's privacy protection schedule in the interim. Whatever information is shared with the reviewer will result in the province having custody/control unless we craft some specific clauses to address it.

In short, we can likely address most of WSBC's information management requirements via the province's contract and privacy protection schedule, but we'd need to know if they intend to share or not before we finalize her K.

Thanks  
Danine

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**From:** Hughes, Trevor LBR:EX  
**Sent:** Tuesday, March 12, 2019 12:28 PM  
**To:** Leduc, Danine LBR:EX  
**Subject:** Fwd: Janet P review  
FYI on access to claims files for JP. Note need to add a schedule to the contract.

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**From:** "Erickson, Brian" <Brian.Erickson@worksafebc.com>  
**Date:** March 12, 2019 at 10:58:44 AM PDT  
**To:** "Hughes, Trevor LBR:EX" <Trevor.Hughes@gov.bc.ca>, "Shaw, Ian" <Ian.Shaw@worksafebc.com>  
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Trevor, the short answer appears to be that we can likely provide access but there are a couple more hurdles to get over first.

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**From:** Shaw, Ian  
**Sent:** Tuesday, March 12, 2019 8:57 AM  
**To:** Erickson, Brian <Brian.Erickson@worksafebc.com>  
**Subject:** RE: Janet P review

Brian  
s.13; s.14

Ian

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**From:** Erickson, Brian

**Sent:** Monday, March 11, 2019 4:24 PM

**To:** Shaw, Ian <[Ian.Shaw@worksafebc.com](mailto:Ian.Shaw@worksafebc.com)>

**Cc:** McConnachie, Joanne <[Joanne.McConnachie@worksafebc.com](mailto:Joanne.McConnachie@worksafebc.com)>; Alexander, Trevor <[Trevor.Alexander@worksafebc.com](mailto:Trevor.Alexander@worksafebc.com)>; McDonald, Todd <[Todd.McDonald@worksafebc.com](mailto:Todd.McDonald@worksafebc.com)>

**Subject:** FW: Janet P review

s.13; s.14

thx, B.

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**From:** Hughes, Trevor LBR:EX [<mailto:Trevor.Hughes@gov.bc.ca>]

**Sent:** Monday, March 11, 2019 4:11 PM

**To:** Erickson, Brian <[Brian.Erickson@worksafebc.com](mailto:Brian.Erickson@worksafebc.com)>

**Subject:** RE: Janet P review

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**Sent:** Monday, March 11, 2019 4:02 PM

**To:** Erickson, Brian WCB:EX

**Subject:** Janet P review

**Importance:** High

Update – intention is to publicly announce her review sometime next week. Not firmed up as I have still been negotiating the terms of her engagement.

Further to your offer earlier today, are you able to outline some of what WorkSafeBC would be prepared to offer her in support? Would help me greatly.

Thanks.

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## RE: WCB Review

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Janet Patterson <jkpatti50@gmail.com>  
Cc: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 14, 2019 12:14:20 PM PDT

We are doing our level best to get at some of the issues. Hoping to have an email back to you before end of the week.

**From:** Janet Patterson [mailto:jkpatti50@gmail.com]

**Sent:** Thursday, March 14, 2019 12:11 PM

**To:** Hughes, Trevor LBR:EX

**Subject:** WCB Review

Hi Trevor

I was wondering if there was any progress on some of the contract issues? I am holding off making any financial commitments to proceed but would appreciate a timeframe.

I am available to talk today or tomorrow. Thank you. Janet



## Access to Information

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From: Shaw, Ian <Ian.Shaw@worksafebc.com>, Shaw, Ian WCB:EX <Ian.Shaw@worksafebc.com>  
To: Trevor LBR:EX Hughes <Trevor.Hughes@gov.bc.ca>, Hughes, Trevor LBR:EX  
<Trevor.Hughes@gov.bc.ca>  
Sent: March 14, 2019 3:50:52 PM PDT  
Does this help?

WorkSafeBC will provide disclosure of worker claim files through its claims disclosure process for those files where the worker has provided a fully informed consent in the form provided by WorkSafeBC, subject to the following:

- Where the request for the claim file and disclosure of the claim file is made electronically through the WorkSafeBC on-line portal, disclosure will be made within 24 hours of request unless redaction of third party (not the worker's) personal information is required under FIPPA. If redactions are required, the claims file will be submitted by the Claims Disclosure Department to the Freedom of Information and Protection of Privacy department for redactions and the redacted version will be processed within 48 hours of that submission;
- In the case of older files where the claim file is in paper format only, disclosure will be made within 7 days to allow time to convert the paper file to electronic format; and
- Physical evidence will be provided as soon as it is available

Where a timeline expires on a Saturday, Sunday or statutory holiday, it will be extended to the next regular WorkSafeBC business day.

Sent from my iPad

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## Re: Patterson Contract- List of outstanding items

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 19, 2019 7:29:15 PM PDT

Have you received anything back from Risk Mgmt Branch on items #3 and 4 below? I have not circled back to Janet P. yet....

On Mar 15, 2019, at 11:46 AM, Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca> wrote:

Here is the current list of items we need to land before her contract is finalized:

1. Limiting the reviewer's scope of review (number of workers interviewed/time)

s.13

5. Privacy – data storage during the review and consultation process with WSBC on FOI requests
  - a. WSBC-Reviewer – what is needed for WSBC to provide her access to claims info – worker consents and data handling obligations – between WSBC and reviewer

Other details NOT impacting terms of the contract:

- Establishing website – ministry
- Desk-topping support – ministry
- Legal counsel contract – AG/ministry
- MOU with WSBC for recoveries – ministry/WSBC

s.13

We don't need to capture her sub-contractors' wages/fees anywhere – and not the secretarial support if WSBC is providing it.

Please call if you have questions,

Thank you,

Danine

---

**From:** Hughes, Trevor LBR:EX

**Sent:** Monday, March 11, 2019 6:18 PM

**To:** Leduc, Danine LBR:EX

**Subject:** Re: Patterson Contract- next steps

Her proposed per diem and cost for Jim Parker and possible WCAT secondee.

On Mar 11, 2019, at 6:16 PM, Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca> wrote:

Hi, if executed by Friday is the plan, here is the ranked list of actions for us:

1. s.13; s.14

2. Scope of review and reviewer's model for delivery of services- impacts time and cost (submission/consultation process- writers/editors)

3. s.13

4. Privacy and FOI (includes anonymizing model for very small number of submitters, access to WSBC data, confidentiality guarantees and foi process).

s.15

6. Instructions from the province (2.6-2.8)

7. Secretariat support- ministry, wsbc

8. WAO/EAO participation (see 3 above)

9. Website

10. Desktopping

From March 7 call:

11. Consulting company

12. Remove language in schedule A re: focussed review not whole WCA

13. Add p.18 explicit ref to hearing from injured workers.

14. Storage of confid. Info during and after review.

15. Request for custom FOI consent form

16. Copyright question- doesn't want it to go to province

Missing anything,?

Thanks

Danine

Sent from my Samsung Galaxy smartphone.

## RE: As requested - Revised Draft Contract - WC System Review - tracked changes version

---

From: Cockburn, Derek P JTT:EX <Derek.Cockburn@gov.bc.ca>, Cockburn, Derek P JERI:EX <Derek.Cockburn@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Cc: Bersenev, Elena Y MAH:EX <Elena.Bersenev@gov.bc.ca>, Bersenev, Elena Y MUNI:EX <Elena.Bersenev@gov.bc.ca>  
Sent: March 20, 2019 9:29:18 AM PDT

s.13; s.14

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**From:** Leduc, Danine LBR:EX  
**Sent:** Friday, March 15, 2019 11:32 AM  
**To:** Cockburn, Derek P JTT:EX  
**Subject:** FW: As requested - Revised Draft Contract - WC System Review - tracked changes version  
Hi Derek, same version attached as you previously saw, here is how weâ€™ve addressed her issues or not.

---

**From:** Leduc, Danine LBR:EX  
**Sent:** Friday, March 15, 2019 11:31 AM  
**To:** Hughes, Trevor LBR:EX  
**Subject:** As requested - Revised Draft Contract - WC System Review - tracked changes version  
Hi Trevor,

Attached is the revised draft. We have addressed Ms. Pattersonâ€™s items as follows:

From the March 7<sup>th</sup> call: we have added explicit language that injured workers are part of the consultation process. We have not removed the reference to the focussed scope of the review and it not being a full review of the WCA. No custom FOI consent form will be needed as WSBC will require the reviewer to obtain full informed consent for disclosure via its existing form. Copyright needs to stay with the Province.

From Ms. Pattersonâ€™s March 12<sup>th</sup> email:

- For section 2.3 and 2.5, we adopt the same wording as in the s.13; contract. Done
- For section 2.6, we adopt the same wording as in the s.13; contract, as it recognizes the independence of the Review while allowing for â€œreasonable instructionsâ€œ. Done
- For section 6.2, I would like to add the words â€œafter the Review is completedâ€œ to the end of the sentence. For obvious reasons. Not done- advice is to understand what the contractorâ€™s concern is â€œours is ensuring that if the contractor is unable/unwilling to complete the review, the Provinceâ€™s ownership is clear.
- I would ask to add a section 9.6 as it is set out in the s.13; contract be added, to provide Legal Services in the event of a third party action. Done.
- Re section 9.4 â€œI would prefer not to arrange for POP for myself. I will register with the WCB as an employer and also get the General Contractor Insurance. Not done â€œawaiting approval s.13

s.13

And as I mentioned, I would like to have the wording re the financial cap in Appendix A amended to provide some flexibility in the event of very large number of participants (we can agree on a threshold) or an extended timeframe. Not done â€œmaximum contract value required by core policy.

The issue that arises most strongly in this Review are the privacy and confidentiality concerns â€œspecifically addressed in sections 5.3 and Schedule E. I see that in the s.13; contract, there was an addition of section 6.5 and 6.6. However, these provisions do not address what I see as a key requirement for this Review to proceed â€œthat there be a

mechanism for people to come forward and talk to the Review, without having their “contact information” (vs. their “personal information” disclosed on an FOI application. There must be a confidential route, for those who want or think they need it. Privacy officer is drafting a process to anonymize a small number of injured workers such that once verified and assigned a unique identifier, their identities could not be unmasked. This is for limited, exceptional use. Province has very limited ability to adjust the privacy protection schedule without a complete re-draft “ preference is to append the Province’s schedule and have her execute a separate agreement with WSBC relating to the claims data access. Province must continue to be accountable for FOI requests received by the contractor.

Thank you

Danine

Danine Leduc

Assistant Deputy Minister

Ministry of Labour (BC)

778-698-3563 (Tel)

250-208-2850 (Cell)

## FW: Contract for Review - a response

---

From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 20, 2019 2:18:27 PM PDT  
Attachments: WC Review\_Contract\_JKPatterson\_v.6 tracked changes (1).docx

We need to discuss the below ASAP.

---

**From:** jkpatti50@gmail.com [mailto:jkpatti50@gmail.com]

**Sent:** Wednesday, March 20, 2019 2:15 PM

**To:** Hughes, Trevor LBR:EX

**Subject:** Contract for Review - a response

Hi Trevor

Thank you for the contract draft, with track changes and your email. I will just respond with points for now. We are definitely moving forward but there remain some issues.

1. RE Schedule A:

- a. The amended term of the Agreement (Part 1) is fine. However, given the late start I would ask that the reporting dates be slightly amended as well: s.13 s.13
- b. The amended wording for the Services (Part 2) is fine.
- c. Part 4 "re the "dedicated lawyer"; we discussed a separate AG contract for s.14 s.14 with some clarification that her client would be the Review. Can you let me know the status of this and how it fits into this Contract?

2. RE Schedule B and C:

- a. I see that you have Jim Parker (Researcher) and Donna Hanson (Support) in Schedule C as key personnel, but not in Schedule B as people with a contractor role. My estimated per diem was based on the understanding that their compensation would be separately identified and costed under Schedule B. I am making arrangements to have each seconded (from BCNU and WCAT respectively). Could you let me know which of the following arrangements is preferable "all are fine with me: s.13; s.17

- b. I am thinking I may need one more person as an approved sub-contractor, but at a slightly later date. Are you flexible in adding this into the Contract at a later date, as long as the hard cap on fees is maintained?
- c. As discussed, I will need additional personal at times and will want to hire people on an "as needed", and usually hourly basis "for help with hearings or research. In your view, are these people who need to be approved as sub-contractors. And can I invoice their fees as separate from my per diem?
- d. I understand the need for a hard cap, for the initial Contract. However, as per our discussion and my discussion with the Minister, it is a great unknown about how many individual injured workers will seek to participate in the Review and my commitment is to arrange at least a respectful interview with everyone who comes forward and to select the participants for a public hearing. Even with the limited scope of the Review, it is possible that the numbers will be greater than can be accommodated by our resources and possibly by this timeframe. I would ask that there be some expressed willingness on the Ministry's part to entertain an amendment to the Contract in the form of additional resources, additional time or both, in this particular event.

3. Main Contract:

Thank you for the tracked changes in the attached contract.

RE Office Space: Office space is appreciated. My only proviso is that the main office space not be located at WorkSafe as the Review must be seen to be, as well as be, independent. This being said, it would be helpful to have at least one office at WorkSafe as a resource room (as per my earlier email).

RE: s. 9.4 on POP. I am flexible on this. I look forward to your response on this.

RE: s. 4(a)(i) "at the time of the signing of this Contract, not all of my staff, equipment etc. will be in place as I have held off making any financial commitments or investments, pending the signing of this Contract (as discussed) Can the wording of this provision be slightly amended to reflect this?

RE s. 5(3)(a). RE copyright:

Two matters:

1. While I have no issue with the province maintaining copyright on all materials, including written submissions, this provision seems broader than simple copyright. In particular, it seems to prevent me from using research material, or even workers' stories, in speaking or teaching engagements in the future. Can the wording be amended to narrow the scope?
2. I appreciate and agree with the Board's protocol for having access to a worker's claim file. But can we add that after reviewing the claim file, the Review will do one of the following on the instructions of the worker - (return the file to the worker or to WorkSafe or delete the link. The claim file will not be retained by the Review and will not be considered "Material" under the contract.

The hard issues in this Review relate to its independence and need to ensure confidentiality for some participants. We need to continue to work on this aspect.

1. RE INDEPENDENCE DURING THE REVIEW PROCESS:

Re s. 6.2 "my only concern was that the province not request Material from the Review while the Review is in progress. Any wording that accomplishes this is fine.

Re s. 8.1 "this is the same concern. Can the wording be amended to state that if an Audit occurred during the course of the Review, the province would not copy any Materials except business records.

2. RE CONFIDENTIALITY "as I have said, I consider it fundamental to the Review and fulfilling the Terms of Reference that there be a channel for individuals to come forward on a confidential basis, without their identities being disclosed as participants on an FOI, during or after the Review. I know this is difficult. And as discussed, I believe these will be exceptional cases as most want to provide their stories publically. One thought I had was to retain a lawyer on staff (other than Monique) who would take such statements under solicitor client privilege and provide them to the Review on that basis. But I am open to suggestions

Thanks Trevor.

Janet K. Patterson

#201 " 3701 Hastings Street

Burnaby, B.C. V5C 2H6

604-831-5654

Jkpatti50@gmail.com

Page 016 of 126 to/à Page 041 of 126

Withheld pursuant to/removed as

s.13



## RE: Contract for WCB Review

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From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 28, 2019 9:08:31 AM PDT

Let's draft something for today and see where Keith is midday. I have to drive to WorkSafeBC now.

---

**From:** Leduc, Danine LBR:EX  
**Sent:** Thursday, March 28, 2019 9:08 AM  
**To:** Hughes, Trevor LBR:EX  
**Subject:** RE: Contract for WCB Review

Ok then we need to await the s.13; s.14 back today with some responses?

Then you can respond; unless you prefer to email her

Thanks  
Danine

---

**From:** Hughes, Trevor LBR:EX  
**Sent:** Thursday, March 28, 2019 9:06 AM  
**To:** Leduc, Danine LBR:EX  
**Subject:** FW: Contract for WCB Review  
This is the last one.

---

**From:** jkpatti50@gmail.com [mailto:jkpatti50@gmail.com]  
**Sent:** Tuesday, March 26, 2019 9:12 AM  
**To:** Hughes, Trevor LBR:EX  
**Subject:** Contract for WCB Review  
Hi Trevor

Thank you for your emails yesterday. This is to address the outstanding issues.

1. Schedule A: I understand that the Minister's office prefers not to change the reporting dates at this time, so I am fine to leave the dates as they now are.
2. Office Space: Thank you for your details on the available offices at the Board. We will make this work.
3. RE section 5.3(a)
  - a. the Board's process for the Review's handling of a worker's claim file at the end of the Review, is fine.
  - b. Can you confirm that given this section, the Province's consent to my written request to use or disclosure Material (as defined under the contract) after the Review will not be unreasonably withheld.
4. I am fine to apply for POP and will do so once the contract is signed.
5. Given your comments re section 6.2 and 8.1 in your email, these sections are fine.
6. RE section 4(a)(ii) "perhaps we could start this paragraph with *the Contractor has, or will arrange to have, sufficient*."

Other matters:

I remain concerned about security issues, particularly in some hearing venues and will certainly take precautions. I appreciate your offer to work with me on this with respect to hotels and room set ups. However, this is a common concern in compensation matters [note the significant security systems at the Board and WCAT] and I would like to consider my liability issues for both myself and my employees or sub-contractors. I would not regard it as unreasonable to have some type of local security arrangements in some venues. I will have to get back to you on this one. If you have any suggestions, this is appreciated.

I look forward to hearing about your arrangements for a confidential process. Using a numbered ID system sounds very promising.

RE the hard cap on fees: the TOR asks me to consult with injured workers and restore confidence in the system. In order to do this, I cannot prematurely limit or restrict the number of injured workers consulted, without impacting these objectives. The process (so far discussed and approved) is to give every injured worker who comes forward, a phone interview and from these, I will select come who will further present at public hearings. While the Review has been given significant resources, and these may well be adequate, I would ask for a rider in the contract stating that the Ministry may approve additional fees in the event that it considers that additional resources are necessary to complete the approved consultation process for injured workers, due to the number of injured workers coming forward. Any additional fees will be designated and targeted for this purpose only.

Thanks Trevor. Janet  
Janet K. Patterson  
#201 " 3701 Hastings Street

Burnaby, B.C. V5C 2H6  
604-831-5654  
Jkpatti50@gmail.com

## SRQ 024232 Indemnity Approval 201910172

---

From: Risk Management Branch FIN:EX <RMB@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Cc: Mortimer, David JTT:EX <David.Mortimer@gov.bc.ca>  
Sent: March 29, 2019 11:58:10 AM PDT  
Attachments: Indemnity 201910172.pdf, Agreement.pdf

Greetings:

Attached is an indemnity approval letter and the agreement to which it pertains. If you have any questions, please email Anna Maria Campbell at [Anna.Maria.Campbell@gov.bc.ca](mailto:Anna.Maria.Campbell@gov.bc.ca).

Thank you,

**Risk Management Branch and Government Security Office**

Ministry of Finance

PO Box 9405 Stn Prov Govt Victoria, BC V8W 9V1

Phone: (250) 356-1794 Fax: (250) 356-6222



**Ministry of  
Finance**

Risk Management  
Branch and  
Government Security  
Office

# MEMORANDUM

March 29, 2019  
INDE 1.0  
201910172

Danine Leduc  
Assistant Deputy Minister  
Ministry of Labour

Sent via email: Danine.Leduc@gov.bc.ca

## **Re: Indemnity Approval**

Pursuant to section 2.1 of the Indemnities and Guarantees Regulation, BC Reg 153/2018, I, Linda Irvine, Executive Director of Risk Management Branch, of the Ministry of Finance, do hereby give my written assurance that the proposal for the indemnity(s) in the General Services Agreement between Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Labour and Janet K. Patterson for the review of the workers' compensation system, has been approved by the Risk Management Branch.

Linda Irvine  
Executive Director  
Risk Management Branch  
Ministry of Finance

LI/AC

Attachment

pc: David Mortimer  
Chief Financial Officer

Page 046 of 126 to/à Page 072 of 126

Withheld pursuant to/removed as

s.13

## WC System Review -Quantum of per diem

---

From: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
To: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
Sent: March 30, 2019 1:31:26 PM PDT

Hi Trevor,

- There is no list of approved contractor fee ranges beyond which we cannot go “ the ministry must assess the reasonableness of the fees in the context of what we are asking her to do.
- Her Per Diem reflects the cost of the approved sub-contractors, her other expenses (supplies, security, etc) and we know three will be engaged for most if not all of the review.

s.13; s.17

Your direction to specify hours required for the contractor to claim full or half days strengthens the public accountability, along with your direction to ensure this contract is carefully and regularly monitored.

Thank you

Danine

Page 074 of 126

Withheld pursuant to/removed as

s.13 ; s.14 ; s.17

Page 075 of 126 to/à Page 102 of 126

Withheld pursuant to/removed as

s.13



## Fwd: Contract for WCB Review

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From: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>  
To: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: March 30, 2019 2:45:54 PM PDT

Begin forwarded message:

**From:** Janet Patterson <jkpatti50@gmail.com>  
**Date:** March 30, 2019 at 2:30:00 PM PDT  
**To:** "Hughes, Trevor LBR:EX" <Trevor.Hughes@gov.bc.ca>  
**Cc:** "Cooling, Karen LBR:EX" <Karen.Cooling@gov.bc.ca>  
**Subject:** Re: Contract for WCB Review

Trevor.

s.13

Janet

Sent from my iPad

Janet, please find attached a tracked change copy of the contract to address the items below *except for* one item which is explained below.

First, on the condition that we are concluded despite the one item below, I am prepared to agree to your per diem of \$2500 with reference to new language to address billing on the basis of full days versus half days. Your requested per diem is high. It will draw public scrutiny. Yes, it includes fees for your subcontracted staff. But I am prepared to defend it for this work again on the basis that there are no further items.

Second, we addressed your request related to the lawyer in key personnel, added the new support staff name and changed Donna Hanson's title.

Janet, I cannot and will not agree to language that enables you to be selective about who attends the hearings as part of the public consultation process. The process must be open to the public without restriction (transparent, not by invitation), consistent with government consultation processes. We will work with you to craft the consultation process. I trust you can understand this.

Let me know if we are concluded and I will have the tracked changes in the attached accepted and send you back a final contract.

Thanks.

Trevor.

**From:** Janet Patterson [<mailto:jkpatti50@gmail.com>]

**Sent:** Friday, March 29, 2019 6:18 PM

**To:** Hughes, Trevor LBR:EX

**Subject:** Re: Contract for WCB Review

Hi Trevor - we are very close.

RE MAIN CONTRACT: The following new language in the main contract is fine: s. 2.3(a) re security concerns (thank you); and section 5.3 re disclosure after the Review. I see you did not change s. 4.1(ii) but I think I have disclosed my arrangements to you in writing - i.e. I have some but not all arrangements in place, as the project is open ended and I will likely need additional personnel. As long as you are fine with this and there are no other changes, then the main contract is done.

RE SCHEDULE A AND B: There are some issues re Schedule A and B and we could resolve these by email or a phone call. They are:

1. You have added a "members of the public" component to the description of the consultations in Schedule A: Part 2.. This is fine and in the spirit of the TOR as long as it is understood that the primary form of consultation will be in writing and face to face meetings and hearings will be selective, and not just available or wide open to anyone who wants to join in a public hearing. Given the resources and timeframe, we will have to be selective. As long as we are in agreement with this rider, the wording is fine and it also covers the issue of confidential participation well.

2. s.13; s.17

s.13; s.17

3. Under "Approved Subcontractors", can you designate Donna Hanson as the "Review Coordinator". The support staff role will be "Sinead Dwyer".

4. My per diem will be \$2500, to cover Review costs as well as my compensation. I understand about the hard cap on fees, but remain concerned.

Janet

On Fri, Mar 29, 2019 at 5:16 PM Janet Patterson <[jkpatti50@gmail.com](mailto:jkpatti50@gmail.com)> wrote:

Thanks Trevor. Yes, I think our emails did just cross.

I will take a good look at this now. I may not be able to respond tonight but will ASAP - should be very soon. Thanks. Janet

On Fri, Mar 29, 2019 at 5:15 PM Hughes, Trevor LBR:EX  
<Trevor.Hughes@gov.bc.ca> wrote:

Janet – sorry for the delay in responding, but as you will see from the latest GSA/contract attached, I believe we have managed to address all of the remaining issues you have identified.

You will see we added some language to address security issues. The ministry has also incorporated the “unique identifier” process as part of the consultation process with the public, including injured workers.

To confirm, I am not able to move the hard cap on fees.

T.

--

Trevor Hughes  
Deputy Minister  
Ministry of Labour (BC)

Office: (778) 974-2189

Mobile: (250) 508-4273

---

**From:** jkpatti50@gmail.com [mailto:jkpatti50@gmail.com]

**Sent:** Tuesday, March 26, 2019 9:12 AM

**To:** Hughes, Trevor LBR:EX

**Subject:** Contract for WCB Review

Hi Trevor

Thank you for your emails yesterday. This is to address the outstanding issues.

1. Schedule A: I understand that the Minister’s office prefers not to change the reporting dates at this time, so I am fine to leave the dates as they now are.
2. Office Space: Thank you for your details on the available offices at the Board. We will make this work.
3. RE section 5.3(a)
  - a. the Board’s process for the Review’s handling of a worker’s claim file at the end of the Review, is fine.
  - b. Can you confirm that given this section, the Province’s consent to my written request to use or disclosure Material (as defined under the contract) after the Review will not be unreasonably withheld.
4. I am fine to apply for POP and will do so once the contract is signed.
5. Given your comments re section 6.2 and 8.1 in your email, these sections are fine.
6. RE section 4(a)(ii) – perhaps we could start this paragraph with “*the Contractor has, or will arrange to have, sufficient....*”

Other matters:

I remain concerned about security issues, particularly in some hearing venues and will certainly take precautions. I appreciate your offer to work with me on this with respect to hotels and room set ups. However, this is a common concern in compensation matters [note the significant security systems at the Board and WCAT] and I would like to consider my liability issues for both myself and my employees or sub-contractors. I would not regard it as unreasonable to have some type of local security arrangements in some venues. I will have to get back to you on this one. If you have any suggestions, this is appreciated.

I look forward to hearing about your arrangements for a confidential process.

Using a numbered ID system sounds very promising.

RE the hard cap on fees: the TOR asks me to consult with injured workers and restore confidence in the system. In order to do this, I cannot prematurely limit or

restrict the number of injured workers consulted, without impacting these objectives. The process (so far discussed and approved) is to give every injured worker who comes forward, a phone interview and from these, I will select come who will further present at public hearings. While the Review has been given significant resources, and these may well be adequate, I would ask for a rider in the contract stating that the Ministry may approve additional fees in the event that it considers that additional resources are necessary to complete the approved consultation process for injured workers, due to the number of injured workers coming forward. Any additional fees will be designated and targeted for this purpose only.

Thanks Trevor. Janet

Janet K. Patterson

#201 – 3701 Hastings Street

Burnaby, B.C. V5C 2H6

604-831-5654

[Jkpatti50@gmail.com](mailto:Jkpatti50@gmail.com)

<WC Review\_Contract\_JKPatterson\_v. Final mar 30 tracked.docx>

## Letter to Minister Bains re: Patterson Report

---

From: Doug Alley <info@employersforum.org>  
To: Hon. Harry Bains <Harry.Bains@gov.bc.ca>, Bains, Harry LBR:EX <Harry.Bains@gov.bc.ca>  
Cc: Hon. John Horgan <Premier@gov.bc.ca>, Geoff Meggs <Geoff.Meggs@gov.bc.ca>, Don Wright <Don.J.Wright@gov.bc.ca>, Trevor Hughes <Trevor.Hughes@gov.bc.ca>, OfficeofthePremier, Office PREM:EX <Premier@gov.bc.ca>, Hold - 210203 - Wright, Don J. PREM:EX <Don.J.Wright@gov.bc.ca>, Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>, Meggs, Geoff PREM:EX <Geoff.Meggs@gov.bc.ca>  
Sent: September 15, 2020 3:08:05 PM PDT  
Attachments: image001.png, MHB\_Letter\_Patterson\_Report\_Sept14\_2020\_FINAL.pdf

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Please see the attached letter from representatives of the Employer Community regarding the recently released report authored by Ms. Janet Patterson entitled New Directions: Report of the WCB Review 2019. If you have any questions, please do not hesitate to contact me.

Doug Alley  
Managing Director  
**The Employers' Forum**  
[doug@employersforum.org](mailto:doug@employersforum.org)  
Phone: 778-265-8813



September 15, 2020

Honourable Harry Bains  
Minister of Labour  
Government of British Columbia  
Room 342  
Parliament Buildings  
Victoria, BC V8V 1X4

Submitted via Email: [Harry.Bains@gov.bc.ca](mailto:Harry.Bains@gov.bc.ca)

Dear Minister Bains:

**Re: Report of Ms. Janet Patterson -- New Directions: Report of the WCB Review 2019**

We are writing in response to Ms. Janet Patterson's report on BC's worker's compensation system which was submitted to you on October 30, 2019 and released publicly on August 26, 2020.

You will recall the employer community, represented by 46 small, medium and large business associations, withdrew from Ms. Patterson's review in August, 2019 citing an apprehension of bias. The circumstances surrounding the apprehension of bias and the subsequent withdrawal of 46 associations from Ms. Patterson review process were outlined in correspondence to Ms. Patterson copied to you, Premier Horgan and senior government officials on August 14, 2019. For your information and convenience, we have attached the original correspondence.

We have reviewed Ms. Patterson's report and have some comments on the document.

At page 3 of her report, Ms. Patterson incorrectly states the Employers Forum (alone) withdrew from her process. She does not acknowledge that a comprehensive 38-page submission and subsequent correspondence withdrawing from her process were signed by 46 business associations representing the full spectrum of small, medium and large employers in British Columbia. In ignoring this fact, Ms. Patterson understates the weight of the business community's original submission(s) and subsequent correspondence withdrawing from her process. At page 32 of her report, Ms. Patterson states that a written submission from the Employers Advisors Office, a public agency, adequately summarized "many of the issues and comments made by employers in their questionnaire responses". Ms. Patterson goes on to state:

"... these concerns *likely* represent the views of medium and small employers who have different business circumstances and perhaps less experience in compensation matters than the large employers represented by the Employers Forum".

Ms. Patterson mischaracterizes the business community's input in her report in two ways. First, both the submission to her process and subsequent correspondence withdrawing from it were

signed off by leaders of 46 associations representing small, medium and large employers; the Employers Forum led the business community response, but was only one of the 46 signatories. Second, the Employers' Forum also includes a number of business associations representing small, medium and large employers including, notably, leading cross-sectoral associations such as the Canadian Federation of Independent Business, the BC Chamber of Commerce, and the Business Council of BC (among a number of other sectoral associations). Combined, these associations represent the vast majority of the over 500,000 firms of all size in British Columbia that are affected by WorkSafeBC policies.

Our review of Ms. Patterson's report confirms that our decision to withdraw from her review was the correct one. The report recommendations are neither practicable, nor financially viable under the century old 'historic compromise' where workers traded the right to sue in tort in exchange for an employer-funded no-fault insurance system. Simply stated, if Ms. Patterson's report is implemented the financial stability and operational viability of BC's workers' compensation system will be jeopardized.


We therefore seek confirmation from you of the following:

- That your government is receiving the Patterson Report for information only;
- That Ms. Patterson's view of creating a "worker-centric" social program beyond the 'historic compromise' does not align with your government's vision for WorkSafeBC; and,
- That your Ministry will not engage in any further work on, or implementation of, recommendations contained within the report.


We look forward to your response. Thank you in advance for your consideration.

Sincerely,



  
 Doug Alley  
 Managing Director



  
 Bridgitte Anderson  
 President and CEO



  
 Greg D'Avignon  
 President & CEO




  
 Samantha Howard  
 Senior Director, B.C.




  
 Dan Baxter  
 Director, Policy Development, Government, and Stakeholder Relations




  
 Chris Gardner  
 President

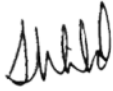


  
Bryan Wallner  
CEO

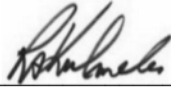


  
Anne McMullin  
President & CEO

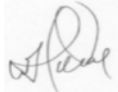


  
Scott Wild  
CEO




  
Rory Kulmala  
CEO



  
Walt Judas  
CEO



  
Fiona Famulak  
President

CC: Honourable John Horgan, Premier of British Columbia  
Mr. Geoff Meggs, Chief of Staff to Premier Horgan  
Mr. Don Wright, Deputy Minister to the Premier, Secretary to Cabinet and Head of the Public Service  
Mr. Trevor Hughes, Deputy Minister of Labour

Attachments:

Correspondence to Ms. Janet Patterson, Reviewer, Workers' Compensation System Review, August 14, 2019



**Attachment – Correspondence to Ms. Janet Patterson, Reviewer, Workers’ Compensation Review, August 14, 2019.**

Ms. Janet Patterson  
Reviewer  
Workers’ Compensation System Review  
PO BOX 97122 Stn Main Richmond, B.C.  
V6X 8H3

Via email: [Info@wcbreview.ca](mailto:Info@wcbreview.ca)

Dear Ms. Patterson:

Further to your ongoing Review of the BC Workers’ Compensation System, we received a Memo from you dated August 6, 2019 (as amended on August 8, 2019) which sets out the “selected issues” which the Reviewer will be seeking further consultation from the Key Stakeholders in the British Columbia Workers’ Compensation System (the “August Memo”). This response letter is endorsed by 46 sectoral and cross-sectoral business organizations which collectively represent small, medium and large businesses in virtually all aspects of the British Columbia economy.

The Employer Community is quite taken aback and dismayed with the extremely broad and far-reaching scope of these “selected issues” and, after giving the matter due consideration and consulting with various representatives within the Employer Community, we have determined that we have no choice but to cease all participation in the Review’s process, effective immediately. We have reached this decision based on the following considerations:

- (i) The Reviewer has previously referred to the scope of her Review as being “limited” (which, as noted on pages 1 and 2 of our previous submission to the Reviewer dated July 19, 2019, was consistent with the statement made by the Minister of Labour at a meeting of the Council of Construction Associations of B.C. on June 6, 2019, where he referred to the Review as being a narrow review which is designed to improve the effectiveness of WorkSafeBC, to improve the navigation of claims through the workers’ compensation system, and to review WorkSafeBC’s practices – and not to make wholesale changes to the workers’ compensation system).

In our view, the all-encompassing nature of the “select issues”, which the Reviewer now intends to consider as being within the scope of the Review, is fundamentally different from the Reviewer’s previous characterization of her Review being limited in its focus. To the contrary, with respect to the compensation scheme set out in Part 1 of the Workers Compensation Act, in our view the Reviewer has expanded the scope of the Review to cover all aspects of the compensation system – a Review which, in our opinion, is as broad and far-reaching as that previously conducted by the Royal Commission on Workers’ Compensation in British Columbia in its Final Report dated January 20, 1999, and the subsequent Core Services Review of Workers’ Compensation Board – Major Law and Policy Issues Final Report dated March 11, 2002.

- (ii) In its July 2019 submission to the Reviewer, the BC Federation of Labour stated the following (on page 4):

In 2009, the BCFED commissioned a group of the best and most experienced worker advocates to write a report on the impact of the 2002 legislative changes on injured workers and to make recommendations to repair the damage. This report “Adding Insult to Injury” remains the foundational document to this day. Indeed, many of the recommendations we will make in this report are from the 2009 document. We resubmit that paper with its recommendations along with this submission.

The current Reviewer was one of three co-authors of the Report commissioned by the BC Fed in 2009, entitled “Insult to Injury – Changes to the BC Workers’ Compensation System (2002-2008): The Impact on Injured Workers” (the “2009 ‘Insult to Injury’ Report”). On page 47 of the 2009 ‘Insult to Injury’ Report, the authors set out their “Conclusion” as follows:

It was tempting during the course of preparing this Report to pragmatically focus on only a few of the most destructive changes made in recent years to the compensation system in BC and to focus on only a few recommendations for correction. However, it became clear to us as we attempted to articulate the experiences of injured workers and their advocates that the changes were designed and have acted to work together to produce a whole much greater than the sum of the parts. That whole has so seriously undermined the workers’ compensation system in this Province that piecemeal correction cannot correct the systemic defects that have been produced.

We have described the current state of the system as a labyrinth littered with jurisdictional pitfalls and minefields, the result of a systematic attack on both benefits and the decision-making process. In our view, only a systematic approach can hope to remedy the result.

The authors then listed a Summary of the 24 Recommendations which, in their view, represented the “systematic approach” they believed were required to remedy the “systematic attack on both benefits and the decision-making process” to the compensation system in BC. What is most striking to the Employer Community is that the “selected issues” set out in the Reviewer’s August Memo encompass all (but one) of the 24 Recommendations set out by the authors of the 2009 ‘Insult to Injury’ Report.

In our view, this scenario raises an apprehension of bias in the Review process based on the fact that the Reviewer was one of the authors of the 2009 ‘Insult to Injury’ Report commissioned by the BC Fed which contained 24 Recommendations to provide a systematic approach to “correct the systemic defects” that the authors were of the view had been produced in the workers’ compensation system. The Employer Community raises the question as to how the Reviewer can at the present time consider, in an impartial and balanced manner, those “selected issues” set out in her August Memo on which she had previously, and emphatically, reached conclusions and made recommendations?


In conclusion, Item #3 of the March 4, 2019 Terms of Reference provides:

The review will be undertaken by an individual (Janet Patterson) with experience in the workers’ compensation system, who is appointed by the Minister and who will approach the review in an independent, impartial, and balanced manner.

For the reasons set out above, the Employer Community has lost confidence that the Review can be conducted in an “independent, impartial and balanced manner”. Accordingly, we have reached the decision to not participate any further in any aspect of the Review process. Although this decision was not made lightly, we can no longer lend any credibility to the Review by participating in a process which we believe lacks independence, impartiality and balance.

Sincerely,

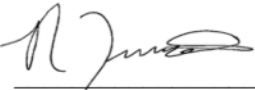


  
Doug Alley  
Managing Director



  
Greg D'Avignon  
President & CEO




  
Richard Truscott  
Vice President,  
BC & AB




  
Val Litwin  
President & CEO




  
David Crawford  
Interim CEO

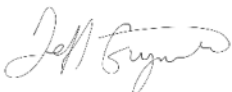


  
Chris Gardner  
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Reg Ens  
Executive Director



  
Jeff Guignard  
Executive Director




  
Daniel Fontaine  
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Caroline Andrewes  
President & CEO




  
Chris Atchison  
President

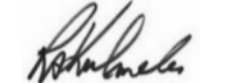


  
Anne McMullin  
President & CEO



  
Fiona Famulak  
President



  
Rory Kulmala  
CEO

CC:

Honourable John Horgan, Premier of British Columbia

Honourable Harry Bains, Minister of Labour

Mr. Don Wright, Deputy Minister to the Premier, Secretary to Cabinet, and Head of the BC Public Service

Mr. Trevor Hughes, Deputy Minister, Ministry of Labour

Mr. Fazil Mihar, Deputy Minister, Ministry of Jobs, Trade and Technology

Mr. Andrew Wilkinson, Leader of the Opposition

Mr. Andrew Weaver, Leader of the Green Party

## RE: Follow up questions - documents

---

From: Hourston, Sveah LBR:EX <Sveah.Hourston@gov.bc.ca>  
To: Janet Patterson <jkpatti50@gmail.com>  
Cc: Padgett, David MUNI:EX <David.Padgett@gov.bc.ca>, Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
Sent: September 28, 2020 8:20:29 AM PDT  
Thank you very much Janet, we have received your completed email.

Thanks!  
Sveah

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**From:** Janet Patterson <jkpatti50@gmail.com>  
**Sent:** September 25, 2020 4:28 PM  
**To:** Hourston, Sveah LBR:EX <Sveah.Hourston@gov.bc.ca>  
**Cc:** Padgett, David MAH:EX <David.Padgett@gov.bc.ca>; Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>  
**Subject:** Re: Follow up questions - documents

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Hi Sveah

I just wanted to confirm that you received my completed email and that this answered your questions (for now).  
Thanks. Janet

On Fri, Sep 25, 2020 at 11:53 AM Janet Patterson <jkpatti50@gmail.com> wrote:

Good morning -

RE your two questions:

1. In the public hearing, s.22 handed in a package of documents. This package consisted of  
- the package of documents which I sent you (being the documents where were not scanned onto the Review record as submitted to the Ministry, but were kept in paper form by myself) and  
- two additional documents which were scanned onto the record provided to the Ministry. These two documents were included in the Public Hearing folder for s.22 (KAM-0110 and consist of a two page submission and a public (anonymized) WCAT decision - 16 pages.
2. The whole package of documents were handed in by s.22 during s.22 presentation and many of the pages are stamped with the hearing date. In the s.22 hearing, Jim acted as the Review administrator for that hearing and so he received and stamped the documents. I read the documents after the hearing was concluded. However, as these documents were handed in, in the public process, they were not treated as confidential among the Review team and Jim may have reviewed them (although typically did not). After the hearing, it was proposed by one of the Review administrators (Donna or Doreen) to not scan the bulk of s.22 documents for privacy reasons and I agreed and confirmed this decision.
3. s.22 consented to have the Review obtain s.2 claim disclosure and this was done within the special disclosure process for the Review. . I was the only one who reviewed s.22 claim disclosure and this is the material which Jim did not and would not have reviewed.

Let me know if you need to have any further information or follow up. Janet

On Fri, Sep 25, 2020 at 11:20 AM Janet Patterson <jkpatti50@gmail.com> wrote:

Good morning -

RE your two questions:

1. In the hearing, s.22 provided the Review with certain documents. This included received both the package of documents which I sent you (which was not scanned onto the Review record as submitted to the Ministry, but was kept by myself in the event of an FOI request) and

On Fri, Sep 25, 2020 at 11:12 AM Hourston, Sveah LBR:EX <[Sveah.Hourston@gov.bc.ca](mailto:Sveah.Hourston@gov.bc.ca)> wrote:

Good morning Janet,

Thank you again for sending the whole package of documents s.22 submitted to you during the review. We just have a few follow up questions to assist us with a response to s.22 if you could please confirm:

The package as received (106 pages) was given in its entirety to you from s.22 ?

The package as received from s.22 was only reviewed by you, and was not seen or reviewed by Jim Parker?

We look forward to your response and again, really appreciate your assistance.

Thank you,  
Sveah

**Sveah Hourston**  
Manager, Executive Operations  
Deputy Minister's Office  
Ministry of Labour  
Phone: (778) 698-1614  
Email: [Sveah.Hourston@gov.bc.ca](mailto:Sveah.Hourston@gov.bc.ca)

## Re: Confidential, please do not forward - Follow up request

---

From: Janet Patterson <jkpatti50@gmail.com>  
To: Hourston, Sveah LBR:EX <Sveah.Hourston@gov.bc.ca>  
Cc: Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>, Padgett, David MAH:EX <David.Padgett@gov.bc.ca>, Padgett, David MUNI:EX <David.Padgett@gov.bc.ca>  
Sent: October 29, 2020 3:25:11 PM PDT  
Attachments: Oct 29 20.docx

**[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.**

Greetings. Please find attached my responses to the above questions. Thank you. Janet Patterson

On Tue, Oct 27, 2020 at 2:49 PM Hourston, Sveah LBR:EX <Sveah.Hourston@gov.bc.ca> wrote:

Good afternoon Janet, I hope you are doing well. We are hoping to set up some time to have another phone call with you in regards to the injured worker we have discussed with you previously, who has written to us again seeking further information and records. In preparation for our call and sending in confidence, the points listed below are from their latest email and are what we are hoping to discuss with you prior to our response to the individual:

1. Release my records in entirety, including the WorkSafeBC files that Janet Patterson and Jim Parker accessed;
2. Release the Ethical Review Authorization for Research involving Human Subjects
3. Cite the passages in FOIPPA that you rely upon that excludes the government from ethical research review
4. Cite where in the Terms of Reference and or contractual obligations, conflict of Interest is discussed and how that clause exempts the conflict that I describe given that Mr. Jim Parkers obvious association with the BCNU was withheld from public sight

If there are some days and times that would work well for you, end of this week or next week, please let me know and I can work to find a time for us all to convene and chat again.

Thanks very much Janet!

Sveah

**Sveah Hourston**

Manager, Executive Operations

Deputy Minister's Office

Ministry of Labour

Phone: (778) 698-1614

Email: [Sveah.Hourston@gov.bc.ca](mailto:Sveah.Hourston@gov.bc.ca)



1. The documents which the worker provided to the Review when <sup>s.22</sup>presented at its public hearing in <sup>s.22</sup> B.C. were accessible to Janet Patterson and Jim Parker. These documents have now been provided to the Ministry.

The worker signed an authorization for disclosure of <sup>s.2</sup> 2 claim files and this authorization has been provided to the Ministry. The worker's documents in <sup>s.22</sup>claim file disclosure were reviewed electronically by Janet Patterson but not by Jim Parker. No claim documents were copied or kept by the Review, so none can be released to the Ministry. This follows the special disclosure process which was arranged between the Review and WorkSafeBC prior to the public hearings. In this process:

- A special Review authorization form was created, authorizing disclosure of certain claim # (or #'s) to the Review;
  - When a signed authorization was received, , WorkSafeBC would provide the authorized disclosure to Donna Hanson (the Review Coordinator) through a secure means and for a limited time. While it was available, Janet Patterson would review the claim file. After access to the disclosure was removed, no record of the Review's request would appear on the worker's claim file at WorkSafe; and
  - Other than an authorized use of the documents, the Review would not retain the claim file disclosure or documents from the claim file after disclosure access was removed.
2. The Review's research was not on human subjects, but was the research required by the Terms Of Reference. The Review's recommendations had to be "researched-supported" and "best practices". The Review's Report included research into relevant scientific and academic literature (set out in the Report on pages 493-509) and research into compensation practices in B.C. and other jurisdictions through Information Requests (WCB-IRs) (pages 511-516). This background research was Jim Parker's primary area of responsibility as the Review's Researcher.
  3. See above.
  4. Jim Parker is employed as a WCB Advocate at the BCNU. He is one of several WCB Advocates at BCNU who work solely on compensation matters. Jim has worked in this capacity for many years and is considered an expert in compensation matters. In the secondment agreement between Janet Patterson and the BCNU, there is a strong Confidentiality clause. The clause specifies that Jim Parker must treat any information which he received through the Review as confidential and not to be released to anyone, including the BCNU, without the prior written consent of Janet Patterson. It also provides that Jim will not disclose Union information without the Union's prior consent. Jim Parker was an approved sub-contractor in the Ministry contract with Janet Patterson and he completed the "Privacy and Information Sharing" Training offered by the Office of the Chief Information Officer.

As part of his Review duties, Jim would also provide administrative support when it was requested. I considered that there would be no conflict of interest arising from his acting as an administrative support in the public hearing process and so I asked him to perform this task.

## FW: ICBC Fairness Officer v2

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From: Blakely, John H LBR:EX <John.Blakely@gov.bc.ca>  
To: Hughes, Trevor LBR:EX <Trevor.Hughes@gov.bc.ca>, Leduc, Danine LBR:EX <Danine.Leduc@gov.bc.ca>, Hourston, Sveah LBR:EX <Sveah.Hourston@gov.bc.ca>  
Cc: Tanner, Michael A LBR:EX <Michael.Tanner@gov.bc.ca>, Ayers, Jake LBR:EX <Jake.Ayers@gov.bc.ca>, Krayenhoff, Luke LBR:EX <Luke.Krayenhoff@gov.bc.ca>  
Sent: March 12, 2021 6:30:57 PM PST  
Attachments: 61088 - ICBC Fairness Officer v Patterson WSBC FPC Proposal.docx  
Trevor, you had asked for some analysis of the ICBC Fairness Officer and how it compares with Patterson's WSBC Fair Practices Commission proposal.

Please see attached for a BN prepared for you that contains our thoughts on this for your review. Thanks to Luke for preparing this.

Thanks

---

**From:** Krayenhoff, Luke LBR:EX <Luke.Krayenhoff@gov.bc.ca>  
**Sent:** March 12, 2021 2:49 PM  
**To:** Tanner, Michael A LBR:EX <Michael.Tanner@gov.bc.ca>; Blakely, John H LBR:EX <John.Blakely@gov.bc.ca>; Ayers, Jake LBR:EX <Jake.Ayers@gov.bc.ca>  
**Subject:** RE: ICBC Fairness Officer v2

I fixed some typos and it's on the N: drive.

s.15

---

**From:** Tanner, Michael A LBR:EX <Michael.Tanner@gov.bc.ca>  
**Sent:** March 12, 2021 12:45 PM  
**To:** Blakely, John H LBR:EX <John.Blakely@gov.bc.ca>; Ayers, Jake LBR:EX <Jake.Ayers@gov.bc.ca>; Krayenhoff, Luke LBR:EX <Luke.Krayenhoff@gov.bc.ca>  
**Subject:** FW: ICBC Fairness Officer v2

Nothing further from me. Thanks, Luke.

---

**From:** Krayenhoff, Luke LBR:EX <Luke.Krayenhoff@gov.bc.ca>  
**Sent:** March 12, 2021 12:29 PM  
**To:** Tanner, Michael A LBR:EX <Michael.Tanner@gov.bc.ca>; Blakely, John H LBR:EX <John.Blakely@gov.bc.ca>; Ayers, Jake LBR:EX <Jake.Ayers@gov.bc.ca>  
**Subject:** ICBC Fairness Officer v2

Please see attached.

Luke Krayenhoff MPM  
(Public Management)  
Senior Policy Advisor  
Labour Policy and Legislation Branch  
Ministry of Labour  
778-698-5267

MINISTRY OF LABOUR

**INFORMATION NOTE**

Cliff #: 61088

Date: March 12, 2021

**PREPARED FOR:** Trevor Hughes, Deputy Minister

**ISSUE:** Comparison of ICBC Fairness Officer with Janet Patterson's Proposed Fair Practices Commission for WorkSafeBC.

**BACKGROUND:**

**Proposed ICBC Fairness Officer**

On March 4, 2021, the Solicitor General announced the creation of a Fairness Officer for ICBC for the purpose of "ensuring ICBC's decisions, actions and practices are transparent and fair, as the corporation transitions to Enhanced Care coverage on May 1, 2021." The Fairness Officer provisions are contained in Bill 5 – *Insurance Corporation Amendment Act*, 2021, which received second reading on March 9, 2021. (See Appendix 1.)

The ICBC Fairness Officer is an Ombudsperson-type position, in that they can investigate decisions, recommendations, acts done or omitted and ICBC procedures and then make recommendations to ICBC. The Fairness Officer has no decision-making authority and is also precluded from making recommendations on an amount payable by ICBC and ICBC's determination of the extent to which the parties are at fault. In addition, the Fairness Officer may:

- make recommendations to ICBC to resolve fairness complaints,
- make recommendations about systemic problems with the fairness of ICBC processes, or
- provide advice and assistance to members of the public with respect to ICBC processes.

ICBC has an existing Fairness Commissioner, who has been in place for 15 years. The Fairness Commissioner is a contract position, whose terms and conditions of employment are set by the ICBC Board. The proposed Fairness Officer will have the same powers and functions but with increased transparency and independence:

- Rather than being appointed by the ICBC Board, the Fairness Officer will be appointed by OIC.

- The Fairness Officer's budget will continue to be approved by the ICBC Board. However, the Fairness Officer may issue a report to the Minister if they disagree with the amount.
- The ICBC Board must now publish replies to the Fairness Officer's recommendations.

According to the Crown Agencies Secretariat, the genesis of the change from the Fairness Commissioner to the Fairness Officer was not out of dissatisfaction with the current arrangement but from a desire codify the existing office s.13

s.13

### **Patterson's Proposal for WSBC Fair Practices Commission**

In her report to the Minister of Labour entitled *New Directions: Report of the WCB Review 2019*, Janet Patterson recommended the creation of a Fair Practices Commission (FPC), appointed by cabinet. The FPC's core function would be similar to the ICBC Fairness Officer in that the FPC would investigate WorkSafeBC complaint files and procedures but only make recommendations. However, Patterson has also recommended that the FPC would take on the following responsibilities:

- Make recommendations to the Minister regarding relevant statute(s),
- Receive referrals from the WSBC Board and WCAT to investigate fairness issues,
- Establish programs to provide advice, assistance and advocacy services to workers and employers including but not limited to the administration of the Workers' Advisers Office (WAO) and the Employers' Advisers Office (EAO). It is recommended that the established WAO and EAO offices be retained as separate from each other but report through the FPC and offer separate services to each of their communities.
- Have the full authority to establish an education program to provide workers, dependents, employers, the Board's administration and the general public on the hallmarks of administrative fairness and the rules of natural justice as they apply to the workers' compensation system.

Patterson also recommends that "Within six (6) months of [their] appointment the FPC shall establish a Code of Rights and Conduct under the Act in consultation with representatives of workers and employers and endorsed by the BOD and the Provincial Ombudsperson." (See Appendix 2.)

WSBC currently has a Fair Practice Office, s.13

s.13

Patterson states:

“[The FPO] is internal to the Board's administration, reporting through the Chief Review Officer. The FPO has a limited jurisdiction and remedial authority, and this, combined with the real and/or perceived lack of independence undermines the confidence of workers and employers in the FPO's ability to effectively resolve individual complaints. This reporting relationship inhibits the ability of the FPO to address systemic issues of fairness, although they have attempted to do so at least on one occasion.”

She goes on to state:

‘In my view, there is an urgent need for an effective dispute resolution mechanism, especially for injured workers. In the last decades, the offices of the FPO, the Provincial Ombudsman and constituency offices of MLAs have received literally thousands of complaints, most of which could not be adequately redressed through the limited scope of redress available. And without effective resolution, there is no closure for those aggrieved by unfair decisions or conduct or what is known as “maladministration.”’

## **DISCUSSION:**

s.13

The ICBC Fairness Officer has a general mandate to “provide advice and assistance to members of the public with respect to ICBC processes.” The WSBC FPC's proposed education mandate is spelled out in more detail:

- “Establish programs to provide advice, assistance and advocacy services to workers and employers,” and
- “Provide workers, dependents, employers, the Board's administration and the general public on the hallmarks of administrative fairness and the rules of natural justice as they apply to the workers' compensation system.”

The proposed WSBC FPC would also be mandated to write a Code of Rights and Conduct for WSBC, whereas the ICBC Fairness Officer is not charged with that task.

In summary, the authority of the positions are similar, but with the proposed WSBC FPC having additional authority, no restrictions on what it can investigate, an ability to make recommendations directly to the Minister, a stronger education and advocacy mandate, and a requirement to establish a Code of Rights and Conduct.

**NEXT STEPS:**

s.13

As well, the ICBC Fairness Officer is established as part of an overall transition to no fault/Enhanced Care coverage at ICBC. s.13

s.13

Prepared by: Luke Krayenhoff, 778-698-5267

Reviewed by			
Dir:	ED:	ADM:	DM:

## Appendix 1

### PART 3 – FAIRNESS OFFICER

#### Powers and duties of fairness officer

**56** (1) The fairness officer, on a fairness complaint or on the fairness officer's own initiative, may investigate

- (a) a decision or recommendation made,
- (b) an act done or omitted, or
- (c) a procedure used

by the corporation during or with respect to a corporation process that aggrieves or may aggrieve a person.

(2) In addition to carrying out the power described in subsection (1), the fairness officer

- (a) may make recommendations to the corporation to resolve fairness complaints;
- (b) may make recommendations about systemic problems with the fairness of corporation processes;
- (c) may provide advice and assistance to members of the public with respect to corporation processes;
- (d) has other powers or duties as may be prescribed.

#### Restrictions on jurisdiction

**57** (1) The fairness officer may not comment on or make recommendations respecting

- (a) an amount payable by the corporation, or
- (b) the extent, as determined by the corporation, that a person is responsible for an accident.

(2) Section 56 does not authorize the fairness officer to investigate a fairness complaint in respect of any of the following:

- (a) a matter that is the subject of a proceeding or a decision of a court or tribunal, as defined in section 1 of the *Judicial Review and Procedure Act*;
- (b) a matter that is or was the subject of arbitration or an arbitral award;
- (c) a prescribed matter.

## **Appendix 2 - Proposed WBC Fair Practices Commission (FPC)**

The BOD or the chair of WCAT may refer an issue of systemic fairness to the FPC and the FPC will provide a timely response to the referral. The FPC may also initiate an investigation into a systemic fairness issue on his or her own initiative by giving notice to the BOD or WCAT that such an investigation is under way.

Where issues of systemic fairness relating to statutory provisions arise the FPC have full authority to undertake investigations and make recommendations to the Minister responsible for the applicable statute.

The Minister may refer an issue of statutory unfairness to the FPC and the FPC will provide a timely response to the referral. The FPC may initiate an investigation into an issue of statutory unfairness on his own initiative by giving notice to the Minister responsible that such an investigation is under way.

Where specific disputes arise relating to a specific worker, dependent or employer, the FPC or his or her staff have full authority to make recommendations to the applicable department of the Board's administration or the chair of WCAT. The FPC does not have the authority to direct the Board's administration or WCAT to change a decision but may recommend that the Board's administration or WCAT reconsider a decision within the terms of the Act for such reconsideration.

The Board's administration and the chair of WCAT may refer a fairness issue to the FPC and the FPC will provide a timely response to that referral.

The FPC have the authority to establish programs to provide advice, assistance and advocacy services to workers and employers including but not limited to the administration of the Workers' Advisers Office (WAO) and the Employers' Advisers Office (EAO). It is recommended that the established WAO and EAO offices be retained as separate from each other but report through the FPC and offer separate services to each of their communities.

The FPC have the full authority to establish an education program to provide workers, dependents, employers, the Board's administration and the general public on the hallmarks of administrative fairness and the rules of natural justice as they apply to the workers' compensation system.

Within six (6) months of his or her appointment the FPC shall establish a Code of Rights and Conduct under the Act in consultation with representatives of workers and employers and endorsed by the BOD and the Provincial Ombudsperson.